

**TURTLE MOUNTAIN COMMUNITY COLLEGE**

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# *POLICY MANUALS*

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# SECTION 1

# INTRODUCTION

## SECTION 1: INTRODUCTION

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# SECTION 1 INTRODUCTION

## 1.1.0000 INSTITUTIONAL GOVERNANCE

### 1.0010 BOARD OF TRUSTEES

This is a ten-member board, of which eight (8) are appointed by the Tribal Council, and two (2) students. The purpose of the Turtle Mountain Community College Board of Trustees shall be to advance and promote educational, economic, and other opportunities on the Turtle Mountain Band of Chippewa Indian Reservation by seeking out and appointing qualified Tribal members to serve as Directors of the College and thereafter to serve as a resource for advice to the aforementioned Board.

### 1.0020 BOARD OF DIRECTORS

This is a five member elected board of the Turtle Mountain Community College is designated with the responsibility for the establishment of policies for the effective and efficient management of the Corporation. The Board is charged by the Tribe with providing community college instruction for residents within the Corporation who are qualified for admission, according to the standards prescribed by the Corporation establishment and operation of the College campus within the corporation; and the custody of and responsibility for the property of the Corporation and the management and control of said Corporation.

## 1.2.0000 HISTORY AND ACCREDITATION

### 2.0010 HISTORY

Turtle Mountain Community College (TMCC) is one of the original six tribal colleges established by various Indian tribes in the early 1970's. The Turtle Mountain Chippewa Tribe chartered the College in November 1972. The TMCC is located in north central North Dakota in the historical wooded, hilly, and lake-filled area known as the Turtle Mountains. In addition to being the home of the Turtle Mountain Chippewa, the area is the home of the world-renowned International Peace Garden.

In its brief history, the College has emerged as a leader among this nation's 36 tribal colleges. Its origin was humble. For the first few years the College operated with two offices on the third floor of a former Catholic Convent. For a short period, the College operated in the basement of an abandoned Indian Health Service facility. In 1977, the College moved into an abandoned tribal building and a BIA facility that had been moved to Belcourt's main street by a tribal member who converted the building to a café and dance hall. It was on Belcourt's main street that the College later purchased and renovated several old buildings and as funding became available built a series of primarily metal buildings.

In May 1999, the College moved to a new campus and a new facility. The new facility is located 2 ½ miles north of Belcourt. TMCC's new main campus includes a 124,000 -square foot building located on an approximately 123-acre site. The new facility includes state of the art technology; a fiscal area; general classrooms; science, math and engineering classrooms; labs; library and archives; learning resource center; faculty and student services area; gymnasium and mechanical systems; an auditorium with seating capacity for 800; Career and Technical Education building; and a new Student Center. The former main campus in Belcourt has twelve buildings that provide 66,000 square feet of space. Both campuses are being used for college or community use. The Anishinabe Learning, Cultural and Wellness Center is located 1.5 miles North of Belcourt on BIA # 7. The Center is a beautiful and symbolically powerful site. The Center consists of 102.5 acres of spectacular natural beauty and ponds, with Ox Creek running through the area. The Anishinabe Learning, Cultural, and Wellness, Center is the home for the 1994 Land Grant Programs.

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The three campuses house all College functions with the exception of some off-campus community responsive training programs. TMCC is a commuter campus and maintains no residence halls.

Since its beginning, the College has grown from a fledgling institution serving less than sixty students per year, to its current status of serving approximately 650 full-time equivalents and approximately 250 pre-college adults. Indeed, TMCC has demonstrated success in enrolling and graduating students. The College serves the tribal community in other ways as well. Its many programs are helping to build local capacity to effect positive systemic change by improving all levels of educational achievement of tribal members and public and private economic sustainability of the Turtle Mountain Band of Chippewa Indians. Turtle Mountain Community College is a member of the American Indian Higher Education Consortium (AIHEC), which consists of Indian controlled colleges banded together to support mutual development activities. The College is eligible for services through AIHEC's Development Office in Resource Development, Curriculum Development, Research and Data Assistance, Cooperative Education Programming and Human Resource Development.

## **2.0020 ACCREDITATION**

The Higher Learning Commission (HLC) accredits the College. Accreditation is not a requirement but is important to the College. According to the HLC, "Accreditation is both a process and a result." As a process, it is a form of peer review in which educational institutions establish a set of criteria and procedures by which they and their fellows are judged. As a result, it is a form of certification by which the quality of an educational institution, as defined by the accreditation body's criteria, is affirmed."

## **1.3.0000 PHILOSOPHY**

### **3.0010 PHILOSOPHY**

Turtle Mountain Community College is a tribal community college with obligations of direct community service to the Turtle Mountain Band of Chippewa Indians. Under this unifying principle, the College seeks to maintain, seek out, and provide comprehensive higher education services in career fields needed for true Indian self-determination.

#### **THE SEVEN TEACHINGS OF THE ANISHINABE PEOPLE**

The philosophical foundation of the College is embedded in the system of values that stem from the heritage and culture of the Anishinabe people and expressed in the Seven Teachings of the Tribe.

1. To cherish knowledge is to know **WISDOM**.
2. To know **LOVE** is to know peace.
3. To honor Creation is to have **RESPECT**.
4. **BRAVERY** is to face the foe with integrity.
5. **HONESTY** in facing a situation is to be honorable.
6. **HUMILITY** is to know yourself as a sacred part of the Creation.
7. **TRUTH** is to know all of these things.

## **1.4.0000 MISSION OBJECTIVES**

### **4.0010 INSTITUTIONAL MISSION STATEMENT**

Turtle Mountain Community College is committed to functioning as an autonomous Indian controlled college on the Turtle Mountain Band of Chippewa Reservation focusing on general studies, undergraduate education, Career & Technical Education, scholarly research, and continuous improvement of student learning. By creating an academic environment in which the cultural and

# SECTION 1 INTRODUCTION

social heritage of the Turtle Mountain Band of Chippewa is brought to bear throughout the curriculum, the College establishes an administration, faculty, staff, and student body exerting leadership in the community and providing service to it.

## 1.5.0000 INSTITUTIONAL GOALS

### 5.0010 INSTITUTIONAL GOALS

Turtle Mountain Community College hereby establishes the following goals:

- .01 Provides a learning environment stressing the application of academic concepts to concrete problems;
- .02 Promotes academic preparation for learning as a life-long process of discovery of knowledge embedded in the intellectual disciplines and the traditions of the Tribe;
- .03 Encourages in and out of class opportunities to discover the nature of Indian society, its history, variation, current and future patterns, needs, and to serve as a contributing member toward its maintenance and betterment;
- .04 Offers a curriculum wherein Indian tribal studies are an integral part of all courses offered as well as history, values, methods, and culture of the Western society;
- .05 Administers continuous assessment of institutional programs and student academic achievement for the purpose of continuous improvement of student learning;
- .06 Awarding Baccalaureate, Associate of Arts, Associate of Science, Associate of Applied Science degrees, and certificate programs of study;
- .07 Promotes cooperation with locally Indian-owned businesses and stimulation of economic development for the service area;
- .08 Maintains continued independent accreditation; and
- .09 Promotes community service and leadership.

## 1.6.0000 GOVERNMENT AND ORGANIZATIONAL STRUCTURE

### 6.0010 MODEL OF EXTERNAL AND INTERNAL ADMINISTRATION

See Appendix A1-1 Model of External and Internal Administration.

### 6.0020 DESCRIPTION OF CHART ITEMS

- .01 **BOARD OF TRUSTEES** - This is a ten-member board appointed by the Tribal Council. Its purpose is to advance and promote educational opportunities on the Turtle Mountain Indian Reservation by seeking out and appointing qualified tribal members to serve as resources to the Board.
- .02 **BOARD OF DIRECTORS** - This is a five member selected board. The Board is charged by the Tribe with the responsibility for providing community college instruction for residents within the Corporation who are qualified for admission, according to the standards prescribed by the Corporation establishment and operation of the college campus with the Corporation; and the custody of and responsibility for the property of the Corporation and the management and control of said Corporation.
- .03 **PRESIDENT** - The President of the College shall be the Executive Officer of the Board through which the Board carries out its program and exercises its policies. The President will delegate to subordinate officers of the College such of his/her powers as he/she may deem desirable to be exercised under his/her supervision and direction.



## SECTION 1 INTRODUCTION

- .04 **VICE-PRESIDENT** - This position is under the direct supervision of the President. The Vice-President assists the President in carrying out the institutions policies; and is responsible for supervising and coordinating special projects and initiatives for the College.
- .05 **COMPTROLLER** - The Comptroller is the chief financial officer of the institution with responsibility for all fiscal policies as well as supervisory responsibility for business office staff. The Comptroller is under the direct supervision of the Vice-President.

### 1.7.0000 COMMITTEES

#### 7.0010 ACCREDITATION COMMITTEES

- .01 **MISSION COMMITTEE** – The institution’s mission is clear, articulated publicly, and appropriate to an institution of higher education. The committee will meet regularly and will be responsible for ensuring the institution is meeting the objectives of criterion one of the Higher Learning Commission’s five criteria for accreditation.
- .02 **INTEGRITY COMMITTEE**– The institution fulfills its mission ethically and responsibly. The committee will meet regularly and will be responsible for ensuring the institution is meeting the objectives of criterion two of the Higher Learning Commission’s five criteria for accreditation.
- .03 **TEACHING AND LEARNING: QUALITY, RESOURCES, AND SUPPORT COMMITTEE** – The institution provides high quality academic programs, wherever and however its offerings are delivered (on the main campus, at additional locations, by distance delivery, as dual credit, through contractual or consortia arrangements). The committee will meet regularly and will be responsible for ensuring the institution is meeting the objectives of criterion three of the Higher Learning Commission’s five criteria for accreditation.
- .04 **TEACHING AND LEARNING: EVALUATION AND IMPROVEMENT COMMITTEE** – The institution assures the quality of its academic programs and evaluates their effectiveness through processes designed to promote continuous improvement. The committee will meet regularly and will be responsible for ensuring the institution is meeting the objectives of criterion four of the Higher Learning Commission’s five criteria for accreditation.
- .05 **RESOURCES, PLANNING, INSTITUTIONAL EFFECTIVENESS COMMITTEE** – The institution’s resources are sufficient to fulfill its mission, improve the quality of its educational offerings, and respond to future challenges and opportunities. The committee will meet regularly and will be responsible for ensuring the institution is meeting the objectives of criterion five of the Higher Learning Commission’s five criteria for accreditation.

#### 7.0020 INSTITUTIONAL COMMITTEES

Turtle Mountain Community College (TMCC) enacts regulations to ensure faculty and staff the right to participate effectively in shared governance, and to ensure the right of TMCC committees to assume primary responsibility for making recommendations in the areas of curriculum, academic standards, services provided for students, and in their primary professional duties.

The Turtle Mountain Community College’s Shared Governance is based on the adoption and enforcement of the Board of Trustees and Board of Directors bylaws and the following core values:

1. Informed decision-making;
2. Clarity of operations and decision making;
3. Open lines of communication between all components and members of the TMCC community;
4. Accountability,
5. Mutual respect and trust; and

## SECTION 1 INTRODUCTION

### 6. Seven Teachings of the Anishinabe people.

This shared involvement in the decision making process does not necessarily imply total agreement nor does it abrogate the ultimate decision making responsibility of TMCC's President and the Board of Directors.

TMCC has developed a committee approach to addressing areas of concern, developing needed policies, and acting as a review board for various areas of the College. Committee membership has proven to be beneficial to the staff and faculty of TMCC. In many cases, this process has provided the setting for the staff and faculty to learn about different facets of the College. In addition, this process provides the opportunity for the staff and faculty to have input into the total operation of the College. The committees that are currently functioning are the following:

- .01 **PRESIDENT'S ADMINISTRATIVE COUNCIL COMMITTEE** - This committee's charge is to provide input to the President on a number of topics and issues as they pertain to the College. These include such issues as programs to be designed and implemented; funding of programs; communicating program status and progress to members and departments represented on the committee; to accept, review and make recommendations for proposals to be submitted to federal, foundation, tribal, or state funding agencies; budgetary decisions and recommendations; policy development as this pertains to staff, faculty, and students; accept information from the Academic Standards Committee, evaluate the information, and make recommendations regarding action to the President who will subsequently make recommendations to the Board; and to provide a means of effective communication throughout the College. In most instances, the input from this committee will be through recommendations, but in some instances, and at the discretion of the President. This committee will have a vote in deciding an issue.
- .02 **RETENTION COMMITTEE** – This committee has the responsibility of fostering and assisting in the development of student retention initiatives. These initiatives include but are not limited to the following: (1) Develop and implement a retention plan, (2) Prepare and present retention budget, and (3) Work closely with the recruitment committee in planning recruitment initiatives. The Retention Committee will meet with the recruitment committee at least twice each year, once in the fall semester and once in the spring semester.
- .03 **RECRUITMENT COMMITTEE** - This committee has the responsibility of fostering and assisting in the development of student recruitment initiatives. These initiatives include but are not limited to the following: (1) Develop a recruitment plan, (2) Review all recruitment publications, (3) Develop a visitation calendar, (4) Plan on/off-campus recruiting initiatives, and (5) Prepare and present recruitment budget. The Recruitment Committee will meet with the retention committee at least twice each year, once in the fall semester and once in the spring semester.
- .04 **ACADEMIC STANDARDS COMMITTEE** - This committee has the responsibility for the following areas: (1) Academic programs, (2) Academic standards, (3) Academic bankruptcy, and (4) Guidance for Dean of Academic Programs when requested.
- .05 **SUPERVISOR'S COMMITTEE** - This committee is to provide the setting for members to share ideas and seek guidance in problem solving in their areas of supervision. This committee will make program and personnel recommendations to the President's Administrative Committee.
- .06 **ADMISSIONS AND FINANCIAL AID COMMITTEE** - This committee will be responsible for the following areas: (1) Admissions Appeal Panel, and (2) Financial Aid Appeal Panel. The

## SECTION 1 INTRODUCTION

committee members will approve admission policies and financial aid policies and procedures.

- .07 **FACULTY COMMITTEE** - This committee is made up of all full-time college faculty. Its purpose is to discuss matters that deal strictly with instruction. The committee works to strengthen camaraderie among faculty and shares new ideas and methods. During the first month of the academic year, a coordinator for the Faculty Committee will be selected by the faculty.
- .08 **STAFF COMMITTEE** – This committee is made up of full-time staff (non-faculty college employees). Its purpose is to discuss matters that deal strictly with staff. The committee works to strengthen camaraderie among staff and shares new ideas and methods. During the first month of the academic year, a coordinator for the Staff Committee will be selected by majority vote of all full-time staff. No member of the administrative council can be a member of this committee. The coordinator will serve on the President’s Administrative Council as a staff representative,
- .09 **SCHOLARSHIP COMMITTEE** – This committee reviews scholarship applications, (other than Title IV PELL and College Work Study), to determine who will receive scholarships that are not specifically identified by the benefactor/grantor. If an individual is named and is not enrolled, the committee will select a new scholarship awardee, where allowed and appropriate.
- .010 **CURRICULUM COMMITTEE** – This committee has the responsibility to: (1) Internally approve new programs, new courses, course changes, and curricular changes, (2) Develops and recommend policies and procedures for college-wide curricular standards, (3) Reviews catalog offerings and degree requirements, and (4) Initiates discussions on future curricular matters.
- .011 **STUDENT LEARNING COMMITTEE** - This committee directs and organizes assessment of student learning, reviews and evaluates all assessment instruments and results, ensures that the results of assessment are used to improve student learning, and continually improves and updates the assessment process.
- .012 **DEVELOPMENT COMMITTEE** - This committee reviews proposal requests to submit from or on behalf of the college. The committee ensures all proposals are aligned to the mission and strategic goals of the College.
- .013 **RESEARCH COMMITTEE** – This committee reviews all applications specific to research at the college. The committee ensures all research is aligned to the mission and strategic goals of the college.
- .014 **PROGRAM REVIEW COMMITTEE** - This committee reviews program effectiveness and sustainability through a comprehensive, structured, documented, and periodic self-study of the Colleges program’s performance, as indicated by alignment to institutional mission, goals, and philosophy, in consideration of accreditation needs at the program level and throughout campus.

# SECTION 2 BOARD OF TRUSTEES BYLAWS

## SECTION 2: BOARD OF TRUSTEES BY LAWS

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2.2.0000	PURPOSE OF THE BOARD OF TRUSTEES
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## SECTION 2 BOARD OF TRUSTEES BY LAWS

### 2.1.0000 NAME AND AUTHORITY OF COLLEGE AND GOVERNING BOARDS

#### 1.0010 NAME

The name of the institution shall be “Turtle Mountain Community College” (hereinafter referred to as the “College”). The name of the community college system shall be “The Turtle Mountain Community College.” On all documents other than official legal documents, such as any document filed in court, as required by the Internal Revenue Service of the United States, publication of legal notices, and execution of contracts and other legal documents, the name “Turtle Mountain Community College” shall be used.

#### 1.0020 COLLEGE AS AGENCY OF TRIBE

The College, together with the Board of Trustees and Board of Directors that manage it, is an agency of the Turtle Mountain Band of Chippewa Indians, a federally recognized Indian tribe (hereinafter referred to as the “Tribe”), governed by its legislative body known as the Tribal Council. The College and its governing boards shall act in accordance with the laws of the Tribe; the Tribal Constitution, as amended from time to time; to the extent necessary, the laws of the state of North Dakota, and the laws and Constitution of the United States.

#### 1.0030 CHARTER AND AUTHORITY OF COLLEGE

The specific authority of the College and its governing boards to provide higher education within the lands governed by the Turtle Mountain Band of Chippewa is stated in Article V of the Tribal Charter issued by the Tribe pursuant to Resolution No. [678-11-72](#) enacted on November 9, 1972, and reissued as a Restated Charter, pursuant to Resolution No. 676-11-72, enacted on August 23, 2010 (Hereinafter referred to as the “Charter”). The Bylaws of the Board of Trustees and the Board of Directors are incorporated into the Charter of the College by reference, and will be amended as provided by those Bylaws.

### 2.2.0000 PURPOSE OF THE BOARD OF TRUSTEES

The overall purpose of the Board of Trustees hereinafter referred to as BOT shall be to advance and promote the mission of the College, which is to: “function as an autonomous Indian controlled college on the Turtle Mountain Band of Chippewa Reservation focusing on general studies, undergraduate education, Career & Technical Education, scholarly research, and continuous improvement of student learning. By creating an academic environment in which the cultural and social heritage of the Turtle Mountain Band of Chippewa is brought to bear throughout the curriculum, the College establishes an administration, faculty, staff, and student body exerting leadership in the community and providing service to it.”

Under the Charter as reauthorized by the Tribal Council of the Turtle Mountain Band of Chippewa, the primary functions of the BOT are to appoint the members of the Board of Directors of the College in the manner provided in the bylaws, and further, the approval of the BOT shall be necessary with regard to the hiring and termination or failure to renew the contract of the President of the College, as provided in these bylaws, and such further powers and duties as are enumerated in the bylaws.

### 2.3.0000 APPOINTMENT OF MEMBERS OF THE BOARD OF TRUSTEES

#### 3.0010 APPOINTMENT

The BOT are appointed by the Tribal Council of the Turtle Mountain Band of Chippewa in accordance with the restated Charter of the College. Qualifications for the BOT are in the restated Charter.

## SECTION 2 BOARD OF TRUSTEES BY LAWS

At the discretion of the majority of the BOT, an active member may be elevated to honorary Board member status. When this occurs, a vacancy exists on the BOT and the vacancy will be filled according to these bylaws.

### **3.0020 QUALIFICATIONS**

Each member of the BOT, other than the student members, shall be:

- .01 Enrolled members of the Turtle Mountain Band of Chippewa Indians.
- .02 Of legal age.
- .03 Have demonstrated interest in the operation and success of the College.
- .04 No member of the BOT shall be employed by the College, but student members of the Board may be employed by the College under any work study program offered by the College.
- .05 No member of the BOT shall be a convicted felon in accordance with Tribal law and be willing to submit to a background check.
- .06 No member of the Board can be a family member of any other board member as defined in Section [2.8.0000](#) Conflict of Interest Policy.

### **3.0030 STUDENT MEMBER QUALIFICATIONS**

Each student member of the BOT shall be:

- .01 Of legal age, which is a minimum of 18 years old.
- .02 Have demonstrated interest in the operation and success of the College.
- .03 Will be appointed as provided above regardless of tribal affiliation.
- .04 No member of the BOT shall be employed by the College, but student members of the Board may be employed by the College under any work study program offered by the College.
- .05 No member of the BOT shall be a convicted felon in accordance with Tribal law and be willing to submit to a background check.
- .06 No member of the Board can be a family member of any other board member as defined in Section [2.8.0000](#) Conflict of Interest Policy.

The Tribal Council shall be kept informed of any vacancies that may occur on the BOT for any reason and shall appoint a qualified person to fill any vacancy as quickly as possible. The BOT shall, from time to time, make recommendations to the Council regarding potential replacements to the BOT, other than the two (2) positions occupied by current members of the Tribal Council and the two (2) student positions.

### **3.0040 MEMBERSHIP YEAR**

The membership year shall be from September 1 to August 31.

### **3.0050 COMPOSITION**

The BOT shall be composed of ten (10) members appointed as follows: six (6) at large members appointed for life, as long as they are capable of carrying out the duties of the position, by the Tribal Council; two (2) members who are members of the Tribal Council appointed by the Tribal Council, and two (2) members who are students attending the College selected as provided in the student Constitution; all of whose qualifications are set forth in the restated Charter of the College

## SECTION 2 BOARD OF TRUSTEES BY LAWS

### **3.0060 TERM OF OFFICE**

The term of office of the six (6) at large members shall be life subject to removal for good cause, in accordance with Section [2.4.0030](#) of these bylaws. Any other Trustee shall serve as long as the Trustee is qualified to serve in accordance with the restated Charter.

### **2.4.0000 POWERS OF THE BOARD OF TRUSTEES**

Subject to applicable law, and without limiting the right of the Tribe to modify its powers and duties, the BOT shall have the power to:

#### **4.0010 APPOINTMENT OF MEMBERS OF BOARD OF DIRECTORS**

Appoint the membership of the Board of Directors when vacancies occur for any reason, including removal by the BOT as provided in Section [2.3.0000](#). The BOT will develop qualifications for membership on the Board of Directors consistent with the Mission and Institutional Goals of the College. (Section [1.1.40000](#) and 1.1.5.0000) As stated in the restated Charter, no employee of the College will serve as a member of the Board of Directors or BOT of the College, except student members that are allowed in the charter. Vacancies on the Board of Directors should be filled by the BOT within 30 days of written notice being given to the BOT. This time frame may be extended by majority vote of the BOT as necessary.

#### **4.0020 SELECTION OF PANEL OF TRUSTEES FOR EMERGENCY APPOINTMENT TO BOARD OF DIRECTORS**

When a quorum of the Board of Directors cannot be established by any other means, including personal presence, conference call or other electronic means, the Chairman of the BOT, or the Vice-Chairman, if the Chairman is not available, present, or if neither the Vice-Chairman and the Chairman are available, those members of the BOT in attendance, if any, at the meeting shall appoint a Trustee qualified pursuant to Section [3.4.0030](#) of the bylaws of the Board of Directors to serve on the Board of Directors for the purpose of establishing a quorum in the event of an emergency requiring immediate action by the Board of Directors. Any member of the BOT appointed to serve on the Board of Directors under this section serves only until such time as, a quorum of duly appointed members of the Board of Directors can be established.

#### **4.0025 REMOVAL OF A TRUSTEE FOR CAUSE**

A Trustee will be removed for cause. The process to remove a Trustee member for cause may be initiated by any Trustee member submitting notification to the Board of Trustee Chair, or Vice-Chair, if the Board Chair is the Trustee member in question. The notification must be signed by the Trustee who is aware of the violation and list the reasons for removal for cause. Cause shall be defined as follows:

- .01 A Trustee member who misses without good cause two (2) consecutive Trustee Board meetings; or who otherwise has absenteeism issues.
- .02 A Trustee member's breach of any material duty or obligation under the Bylaws, Charter, or policies.
- .03 A Trustee member's neglect of duties.
- .04 A Trustee member is convicted or pleads guilty or nolo contendere to any misdemeanor (other than traffic violation), felony, or any crime involving fraud, dishonesty or misappropriation.
- .05 A Trustee member willfully or recklessly engages in misconduct that causes or will cause material harm to the College including to the reputation or mission of the College.
- .06 A Trustee member who is disabled and unable to perform his/her duties as a Trustee.



## SECTION 2 BOARD OF TRUSTEES BY LAWS

.07 A Trustee member who attempts to be involved in the day-to-day operations of the College.

A copy of the petition for removal of trustee shall be immediately given to the Trustee in question and all other Trustees.

The petition to remove shall be placed on the agenda for the next regularly scheduled Board meeting, or special meeting. At the duly noted Board meeting, the Trustee in question, or his/her designated representative, shall be given an opportunity to present rebuttal arguments and evidence.

Following the rebuttal opportunity, the Chair or presiding officer shall call for a vote to the motion for removal of the Trustee in question. The Trustee in question will not vote. The majority vote of the Trustees present is required for removal. Upon the motion's approval by majority vote, the Trustee in question shall immediately be removed.

### **4.0030 REMOVAL OF A DIRECTOR FOR CAUSE**

A Director will be removed for cause. The process to remove a member for cause may be initiated by any member submitting notification to the Board of Directors Chair, or Vice-Chair, if the Board Chair is the member in question. The notification must be signed by the Director who is aware of the violation and list the reasons for removal for cause. Cause shall be defined as follows:

- .01 A Director member who misses without good cause two (2) consecutive Board meetings; or who misses four regular meetings over a period of one year; or who otherwise has absenteeism issues.
- .02 A Director member's breach of any material duty or obligation under the Bylaws, Charter, or policies.
- .03 A Director member's neglect of duties.
- .04 A Director member is convicted or pleads guilty or nolo contendere to any misdemeanor (other than traffic violation), felony, or any crime involving fraud, dishonesty or misappropriation.
- .05 A Director member willfully or recklessly engages in misconduct that causes or will cause material harm to the College including to the reputation or mission of the College.
- .06 A Director member who is disabled and unable to perform his/her duties as a Trustee.
- .07 A Director member who attempts to be involved in the day-to-day operations of the College.

A copy of the petition for removal of director shall be immediately given to the Board chair in question and all other board members.

The petition to remove shall be placed on the agenda for the next regularly scheduled Board meeting, or special meeting. At the duly noted Board meeting, the Director in question, or his/her designated representative, shall be given an opportunity to present rebuttal arguments and evidence.

Following the rebuttal opportunity, the Chair or presiding officer shall call for a vote to the motion for removal of the Director in question. The Director in question will not vote. The majority vote of the Directors present is required for removal. Upon the motion's approval by majority vote, the Director in question shall immediately be removed.

## SECTION 2 BOARD OF TRUSTEES BY LAWS

### **4.0035 GRIEVANCE PROCESS**

The grievance process outlined in section [5.24.0000](#) shall be followed by all BOT members and Board of Directors members.

### **4.0040 REVIEW OF DECISION OF BOARD OF DIRECTORS TO EMPLOY OR REMOVE PRESIDENT OF COLLEGE OR RENEW OR NON-RENEW CONTRACT OF PRESIDENT**

The BOT understands that the role of the Board of Directors is to employ, evaluate and if necessary dismiss the President. The Trustees will not participate in that role.

### **4.0050 RECOMMENDATION TO TRIBAL COUNCIL TO REPLACE MEMBERS OF BOARD OF TRUSTEES**

Upon majority vote of the BOT, the BOT will notify the Tribal Council, or the student governing body, as may be appropriate, of the recommendation of the BOT to remove and replace any Trustee based upon failure of the Trustee to attend to the duties of the office (including, but not limited to, absenteeism), inappropriate or illegal conduct, conflict of interest, death or disability, resignation, or other similar reasons.

### **4.0060 SELECTION OF OFFICERS OF THE BOARD OF TRUSTEES**

Select officers of the BOT in accordance Section [2.5.0020](#) of these bylaws.

### **4.0070 RULES OF PROCEDURE**

Adopt rules of procedure for the conduct of the meetings of the BOT.

### **4.0080 APPROVAL OR DISAPPROVAL OF AMENDMENTS TO BYLAWS OF BOARD OF DIRECTORS**

Approve or disapprove all amendments to the bylaws of the Board of Directors. No matter of bylaws regarding the College shall be submitted to the Board for approval or placed on a regular or special meeting agenda for action by the Board unless it has been presented in writing at a previous regular or special meeting of the Board.

There will be a thirty (30) day comment period for adoption and changes in bylaws. All comments will be compiled and submitted to the Board for consideration prior to the vote. The adoption of bylaws requires the affirmative vote of a majority of the Board.

A copy of the adopted bylaws will be submitted the Tribal Council for approval.

### **4.0090 PROPOSAL OF AMENDMENTS TO BYLAWS OF BOARD OF TRUSTEES**

Propose amendments to these bylaws. Once adopted by the BOT, any amendment so adopted will be submitted for approval or disapproval by the Tribal Council as provided in Section [2.10.0000](#) of these bylaws.

There will be a thirty (30) day comment period for adoption and changes in bylaws. All comments will be compiled and submitted to the Board for consideration prior to the vote. The adoption of bylaws requires the affirmative vote of a majority of the Board.

### **4.0100 VOLUNTARY ATTENDANCE AT MEETINGS OF BOARD OF DIRECTORS**

Attend all meetings of the Board of Directors and enter into discussions with the Board of Directors, but any member of the BOT attending a Board of Directors meeting shall have no voting power within the Board of Directors unless appointed pursuant to Section [2.4.0020](#) of these bylaws. Any one or more members of the BOT may attend a meeting of the Board of Directors.

## SECTION 2 BOARD OF TRUSTEES BY LAWS

### 2.5.0000 BOARD OF TRUSTEES OFFICERS, ELECTIONS OF OFFICERS AND DUTIES OF OFFICERS

#### 5.0010 ELECTED OFFICERS

- .01 Officers of the Turtle Mountain Community College BOT shall be a Chairperson (hereafter referred to as the “Chair”), a Vice-Chairperson, (hereafter the “Vice-Chair”) and a Secretary. To be nominated for Chair, the person so nominated must have served on the Board for at least two years as a full member of the Board. The Secretary need not be a member of the BOT, in which case the Secretary shall not have voting privileges.
- .02 The duties and responsibilities of elected officers shall be those usually pertaining to such positions including the following specific duties assigned to each office.
- .03 At the direction of the BOT, elective officers may be assigned duties not ordinarily associated with their position.

#### 5.0020 ELECTION OF OFFICERS AND TERMS

- .01 Officers will be elected at a meeting of the BOT, whether considered special or regular, held as close as possible to the date on which their respective terms as officers expire.
- .02 Each officer may be re-elected indefinitely. Other than the Chair, whose term is three (3) years, the term of each officer is two (2) years.
- .03 Officers in place when these restated bylaws become effective shall remain in office until their terms would have expired under the previous bylaws, or until two years from the effective date of the bylaws, whichever is later.
- .04 Officers shall be elected by majority vote of the BOT.
- .05 Each officer selected must agree to serve before being nominated.
- .06 Officers will be removed from their office by a majority vote of the BOT prior to serving their entire term of office upon a showing that the officer has failed to carry out the responsibilities of the office for which the officer was elected or other good cause. Good cause may include, but is not limited to, any of the reasons for removal of a member of the BOT as set forth in Section [2.4.0025](#) of these bylaws.

#### 5.0030 DUTIES AND RESPONSIBILITIES OF THE CHAIR

The Chair shall have the following duties:

- .01 To call meetings of the Turtle Mountain Community College BOT.
- .02 To preside over meetings of the Turtle Mountain Community College BOT.
- .03 With the approval of the majority of the BOT, to appoint members to all special committees.
- .04 With the consent, and at the direction of, the majority of the BOT, as provided in Sections [2.4.0010](#), [2.4.00020](#) and [2.4.0030](#) of these bylaws, to officially notify the Board of Directors in writing of any action of the BOT to remove or replace a member of the Board of Directors.
- .05 With the consent, and at the direction of, the majority of the BOT, as provided in Section [2.4.0040](#) of these bylaws, to officially notify the Board of Directors in writing of any action of the BOT to approve or disapprove any action of the Board of Directors to employ or remove the President of the College, or to renew or fail to renew the contract of the President.
- .06 With the consent, and at the direction of, the majority of the BOT, as provided in Section [2.4.0050](#) of these bylaws, to officially notify the Tribal Council in writing of the recommendation of the BOT for the Council to remove or replace any Trustee.
- .07 To serve as a member with voting privileges on any special committee which the Chair appoints.
- .08 To nominate to the BOT members to fill vacancies on all special committees.

## SECTION 2 BOARD OF TRUSTEES BY LAWS

- .09 To oversee the Secretary of the Board and to ensure that all duties of the board Secretary are being fulfilled in a professional manner and perform an annual evaluation on the board Secretary.

### **5.0040 DUTIES AND RESPONSIBILITIES OF THE VICE-CHAIR**

- .01 If the Chair of the BOT shall become vacant, or if the Chair is unable to perform his or her duties due to temporary circumstances or misses one annual meeting, the Vice-Chair shall serve as the Chair until the Chair is again able to resume duties or until the Chair's term expires. In the case of the Chair and Vice-Chair being absent, the remaining members shall appoint a temporary presiding officer from the membership of the Board.
- .02 In the absence of the Chair of the BOT, the Vice-Chair has the authority to appoint a Board of Trustee member to fill a vacancy on the Board of Directors in accordance with Section [2.3.0020](#) of these bylaws.

### **5.0050 DUTIES AND RESPONSIBILITIES OF THE SECRETARY**

The duties of the Secretary are:

- .01 To record attendance and maintain all minutes and pertinent records of all meetings; including committee reports.
- .02 To ensure the accuracy, timeliness and storage of all board documentation in one central physical location, along with electronic location.
- .03 To coordinate with the Board Chair and the College President in all internal and external official correspondence, regarding by-laws, agenda's, and any other communication necessary to perform the duties of the BOT.
- .04 To record attendance and maintain all minutes and pertinent records of all meetings; including committee reports.
- .05 To provide a copy, electronically or otherwise, of all agendas, notices of meetings, minutes of meetings, committee reports, and other official reports of the BOT, other than those relating to the removal of any member of the Board of Directors, to the Secretary of the Board of Directors for distribution to the Board of Directors.
- .06 To assist in the preparation of all reports.
- .07 To keep track of the terms of all members and officers of the BOT and the Board of Directors, including the date of appointment of the specific Board member or election as a Board officer, the number of terms served by the Board member and the number of terms served as an officer of each Board member, if any, the date of expiration of the term of each Board member, as applicable, and the date of expiration of the term of any office held by any Board member.
- .08 To complete all travel arrangements for any travel which pertains to board members.
- .09 To submit all Board purchase requisitions.
- .010 To create a calendar of the Board activities for the year such as the following: self-evaluation, the Secretary evaluation, and annual BOD opening
- .011 To notify Board Chairman and President when an agenda item from the calendar is coming up to ensure it gets put on the agenda in the appropriate month.
- .012 To perform such other duties as will be assigned by the President of the College, the Board, or as required by law.
- .013 To notify the appropriate TMCC administration of the adoption of bylaw changes.

## SECTION 2 BOARD OF TRUSTEES BY LAWS

### 2.6.0000 MEETINGS OF THE BOARD OF TRUSTEES

#### 6.0010 MEETING TIMES

The BOT shall hold quarterly meetings in March, June, September, and December of each year. Additional meetings may be determined by the Chair of the BOT upon the request of at least two members of either the BOT or the Board of Directors, or in accordance with a regular schedule as may be determined by the Board. Public notice shall be given of at least 72 hours prior to each meeting.

#### 6.0020 EXECUTIVE SESSIONS

Executive sessions shall pertain to legal actions, causes of action, or litigation involving the BOT and proceedings involving recommendation for removal, or the physical or mental health, of any member of the BOT; proceedings involving employees of the Board.

- .01 No official action of the Board will take place in an executive session.
- .02 The Board shall determine who participates in an executive session, other than members of the Board.
- .03 No recording devices are allowed during executive session.
- .04 Cell phones will be physically placed outside the meeting room.
- .05 No telephone attendance is allowed during executive session or any other electronic means.
- .06 An executive session shall be declared by motion agreed to by a majority of the Board. The executive session will end upon a motion agreed to by a majority of the Board.

#### 6.0030 RULES OF ORDER

The most recent revised edition of Robert's Rules of Order shall govern at special and regular meetings of the BOT and all special committees when they are not in conflict with the bylaws of the BOT, or any other rule of procedure as adopted by the Board.

#### 6.0040 QUORUM

A majority of the Board shall constitute a quorum for the transaction of business at regular and special meetings. However, if a school year has ended and a student has not yet been elected as a Trustee, a quorum shall be five (5) Trustees.

#### 6.0050 NOTICE OF MEETINGS

Board members, representatives of the news media (including newspapers, radio, and television stations), and such other persons as the Board may designate, shall be notified in writing by the Secretary of the time, place, and purposes of all regular and special meetings and the agenda shall be posted on the bulletin board at the College, on the marquee, and social media not less than 72 hours in advance of meetings. No such written notices shall be required if any special meeting is held pursuant to action of the Board taken at any public meeting. Members of the BOT shall also receive notification in the same manner as the members of the Board of Directors.

#### 6.0060 OPEN MEETINGS

To the maximum extent possible, all regular and special meetings are open to the public; provided however, that upon majority vote of directors present certain matters may be taken up in executive session at which members of the public shall not be present. To the extent students, faculty, or other staff of the College is free of other duties; they are encouraged to attend meetings of the Board of Directors.

## SECTION 2 BOARD OF TRUSTEES BY LAWS

### **6.0070 MANNER OF HOLDING MEETINGS**

Regular or special meetings may be held by conference call, by video conferencing or over the Internet through software that allows for the equivalent of video conferencing, under necessary circumstances.

### **6.0080 SPECIAL MEETINGS**

Special meetings shall be called by the Chair of the Board, or upon written request by a quorum of Trustees. Such written request must be received by the Secretary at least seventy-two (72) hours in advance of any such requested meeting, except in the event of an emergency situation requiring immediate action by the Board if harm to the College would likely result if no action could be taken by the Board due to the notice requirement of this section.

Matters to be considered at any special meeting are confined to those stated in the notice of such special meeting and for which purpose such special meeting has been called.

## **2.7.0000 COMMITTEES**

### **7.0010 COMMITTEE OF THE WHOLE**

It shall be the general policy of the BOT to perform its work, so far as practicable, as a committee of the whole.

### **7.0020 SPECIAL COMMITTEES**

Special committees may be authorized by the BOT or by the Chair of the Board. Special committees must perform their work in a timely manner, be present at the scheduled meetings (unless there are extenuating circumstances), and maintain professionalism.

## **2.8.0000 CONFLICT OF INTEREST**

### **8.0010 DEFINITION OF CONFLICT OF INTEREST**

A Board member will declare a conflict of interest if:

- .01 Such Board member has an existing or potential financial or other interest in a particular matter that requires the approval or other action by the Board, which impairs or gives the appearance that the interest will impair such member's independent, unbiased judgment in the discharge of the member's responsibilities to the College, whether such interest occurs on the part of the member individually or as an owner, officer, director, employee, member, partner, trustee or controlling stockholder in any organization with an interest in the particular matter before the Board.
  - 1) A financial interest would not include matters that affect the entire employee population. An example of not having a financial interest would be a COLA increase.
- .02 Such Board member is aware that a member of his/her family has an existing or potential financial or other interests in a particular matter that requires the approval or other action by the Board.
- .03 An immediate family member shall be defined as a spouse, parent, siblings, children, grandchildren, grandparent, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, niece, nephew, uncle, aunt, stepmother, stepfather, stepchild, half-sibling, foster parent, or foster child. The definition of immediate family member also includes any person who resides in the same home as the Board member.

## SECTION 2 BOARD OF TRUSTEES BY LAWS

- .04 Nepotism shall be defined as the hiring, selecting, appointing, promoting, advancing, or advocating of an immediate family member without regard to qualifications.
- .05 The Trustees will also follow section [4.10.0000](#) Conflict of Interest Policy.
- .06 Each board member is required to sign the Conflict of Interest Statement Form ([Appendix A2-1](#)).

### **8.0020 DISCLOSURE OF CONFLICT OF INTEREST**

All members of the BOT shall disclose to the Board any possible conflict of interest at the earliest possible time. No Board member shall participate in discussion or vote on any matter under consideration at a Board or Committee meeting in which such Board member has a conflict of interest. The Board member should disqualify him/herself in the event of a conflict of interest and not participate in any way in the matter. The minutes of such meeting shall reflect that a disclosure was made by the Board member who has the conflict of interest and that the Board member who has the conflict of interest abstained from discussion and voting. An abstention is a non-vote. Any Trustee who becomes aware of a conflict of interest shall immediately furnish a written disclosure of any such conflict to the Chair of the Board or the President of the College, including such additional disclosures as maybe required by state and federal law or under these bylaws. The Board shall review and promptly notify the Trustee if it concurs there is a conflict of interest. In every instance, the BOT reserves the right to make a determination on a conflict of interest in light of the College's best interest.

On an annual basis, all Trustees are required to submit a Conflict of Interest Disclosure Survey to the Board Chair or Vice-Chair (See [Appendix A2-1](#)).

### **8.0030 UNCERTAINTY REGARDING CONFLICT OF INTEREST**

Any Board member who is uncertain whether or not he/she has a conflict of interest in any matter will request the Board or Committee to determine whether or not a conflict of interest exists, and the Board or Committee shall resolve the issue by majority vote. Conflicts of interest for members of the BOT shall be resolved consistent with resolution of similar conflicts for members of the Board of Directors and the Fiscal Management Conflict of Interest policy. Any discrepancies in the policies will be resolved by the BOT' majority vote.

### **8.0040 SANCTIONS**

Failure to disclose a conflict of interest or violations of this Conflict of Interest Bylaw will result in discipline, including but not limited to, warning, reprimand, suspension or removal as a Trustee, as provided through Tribal Council process.

## **2.9.0000 CODE OF CONDUCT**

All of BOT shall follow the Code of Conduct policy found in section [5.5.0030](#) of the Personnel Policy Manual.

### **9.0010 RULES OF ETHICAL CONDUCT FOR MEMBERS OF BOARD OF TRUSTEES**

Each Board of Trustee shall adhere to the laws, rules, regulations, and policies of applicable governmental and institutional authorities and the following standards of conduct. Failure to do so will be grounds for removal of the Trustee.

- .01 No member of the BOT will have a direct or indirect interest, financial, or otherwise, of any nature as described in Section [8.0010](#) of these bylaws that is in conflict with the proper discharge of the Trustee's duties. Any Trustee shall timely furnish a written disclosure of any

## SECTION 2 BOARD OF TRUSTEES BY LAWS

such conflict to the Chair of the Board or the President of the College, including such additional disclosures as maybe required by state and federal law or under Section [8.0010](#) of these bylaws.

- .02 No Trustee shall accept or solicit any gift, favor, or service that might reasonably tend to influence the Trustee in the discharge of the Trustee's official duties or that the Trustee knows or should know is being offered with the intent to influence the Trustee's official conduct.
- .03 No Trustee shall intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his or her official powers or performed his or her official duties in favor of another.
- .04 No Trustee shall accept employment or engage in any business or professional activity which the Trustee might reasonably expect would require or induce the Trustee to disclose confidential information acquired by reason of his or her official position.
- .05 No Trustee shall disclose confidential information gained by reason of his or her official position or otherwise use such information for personal gain or benefit.
- .06 No Trustee shall transact any business in his or her official capacity with any business entity of which the Trustee is an officer, agent, or member, or in which the employee owns a substantial interest.
- .07 No Trustee shall make personal investments which could reasonably be expected to create a substantial conflict between the Trustee's private interests and the public interest.
- .08 No Trustee shall accept other employment or compensation which could reasonably be expected to impair the Trustee's independence of judgment in the performance of the Trustee's duties as a Board member.
- .09 Sexual Harassment and Misconduct: The educational and working environment of the College should be free from inappropriate conduct of a sexual nature by any Board member.
- .010 The Trustees will also follow section [5.28.0000](#) Harassment and Bullying Policy.
- .011 No Trustee shall violate the Fiscal Management Conflict of Interest Policy (Section [4.10.0000](#)).
- .012 No Trustee shall coerce or exert undue influence or power upon the Board or College for any personal or financial gain or benefit for him/herself or for the Trustee's immediate family member.
- .013 No Trustee shall defame, by slander, libel or otherwise, the College and its students, employees, Trustees, Directors, or officers.

This is not an exhaustive list of conflicts of interest and Trustees should exercise full disclosure of any potential conflict of interest.

### **9.0020 SANCTIONS**

Failure to follow the Code of Conduct will result in discipline, including but not limited to, warning, reprimand, suspension or removal as a Trustee, as provided through Tribal Council process.

## **2.10.0000 AMENDMENTS TO BYLAWS OF BOARD OF TRUSTEES**

### **10.0010 APPROVAL OF BYLAWS BY TRIBAL COUNCIL**

These bylaws, including the process of amendment to these bylaws as contained herein, will not go into effect until approved by:

1. The BOT of the College;
2. The Tribal Council of the Turtle Mountain Band of Chippewa Indians; and
3. An update will be provided to the Higher Learning Commission.



## SECTION 2 BOARD OF TRUSTEES BY LAWS

### **10.0020 APPROVAL OF AMENDMENT BY BOARD OF TRUSTEES AND BOARD OF DIRECTORS**

The bylaws of the BOT are subject to amendment by a majority vote of the members of the Board at a duly called and noticed meeting of the Board, and upon 30 days' advance notice to each member of the BOT of the proposed amendment, and provided further that such amendment, once approved by the BOT, is approved by a majority vote of the members of the Board of Directors of the College. The Board of Directors shall have 30 days following receipt of the proposed amendment, as approved by the BOT, in which to approve or reject the proposed amendment to the bylaws of the BOT. Failure of the Board of Directors to act within the 30-day period specified shall mean that the bylaws are deemed approved by the Board of Directors.

### **10.0030 NO AMENDMENT TO VIOLATE CHARTER OF COLLEGE**

No proposed amendment to the bylaws will be presented or approved by the BOT which violates the Charter of the College as approved by the Tribal Council.

### **10.0040 APPROVAL BY HIGHER LEARNING COMMISSION, IF NECESSARY**

If submission of an amendment to these bylaws to the Higher Learning Commission is deemed appropriate by the President of the College, the BOT or the Board of Directors, the amendment will not go into effect until the Higher Learning Commission has either indicated that it approves the amendment or that approval of the amendment by the Commission is not necessary for the amendment to go into effect.

### **10.0050 ANNUAL REVIEW OF BYLAWS BY BOARD OF TRUSTEES**

The BOT shall review at least annually the bylaws of both the BOT and the Board of Directors.

### **2.11.0000 BOARD OF TRUSTEES POLICIES**

All members of the BOT will follow the policies and procedures set in all the TMCC policy manuals.

# SECTION 3 BOARD OF DIRECTORS BY LAWS

## SECTION 3 BOARD OF DIRECTORS BY LAWS

### SECTION 3: BOARD OF DIRECTORS BY LAWS

3.1.0000	PURPOSE OF THE BOARD OF DIRECTORS
3.2.0000	ORGANIZATION OF THE BOARD
3.3.0000	POWERS AND DUTIES OF THE BOARD OF DIRECTORS
3.4.0000	OFFICERS OF THE BOARD
3.5.0000	COMMITTEES OF THE BOARD
3.6.0000	MEETINGS OF THE BOARD
3.7.0000	CONFLICT OF INTEREST
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3.9.0000	AMENDMENTS TO BYLAWS OF BOARD OF DIRECTORS
3.10.0000	BOARD OF DIRECTORS POLICIES

## SECTION 3 BOARD OF DIRECTORS BY LAWS

### 3.2.0000 ORGANIZATION OF THE BOARD

The primary responsibility and duty of the Board of Directors hereinafter referred to as BOD shall be to control and operate the College which includes, but is not limited to the power to set College policy, to ensure fiscal integrity of the College and to employ or release the President of the College.

The overall purpose of the BOD shall be to advance and promote the mission of the College, which is to: “function as an autonomous Indian controlled college on the Turtle Mountain Band of Chippewa Reservation focusing on general studies, undergraduate education, Career & Technical Education, scholarly research, and continuous improvement of student learning. By creating an academic environment in which the cultural and social heritage of the Turtle Mountain Band of Chippewa is brought to bear throughout the curriculum, the College establishes an administration, faculty, staff, and student body exerting leadership in the community and providing service to it.”

Under the Charter as reauthorized by the Tribal Council of the Turtle Mountain Band of Chippewa, primary functions of the BOD has been specifically charged by the Tribe with the responsibility of providing community college instruction for members of the Tribe and residents within the area served by the College who are qualified for admission, according to the standards established by the College. The BOD is responsible for the management and operation of the College, and has custody of, responsibility for, and control of the property, real and personal, and other intangible assets, of the College.

The Board is responsible to the BOT and ultimately to the Turtle Mountain Band of Chippewa Indians. The Board is responsible for ensuring that the Institutional Objectives of the College are met. In doing so, the Board should be sensitive to the hopes, ambitions, and needs of the members of the Tribe. It shall have responsibility for formulating broad public policy for community college education in the area served by the College.

### 3.2.0000 ORGANIZATION OF THE BOARD

#### 2.0010 NAME OF BOARD OF DIRECTORS

The governing board of the Turtle Mountain Community College shall be known as the “BOD of the Turtle Mountain Community College” (hereinafter referred to as the “Board”).

#### 2.0020 COMPOSITION OF BOARD OF DIRECTORS

The BOD of the College shall consist of five members selected in accordance with Sections [2.4.0010](#) and [2.4.0020](#) of the bylaws of the BOT. No member of the Board will be employed by the College. Other qualifications as may be identified in the Board of Trustee bylaws.

#### 2.0030 TERM OF OFFICE

The term of each member of the Board of Director shall be for five years. Directors interested in renewing a term, shall go through the application process. Board members shall serve in staggered terms, with only one Board member reaching the end of his or her term each year.

#### 2.0040 VACANCIES

Any vacancies occurring on the Board for any reason shall be filled by the BOT by appointment in accordance with Section [2.4.0010](#) of the bylaws of the BOT, except as provided in Section [2.4.0020](#) of the bylaws of the BOT. Any such appointments will be made in accordance with policies as established by the BOT.

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### **2.0050 QUALIFICATIONS**

Each member of the BOD shall be:

- .01 Enrolled members of the Turtle Mountain Band of Chippewa Indians.
- .02 Of legal age.
- .03 Have demonstrated interest in the operation and success of the College.
- .04 No member of the BOD shall be employed by the College.
- .05 No member of the BOD shall be a convicted felon in accordance with Tribal law and be willing to submit to a background check
- .06 Other qualifications as outlined in the Board of Trustee bylaws.

### **2.0060 AUTHORITY OF INDIVIDUAL MEMBERS OF THE BOARD**

Individual members of the Board have power and authority only when acting formally as members of the Board in session or when entrusted by the Board with specific and definite assignments.

## **3.3.0000 POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

### **3.0010 OVERSIGHT AND CONTROL OF THE COLLEGE**

As the policy making body of the Turtle Mountain Community College, the Board shall be charged with oversight and control of the College. The formulation and adoption of written policies that govern the College shall constitute the basic method by which the Board exercises its authority over the operation of the College.

### **3.0020 SPECIFIC POWERS AND DUTIES OF BOARD OF DIRECTORS**

Subject to applicable law, and without limiting the right of the Tribe to modify its powers and duties, the BOD shall have the power or the duty:

- .01 Individual members of the Board have power and authority only when acting formally as members of the Board in session or when entrusted by the Board with specific and definite assignments.
- .02 To hire or release the President of the College. Appendix A3-2 Presidential Search Process
- .03 To review policies and procedures for not less than annually of the performance of the President of the College.
- .04 To follow policies allowing the President due process in any action of the Board to release the President of the College or to renew or not to renew the contract of the President, consistent with these bylaws and the bylaws of the BOT.
- .05 With the concurrence of the BOT, to adopt and periodically review a statement of philosophy, mission and goals, which clarifies basic educational responsibilities of the College.
- .06 To establish general policies for the governance of the College and hold the President accountable for administering them.
- .07 To consider and take appropriate action on recommendations of the President in matters of policy relating to the welfare of the College.
- .08 To concur with the President, on all hire, in-house transfer, or dismissal of the Vice-President and Comptroller, in accordance with established due process procedures as provided by the College. See the College's Personnel Policies regarding these procedures. The Board concurs on the employment of the Vice President because the Vice President can in the absence of the president be in charge of the College and the Comptroller is the

## SECTION 3 BOARD OF DIRECTORS BY LAWS

Treasure of the Board. If no concurrence, there is no hire, transfer, or dismissal. The recommendation for hire goes back to the selection committee for a new recommendation or advertisement.

- .09 To employ a general counsel, auditor, and other agents as required, and fix their qualifications and amount of compensation.
- .010 To adopt an annual budget in June of each fiscal year that will allow fiscally prudent operation of the College in accordance with applicable law and regulations. A preliminary budget shall be submitted at the May meeting of each fiscal year and approved at the June meeting, subject to change upon availability of funding.
- .011 To review and approve or disapprove all construction contracts and all expenses associated with these contracts.
- .012 To take all reasonable and necessary steps to provide the required personnel, physical facilities, and means of financial support to carry out the Mission and Institutional Objectives of the College.
- .013 To review and take action on matters relating to site selection and physical plant development for further development of the College.
- .014 To assess the efficiency of College operations and to approve a process for evaluation of the educational programs of the College.
- .015 To refer to the President of the College all matters concerning the College of which the Board or individual members become aware for study and recommendation before such matters are considered by the Board, except for the selection of the President.
- .016 To perform a self-evaluation annually at the first quarterly meeting of the calendar year. (See [Appendix A3-2](#))
- .017 To inform the public concerning relevant statistics and information about the College, its students and educational programs, the needs of the College, its financial status, and to accurately account to the public for all receipts and expenditures.
- .018 To perform such other duties as will be prescribed by applicable law, and where appropriate, act directly concerning matters not covered by these bylaws, the Charter, or specific law or policy.
- .019 The BOD shall review at least annually the bylaws of both the BOT and the BOD and make proposed edits as deemed necessary.
- .020 Nothing herein is to grant to the Board greater powers than the powers identified in the Charter.

### **3.0030 GRIEVANCE PROCESS**

The grievance process outlined in section [5.24.0000](#) shall be followed by all BOT and BOD members.

### **3.4.0000 OFFICERS OF THE BOARD**

#### **4.0010 NAMED OFFICERS**

The officers of the Board consist of a Chairperson (hereinafter the “Chair”) and a Vice-chairperson (hereinafter the “Vice-Chair”) who shall be elected from the members of the Board, and a Secretary and Treasurer, who shall not be members of the Board.

The Board may select a non-member as the Secretary, who shall be compensated separately by the College, and the Comptroller of the College shall serve as Treasurer. Such officers shall report to the Board through the President of the College.

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### **4.0020 MANNER OF ELECTION AND TERMS OF OFFICE**

The election of Board officers shall be held annually at the Regular Meeting of the Board in September following the appointment of a new Board member for that year.

The Chair and Vice-Chair of the Board shall be elected to such offices by the Board for a term of one (1) year and assume office immediately upon election. These two officers shall be elected from within the five-person Board.

### **4.0030 VACANCY IN OFFICE & REMOVAL OF A DIRECTOR FOR CAUSE**

In case of a vacancy in any elected office of the BOD, the vacancy shall be filled as soon as possible through an election as provided in Section [4.0020](#) of these bylaws, by the remaining Board members. The secretary and treasurer shall serve at the discretion of the Board and any vacancy in either of those offices shall be filled as soon as possible after the vacancy occurs by the BOD, in consultation with the President of the College.

A Director will be removed for cause. The process to remove a Director for cause shall be the process identified in Section [2.4.0030](#).

### **4.0040 DUTIES AND RESPONSIBILITIES OF THE CHAIR OF THE BOARD**

The duties of the Chair of the BOD are:

- .01 To preside at all meetings.
- .02 To appoint members and designate a chairperson of all special committees approved by the Board.
- .03 To execute all contracts approved by the Board and other official documents legally requiring the signature of the chairperson of the Board.
- .04 To call special meetings of the Board as required.
- .05 To represent the Board at meetings of the Trustees.
- .06 To perform any other duty formally assigned by the Board, or by legislative enactment.
- .07 To request that a member of the BOT be appointed pursuant to Section [2.4.0020](#) of the bylaws of the BOT to temporarily act as a Director to establish a quorum during an emergency meeting of the BOD when a quorum of the BOD cannot be established by any other means, including personal presence, conference call or other electronic means. Any member of the BOT appointed to serve on the BOD under this section only serves on the BOD until such time as a quorum of duly appointed members of the BOD can be established.
- .08 To vote on all matters that come before the BOD.
- .09 To oversee the secretary of the Board and to ensure that all duties of the board secretary are being fulfilled in a professional manner and perform an annual evaluation on the board Secretary.

### **4.0050 DUTIES AND RESPONSIBILITIES OF THE VICE-CHAIR OF THE BOARD**

The duties of the Vice-Chair of the BOD are:

- .01 To perform all duties of the Chair of the Board in the absence or disability of the Chair, and to perform such other duties as assigned by the Chair with the consent of the Board.

### **4.0060 DUTIES AND RESPONSIBILITIES OF THE SECRETARY**

The duties of the Secretary are:

## SECTION 3 BOARD OF DIRECTORS BY LAWS

- .01 To ensure the accuracy, timeliness and storage of all board documentation in one central physical location, along with electronic location.
- .02 To coordinate with the Board Chair and the College President in all internal and external official correspondence, regarding by-laws, agenda's, and any other communication necessary to perform the duties of the BOD.
- .03 To be responsible for the written or electronic notification of all appropriate parties regarding the regular and special meetings of the Board.
- .04 To prepare the Board Room or other appropriate accommodations before and after each meeting of the Board or any of its committees.
- .05 To transmit electronically, or by other mechanism designed to assure delivery, the Board agenda and a copy of the minutes of the previous meetings to the Board and such other persons as the Board may designate and post at proper areas prior to an ensuing meeting.
- .06 To be responsible for recording, preparing and distributing to all members of the Board, and to such members of the BOT who might request such information, whether electronically or by any other mechanism designed to assure delivery, the minutes and other accompanying materials of regular and special meetings of the Board.
- .07 To have custody of the official Seal of the Corporation, to affix it to official documents, if necessary, and to attest to any signature of an officer of the Board or a senior administrative official of the College.
- .08 To prepare and maintain for the Board an indexed compilation of all bylaws and amendments thereto; and a copy of all policies of the Board and all amendments thereto, the whole of which shall be known as the Policies of the BOD of the Turtle Mountain Community College.
- .09 To inform the Board of any communications which require consideration and action by the Board.
- .010 To file such public notices of Board actions as may be required by statute, bylaws, resolutions of the Board, or other applicable law.
- .011 To perform such other duties as may be assigned by the President of the College, the Board, or as required by law.
- .012 To complete all travel arrangements for any travel which pertains to board members.
- .013 To submit all Board purchase requisitions.
- .014 To create a calendar ([Appendix A3-4](#)) of the Board activities for the year such as the following: self-evaluation, Presidential evaluation, review of the annual report, the fiscal audit, and the Secretary evaluation
- .015 To notify Board Chairman and President when an agenda item from the calendar is coming up to ensure it gets put on the agenda in the appropriate month.
- .016 To notify the appropriate TMCC administration of the adoption of bylaw changes.

### **4.0070 DUTIES AND RESPONSIBILITIES OF THE TREASURER OF THE BOARD**

The duties of the Treasurer of the BOD are:

- .01 To cause to be kept current complete and accurate records of all funds of the College that are collected or expended, in accordance with generally accepted accounting principles and all relevant law and regulations.
- .02 To notify promptly the President of all funds received, the source and nature of such funds, and to arrange for the deposit of such funds to the appropriate accounts of the College.



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- .03 To account for all money received and for all money paid out when so requested by the Board or as required by law.
- .04 To invest the College's surplus funds, in lawful investments and as approved by the BOD and the President of the College, and to provide a report of such investments to the Board.
- .05 To prepare annually a statement of revenue, expenditures, and fund balances of the College as of the end of the fiscal year.
- .06 To prepare such other reports and perform such other duties as the President or the BOD may from time to time direct.
- .07 To prepare an Annual Budget for the President to be presented to the BOD at the June meeting of the Board.

### **4.0080 DUTIES AND RESPONSIBILITIES OF THE COLLEGE PRESIDENT**

The President of the College shall be the Executive Officer of the Board through which the Board carries out its programs and exercises its policies. The President may delegate to subordinate officers of the College such duties of the President as the President may deem advisable under the supervision and direction of the President.

Within the framework of policies adopted by the Board, the President shall exercise discretionary authority in carrying out responsibilities of the position. The President shall perform the following functions:

- .01 Inform the Board of all actions taken under authority granted by it.
- .02 Perform all executive functions of the Board, such as:
  - 1) Preparation of the agenda for Board meetings with the BOD Chair;
  - 2) Conduct official correspondence of the Board;
  - 3) Issue orders of the BOD;
  - 4) Cause to be prepared contracts and other documents necessary to carry out the activities of the College, including those contracts and other documents subject to approval by the Board;
  - 5) Provide for the custody of all records, proceedings, and documents of the Board and assume responsibility for making them available for public inspection; and
  - 6) Ensure that trustees, directors, and employees handling College funds are adequately bonded at College expense to protect the College from loss sustained through fraudulent or dishonest acts or any act of omission performed in the line of official duty.
- .03 To advise the Board in all areas of policy and make recommendations on all matters that affect the College before action is taken by the Board.
- .04 To inform the Board of all personnel hires of the College except Vice-President and Comptroller which require Board concurrence. The Board concurs on the employment of the Vice President because the Vice President can in the absence of the president be in charge of the College and the Comptroller is the Treasure of the Board. The recommendation for hire goes back to the selection committee for a new recommendation or advertisement.
- .05 To submit to the Board at the appropriate time an annual budget and administer the Board approved budget.
- .06 To be responsible for the formulation of all reports as may be required by the Board and by local, state, and national agencies.
- .07 To formulate and promulgate regulations and procedures designed to implement Board policies.

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- .08 To represent the College to the community by interpreting and presenting the College program to the public, parents of students, the press, the Tribal Council, and community organizations.
- .09 To execute all documents pursuant to such authority as may be granted to the President by the Board.
- .010 To prepare and submit to the Board an annual report of the operation of the College, including recommendations for the immediate and long range development of the College.
- .011 To serve as the official channel for all contacts between staff members and the BOD.
- .012 To act as the chief administrator and educational leader of the College, who is responsible for the organizational structure of the College and for all executive and administrative duties in connection with the operation of the College.
- .013 To propose a long-range plan for College programs, recommending to the Board from time to time such changes in the programs and services of the College as appropriate and necessary to fulfill the stated philosophy and goals of the College.
- .014 To establish College objectives consistent with the Board approved philosophy and goals, and provide for evaluation of all personnel and programs in accordance with the stated objectives.
- .015 To recommend to the Board site location and site utilization and direct the development of the campus building program.
- .016 To participate in community college programs at the local, state, and national level by ensuring that the College is represented at meetings of all organizations to which the College belongs, and to represent the College within such other organizations as may be approved by the Board.
- .017 To review pending or existing legislation at the tribal, state, and federal level that affects the College or that may provide assistance to the College if enacted and report the substance thereof to the Board.
- .018 To designate an administrative officer of the College to serve as acting President during any absence of the President.
- .019 To carry out approved policies, guidelines, and regulations governing the management of academic, business, and student affairs, delegating execution to administration.
- .020 Primary responsibility for the internal organization of the College's administration, including academic, administrative, and student affairs, and the development and management of the physical plant and auxiliary services.
- .021 Ensure the assets of the College are continually directed toward maintaining and sustaining the quality of teaching and the mission of the College.
- .022 Responsible for facilitation of quality scholarships; careful management of resources; recruitment and retention of outstanding faculty, staff and students; problem solving; and promoting intellectual, physical and fiscal health of the College.
- .023 Provide the necessary leadership and management skills, including planning and policy development, for the College to achieve its mission and purpose.
- .024 Maintain a productive and positive relationship with faculty, students, staff, Board members, and alumni.
- .025 Assume responsibility for the establishment of guidelines/policies for student conduct which sets forth prohibited conduct and provides appropriate disciplinary procedures and sanctions for violation of College rules, consistent with standards of procedural fairness.
- .026 Inform and advise the BOT and BOD regarding significant issues at the College.
- .027 Will delegate duties and responsibilities as necessary or appropriate.

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.028 Provide new BOT and BOD Members with an orientation within one month of the first Board Meeting of appointment.

.029 To perform such other duties as will be assigned by the Board or otherwise required by law.

### **4.0090 REVIEW OF PRESIDENT DECISIONS**

In exercising his/her authority to carry out the President's responsibilities and duties, the President shall strive to conform to and advocate the College's mission and purpose in compliance with policies, bylaws, rules, regulations and state, federal and tribal laws.

In the event the BOD, upon a majority vote, disagrees with a College President's decision or action, the Board shall designate two Board members to meet with the President to discuss and attempt to reach an understanding and resolution of the issue. If a resolution cannot be reached on matters of policy violation, the BOD has the authority, upon majority vote, to make a final decision and direct the President to follow its decision. On matters other than policy violation, the President will have the ultimate authority to make a final decision. However, the BOD has ultimate authority on all matters of fiscal integrity of the College.

### **4.0100 PRESIDENT'S EVALUATION**

The College President's evaluation form ([Appendix A3-1](#)) shall be sent from the recording Secretary, to the BOD 90 days prior (April 1) to the deadline for renewal or non-renewal. The evaluation will be reviewed by the BOD and the College President 60 (May 1) days prior to the deadline for renewal.

### **4.0110 COLLEGE PRESIDENT DUE PROCESS**

#### **.01 DUE PROCESS FOR NONRENEWAL OF CONTRACT**

The Board will employ or remove the President of the College, or renew or not renew the contract of the President. The BOD will initiate such process by providing written notice of intent to do so to the President of the College. Such notice shall identify the action (such as employ, remove, renew, or nonrenewal) and the facts supporting such decision. The President shall be given ten (10) days to provide a written response to the notice and to request a hearing before the BOD. The hearing shall be held within 30 days of receipt of President's request for hearing. The Board may suspend a President with pay and benefits or reassign a President to other duties pending meeting and a decision. The President may present additional information at the hearing by written submissions, evidence and testimony. The Board may limit the scope of the hearing and the number of witnesses.

Within ten (10) days following the hearing, the Board shall issue a written decision to the President

## **3.5.0000 COMMITTEES OF THE BOARD**

### **5.0010 STANDING COMMITTEE OF THE WHOLE**

It shall be the general policy of the BOD to perform its work, so far as practicable, as a committee of the whole.

### **5.0020 SPECIAL COMMITTEES**

The Board may establish, from time to time, special committees to deal with specific needs/concerns. Committee members and their chairperson shall be appointed by the Chair of the Board. The Chair of the Board shall be an ex-officio member of all committees. Moreover, any

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member of the BOD or BOT shall have the right to participate without vote at any committee meeting, and shall upon request be given the same notices and information as the committee members. All committees shall keep records of their actions and submit such minutes of committee meetings, together with any recommendation for action, to the appropriate Board for consideration.

Special committees must perform their work in a timely manner, be present at the scheduled meetings (unless there are extenuating circumstances), and maintain professionalism.

### **3.6.0000 MEETINGS OF THE BOARD**

#### **6.0010 ANNUAL ORGANIZATIONAL MEETING**

The Organizational Meeting of the Board shall be held annually in connection with the first regular meeting in September following the appointment or reappointment of that year's Board member. The specific business before this meeting shall be the election of officers as authorized by these bylaws and the determination of the regular meeting schedule of the Board for the succeeding year.

#### **6.0020 REGULAR MEETINGS**

Regular meetings of the Board shall be held once each month, on the fourth Monday at 5:00 pm. A regular meeting may, however be set for another date and time or waived by action of the Board at any previous meeting with concurrence of the College President. Meetings shall be held in the Board Room of the College on the College campus and a notice of no less than 72 hours shall be given to the public prior to each meeting.

- .01 QUARTERLY MEETINGS - The BOD shall meet quarterly on the 4<sup>th</sup> Saturday of the month beginning at 9 am, which may also constitute as a regular meeting with the exception of the December meeting which shall be held first Saturday of the December beginning at 9 am. Quarterly meetings will be held in March, June, September, and December.
- .02 ATTENDANCE - Any Board member who misses without good cause two consecutive regular meetings or four regular meetings over a period of one year shall be reported to the BOT by the Chair or Vice-Chair of the BOD, along with a recommendation to the BOT that the Board member be removed for cause pursuant to Section [2.4.0030](#) of the bylaws of the BOT. Attendance will be reviewed at quarterly meetings. Board members will have an opportunity to explain absences for good cause at that time.

#### **6.0030 SPECIAL MEETINGS**

Special meetings shall be called by the Chair of the Board, or upon written request by three (3) Directors or by the President when approved by the Chair of the Board. Such written request must be received by the Secretary at least seventy-two (72) hours in advance of any such requested meeting, except in the event of an emergency situation requiring immediate action by the Board if harm to the College would likely result if no action could be taken by the Board due to the notice requirement of this section.

Matters to be considered at any special meeting are confined to those stated in the notice of such special meeting and for which purpose such special meeting has been called.

#### **6.0040 EXECUTIVE SESSIONS**

Executive sessions shall pertain to legal actions, causes of action, or litigation involving the College; leasing, purchase or sale of real estate; and proceedings involving physical or mental health,

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scholastic probation, scholastic expulsion, or scholastic graduation; and proceedings related to the hiring, firing, renewal or nonrenewal of College President, Vice President or Comptroller. Directors must attend Executive Sessions in person and attendance by telephone or any other electronic means is not allowed.

- .01 No official action of the Board will take place in an executive session.
- .02 The Board shall determine who participates in an executive session, other than members of the Board.
- .03 No recording devices on during executive session.
- .04 Cell phones will be physically placed outside the meeting room.
- .05 No phone attendance during executive session.
- .06 Executive session shall be declared by motion and agreed to by a majority of the Board. The executive session will end upon a motion agreed to by a majority of the Board.

### **6.0050 NOTICE OF MEETINGS**

Board members, representatives of the news media (including newspapers, radio, and television stations), and such other persons as the Board may designate, shall be notified in writing by the Secretary of the time, place, and purposes of all regular and special meetings and the agenda shall be posted on the bulletin board at the College on the marquee, and social media not less than 72 hours in advance of meetings. No such written notices shall be required if any special meeting is held pursuant to action of the Board taken at any public meeting. Members of the BOT shall also receive notification in the same manner as the members of the BOD.

### **6.0060 OPEN MEETINGS**

To the maximum extent possible, all regular and special meetings are open to the public; provided however, that upon majority vote of directors present certain matters may be taken up in executive session at which members of the public shall not be present. To the extent students, faculty, or other staff of the College is free of other duties; they are encouraged to attend meetings of the BOD.

### **6.0070 MANNER OF HOLDING MEETINGS**

Regular or special meetings may be held by conference call, by video conferencing or over the Internet through software that allows for the equivalent of video conferencing.

### **6.0080 APPEARANCES BEFORE THE BOARD**

The order of business of any regular meeting shall include an opportunity for the public to address the Board on any item of business, which is included on the agenda.

Furthermore, any individual, or group, may ask the Board to place on the agenda any subject matter not already on the agenda as prepared by the Secretary that lies within the Board's authority to consider. The individual who wishes to appear regarding a matter not already on the agenda for consideration shall make a written request to the President describing the question or topic for discussion or presentation at least seven (7) days prior to a regular meeting of the Board. The Board may approve by motion other requests to appear at the time the Agenda is considered for approval.

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### 6.0090 QUORUM

A majority of the Board consisting of at least three (3) members shall constitute a quorum for the transaction of business at regular and special meetings. A smaller number may call the roll, record the names of absentees, and adjourn to meet at a specified future time.

### 6.0100 REQUIRED VOTE

An affirmation vote of a majority of all directors present at regular and special meetings shall be required for the passage of any motion.

A member abstaining from voting shall be entered in the minutes as a neutral vote.

### 6.0110 ACTION BY RESOLUTION

The Board shall act by resolution regarding decisions that involve any of the following actions:

- .01 Fixing and determining educational policy and curriculum of the College.
- .02 Fixing and determining tuition rates and other fees.
- .03 Entering into contracts and agreements with a value of more than \$25,000, or such lesser amount as the Board may determine in consultation with the Comptroller and the President.
- .04 Any proceedings for eminent domain.
- .05 Establishment of general policies for operation of the College.

### 6.0120 ACTION BY MOTION

Generally, all other action taken by the BOD and not falling in the categories listed in Section [6.0110](#) of these bylaws will be pursuant to motion and passed by majority vote at a regular or special meeting. This includes, but is not limited to, the following:

- .01 Employing and fixing the compensation and contract terms of the President of the College.  
Acting upon routine approvals of the Board at a regular or special meeting covering such matters as:
  - 1) Serving as a final adjudicating or appeal body for students, employees, and citizens on matters of policy and policy interpretation.
  - 2) Considering communications and requests from citizens and organization on matters of policy, administration, and other items of public concern affecting the College.
  - 3) Directing the President to take appropriate action regarding the ordinary functions of the College.
  - 4) Procedural motions of any kind, including adoption of rules of order in special situations, such as appearances before the Board.
  - 5) Adopting terms and conditions of employment of College President, Vice President, and Comptroller and fixing compensation specifically or under general schedules.

### 6.0130 EMERGENCY MEETINGS

Any action required or permitted to be taken by the Board in any emergency in which the College or any person is in imminent threat of harm if action is not taken may be taken without a formal meeting, provided a quorum is present and all members of the Board have been notified of the meeting. Such a meeting may be conducted by telephone, electronic device such as the Internet or

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in any other way the Board members shall decide that will allow immediate action to be taken or authorized. In such cases, the President of the College may act as the Secretary of the Board, or the Board may appoint a temporary Secretary to record the proceedings of the meeting. A written consent setting forth the action so taken, and signed by all of the members of the Board in attendance at the meeting, must be filed with the minutes of the meeting.

### **6.0140 AGENDA**

The agenda shall be prepared by the President and its contents presented to the Board for consideration at each meeting. Any item not on the agenda may be placed on the agenda by any Board member unless objected to by any member of the BOD present, but, even if an objection is made; such item shall be placed on the agenda upon motion if a majority of the Board consents.

### **6.0150 ORDER OF BUSINESS**

1. Call to order
2. Opening Prayer
3. Roll call
4. Approval of Agenda
5. Approval of Minutes
6. Old Business
7. New Business
8. Other Business
9. Adjournment

### **6.0160 MINUTES OF MEETING**

Minutes of regular and special meetings are public records. The Minute Book, a permanent record of all actions of the BOD, shall be open to inspection by any citizen of the Turtle Mountain Band of Chippewa community and shall be kept on file at the College administrative offices as a permanent official record of all transactions of the Board.

The minutes shall record the name of the director making a motion, the name of the director seconding it, and the vote attributing each 'yea' and 'nay' vote, or abstinence if not voting, to the individual director. The voting shall be by voice except that a roll call may be required for resolutions and all other questions whenever requested by a Board member. A Board member may also have the reasons for his or her vote recorded in the minutes if so requested at the time of voting.

### **6.0170 ADOPTION OF POLICY AND BYLAWS**

No matter of policy regarding the College shall be submitted to the Board for approval or placed on a regular or special meeting agenda for action by the Board unless it has been presented in writing at a previous regular meeting of the Board. This rule may be waived only by the unanimous consent of those Board members present and voting at the meeting when any such proposed action is contemplated.

There will be a thirty (30) day comment period for adoption and changes in policies and bylaws. All comments will be compiled anonymously and submitted to the Board for consideration prior to the final motion to approve. The adoption of policy and bylaws requires the affirmative vote of a majority of the Board.

## SECTION 3 BOARD OF DIRECTORS BY LAWS

A copy of the adopted bylaws will be submitted to the BOT for approval.

### **6.0180 RULES OF CONDUCT FOR MEETINGS**

Except as they may be in conflict with the bylaws heretofore set forth, Robert's Rules of Order, in its current revision, shall constitute the rules of conduct for meetings of the BOD. Robert's Rules regarding decorum at all meetings will be followed. If necessary, the Chairman of the Board, or any two (2) members of the Board, may request the appointment of a Sergeant at Arms to assist in maintaining the decorum of the meeting. In the event matters of decorum are not being followed, either upon approval of a majority of the Board present at the meeting, or upon the determination of the Chairman of the Board, the meeting will be terminated and recommenced at another date, time, or place.

### **6.0190 HONORARY DEGREE POLICY**

In the name of the Turtle Mountain Community College, the BOD may, at any regularly scheduled Board meeting, award honorary one and two year degrees. Recommendations for an honorary degree can be made by the President, members of the BOT, and the BOD for approval by the BOD. In order to avoid any embarrassment, no announcement shall be made to any person under consideration until the Board has acted. The selection criteria shall be as follows:

- .01 The candidate should have had an association with the College;
- .02 The candidate must have achieved a level of distinction which would merit comparable recognition in the candidate's profession or area of excellence; and.
- .03 The reputation of the candidate should reflect favorably on the Board, the Turtle Mountain Community College, and the Turtle Mountain Band of Chippewa.

### **6.0200 RETREAT**

Board members will meet periodically and not less than once each year, apart from official meetings held pursuant to these bylaws, to review institutional direction and discuss policy.

## **3.7.0000 CONFLICT OF INTEREST**

### **7.0010 DEFINITION OF CONFLICT OF INTEREST**

A Board member shall be considered to have a conflict of interest if:

- .01 Such Board member has an existing or potential financial or other interest in a particular matter that requires the approval or other action by the Board, which impairs or gives the appearance that the interest will impair such member's independent, unbiased judgment in the discharge of the member's responsibilities to the College, whether such interest occurs on the part of the member individually or as an owner, officer, director, employee, member, partner, trustee, or controlling stockholder in any organization with an interest in the particular matter before the Board.
- .02 A financial interest would not include matters that affect the entire employee population. An example of not having a financial interest would be a COLA increase.
- .03 Such Board member is aware that a member of his/her immediate family has an existing or potential financial or other interests in a particular matter that requires the approval or other action by the Board. For the purposes of this paragraph, a family member shall be a spouse, parents, siblings, children, and any other relative if the latter resides in the same house held as the Board member. Such conflict of interest also occurs if the family member



## SECTION 3 BOARD OF DIRECTORS BY LAWS

has a conflict by virtue of being an officer, director, employee, member, partner, trustee, or controlling stockholder of any organization with an interest in the matter before the Board.

- .04 An immediate family member shall be defined as a spouse, parent, sibling, children, grandchildren, grandparent, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, niece, nephew, uncle, aunt, stepmother, stepfather, stepchild, half-sibling, foster parent, or foster child. The definition of immediate family member also includes any person who resides in the same home as the Board member. Such conflict of interest also occurs if the family member has a conflict by virtue of being an officer, director, employee, member, partner, trustee, or controlling stockholder of any organization with an interest in the matter before the Board.
- .05 Nepotism shall be a conflict of interest. Nepotism is defined as the hiring, selecting, appointing, promoting, advancing, or advocating of an immediate family member.
- .06 The Director's will also follow section [4.10.0000](#) Conflict of Interest Policy.
- .07 Each board member is required to sign the Conflict of Interest Statement Form ([Appendix A2-1](#)).

### 7.0020 DISCLOSURE OF CONFLICT OF INTEREST

Directors shall avoid all conflicts of interest in any financial activity of the College and shall avoid even the appearance of a conflict of interest. A conflict of interest arises when a Director's position or authority may be used to influence or make decisions or have the appearance of influence that lead to any form of financial, personal, or professional gain for that Director or for the Director's Immediate Family Member.

All Board members shall disclose to the Board any possible conflict of interest at the earliest possible time. No Board member shall participate in discussion or vote on any matter under consideration at a Board or Committee meeting in which such Board member has a conflict of interest. The Board member should disqualify him/herself in the event of a conflict of interest and not participate in any way in the matter. The minutes of such meeting shall reflect that a disclosure was made by the Board member who has the conflict of interest and that the Board member who has the conflict of interest abstained from discussion and voting. An abstention is a non-vote.

Any Director who becomes aware of a conflict of interest shall immediately furnish a written disclosure of any such conflict to the Chair of the Board or the President of the College, including such additional disclosures as maybe required by state and federal law or under these bylaws. The Board shall review and promptly notify the Director if it concurs there is a conflict of interest. In every instance, the BOD reserves the right to make a determination on a conflict of interest in light of the College's best interest.

On an annual basis, all Directors are required to submit a Conflict of Interest Statement to the Board President or Vice-President (See [Appendix A2-1](#)).

### 7.0030 UNCERTAINTY REGARDING CONFLICT OF INTEREST

Any Board member who is uncertain whether or not he/she has a conflict of interest in any matter may request the Board or Committee to determine whether or not a conflict of interest exists, and the Board or Committee shall resolve the issue by majority vote. Conflicts of interest for members of the BOD shall be resolved consistent with resolution of similar conflicts for members of the BOT and the Fiscal Management Conflict of Interest policy. Any discrepancies in the policies will be resolved by the BOD' majority vote.

## SECTION 3 BOARD OF DIRECTORS BY LAWS

### 7.0040 RULES OF ETHICAL CONDUCT FOR MEMBERS OF BOARD OF DIRECTORS

Each Board of Director shall adhere to the laws, rules, regulations, and policies of applicable governmental and institutional authorities and the following standards of conduct. Failure to do so will be grounds for removal of the Director.

- .01 No Director shall engage in any activity, transaction or Board decision where the Director may receive a personal or financial gain or benefit or the Director's immediate family member or business owned by the Director or immediate family member may receive a personal or financial gain or benefit.
- .02 No individual shall be appointed by the BOD or the President to any position at the College in which he or she is directly supervised by an immediate family member, except by special approval of the BOD.
- .03 No Director shall accept or solicit any gift, favor, or service that might reasonably tend to influence the Director in the discharge of the Director's official duties or that the Director knows or should know is being offered with the intent to influence the Director's official conduct.
- .04 No Director shall intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his or her official powers or performed his or her official duties in favor of another.
- .05 No Director shall accept employment or engage in any business or professional activity, which the Director might reasonably expect, would require or induce the Director to disclose confidential information acquired by reason of his or her official position.
- .06 No Director shall disclose confidential information gained by reason of his or her official position or otherwise use such information for personal gain or benefit.
- .07 No Director shall transact any business in his or her official capacity with any business entity of which the Director is an officer, agent, or member, or in which the employee owns a substantial interest.
- .08 No Director shall make personal investments, which could reasonably be expected to create a substantial conflict between the Director's private interest and the public interest.
- .09 No Director shall accept other employment or compensation, which could reasonably be expected to impair the Director's independence of judgment in the performance of the Director's duties as a Board member.
- .010 No Director shall act in a manner that constitutes sexual harassment, discrimination, bullying or misconduct. The educational and working environment of the College should be free from inappropriate conduct of a sexual nature by any Board member.
- .011 No Director shall violate the Fiscal Management Conflict of Interest Policy (Section [4.10.0000](#)).
- .012 No Director shall coerce or exert undue influence or power upon the Board or College for any personal or financial gain or benefit for him/herself or for the Director's immediate family member.
- .013 No Director shall defame, by slander, libel or otherwise, the College and its students, employees, Directors, officers, or Trustees.
- .014 The Directors will also follow section [5.28.0000](#) Harassment and Bullying Policy.

This list is not an exhaustive list of conflicts of interest and Directors should exercise full disclosure of any potential conflict of interest.

## SECTION 3 BOARD OF DIRECTORS BY LAWS

### **7.0050 SANCTIONS**

Failure to disclose a conflict of interest or violations of this Conflict of Interest Bylaw will result in discipline, including but not limited to, warning, reprimand, suspension or removal as a Director.

### **3.8.0000 CODE OF CONDUCT**

All of BOD shall follow the Code of Conduct policy below.

The Turtle Mountain Community College (TMCC) is committed to ethical and professional conduct. The College's leadership expects that each individual performing any activities on behalf of the College will adhere to those standards in the performance of their duties.

It is the responsibility of each individual BOT and BOD acting on behalf of the College to comply with legal and regulatory requirements, policies, and procedures that apply to their particular duties.

To maintain the highest standards of business conduct, the College depends on each individual to report known or suspected violations relative to the business of the College. Violations may include but are not limited to such subjects as: applicable federal, state, and tribal laws; regulations; government contract and grant requirements; College policies and procedures; or this Code of Conduct. Failure to report known or suspected violations is in itself a breach of College ethical standards and can lead to discipline, up to and including removal from the College Board. In addition, making an intentionally false report of a violation will result in disciplinary action.

Individuals should understand that the College expects reporting of violations and makes available numerous options for reporting. Individuals must report violations to administration. All reports will be investigated.

### **8.0010 SANCTIONS**

Failure to follow the Code of Conduct will result in discipline, including but not limited to, warning, reprimand, suspension or removal as a Director.

### **3.9.0000 AMENDMENTS TO BYLAWS OF BOARD OF DIRECTORS**

#### **9.0010 APPROVAL OF BYLAWS BY TRIBAL COUNCIL**

These bylaws, including the process of amendment to these bylaws as contained herein, will not go into effect until approved by:

- 1) The BOD and the BOT of the College;
- 2) The Tribal Council of the Turtle Mountain Band of Chippewa Indians; and
- 3) An update will be provided to the Higher Learning Commission.

#### **9.0020 APPROVAL OF AMENDMENT BY BOARD OF TRUSTEES AND BOARD OF DIRECTORS**

The bylaws of the BOD are subject to amendment by a majority vote of the members of the Board at a duly called and noticed meeting of the Board, and upon 30 days advance notice to each member of the BOD of the proposed amendment, and provided further that such amendment, once approved by the BOD, is approved by a majority vote of the members of the BOT of the College. The BOT shall have 30 days following receipt of the proposed amendment, as approved by the BOD, in which to approve or reject the proposed amendment to the bylaws of the BOD. Failure of the BOT to act within the 30-day period specified shall mean that the bylaws are deemed approved by the BOT.

## SECTION 3 BOARD OF DIRECTORS BY LAWS

### **9.0030 NO AMENDMENT TO VIOLATE CHARTER OF COLLEGE**

No proposed amendment to the bylaws will be presented or approved by the BOD, which violates the Charter of the College as approved by the Tribal Council.

### **9.0040 APPROVAL BY HIGHER LEARNING COMMISSION, IF NECESSARY**

If submission of a proposed amendment to the bylaws/policies causes any question about alignment to the Higher Learning Commission's criteria for accreditation, the President of the college or the BOD may delay approval until the HLC has indicated alignment or non-alignment with the criteria for accreditation.

### **3.10.0000 BOARD OF DIRECTOR POLICIES**

All members of the BOD will follow the policies and procedures set in all the TMCC policy manuals.

# SECTION 4

## FISCAL

# MANAGEMENT

### SECTION 4: FISCAL MANAGEMENT<sup>1</sup>

4.1.0000	INTRODUCTION
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<sup>1</sup> Revised: 7/12/17, 8/27/18

# SECTION 4 FISCAL MANAGEMENT

## 4.1.0000 INTRODUCTION

This manual contains the fiscal policies of the Turtle Mountain Community College BOD, (hereafter referred to as the “Board”). Policy development is a continuous process and, therefore, is never complete. New situations and issues give rise to the continuing need to develop new policies or revise existing ones.

The Turtle Mountain Community College, (hereafter referred to as the “College”), operates according to policies established by the BOD. The Board, which represents the best interest of the community, develops policies in accordance with federal regulations and the college administration implements them through specific regulations and procedures. The Board periodically appraises the effects of its policies and makes revisions as necessary.

In the interest of harmony, efficiency, uniformity of interpretation, coordination of effect, and in fairness to all concerned, the Board makes this manual available to all who are affected by its policies. One copy shall remain on file in the administrative offices at all times.

The manual can be viewed on-line at [www.tm.edu](http://www.tm.edu). Each employee or department is responsible for downloading the most up-to-date version of the policy manual.

## 2.0010 GOALS

As trustee of Institutional, Tribal, State, and Federal funds designated as educational support, the fiscal office has the responsibility to protect all funds and to use them prudently. The fiscal office also recognizes that the quality and quantity of learning programs are related to both the amount of funding provided and the effective and efficient management of those funds. Therefore, the fiscal office seeks to achieve the following fiscal management goals:

- .01 To provide a level of funding which supports quality education for the students.
- .02 To use the best available techniques for budget development and management.
- .03 To provide timely and appropriate information to all staff members who have fiscal management responsibilities.
- .04 To establish efficient procedures for accounting purchasing, paying vendors and personnel, and all other areas of fiscal management.
- .05 To assure that funds are expended for the purpose for which they were budgeted.
- .06 To provide a complete and accurate accounting to all funding agencies as to the expenditure of awarded funds.

## 4.3.0000 BUDGET ADMINISTRATION

### 3.0005 BUDGET COMMITTEE

- .01 The Budget Committee shall be comprised of the President, the Comptroller, and others appointed by the President. The Committee is responsible for timely preparation of the operational budget for presentation to the Board for approval.
- .02 The President or designee is responsible for proper submission and negotiation of the program budgets with the designated funding agencies.

### 3.0010 BUDGET CHANGES AND AUTHORIZATIONS

#### .01 Operational Budget

Budget changes will be held to a minimum during the fiscal year to assure effective control over the expenses of the College. Operational budget changes between line items is approved by the Comptroller, budget changes between department budgets is approved by

department budget officers involved first, then by Comptroller and President. The Board approves any increase in the total operational budget during the fiscal period after the formal adoption.

### **.02 Grants and Contract Budgets**

In the event that a project budget requires revision during the post award period, it is the responsibility of the Principal Investigator/Program Director, with the assistance of sponsored programs and the business office, to ensure that the budget revision meets the requirements of the awarding agency. Budget Revision are changes to an approved project budget where cost from one budget category are moved to a different category. Depending on the awarding agencies guidelines and nature of the revision, this action may require prior approval from the awarding agency

- a) After the award has been made, the Principal Investigator/Program Director (PI/PD) identifies a need to revise the approved project budget.
- b) PI/PD contacts Sponsored Programs to determine the awarding agency guidelines with regard to budget revisions to determine if prior approval for the revision is a requirement.
- c) The PI/Program Director creates a revised budget that clearly indicates the budget line items where funds are being reduced and where funds are being increased.
  1. All proposed costs in the revised budget must be reasonable, allowable, allocable, and in accordance with the OSP Policy "Allowable Costs on Federal Grants."
  2. In addition to changes in the direct costs, the revised budget must also take into account any changes in indirect costs that may occur because of the revision.
- d) The PI/Program Director works with the business office to ensure the budget is accurate
- e) The PI/PD creates a budget narrative to support the revision, clearly identifying the reason(s) for the revision.
- f) If required by the sponsor, Sponsored Programs or the PI/Program Director sends the request for budget revision to the sponsoring agency for approval.
- g) The PI/Program Director forwards the revised budget along with the narrative and sponsor approval (if required) to the Business Office.
- h) The Business Office updates the project budget for their office and communications with the PI/program director and sponsored programs.

### **3.0020 FUNDING SOURCES**

Budgets will be prepared upon the availability of funds from, but not limited to, the following sources:

- Bureau of Indian Affairs
- Department of Education
- Department of Health and Human Services
- National Science Foundation
- Turtle Mountain Band of Chippewa Indians
- Tuition and Fees
- Other



### **3.0030 BUDGET REPORTS**

Operating statements showing comparisons of budget with actual expenditures shall be prepared by the Comptroller each month and submitted to the President and the Sponsored Programs Officer for review within the first ten days of the subsequent month. The Comptroller shall submit quarterly reports to the Board at the quarterly all day meetings.

### **4.4.0000 GRANTS AND CONTRACTS**

- .01 Award Acceptance or award modifications: The President or designee signs the awards and contract documents. The Vice President or Comptroller are the identified designee in these instances. In instances where a signature is not required, acceptance of the award is typically completed by obtaining the electronically signed Grant Award Notification (GAN) from the appropriate website such as G5.
- .02 Program Performance: The Sponsored Programs Officer shall monitor the performance of all programs administered by the College in conjunction with the project director and the fiscal office. Periodic reviews of each program will be performed to assure that time schedules are being met and performance goals are being achieved.
- .03 Drawdown of Funds: The fiscal office draws down funds approximately monthly, unless the awarding agency requires otherwise. Funds are typically not drawn down until they have been spent. For procedure, see [Appendix A4-6](#).

The President shall be responsible for the publication of an annual report reflecting the performance of all College activities taken as a whole.

### **4.5.0000 ACCOUNTING REQUIREMENTS**

#### **5.0010 FISCAL YEAR**

The College's fiscal year shall be July 1 to June 30.

#### **5.0020 DOCUMENTATION**

Adequate documentation in accordance with the Code of Federal Regulations Uniform Guidance is to be maintained to support all financial transactions recorded in the accounting records. Expenses disallowed under federal contracts are to be identified and paid from non-federal funds. Supporting documents shall be retained in an orderly fashion. Journals, ledgers, subsidiary records, and un-issued checks are to be properly safeguarded by the accounting office and locked up after business hours.

#### **5.0030 MATCHING FUNDS**

When funds are needed for matching requirements, the source of these funds shall be identified in order to leave an audit trail prior to the submission of the grant application. This identification shall include:

- The pertinent portion of regulations that allow the funds to be used for such purposes.
- All matching funds must be in place prior to starting the project. Some grantors require that the grantee's funds be used first.

#### **5.0040 ACCOUNTING RECORDS**

Accounting records for grant awards shall be maintained based on the beginning and ending dates of the award. All accounting records are to be maintained in accordance with generally accepted

## SECTION 4 FISCAL MANAGEMENT

accounting principles and in compliance with federal agencies. The budget and accounting systems are compatible and should be maintained accordingly. A double entry bookkeeping system is to be used. The books are to be kept current and shall provide for the consistent identification of all costs. A chart of accounts providing identification of all budget line items shall be established.

### **5.0050 JOURNAL ENTRIES**

The College will maintain an accurate system for making journal entries. The system shall have the following features:

- .01 A distinct number will be generated for each journal entry.
- .02 The journal entry shall be made on the prescribed form and will be approved and posted by the Comptroller. Entries made by the Comptroller will be approved by the Accountant Specialist 3.
- .03 Documentation supporting journal entries will be attached to the journal entry form.
- .04 A review of the ledger will be conducted no less than quarterly. Corrections must be generated within a week of finding an error.

### **5.0060 ANNUAL AUDIT**

An annual audit will be performed by a certified public accountant. The audit report shall serve as a final report to the funding agencies and as a management tool for the Board and its committees.

### **5.0070 BILLING POLICY AND PROCEDURE**

- .01 Billing Notifications: TMCC uses a centralized billing system. Student charges are generated from the number of credits that a student enrolls in at the time of the student registration. The student billing statement will be mailed to the student's permanent address that is listed in the Registrar's office.
- .02 All students will be billed. No exceptions will be made. If an employer or outside organization is paying the student's tuition and fees, it will be the student responsibility to submit the billing statement to them.
- .03 Tuition and fee charges are billed by the semester. Students with an outstanding balance from previous semesters may be permitted registration access in a subsequent semester.
- .04 Students will be responsible to cover all other costs not covered by financial aid.

\*Please Note: Students cannot receive official transcripts or diplomas until their account is clear.

### **5.0080 TUITION AND PARTIAL FEE WAIVER**

- .01 It is the policy of the College to grant an institutional tuition and partial fees waivers to members of the BOD and BOT and to full-time regular employees and to their legal spouse and legal children. Legal children defined as biological, legally adopted, legal guardianship, and step-children.
- .02 Waivers are granted after satisfactory completion of employee probationary period. If a Board member is appointed during the semester, the waiver is granted starting the first full semester of enrollment after appointment.
- .03 The student granted a waiver must maintain satisfactory academic progress as defined by the College catalog.
- .04 Institutional tuition waivers are considered a resource applied to the student's financial aid budget.

## SECTION 4 FISCAL MANAGEMENT

- .05 Only Student Activities Fee will be waived. No other fees will be waived for any type of waiver.
- .06 Any other type of balance that is not waived will remain on the individual's account. Examples include but are not limited to lost library books, lost or damaged textbooks, or lost calculator.

### **5.0090 UNRECOVERABLE TUITION/FEES AND BAD DEBTS**

The Comptroller shall submit a list of potential un-collectable tuition/fees and/or bad debt writes offs to the Presidents for approval.

- .01 Individual account balances will remain on record unless certain conditions are met. Under certain conditions, tuition and fees except for the registration fee and the textbook usage fee portion of individual balances may be written off. Any other type of balance will remain on the individuals account. Conditions for write off:
  - Individual has no assets and there is not expectation they will have any in the future
  - The individual cannot be located
  - The debt is discharged in bankruptcy
  - The debtor has died and there is no known estate or guarantor
  - It is determined that it is not cost effective to continue collection efforts.
- .02 TMCC has the authority to withhold payment of any source of funding from individuals who have an outstanding balance on their accounts with TMCC or any of its affiliates. Types of funding sources could include but not limited to payroll, stipends, or scholarships.
- .03 Board will be informed of bad debt write offs.

### **5.0100 LOST OR STOLEN EQUIPMENT**

Lost or stolen capitalized equipment shall be entered as a write off in the plant fund.

### **5.0110 RECORD RETENTION**

In accordance with [Uniform Guidance 2 cfr 200.333](#), financial records, supporting documents, and all other records pertinent to federal awards shall be retained for a period of three years after the submission of the final expenditure report at award end, with the following qualifications:

- .01 If any litigation, claim, or federal audit is started before the expiration of the 3-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.
- .02 Records for real property and equipment acquired with Federal funds shall be retained for three years after its final disposition.
- .03 Current accounting records are to be maintained in the business and fiscal offices. Records acquired in the prior two years to the current period are to be retained in an authorized storage area.

### **5.0120 CASH DEPOSITORIES**

In accordance with the Office of Management and Budget requirements all monies advanced to the College which is subject to the control or regulation of federal agencies must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) coverage and the balance exceeding the FDIC coverage must be collaterally secured. Separate bank accounts will be maintained when required by the granting agencies.

### 5.0140 DIRECT DEPOSITS

- .01 **Payroll** - Direct deposits to employees checking or savings accounts is required. The employee needs to submit the completed direct deposit form along with a voided check.
- .02 **Draw Downs** - The business office will complete and submit the appropriate direct deposit form received from the grantor to the appropriate address indicated on the form.

### 5.0150 SAFEGUARDING OF FUNDS

Safeguarding funds is the responsibility of the Comptroller or designated personnel. All funds received by the College shall be properly recorded and deposited in the appropriate bank account at least semi-weekly or when deemed appropriate. Petty cash, checks and cash which remain undeposited should be properly safeguarded and locked in a secure location after business hours in accordance with Standards for Internal Control in the Federal Government (aka Green Book). Failure of an employee to safeguard funds or theft of funds will result in disciplinary action up to and including termination.

All employees and persons associated with the College shall adhere to the laws, rules, regulations, and policies of applicable governmental and College authorities and the standards set for in the College's code of conduct.

### 5.0160 BANK ACCOUNTS

Proper segregation of duties shall be maintained in accordance with Standards for Internal Control in the Federal Government (aka Green Book) Principle 10 Design Control Activities. The bank reconciliation shall be assigned to an Accountant who is not involved in the daily transactions.

- .01 The transfer of funds, except for the general fund, between federal programs is specifically prohibited. Sums appropriated for the various line items per federal grants and contracts shall be applied solely to the objects for which they are specifically made.
- .02 All cash receipts (cash, checks, money orders, etc.) will be receipted by a computerized accounting software program that generates a numbered receipt except cash received through direct deposit.
- .03 Credit/debit card receipts will be receipted by a computerized accounting software that generates a numbered receipt.
- .04 Direct deposits are recorded by using a general journal entry supported by the drawdown request or supporting documents and the bank statement.
- .05 All expenditures will be supported by a Purchase Requisition and the appropriate supporting documentation.

### 5.0170 CHECKS AND CHECK SIGNERS

Disbursements are made by direct deposit or sequentially numbered checks.

- .01 All checks shall require two signatures. Authorized check signers include members of the BOT, and BOD, the President and other administrators appointed by the BOD. Signing checks in advance of approval and the practice of drawing checks to cash are prohibited.
- .02 Check signers and business office personnel shall be bonded for at least \$25,000.
- .03 A list of checks outstanding ninety days or longer shall be prepared monthly by the Accountant Specialist. The list shall be reviewed by the Comptroller for determination of actions to be taken.
- .04 "Void after 120 days" shall be printed on the checks.

## SECTION 4 FISCAL MANAGEMENT

### **5.0180 CHECK VOIDING**

When checks are voided before being distributed, the signature line shall be cut out and the word “void” placed on the front of the check. The voided check shall then be placed on file in a voided check file.

### **5.0190 PETTY CASH**

The cash on hand plus the petty cash expense receipts shall always equal total petty cash for each location. At the end of the current month, a petty cash expenditure report shall be prepared and the petty cash account shall be replenished based on actual itemized receipts. The Comptroller or his designee is responsible for oversight of petty cash accounts. See [Appendix A4-2](#) for list of petty cash accounts and amounts.

### **5.0200 BANK RECONCILIATION**

Bank statements shall be reconciled against the general ledger cash monthly.

### **5.0210 FINANCIAL AID DISBURSEMENTS**

- .01 Once Financial Aid office transfers awards to the business office module, the accountant post awards to the Student Accounts Receivable. The financial aid is applied to the students account and the balance is given to the student via check or direct deposit.
- .02 When the checks are written the Director of Financial Aid or Financial Aid Officer will verify the amounts and initial each check.

### **5.0220 SPONSORSHIPS**

Turtle Mountain Community College does not give donations to individuals. However, sponsorships to organizations may be considered by the President.

## **4.6.0000 VOLUNTARY INSTITUTIONAL WORK PROGRAM**

### **6.0010 PURPOSE**

The purpose of voluntary institutional work program is to allow students a means to pay off a portion or all of unpaid tuition and fees.

### **6.0020 INTRODUCTION**

These positions are limited in number. Some positions do not require experience, and some positions will require some experience with computer troubleshooting, Photoshop and/or other layout and design programs, or maintenance equipment. Be sure to list all of your skills and/or certifications with your cover letter and resume or application. Students are not guaranteed work in their preferred department.

### **6.0030 ELIGIBILITY**

- .01 Complete an application.
- .02 Students must have an outstanding balance owed to TMCC and have an unmet need or not eligible for financial aid.
- .03 Debt must be more than a year old.

### **6.0040 DEPARTMENTS**

The following departments may have work available: Athletics, Print shop, Bookstore, Café, Anishinabe, Maintenance/ Custodial, Technology, Library, Student Services, and Business Office.

### 6.0050 REQUIREMENTS

- .01 Follow instructions of the supervisor
- .02 Follow TMCC Policies and Procedures
- .03 Be on time for scheduled work hours
- .04 Comply with any dress or safety requirements

### 6.0060 TERMINATION:

Students will be terminated from the program for the following reasons:

- .01 Continuous tardiness without valid reason.
- .02 Failure to show up for scheduled work without contacting the direct supervisor three times.
- .03 Insubordination.
- .04 Failure to comply with work requirements.

### 4.7.0000 METHODS OF PROCUREMENT

Methods of procurement follow the [2 CFR 200 Uniform Guidance](#). Any further guidance then is what in policy should refer to the 2 CFR 200 Uniform Guidance. Tribal Employment Rights Ordinance ([TERO](#)) will be followed.

#### 7.0010 MICRO PURCHASE METHOD

- .01 These are purchases of supplies and services where the aggregate dollar amount does not exceed \$3,500, or \$2,000 in the case of acquisition for construction subject to Davis-Bacon Act or \$2500 for services subject to contract labor standards ([41 USC 67](#)).

#### 7.0010 SMALL PURCHASE METHOD

- .01 These are purchases of services, supplies, or other property that do not exceed the cost of the simplified acquisition threshold. ([48 CFR 13](#) - Simplified Acquisition Threshold applies to purchases over \$3,500 and under \$150,000)
- .02 Price or rate quotations must be obtained from an adequate number of qualified sources. At least two to three quotes should be obtained. If the item to be purchased is sole source, it must be documented.

#### 7.0020 SEALED BID

Procurement by sealed bids (formal advertising) are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with the all the material terms and conditions of the invitation for bids, is the lowest in price.

All contracts shall require a minimum of three bids whenever possible. Selection will be made taking into consideration the quality of materials or services desired and their contribution to program goals and shall conform to Tribal Ordinances.

- .01 Sealed bid method is considered feasible for construction if all of the following are met:
  - A complete, adequate, and realistic specification or purchase description is available,
  - Two or more responsible bidders are available and will provide to compete effectively for the business; and
  - The procurement lends itself to a fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

.02 Sealed bid requirements are as follows:

- Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening of bids. The invitation for bids must be publicly advertised.
- The invitation for bids, which includes specifications and pertinent attachments, must define the items or services in order for bidder to properly respond;
- All bids will be opened at a time and place prescribed in the invitation for bids, and opened publicly.
- A firm fixed price contract award will be in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of.
- Any or all bids may be rejected if there is a sound documented reason.

.03 When bid procedures are used for construction, advertisements will be made according to grant requirements and specifications and bid forms will be mailed to the approved bidders.

.04 Bid other than construction. In addition, suppliers and contractors shall be invited to have their name placed on mailing lists to receive invitations to bid. When specifications are prepared, they shall be mailed to all suppliers and contractors who have indicated an interest to bid.

.05 The bidder to whom an award is made may be required to enter into a written contract with the College.

.06 Bonding requirements for construction and facility improvement contracts or subcontracts, the minimum requirements must be as follows:

- A bid guarantee from each bidder equivalent to five percent of the bid price. The bid guarantee must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as many be required within the time specified.
- A performance bond on the part of the contractor for 100 percent of the contract price. A performance bond is one executed in connection with a contract to secure fulfillment of all the contractor's obligation under such contract.
- A payment bond on the part of the contractor for 100 percent of the contract price. A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

### **7.0030 COMPETITIVE PROPOSALS**

This method will be used when a sealed bid method is not feasible. The requestor obtains prices from more than one provider.

.01 If this method is used, then the following applies:

- Request for proposal must be publicized, identify all evaluation factors and their relative importance, and be provided to an adequate number of vendors;
- Proposals must be solicited from an adequate number of qualified sources;

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- Must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- The award will be given to the proposal that is the most advantageous to the program, with price and other factors considered; and
- May use competitive proposal procedures for qualification-based procurement of architectural/engineering professional services whereby competitors' qualifications are evaluated and the most qualified competitor selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are potential source to perform the proposed effort.

### **7.0040 NONCOMPETITIVE PROPOSALS**

Solicitation for proposals is from only one source or competition is considered inadequate.

.01 This method is only allowed if the other three methods are infeasible and one of the following apply:

- Item is available from only one source, or
- Item is public emergency and time does not allow for solicitation process,
- The Federal awarding agency authorizes noncompetitive proposals, or
- After solicitation, competition is determined inadequate.
- After solicitation of a number of sources, competition is determined inadequate.

### **7.0050 TEN PERCENT WITHHOLDING**

The final ten percent of payments on construction agreements or contracts shall be held until the entire transaction is complete and satisfactory.

### **7.0060 CONSULTANT SERVICES**

- .01 A consultant is an independent contractor (a non-TMCC employee), an established business concern, and/or individual who receives a payment for services as defined below.
- .02 Consulting services are defined as the rendering of time, effort, or work rather than the furnishing of a specific physical product, other than reports incidental to the required performance. It includes, but is not limited to, the professional, personal, and/or contractual services provided by architects, attorneys, consultants, and where the service is associated with the provision of expertise or labor, or both.
- .03 In order to be classified as an independent contractor and not as a TMCC employee, the relationship between the individual and the College must be such that the College does not have a right to direct and control the means and details of the work performed by the individual.

### **7.0070 SUSPENSION AND DEBARMENT**

The following web sites will be checked for suspended or debarred companies:

The North Dakota Office of Management and Budget

[www.nd.gov/omb/agency/procurement/bidders-list/suspended-and-debarred-bidders](http://www.nd.gov/omb/agency/procurement/bidders-list/suspended-and-debarred-bidders) and System for Award Management [www.sam.gov](http://www.sam.gov) using the Search Records link. The page shall be printed to be



## SECTION 4 FISCAL MANAGEMENT

used as documentation that the company awarded the contract, bid, or proposal is not suspended or debarred.

### **4.8.0000 PURCHASING / PURCHASING AUTHORITY**

#### **8.0010 GENERAL POLICIES**

Employees and Board members shall acquire goods and services by following the purchase procedures set forth in this manual. Employees and Board members are prohibited from obtaining goods and services on behalf of the College without prior approval. At no time shall a student incur expenses on behalf of the College.

#### **8.0020 CONTROL OF OBLIGATIONS**

The President, assisted by the Comptroller and Program Directors/ Coordinators, is responsible to the Board for the acquisition of goods and services for College programs, in accordance with approved budgets.

- .01 All purchases made by the College are to be made through the use of purchase requisitions and purchase orders with the exception of small miscellaneous expenses (petty cash purchases), and payroll disbursements.

If a proposed purchase is not authorized in the budget, it must be justified by a memo attached to the purchase order requisition.

.02 Credit Cards

- TMCC fuel cards are for college vehicles and equipment only. They are checked in/out through the business office.
- Retail store cards such as Walmart Credit Card are checked in/out through the business office.
- American Express Cards are issued to the individual in their name. Only certain administration members are issued American Express cards.
- All types of credit cards must have prior approval before being check out and/or used. The employee who has possession of any credit card either issued or checked out is responsible for the safeguarding of the card until it is returned to the business office.

#### **8.0030 ACQUISITION GUIDELINES**

Purchases will be handled as follows except in cases of emergency when delay would cause irreparable damage or harm to employees, students, visitors, or assets. The purchase requisition form can be found on the website at [www.tm.edu](http://www.tm.edu).

COST PER VENDOR	PROCEDURE
\$ 0 - \$39,999.99	Authorized by President and Comptroller
\$ 40,000 and over	Board approval required unless outlined as exceptions in the below section.

- .01 Textbook Ordering - Textbooks should be ordered through the Bookstore at least six weeks prior to the beginning of the next semester.

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- .02 Any direct orders for texts that bypass the Bookstore should have prior administrative approval. Textbooks will be ordered, whenever feasible, directly from publishers in accordance with the approved curriculum textbook.
- .03 Construction - All construction/renovation will be approved by the Board.

### **8.0040 APPROVAL LIMITATIONS**

- .01 The President shall have the authority to approve purchase requisitions of \$39,999.99 or less.
- .02 All purchase requisitions exceeding \$39,999.99 from a single vendor must have Board approval. Except for the following:
  - All payroll transfers,
  - Monthly utilities,
  - Annual insurance premiums and maintenance agreements,
  - Payments to subcontractors (sub-awards), other than construction, as budgeted in the grants.
  - Payments of scholarships and tuition from grants.
- .03 The Board shall approve the entire construction/renovation project or cost prior to payment. When a project or a payment schedule is approved by the board subsequent payments do not need to be approved by the board unless it is a renewal or a change order.
- .04 In the event that a purchase requisition was approved for less than \$40,000 but is invoiced for more than \$40,000, the purchase requisition and invoice shall be brought to the Board for additional approval prior to payment when the purchase fits under the guidelines for Board approval.
- .05 When a requisition is approved with a payment schedule, each payment does not have to be approved by the Board.
- .06 The President, after notifying the Chairman of the BOD, has authority to authorize emergency purchases over \$39,999 under the following conditions:
  - When the purchase needs to be made prior to a regular board meeting
  - in order to meet deadlines, or
  - avoid late fees, or
  - avoid discontinued coverage of services, or
- .07 Obtain special reduced pricing. The purchase requisitions for classroom textbooks is signed by the Bookstore personnel, the Academic Dean or CTE Director, and the Comptroller. The signature of the President is not required.

### **8.0050 PURCHASE/PAYMENT REQUISITIONS**

- .01 Purchase requisitions are submitted by the program director or budget supervisor to the fiscal office for approval two weeks prior to the date the item is desired.
- .02 The accountant reviews for completeness and supporting documentation prior to the review by the President and Comptroller.
- .03 The President and Comptroller review each request and either signs as approval or declines. Requests that are declined are sent back to the program director or budget supervisor.

### **8.0060 CLASSROOM TEXTBOOK PURCHASES**

- .01 The purchase requisitions, for classroom textbooks, is signed by the Bookstore, personnel, the Academic Dean or CTE Director, and the Comptroller. The signature of the President is not required.

### 8.0070 UNAUTHORIZED PURCHASES

Any purchase made without proper approval will subject the purchaser to an obligation to reimburse the College or pay for the purchase. Since the purchaser is acting as an agent of the College, the items purchased are the property of TMCC.

### 8.0080 UNALLOWABLE COSTS

Unallowable cost are costs that cannot be charged, directly or indirectly federal awards. The spending of any funds awarded by the federal government is governed by Federal Office of Management and Budget's (OMB) [2 CFR 200 Uniform Administrative Requirement Cost Principles](#), and Audit Requirements for Federal Awards ("Uniform Guidance").

A cost may be either expressly unallowable or directly associated with unallowable activities. To be allowable, cost must be adequately documented; necessary and reasonable for the performance of the award; conform to any limitation or exclusions set in the award documents or federal regulations; be consistent with TMCC policies and procedures; be treated consistently with similar cost on other federal awards; and be determined in according with GAAP

Unallowable Costs: According to OMB [2 CFR 200](#), the following items should be considered unallowable costs. This list is not comprehensive and some exceptions may apply. For a more detailed list and explanations please refer to the OMB Guidance [2 CFR 200](#).

#### .01 Advertising and public relations

- a) The only allowable advertising cost that are those which are solely for:
  - 1. the recruitment of personnel,
  - 2. procurement of goods and services,
  - 3. disposal of scrap or surplus materials,
  - 4. program outreach and
  - 5. other specific purposes necessary to meet the requirements of the federal award.
- b) The only allowable public relations costs are
  - 1. cost specifically required by the federal award
  - 2. costs of communicating with the public and press pertaining to the specific activities or accomplishment which result from performance of the federal award
  - 3. cost of conducting general liaison with news media and government public relations officers to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of funding opportunities.

#### .02 Advisory Councils

#### .03 Food and Alcoholic beverages

#### .04 Alumni/ae activities

#### .05 Bad debts

#### .06 Commencement and convocation cost

#### .07 Contributions and donations

#### .08 Entertainment Costs

#### .09 Fund raising and investment management costs.

#### .010 Lobbying

#### .011 Memberships in any country club, social club, dining club or organization whose primary purpose is lobbying

.012 Student activity costs.

.013 First class or other non-coach class travel

In the event that an unallowable cost gets posted to a federal award, it will be moved to institutional funds by journal entry once the unallowable cost has been identified.

### **8.0090 EMERGENCY PURCHASES**

Under certain circumstances, emergency purchases may be allowed. In those situations, the employee must obtain prior approval for purchases from one of the following; the President, Vice President, or Comptroller followed up with an email from the approver, confirming what was approved for purchase. At the earliest opportunity, a purchase requisition must be completed with notation of the verbal approval and attach the follow-up written confirmation. All itemized receipts must be attached for final approval.

### **8.0100 VOCATIONAL REHABILITATION REQUISITIONS**

Purchase/Payment requisitions for the Vocational Rehabilitation Project need only be signed by the Vocational Rehabilitation Project Director and the Comptroller.

## **4.9.0000 TRAVEL**

This policy pertains to all employees, Board members, and students or anyone traveling at the college's expense.

### **9.0005 TRAVEL ADVANCE LOANS**

Travel advance loans shall be set up as accounts receivable rather than an expense account when paid. After the individual files a travel expense statement, the travel advance loan shall be expensed along with any additional payments due the individual.

### **9.0010 TRAVEL APPROVAL**

Each travel authorization must be approved for each employee, student, or anyone traveling at the College's expense through the regular purchase requisition process prior to any expenses incurred. All travel for Board members will be recommended by the President.

### **9.0020 TRAVEL EXPENDITURES**

- .01 Mileage payments requested and properly authorized on the proper form, will be made to employees, students, Board members, and anyone traveling at the College's expense. Mileage is at the rate specified in the Federal Register whenever a personal auto is used to conduct College business. New rate will be effective the first day of the month following the receipt of the Federal Register in the Business Office. Mileage will be based upon an approved mileage chart or an odometer reading from home or the College, whichever is appropriate.
- .02 When more than one person is traveling on behalf of the College in the same personal automobile, mileage will be allowed only for the owner of the vehicle.
- .03 When on College business, per diem may be claimed for meals by a staff member, Board member, or anyone else traveling at the expense of the College. Rates will be according to the Federal Register. New rate will be effective the day following the date of notification of the change of Federal Register.

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- .04 The authorized meal rate in the Federal Register will be allowed. Receipts are not required, but the traveler must disclose the date and time of departure and return.

Breakdown:

Breakfast	20% of rate
Lunch	32% of rate
Dinner	48% of rate

- .05 When a meal is provided (other than continental breakfast) with the registration/conference, meal allowance will not be allowed for that meal.

### 9.0030 LODGING

Actual expenditures will be paid for overnight lodging. Practicality of the expense shall always be taken into consideration. Itemized lodging receipts must be submitted with travel expense statement for reimbursement. The College is only responsible for room and taxes.

### 9.0040 OTHER COSTS

Registration costs and memberships will be allowed if approved in advance by the President and immediate supervisor.

### 9.0050 RESERVATIONS

Whenever possible, lodging reservations should be made in advance by the traveler and request a credit authorization form faxed/emailed to the Fiscal Office. Airline reservations can be made by the employee upon request after obtaining the signed purchase order. The employee will be reimbursed at actual cost for plane fare if paid on their own with prior approval.

### 9.0060 TRAVEL IN HIGH-COST AREAS

When traveling to high-cost cities, expense allowance may be increased to compensate for the higher travel costs. The increase shall not exceed the Federal guidelines for travel allowances made for each high-cost city. An allowance for ground transportation shall be made, not to exceed \$40.00 per day in Washington, DC, Chicago, and New York City areas and \$15.00 per day in all other areas. Receipts for anything over that amount shall be required for reimbursement. Reimbursement will be based on either the daily rate or receipts.

### 9.0070 LOCAL TRAVEL

Employee should use the College vehicle when traveling locally for the performance of their official duties. If an employee chooses not to use the College vehicle, mileage reimbursement will not be allowed. Employees may be authorized to claim local travel prior to the trip by the President. When the employee receives authorization, he/she must complete the local mileage expense statement and submit it along with a purchase requisition form.

### 9.0080 METHODS OF TRAVEL

An employee, student, Board member, or anyone else traveling on behalf of the College may travel by airplane, bus, train, or automobile. The President shall determine the mode of travel based on the time element and destination.

- .01 Airplane, the purchase of first class tickets, and economy upgrades are prohibited, air coach will be utilized.
- .02 Bus will be utilized when economical.

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- .03 Automobile, when automobile is used, reimbursement will be limited to the lower cost of either 14-day advance coach fare plus mileage round trip to the nearest airport or mileage to the destination. When driving, hotel and per diem will be allowed for one day before and one day after the conference/meeting.
- .04 Train will be utilized when economical.

### **9.0090 TRAVEL LOANS**

Employees authorized to travel at institutional expense may request a travel loan. When a deposit is required for reservations, the amount of that deposit may be paid by the College in advance.

- .01 Travelers may receive an advance payment not to exceed 80% of estimated travel expense. Direct fixed expenses such as mileage, airline tickets, registrations, memberships, and materials needed for meetings may be excluded when calculating a travel advance. This advance shall be considered a loan from the College to the individual.
- .02 Before travel arrangements are made, a purchase requisition must be approved at least two weeks prior to departure, except in case of an emergency.

### **9.0100 FILING OF CLAIM**

- .01 Upon return from authorized travel, the traveler shall submit a Travel Expense Statement with the fiscal office within five business days. This report, itemizing actual and necessary expense must be typewritten or in ink. The form is available at [www.tm.edu](http://www.tm.edu).
- .02 Itemized receipts for lodging and transportation must be attached to the expense report.
- .03 Failure to attach itemized receipts will prohibit the traveler from collecting reimbursement.
- .04 Any unused portion of an advanced allowance shall be remitted to the Fiscal Office within one week of return. If the employee fails to submit payment within one week, payment will be deducted from their next payroll check.
- .05 Failures to complete travel expense statements within two weeks could prevent a traveler from receiving future travel loans and will cause the entire amount of the loan to be deducted from their next payroll check.

## **4.10.0000 CONFLICT OF INTEREST**

### **10.0010 INTRODUCTION**

Turtle Mountain Community College maintains uniform policies and standards for identifying, and removing, actual Conflicts of Interest and has adopted policies and procedures for managing situations that could give rise to potential or perceived Conflicts of Interest. In determining whether an actual, potential, or perceived Conflict of Interest exists in a given situation, the Turtle Mountain Community College will consider the specific details of the situation and make a determination based on the totality of the circumstances. Turtle Mountain Community College believes that clear guidelines and principles for reporting and managing actual, potential, and perceived Conflicts of Interest will assist our faculty, staff, and students in maintaining the highest level of integrity in their endeavors.

### **10.0020 POLICY STATEMENT**

- .01 An actual Conflict of Interest arises in a situation where financial or other personal or professional considerations compromise an individual's objectivity, professional judgment, professional integrity, and/or ability to perform his or her professional responsibilities to Turtle Mountain Community College. In addition to situations that clearly give rise to an actual Conflict of Interest, individuals are cautioned also to consider gray areas that might

create the perception of or the potential for a Conflict of Interest. Perceived or potential Conflicts of Interest can be said to exist in situations where an individual member of Turtle Mountain Community College (Member), a member of the individual's family (Family), or a close personal relative (Close Relative) has financial interests, personal relationships, or professional associations with an individual, individuals, or outside organization, such that his or her activities within Turtle Mountain Community College could appear to be influenced by that interest or relationship.

- .02 A financial interest would not include matters that affect the entire employee population. An example of not having a financial interest would be a COLA increase.
- .03 All Members of the Turtle Mountain Community College community are committed to identifying and avoiding situations and activities that constitute a Conflict of Interest in the execution of their duties for Turtle Mountain Community College. Furthermore, activities, situations, and relationships that might create the perception of or potential for a Conflict of Interest must be identified and managed appropriately. In every instance, Turtle Mountain Community College reserves the right to make a determination in light of its best interest.
- .04 On no less than an annual basis, all Members, whether they are engaged in activities that might create the perception of or potential for a Conflict of Interest or not, are required to submit a Conflict of Interest Disclosure Survey to the Vice-President or President.

### 10.0030 CONFLICT OF INTEREST CATEGORIES

- .01 Situations and activities may be grouped into one of three categories under this Conflict of Interest Policy:

**Category A:** Not Significant and Generally Permissible Activities Situations where any Financial Interest held by a Member, Member's Family, or Member's Close Relative does not indicate a Significant Financial Interest and where the situation suggests no actual, potential, or perceived Conflict of Interest. These situations may continue without special safeguards or oversight.

**Category B:** Potential or Perceived Conflicts of Interest Activities which represent Potential or Perceived Conflicts of Interest would be permitted to go forward after disclosure with an approved Management Plan.

**Category C:** Actual Conflicts of Interest Activities which represent actual Conflicts of Interest, and which may be permitted to go forward after disclosure only with an appropriate Management Plan to eliminate the conflict, safeguard against prejudice toward College activities, and provide continuing oversight.

### 10.0040 SCOPE

This policy is applicable to:

- All TMCC Board members
- All TMCC faculty members
- All TMCC staff members
- All persons representing TMCC

### 10.0050 DEFINITIONS

Employee - Any person covered by this policy as provided for in Application of Policy Conflict of Interest.

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- .01 Many employees either have positions that allow them to influence College decisions, or they have been entrusted with the authority to make decisions for the College. Conflict of interest exist if an employee's position or authority may be used to influence or make decisions, or have the appearance of influence, that lead to any form of financial or personal gain for that employee or for his or her family. The bias can affect collection, analysis, and interpretation of data, hiring of staff, and procurement of materials.
- .02 In academic research, the term conflict of interest refers especially to situations in which financial or other personal considerations may compromise, or may have the appearance of compromising, an investigator's professional judgment in conducting or reporting research.
  - 1) The bias can effect collection, analysis, and interpretation of data, hiring of staff, and procurement of materials, sharing of results, choice of protocol, and the use of statistical methods. Conflict of interest can affect all scholarly fields.
  - 2) It is acknowledged that, in their wider roles as academicians and professionals, the faculty may be subject to conflicts of interest that are not necessarily financial and that are not within the scope of a policy that is designed to address conflicts of interest in the employer-employee setting. Academic and professional activities not covered by this policy are best handled within the ethical guidelines of the College outlined in the code of conduct.
  - 3) In academic administration, the term conflict of interest refers especially to situations in which financial or other personal considerations may compromise, or have the appearance of compromising, decisions made by administrators.
  - 4) Significant and material conflict of interest is covered under this policy.
  - 5) Family or Close Relative - For purpose of this policy, family or close relative is defined as the employee's spouse, children, siblings, parents, and grandparents.
  - 6) Financial interest - Any relationship, including a consulting relationship, entered into by the employee or his or her family, other than employment by the College, which could result in financial gain for the employee or his or her family
  - 7) Investigator - For purpose of this policy, investigator shall include the principal investigator and all co-principal investigators.
  - 8) Significant Financial Interest - The term significant financial interest means anything of monetary value, including, but not limited to: salary or other payments for services; equity interests (e.g., patents, copyrights, other ownership interests); and non-College royalties from intellectual property rights (e.g., patents, copyrights, trade secrets, and trademarks). An amount \$5,000 is used as a guide, but a conflict of interest could and can occur for an amount less than \$5,000 as indicated below.
  - 9) The term significant financial interest does not include:
  - 10) Any salary other remuneration paid by the College to the Employee and the Employee's spouse and/or dependent children;
  - 11) The ownership of any intellectual property rights and interests, but only so long as the Employee has not received any income related to the rights and interests or if the Employee as assigned any ownership interest in those rights to the College;
  - 12) Any reimbursed or sponsored travel, but only if the travel is sponsored or reimbursed by a federal, state or local government, an institution of higher education, or other organization. In other words, if any other entity or organization covered your expenses for travel, you must disclose it.
  - 13) Any income from seminars, lectures, or teaching engagements sponsored by a federal, state or local government agency, an institution of higher learning, or a



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research institute. In other words, if any other entity or organization paid you to deliver a seminar, lecture or teach, you must disclose it;

- 14) Any income from service on advisory panels for a federal, state or local government agency, an institution of higher learning, or organization. In other words, if any other type of entity or organization paid you to serve on an advisory panel, you must disclose it.
- 15) Salary, royalties, or other payments made to the Employee's spouse and/or dependent children, from entities that do not do business with the College;
- 16) Salary, royalties, or other payments from entities that do business with the College that, when aggregated for the Employee and the Employee's spouse and/or dependent children over the next twelve months, are not expected to exceed \$5,000.
- 17) To insure continued confidence of the members of the Turtle Mountain Band of Chippewa in the College and its personnel, individuals serving the College shall at all times act in a manner consistent with their public responsibilities to the College and shall exercise particular care that no real or perceived detriment to the College results from conflicts between personal interests and those of the College. Conflict of interest situations, or the appearance of conflicts of interest, have the potential to result in serious harm and direct losses to the College. The losses are often difficult to detect and include not only direct monetary losses and loss confidence in the College, but also negative publicity and erosion of employee morale.
- 18) It is the policy of the College that its officers, faculty, staff and others acting on its behalf have the obligation to avoid ethical, legal, financial, or other conflicts of interest and to ensure that their activities and interest do not conflict with their obligation to the College or to its welfare.
- 19) This policy applies to all officers and employees of the College. This policy also applies to persons affiliated or associated with the College. All provisions except those relating to outside employment, apply to persons affiliated with the College.
- 20) This policy is to be interpreted and applied in a manner that will best serve the interest of the College and that distinguishes between those minor and inconsequential conflicts which are unavoidable and those conflicts which are substantial and material. A conflict of interest may exist when an employee, a close relative, or a person or organization with which the employee is associated has an existing or potential financial or other interest which involves the employee's college responsibilities. If an employee believes that he or she may have a conflict of interest, the employee shall promptly and fully disclose the conflict to the Vice-President and President and shall refrain from participating in any way in the matter to which the conflict relates until the conflict in question has been resolved. In some cases, it may be determined that after full disclosure the College's interest are best served by participation of the employee despite the conflict or appearance of conflict.
- 21) This policy does not prohibit an employee from freely pursuing those teaching, research, and professional and public service activities which will not result in such a conflict, nor prohibit an employee from accepting pay, compensation, fees, honoraria, or reimbursement of expenses which may be offered in connection with such activities.

### 10.0060 TYPES OF PROHIBITED CONFLICT

#### .01 Personal gain from college position

- An employee may not use or attempt to use, in a manner contrary to the interest of the College, his or her position or college property or services, to gain or attempt to gain anything for the private benefit of the employee.
- An employee may not solicit or receive gifts or entertainment valued at \$25 or greater for personal use from suppliers of goods or services, or from persons associated with or seeking association with the College.
- An employee shall not use confidential information acquired in connection with College related activities for personal gain or for other unauthorized purposes.

#### .02 Proposals and funded Grants

- In academic research and program proposals, the investigator and others involved in the development, conduct and reporting to a funding agency must report any potential conflict prior to submission of a proposal and thereafter annually, or sooner should a conflict arise, for funded proposals.
- An employee may not receive equity interest (stocks, stock options, or ownership interest) or intellectual property rights (patents, copyrights and royalties from such rights) as a result of sponsored programs.

#### .03 Contracting and Leasing

- An employee may not enter into any contract or lease with the College, if the employee is in a position to approve or influence, in his or her official capacity, the College's decision to enter into the contract or lease, unless such contract is deemed in the best interest of the College and has the approval of the Vice-President and President.
- If the employee is not in a position to approve or influence the College's decision, the employee may enter into a contract or lease, provided the employee makes prior written disclosure of the nature and extent of any relationship to the Vice-President and President and obtains written approval. The Vice-President and President shall approve an employee's interest in a lease or contract unless the Vice-President and President determines that the employee's personal interest in the agreement will conflict substantially and materially with the employee's discharge of his or her college responsibilities.
- An employee may not contract with the College to provide a service which is the same as or similar to the service that the employee provides as a college employee. Such services may be provided only as a college employee in the course of college employment.

#### .04 Outside Commitment

- Employees are permitted to engage in outside consulting activities and other outside activities provided any other outside position would not impair the employee's ability to meet his or her obligation to the College.
- An employee with faculty rank shall not take on a teaching assignment in another institution of higher learning during the academic year except after obtaining written approval of the Academic Dean.

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- An employee shall not engage in outside employment or activities which could be viewed as impairing the employee's judgment in the performance of college duties and responsibilities. See personnel section 5.5.0030 for additional information.

### .05 Use of College Name and Resources

- An employee shall not use the official title of the College or any of its parts, in whatever form that title may appear, except in connection with legitimate College purposes.
- The College's name, facilities, equipment, stationary, supplies, personnel and other resources are to be used only for the furtherance of the College's mission. An employee shall not make unauthorized use of any College resources, including the services of College employees, for the personal benefit of the employee.

### 10.0070 DISCLOSURE AND CONSULTATION

When it appears that a material conflict of interest may arise between the personal interest of an employee and his or her responsibilities to the College, the employee shall notify the Vice-President and President by submitting a written statement describing the nature of the possible conflict. If an apparent conflict comes to the attention of the Vice-President or President, the Vice-President or President may request a written statement from the employee.

When it appears that a conflict of interest may affect a sponsored program, the Vice-President will notify the funding agency of the potential conflict and the remedy sought to resolve the conflict. Should the College be unable to resolve the conflict, the Vice-President or President shall notify the funding agency.

If an employee is in doubt as to whether he or she is confronted with a conflict of interest, the employee should consult with the Vice-President and President to determine if the outside interest could conflict with the employee's obligation to the College.

Any employee, who becomes aware of a conflict of interest within the College, shall immediately notify the Vice-President or President.

- The Vice-President and President shall promptly notify the employee or associate in writing that:
- There is no conflict and the employee may proceed; or
- There may be a conflict and further consultation is necessary prior to reaching a determination; or
- There is a conflict and the employee shall not proceed with his or her personal interest which results in the conflict.

The employee may appeal the decision to the BOD.

### 10.0080 SANCTIONS

Failure to disclose a conflict of interest or violations of the prohibited types of conflicts may be grounds for disciplinary action, up to and including termination. All employees and persons associated with the College shall adhere to the laws, rules, regulations, and policies of applicable

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governmental and College authorities and the standards set for in the College's code of conduct (Section 5.4.0080 CODE OF CONDUCT). Failure to do so may be grounds for disciplinary action, up to and including termination.

### **10.0090 RECORDS**

The records of all Conflicts of Interest will be kept on file for a minimum of three (3) years.

### **4.11.0000 PROPERTY MANAGEMENT**

All equipment obtained by the College is subject to institutional control and maybe disposed of only in accordance with established procedures outlined in this policy. Equipment obtained by the College includes that which is purchased with College funds or grant funds, received as a gift, donation, or obtained by other means.

#### **.01 Departmental Responsibilities:**

Departments obtaining equipment are responsible for its use, maintenance, safeguarding, and disposal. Departments must coordinate with the Business Office of any equipment status changes, such as transfers, disposals, loss, or theft.

#### **.02 Business Office Responsibilities:**

The Accountant Specialist is responsible for tracking equipment obtained by the College and maintaining the records associated with the equipment from the delivery date to disposal date. The Business Office accomplishes this by obtaining relevant data for each piece of equipment and inputting the information into the asset management system. The Accountant Specialist is responsible for coordinating and conducting the College's physical inventory.

### **11.0010 CAPITALIZED EQUIPMENT**

- .01 Definition: Equipment is capitalized and maintained on the asset management system if all of the following are met:
  - The item cost is at least \$5,000:
  - The item is tangible, personal property:
  - The useful life of the item is at least two years: and
- .02 The item is able to function by itself or stand alone. A physical inventory of all capitalized equipment shall be performed at least once every two years, preferably at the end of the spring semester. The results shall be reconciled with the accounting and property and supply records. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the cause of the difference. The College shall verify the existence, current utilization, and continued need for the property.
- .03 Under no circumstances can the College owned vehicles or equipment is to be used for personal purposes

### **11.0020 DEPRECIATION OF EQUIPMENT**

- .01 Depreciation of Property is computed on the straight-line method over the following estimated useful lives:
  - Building and Land Improvements 20 years
  - Machinery and equipment 3 -20 years
  - Licensed Vehicles 8-20 years

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- .02 Additions, capital improvements, and betterments are capitalized; whereas expenditures for maintenance and repairs are charged as an expense.

### 11.0030 EQUIPMENT ACQUISITION

The College obtains equipment through the following methods:

#### .01 Purchase

Equipment obtained with College or grant funds is acquired by issuing a purchase order or using a credit card. The Accountant Specialist will provide the grant director a copy of the purchase order so the order can be placed by the individual making the request. If the item is purchased using a credit card, the requestor will place the order in the business office. If the item meets the capitalization definition, the item will be tagged and entered into the asset management system.

#### .02 Leased Equipment

The Business Office must be provided with a copy of the lease in order to determine that if the lease qualifies as a capital lease. If the lease meets the criteria of a capital lease, the item will be tagged and entered into the asset management system.

A capital lease must meet one or more of the following criteria:

- The lease transfers ownership of the property to the lessee.
- The lease contains a bargain purchase option.
- The lease term is equal to 75% or more of the estimated economic life of the leased property.

#### .03 Gifts

The present value of the minimum lease payments is equal to 90% or more of the fair market value of the leased property.

Donations of equipment that meets the capital inventory requirement will be recorded into the asset management system. The value assigned to the item is the fair market value at the time of the gift and is to be determined by the department receiving the donation.

#### .04 Fabricated Equipment

Departments purchasing components for the purpose of fabricating equipment that meets the criteria for capital equipment should use a project code assigned by the Business Office or use other means to track costs. All expenditures except salaries and benefits should be charged to this project code. When completed, the department must submit a memo to the Business Office indicating the description and location of the item. The item will be tagged and entered into the asset management system at a cost associated with the project code.

### 11.0040 EQUIPMENT DISPOSALS

All equipment disposals and sales must be coordinated with the Business Office. The asset description, asset tag number, date of disposal, method of disposal, and proceeds from disposal must be given to the Accountant Specialist. All this information and accumulated depreciation associated with the disposed asset will be recorded in the asset management system when the disposal is recorded.

### 11.0050 EQUIPMENT LOCATION CHANGES

When equipment is transferred between departments, the transferring department must notify the Accountant Specialist. An asset transfer form will be filled out with the description and tag number and person responsible for the equipment being transferred along with who will be responsible once

the transfer is complete and turned into the business office. The information in the asset management system will be updated to reflect the new location of the equipment.

### **11.0060 LOST OR STOLEN EQUIPMENT**

Employees/Departments must have appropriate safeguards in place to prevent loss, damage, and/or theft of equipment. The College security must be notified in the event that equipment is stolen with a description. If the loss is determined to be negligent on the part of the employee, determination will be made on the cost of replacing the item and the employee responsible will be charged. Security will provide the Accountant Specialist with an incident report.

### **11.0070 PHYSICAL INVENTORY**

The Accountant Specialist prepares a listing of all the equipment owned by each department at the end of each fiscal year. Each department must verify the items on the list and note any corrections before returning the list to the Accountant Specialist. All departments must assist the Accountant Specialist when conducting the physical inventory.

### **11.0080 TERMINATION OF EMPLOYMENT INVENTORY**

Upon termination of employment a physical inventory will be taken of all items capital and non-capital assigned to the employee. If any item is damaged, non-functioning, parts missing, or unsuitable for use due to the negligence of the employee, a determination will be made on the cost of replacing the item and will be charged to the employee. Any item missing or not returned to the College, the employee will be charged for the replacement of the item. If necessary, the remaining payroll or annual leave owed to the employee will be used as payment against these charges.

### **11.0090 PROPERTY REMOVED FROM PREMISES**

If property is to be used off campus, the individual responsible must assume financial responsibility. Proper permission must be acquired before property is removed from premises.

### **11.0100 NON-CAPITALIZED EQUIPMENT DEFINITION**

- .01 Equipment, furniture, and other tangible property should not be capitalized if it does not meet the definition of capitalized equipment. If the item meets all of the following, it should be assigned to the user and maintained in an inventory tracking system:
  - The item cost is less \$5,000 but at least \$500,
  - The item is tangible, personal property,
  - The useful life of the item is at least two years, and
  - The item is able to function by itself.
  - Technology item
  - Tables, chairs, desks and other facility items as determined necessary.
- .02 The cost of the non-capitalized item includes not only the purchase price but also additional charges such as freight, site preparation, and professional fees necessary to place the asset in its intended location and condition for use. The purchase price is defined as the actual cost to the College after all applicable discounts have been taken. Trade-in allowances should be added to the cash paid to determine the capitalized value of the equipment.

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- .03 Each department head or program director is responsible for the equipment, furniture, and other items of value assigned to the department. An inventory report will be provided annually of items the department or program is responsible for and whom the item is assigned. The department head/program director will review the list along with the individual assigned the items to ensure its accuracy. The report once verified and changes documented must be submitted to the Accountant Specialist.

### **11.0020 CLASSROOM INVENTORY**

Inventory items, such as musical instruments, tools, calculators, etc., that are issued to students by the faculty for learning are the responsibility of the faculty member.

### **11.0030 SUPPLIES AND MATERIALS**

All items not considered equipment shall be classified as supplies or materials. Supplies, materials, etc. may be purchased according to program contracts and budgets, or as considered necessary for the operation and administration of the College programs.

### **11.0040 OFFICES AND KEYS**

Keys are made available for College personnel who need them. Use of College offices for private business activities is prohibited. Staff and faculty members are obliged to lock and secure their own office belongings. The College is not responsible for personal items that are missing or stolen.

### **11.0050 SALE OF PROPERTY AND EQUIPMENT**

For property and equipment with a fair market value of less than \$1,000 advertisements for bids shall include TMCC web site, KEYA Exchange, email to all users, and word of mouth.

For property and equipment with a fair market value of more than \$1,000 advertisements for bids shall include the local papers, TMCC web site, KEYA Exchange, email to all users, and word of mouth.

## **4.12.000 PERSONNEL POLICIES**

For detail on the [HOLIDAYS](#) AND [PAYROLL](#) SCHEDULE and other personnel policies (see the Personnel Policy Manual).

### **12.0010 TIME AND ATTENDANCE**

Every employee will electronically report time and effort by Monday of payroll week. Supervisors will approve by Tuesday of payroll week for payroll to be generated. Failure to submit and be approved by these deadlines will result in a delay in that employees pay until the following pay period. The supervisor who fails to approve time and effort may result in disciplinary action.

### **12.0020 OTHER BOARD EXPENSES**

Any expenditure in excess of \$200.00 expended on behalf of the Board as a donation must be approved by a majority affirmative vote of the Board.

## **4.13.0000 BOARD/COMMITTEE MEETING**

### **13.0010 MEETING EXPENSE**

Members of the BOT and BOD will be allowed a meeting expense of \$75.00 per meeting when attending a regular or special board meeting and \$100 per meeting when attending an all-day quarterly or special all day meetings. There must be a quorum in order for a payment to be made. The Secretary of the Board shall be paid a meeting expense payment of \$100.00 per month and

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\$75.00 per special meeting unless other payment arrangements are pre-approved. Regular Board meeting that last longer than 3 hours will be considered an all-day meeting.

.01 The above allowances will be paid when Board Secretary submits the purchase requisitions.

a. Members who enter a meeting that is already in session will be paid as follows

Meeting less than ½ completed	Full pay
Meeting is more than ½ completed	½ of the pay

b. Members who leave a meeting before the meeting is adjourned will be paid as follows:

Meeting less than ½ completed	½ of the pay
Meeting is more than ½ completed	Full pay

Time is based on when the meeting is called to order and when the meeting is adjourned. The Board Secretary will enter the time of the meeting was called to order, when it was adjourned and when any Board member enters or leaves the meeting noting the time into the minutes

.02 Any deviation from this policy will require board action at the next regular meeting.

### **4.14.0000 FINANCIAL REPORTS AND STATEMENTS**

#### **14.0010 BOARD OF DIRECTORS**

The Board shall receive financial statements showing the financial position of each quarter as of the last day of the preceding period. Such statements will reflect budgeted, actual, and variance amounts.

The financial statements shall be prepared by the Comptroller each quarter and submitted to the President for review within the first ten days of the subsequent period. The Comptroller shall then submit the reports to the Board at the quarterly meeting.

### **4.15.0000 INVESTMENT POLICY STATEMENT**

#### **15.0010 STATEMENT OF PURPOSE**

The Investment Policy Statement (IPS) is a long-range strategy, with sufficient detail for implementation by designated agents, yet flexible enough as not to require continuous revisions and updates.

The purpose is to raise, receive, hold, administer, invest, and manage funds from donors wishing to benefit TMCC. Funds donated to the College may be maintained in the form of endowments, quasi-endowments, charitable trusts, or other forms the College deem appropriate. The purpose of this document is to establish policy and guidelines, which will provide for the maintenance and enhancement of College assets.

This document will be reviewed at least annually by the Investment Committee and updated or modified as needed to reflect changes in both the financial markets and needs of the College.



### **15.0020 STATEMENT OF RESPONSIBILITY**

The College BOD shall appoint a 3 to 5 member Investment Committee to represent the College. This committee shall have the responsibility for general oversight of the investment portfolio, to include selection of investment manager candidates, and make recommendations to the BOD for final action. The President and the Vice President shall act in an advisory capacity and be ex-officio members of the Committee.

### **15.0030 ROLE OF INVESTMENT COMMITTEE**

- .01 The role of the Investment Committee is to provide direction for the investment of the financial assets of the College and is charged with following the responsibilities:
  - To establish and maintain policies and guidelines for the receiving and investment of College assets.
  - To determine the appropriate asset allocation among these assets.
  - To provide a system for monitoring the returns on these assets, and to review the performance of these assets.
  - To monitor the investment goals.
  - To maintain open lines of communication with the BOD, providing in-depth activity reports at each regularly scheduled meeting of this body.
- .02 As such, the Investment Committee is authorized to delegate certain responsibilities to professional experts in various fields. These include, but are not limited to:
  - Investment Consultants - The consultants may assist the Investment Committee in establishing investment policy, objectives, guidelines; selecting investment managers; measuring and evaluating investment performance; and other tasks deemed appropriate.
  - Investment Managers - The investment managers have the discretion to purchase, sell, or hold the specific securities in accordance with the Board approved investment policies and guidelines that will be used to meet the College's investment objectives.
  - Custodians - The custodians will physically maintain possession of the securities owned by the College, collect dividend and interest payments, redeem maturing securities, and effect receipt and delivery following purchases and sales. The custodians may also perform regular accounting of all assets owned, purchased, or sold as well as movement of assets into and out of the College accounts.
  - Additional specialists such as attorneys, auditors, and other may be employed by the College as recommended by the investment Committee to assist in meeting its responsibilities and obligations to administer College assets prudently.

### **15.0040 INVESTMENT PHILOSOPHY**

- .01 The assets exist to provide long-term support to Turtle Mountain Community College.
- .02 Accordingly, the investment philosophy is based on a disciplined, consistent, and diversified approach utilizing various asset classes and management skills, with intent to accommodate styles and strategies considered reasonable and prudent.
- .03 The College spending policy will necessitate distributing a significant portion of the investment return each year and may occasionally require distribution of capital assets. However, over the long term, the investment return is expected to be greater than the amount distributed and this excess return will be reinvested. The reinvested portion should

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be sufficient to cover expected future inflation and investment management and related fees so that the real value of the College's assets is preserved and maintained over time.

- .04 Assets may be invested in pooled funds or in direct investments, or a combination of the two. Assets will typically be diversified among high quality stocks and bonds. Additional asset classes may be included when it is reasonable to expect the additional asset class will increase return and/or reduce risk.
- .05 Investment managers shall be selected from established and financially sound organizations, which have a proven and demonstrated track record managing similar funds. Selection of the investment managers shall depend upon factors established by the BOD and will be consistent with the laws of the State of North Dakota. Such factors include, but are not limited to the manager's investment philosophy, experience and depth of personnel, investment process, past performance, and fee structure. The College recognizes its responsibility as a stockholder to encourage corporate citizenship, as well as corporate growth, in the companies whose shares are owned by the College. Corporate citizenship and social responsibility will be encouraged, based upon information available to the Investment Committee.

### **15.0050 INVESTMENT OBJECTIVES**

The primary objective of the College's asset management program is to preserve its real (inflation adjusted) purchasing power while providing a relatively predictable, stable, and constant (in real terms) stream of earnings consistent with prudent risk limits and the College's spending needs.

To meet this broad objective, the specific performance is to attain, within acceptable risk levels, an average annual total return that meets or exceeds the sum of the College's spending (distribution) rate plus inflation plus investment management and related fees. Our focus will be on total return without regard to whether that return is in the form of income or capital gains. In cases where the College is appointed Trustee of a charitable trust, the investment objective is to achieve a return that satisfies the distribution rate while retaining as much of the corpus as possible.

### **15.0060 SPENDING POLICY**

The College will distribute no more than 5% of the 5 year rolling average of the market value of the Pooled Long-Term Fund and the Pooled Equity Fund. The College will distribute from the Pooled Fixed Income Fund net income. The College will distribute the contractual rate specified within the annuity or charitable trust agreements.

### **15.0070 INVESTMENT STRATEGY**

Endowment assets will be invested in the College's Pooled Long-Term Fund, Pooled Equity Fund, and Pooled Fixed Income Fund. Charitable trusts may be funded with cash, securities, real estate, or other property and will be reinvested in the Equity Trust Investment Pool, Bond Trust Investment Pool, individual securities, or any combination of the three, as soon as practical. Each Fund will be broadly diversified through investment in multiple markets and use of multiple investment styles, thus enhancing real returns while reducing volatility. In addition, diversification will provide assurance that no single security or class of security will have a disproportionate impact on the fund's aggregate results.

The appropriate asset allocation for each charitable trust depends upon the expected life of the trust, the contractual distribution rate and the circumstances of the expected life of the trust, the

contractual distribution rate, and the circumstances of the beneficiaries. The BOD reviews each trust asset allocation annually.

### **15.0080 SPECIFIC INVESTMENT GOALS**

- .01 Specific investment decisions will be the responsibility of the internal and external investment managers selected by the BOD and will from time-to time develop specific performance objectives and investment guidelines for each manager employed, and shall periodically review each manager.
- .02 Over the 10-year investment horizon established in this statement, it is the goal of the aggregate College assets to meet or exceed:
  - The rate of inflation (as measured by the CPI) plus 3%.
- .03 The investment goals above are the objectives of the aggregate College assets, and are not meant to be imposed on each investment account. The goal of each investment manager, over the investment horizon, shall be to:
  - Exceed the market index, or blended market index, selected and agreed upon by the Investment Committee that most closely corresponds to the style of investment management.
  - Display an overall level of risk in the portfolio that is consistent with the risk associated with the volatility limits specified below.
- .04 Specific investment goals and constraints for each investment manager may differ from those of the entire College.

### **15.0090 TOTAL COLLEGE ASSET ALLOCATION GUIDELINES**

- Asset Class Minimum Maximum
- Cash Equivalents 0% 10%
- Fixed Income 30% 75%
- Bonds below Investment grade – BBB 0% 10% of total
- International Bonds 0% 10% of total
- Total Equities 25% 70%
- Large Cap 0% 45%
- Mid Cap 0% 20%
- Small Cap 0% 20%
- International 0% 20%
- Emerging Markets 0% 10% of total
- Exchange Traded Funds (ETF) 0% 20% of total (This restriction is not a relevant one because ETF and mutual funds both provide almost identical diversification benefits.)
- Alternative Investments (including REITS & Commodities) 0% 20% of total

### **15.0100 VOLATILITY OF RETURNS**

The Investment Committee understands that in order to achieve its objectives for the College assets, the assets will experience volatility of returns and fluctuations of market value. The College could tolerate a maximum loss of approximately 20% over the 1-year investment horizon and maximum loss of 0% over a 5-year period. Therefore, the Investment Committee supports an investment strategy that minimizes the probability of losses greater than stated above. However, it realizes that the College's return objective is its primary concern. There is, of course, no guarantee that the College will not sustain losses greater than those stated herein.

### 15.0110 PERFORMANCE REVIEW EVALUATION

- .01 The Investment Committee will establish specific performance objectives and provide for monitoring the investment performance of the manager's employed to manage the College assets. On a quarterly basis, the Committee will receive a report from each manager regarding investment performance relative to the performance objective, risk guidelines, the manager's stated investment philosophy, and the manager's peer group. For purposes of reviewing performance, it is intended that the following objectives be achieved over a 5-year moving period, net of investment management fees.
- .02 Asset Allocation Guidelines: The long-term goal of this portfolio is to maintain a portfolio mix of 50% Equities and 50% Fixed Income +/- 10%. Once the strategic asset allocation has been obtained, the account will be periodically re-balanced to maintain the target percentages.

### 15.0120 POOLED EQUITY FUND

- .01 The total return of the actively managed funds in our portfolio is expected to exceed the target Index comprised of:
  - Guidelines for measuring performance
  - Performance Relative to Peer Group
  - Standard Deviation
  - Manager Tenure
    - Large Cap Equity – Russell 1000 Index
    - Mid Cap Equity – 400 Midcap 400 Index
    - Small Cap Equity – Russell 2000 Index
    - International Equity Developed – MSCI EAFE Index
    - International Equity-Developing – MSCI Emerging Market Index
    - Alternative Investments Index – HFRI Fund of Funds Index
- .02 The total return for each Passive/ETF in our portfolio is expected to keep pace with the benchmark or which it follows. The goal with our passive investments is to work with funds that are keeping their expense low relative to their peer group but also have a mandate to reset their allocations to not get to cap weighted to one particular stock.
- .03 Each active equity investment manager is expected to rank in the top 40% of a universe of advisors utilizing a similar investment style (e.g. Large-Cap Value, Small-Cap Growth, International, etc.) over a rolling five-year period.

### 15.0130 POOLED FIXED INCOME FUND

- .01 The total return for the Pooled Fixed Income Fund and any fixed income investment manager is expected to exceed their relevant benchmark.
- .02 Each fixed income investment manager is expected to rank in the top 40% of the fixed income advisors over a rolling five-year period.

### 15.0140 TERMINATION OF INVESTMENT MANAGER

The BOD reserves the right to terminate a manager for the following reasons:

- .01 Investment performance that is significantly less than expected given the parameters established in this Investment Policy Statement.
- .02 Failure to adhere to any aspect of this Investment Policy Statement.
- .03 Significant qualitative changes to the investment management organization.
- .04 At the convenience of the BOD, with or without cause.

### 4.16.0000 POLICY FOR VEHICLE USE

The following procedures have been developed to insure efficient use and assignment of College vehicles. However, all vehicle users should realize that occasional problems may occur and should be flexible in attempting to work through such problems. Cost to programs for use of vehicle will be the federal mileage rate times the miles driven.

#### 16.0010 GENERAL CONSIDERATIONS

- .01 Under no circumstance can the College owned vehicles or equipment can be used for personal purposes.
- .02 College employees who have a valid driver's license may be permitted to operate a College-owned vehicle.
- .03 No vehicle shall be operated for any reason other than official College business.
- .04 It will be the responsibility of the operator to ascertain that all equipment is working properly within reason before using the vehicle.
- .05 No vehicle will be operated by any driver who is not covered under the College's insurance policy.
- .06 All state and federal highway rules and regulations including speed limits must be obeyed.
- .07 No alcoholic beverages or any other illegal drug use will be allowed at any time.
- .08 Absolutely no smoking in the vehicles at any time.
- .09 All trips other than local must be approved by the President or appointed designee.
- .010 Normally, the distance to be traveled shall be limited to a 500-mile radius from the College. If, however, a trip longer than 500 miles is necessary and will save the college money over other means of transportation, may be allowed.
- .011 Normally use of the College vehicle will normally be limited to five (5) days in duration unless training is longer in duration, including the day of departure and day of return.
- .012 Vehicles will be returned to the college immediately upon completion of the trip.
- .013 Vehicles will be assigned on a first come basis. Otherwise, assignment will be based on the following factors:
  - .014 Number of people (more people, higher priority).
  - .015 Distance (more miles, higher priority).
  - .016 Number of days (fewer days, higher priority).
- .017 No mileage will be paid to the individual when College vehicles are used.
- .018 Facility personnel have priority for the use of facility vehicles at all times.
- .019 In some cases, a longer trip (scheduled later) may "bump" a shorter one (scheduled first) as long as the person taking the shorter trip is given at least a 24-hour notice of the change.
- .020 Primary consideration will be given to requests for long-distance trips (those outside the local forty-five-mile radius).
- .021 Instructional field trips in the local area will be treated as long distance trips.
- .022 College-owned vehicles must be used for approved long distance travel. If a vehicle is available and you use your own car, mileage reimbursement by the College will be denied. Off campus teaching assignments are exempted from this provision.
- .023 Credit cards are available but are to be used only to put gasoline/oil in college-owned vehicles.
- .024 If no vehicle is available for local trips, personal mileage can be requested if the round trip exceeds forty-five miles.
- .025 Non-college personnel or non-students may not ride in College vehicles.

- .026 College vehicles will not be furnished with maps, operating manuals, or tools, other than wheel jack and lug wrench. Vehicle registration, insurance card, and insurance company reporting guide (in case of accident) are located in the glove compartment.

### **4.17.0000 PHYSICAL PLANT**

The Turtle Mountain Community College physical plant continues to experience steady growth.

The South campus is a conglomerate of buildings located in center of Belcourt when combined comprises some 66,000 square feet, and will be continued to be used for college purposes. These facilities will house all college functions with the exception of some off-campus community responsive classes.

The main campus has a 145,000 square foot building located on approximately a 123-acre site. The facility includes state of the art technology, a fiscal area, general classrooms, science, mathematics and engineering classrooms and labs, library and archives, learning resource centers, faculty area, student services area, gymnasium, auditorium, recording studio, music rooms, art classrooms, dressing rooms, computer labs, terrace area, server room, basement storage and mechanical systems. A CTE building and Allied Health building are also located at the main campus.

The Anishinabe Wellness Center is set on 102 wooded acres. The complex includes a cemetery, riding arena, beach front, playground area, natural trails, fitness confidence course, medicine wheel, and a total of 15 buildings: five cabins, a wellness center, roundhouse, straw bale, tack shop and maintenance garage, boat house, Equine science building, A-frame building, the trading post, and a small barn. Turtle Mountain Community College is a commuter campus therefore contains no residence halls.

- .01 College facilities are available for educational purposes by the public under specific conditions. Extra-curricular scheduling at the main campus must be cleared by the President or the Facilities Manager. The Comptroller or the President will approve use of the south campus. Anishinabe campus use will be approved by the Anishinabe director or the President.
- .02 Faculty members are agents of the College and should exercise responsibility in their extra-curricular use of the facilities. Persons using facilities for non-college functions assume their own liability. Organizations and groups, which use facilities, should be briefed on their responsibilities. Doors should be locked, lights shut off, and windows closed and locked.
- .03 Students or other groups must not be admitted to locked buildings or rooms unless under supervision of the faculty member or by his/her written authorization.

### **17.0010 HANDICAPPED PARKING**

Turtle Mountain Community College has designated 'Handicapped Parking' areas for those individuals who display the required permit. Any Individual who parks in designated 'Handicapped parking' areas and does not display a handicapped permit will:

- .01 Be towed away at the owner's expense; and
- .02 Be ticketed/fined at a rate consistent with tribal law.

### **17.0020 PARKING IN FIRE ZONES**

Parking in fire zones is strictly prohibited. Any individual who parks in designated fire zones will:

- .01 Be towed away at the owner's expense; and
- .02 Be ticketed/fined at a rate consistent with tribal law.

# SECTION 5

# PERSONNEL

# POLICY AND

# PROCEDURE

# MANUAL

## SECTION 5: PERSONNEL POLICY<sup>2</sup>

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5.7.0000	PERFORMANCE EVALUATION
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5.26.0000	EMPLOYEE ASSISTANCE PROGRAM
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<sup>2</sup> Revised: 2/22/16, 2/9/19, 8/26/19



## SECTION 5 PERSONNEL POLICY AND PROCEDURES

### 5.1.0000 INTRODUCTION

Every employee of the Turtle Mountain Community College has a part in the educational research and service effort of the institution. It is an effort, which can best be carried out within a harmonious employer-employee relationship. To this end, the College endeavors to provide working conditions and compensation based on fair and equitable standards.

An employee or a group of employees has the right to discuss with supervisors or other appropriate officers any condition of employment without discrimination.

#### 1.0010 EQUAL OPPORTUNITY AND NON-DISCRIMINATION POLICY

The College is an Equal Opportunity Employer, which abides by the policy of providing equal employment opportunities without discrimination to all applicants and employees regardless of race, religion, color, national origin, age, gender, disabilities, sexual orientation, marital status, or any other protected class recognized by law, except as allowed by the Indian Preference provision of the Indian Civil Rights Act of 1964, as amended. In adhering to this policy, the College abides by the Title IX requirements.

#### 1.0020 PERSONNEL FILE

Turtle Mountain Community College shall maintain a system of confidential personnel records.

- .01 A separate personnel record folder shall be created at the time of employment and shall be kept on each employee.
- .02 At the time of termination, the employee's personnel folder shall be transferred to the inactive section and be retained as required by law.
- .03 All personnel record folders shall be kept under lock and key. Access to, and release of, information contained in the personnel records shall be limited to authorized chain of command only and viewed on a "need to know" basis.

#### 1.0030 PERSONNEL RECORDS

Each individual personnel file is regarded as confidential, and is treated as such. Personnel files are maintained by the Human Resources Manager and includes information such as the employee's job application, resume, records of training, and records of education, performance evaluations, commendations/recognitions, disciplinary actions and salary information. All personnel files shall be maintained in the Human Resource office throughout the tenure of the employee. Payroll information is maintained in the Fiscal Office and retained as required by law.

In addition, any drug and/or alcohol information and medical information provided in support of Family and Medical Leave, disability accommodation, or other medical information submitted by TMCC, the employee or medical provider is segregated from other personnel information, in a separate employee file, pursuant to HIPAA and other legal requirements; and access to this information is severely restricted on a specific need-to-know basis.

#### 1.0040 UPDATED INFORMATION

It is the responsibility of each employee to promptly notify TMCC of any changes in personal data including transcripts, licensures, etc. Personal mailing addresses, telephone numbers, educational accomplishments and other such status reports should be accurate and current at all times.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

### 1.0050 DISCLOSURE

Employees must give permission to disclose information to third parties. Disclosure refers to information dissemination about an employee to people or outside agencies and can include such things as employment verifications or reference requests. Unless either the employee's consent is obtained or judicial process requires disclosure, the employer should disclose only directory information such as name, address and dates of employment.

### 1.0060 DEFINITION OF EMPLOYEE

A person hired to provide services to a company on a regular basis in exchange for compensation and does not provide services as part of a business/contractor/consultant. This includes all faculty and staff. All employees are designated as either non-exempt or exempt under state and federal wage and hour laws. The following is intended to help employees understand employment classifications and employees' employment status and benefit eligibility. These classifications do not guarantee employment for any specified period of time.

### 1.0070 EXEMPT EMPLOYEE

**Exempt employees** are generally faculty, managers, or professional, administrative or technical staff who ARE exempt from the minimum wage and overtime provisions of the FLSA. Exempt employees hold jobs that meet the standards and criteria established under the FLSA by the U.S. Department of Labor.

### 1.0080 NON-EXEMPT EMPLOYEE

Non-exempt Employees are employees whose work is covered by the Fair Labor Standards Act (FLSA). They are NOT exempt from the law's requirements concerning minimum wage and overtime.

### 1.0090 TERMS OF APPOINTMENT

The general terms and conditions of each appointment will be stated in writing, and a copy of the appointment document will be given to the appointee upon request to the Human Resource Manager. Each staff member will be given information on where to locate the policy manual on the website or provided a printed copy upon request.

### 1.0100 EMPLOYEE CATEGORIES

- .01 **ADMINISTRATORS:** Include the positions of President, Vice-President, and Functional Unit Leaders (Comptroller, Information Technology Director, Dean of Academic Programs, Career & Technical Education Director, Facility Manager, Dean of Student Services, and Human Resource Manager).
- .02 **FULL-TIME FACULTY:** The functions of a full-time faculty member are divided into the four categories: teaching, advising, scholarship, and service to the College and the community. Faculty contracts consist of 20 pay periods which constitute the academic year. Faculty full-time Teaching Credit Load is a minimum 12 credit hours-maximum credit load 15/16 hours per semester. Faculty teaching a minimum load may be subject to additional assignments. The duty and primary professional responsibility of all full-time faculty members is to the College; faculty must not engage in any other enterprises on a regular basis when such practices are in direct conflict with their services to the College. Full time faculty may be funded from grants and other funding sources. Full time faculty hired for a specific grant will be paid from that grant and are limited to employment for the duration of that grant.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

- .03 **ADJUNCT FACULTY:** An adjunct faculty member is hired temporarily to teach on a per-term basis. They are required only to meet their classes during prearranged times and attend meetings with their supervisor (Dean of Academic Programs, CTE Director, Department Chair, or Teacher Education Director) as scheduled. The activities of part time adjunct faculty are coordinated and evaluated by their supervisor (Dean of Academic Programs, CTE Director, or Teacher Education Director) Adjunct faculty members are on contract in accordance with number of credits taught. Contracts are renewed on a term-by-term basis.
- .04 **FULL-TIME STAFF:** Employees who are not in a temporary or probationary status who are regularly scheduled to work the organizations full-time schedule (40 hours per week). Full-time employees may be funded from grants and other funding sources. Full-time employees hired for a specific grant will be paid from that grant and are limited to employment for the duration of the grant.
- .05 **NINE-MONTH STAFF:** Employees who are not in a temporary or probationary status who are regularly scheduled to work the colleges' full time schedule (40 hours per week) during the academic year. Nine-month staff may be funding from grants and other funding sources. Nine-month staff hired for a specific grant will be paid from that grant and are limited to employment for the duration of the grant
- .06 **PART-TIME REGULAR STAFF:** Employees who are scheduled to work less than a full-time schedule. They receive all legally mandated benefits such as Workers Compensation Insurance, Unemployment, and Social Security Benefits.
- .07 **TEMPORARY:** Employees hired as interim replacements, to temporarily supplement workforce or to assist in the completion of a specific project. Employment assignments in this category are of a limited and definite duration (not to exceed 120 working days). Employment beyond any initially stated period does not in any way imply a change in employment status. Temporary employees retain that status until notified, in writing, of a change. While temporary employees receive legally mandated benefits (such as Workforce Safety and Insurance Employer Service, Unemployment Insurance and Social Security Benefits), they are not eligible for any of the employer's other benefit programs.
- .08 **INDEPENDENT CONTRACTORS:** A person, business or corporation which provides goods or services to another entity under terms specified in a contract.
- .09 **CONSULTANTS:** A professional who provides expert advice in a particular domain or area of expertise.
- .010 **ESSENTIAL EMPLOYEE:** An essential employee is a designated employee that is required to work during a business closure in order to maintain the continuity of operations of the college. Essential employee designation is determined by the President in consultation with the safety team, along with the responsibilities of the employee and the reasons for closing.

### 5.2.0000 HIRING POLICY GENERAL PROVISIONS (See [Appendix A5-1](#))

Turtle Mountain Community College is committed to hiring individuals who will best meet the needs of the Institution consistent with budget limitations, with the goal of ensuring safety for students and staff, and in compliance with applicable tribal, state and federal laws.

The President is responsible to ensure the integrity for the procedures established by this policy. To assure that the process is clear and understood, the President or designee will be responsible for training the key administrators regarding this policy. If the process has been substantially violated or abused, the President may order that an error be corrected, that the portion of the process be redone, that a member of the committee be excluded from further deliberations, that the process be terminated or that some other remedial sanction be taken to assure the integrity of the process.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

### **2.0010 HIRING COMMITTEE MEMBERSHIP AND TRAINING**

The head of the department and Human Resource Manager will oversee the hiring process. The Hiring Committee will consist of five (5) members to include the head of the department. The hiring Committee members must remain the same throughout the process. The Head of the Department (or designee) will chair and serves as a member of the hiring committee and will select two (2) members from their department/area. The Human Resource Manager will select two (2) at large members from outside of the department. All committee members will be trained on the hiring process prior to commencing the search.

### **2.0020 VACATED POSITIONS**

Upon receipt of a written resignation, the supervisor will accept the resignation by signing and dating, and notify Human Resources.

After being determined by the President that the position is essential in the operation of the College and that there are adequate financial resources to pay for the position, the Human Resource Manager will be notified to advertise for the position.

### **2.0030 NEW POSITIONS**

The Supervisor will develop a position description. If the President determines that the position is essential in the operation of the College and that there are adequate financial resources to pay for the position, the Human Resource Manager will present the position description to the BOD for concurrence. Upon BOD concurrence, the Human Resource Manager will advertise for the position.

### **2.0040 POSTING A POSITION VACANCY**

Notice of vacancy will be posted for a minimum of 10 working days.

No vacancy will be filled until after the application deadline date.

### **2.0050 APPLICATION REQUIREMENTS**

To be considered for open positions, applicants MUST submit all of the required documentation to the Human Resource Manager:

- Signed Application for Employment
- Curriculum Vitae and/or Resume
- College transcripts (official transcripts may be requested)
- Documentation that supports the application for employment such as Indian preference and/or Veterans preference
- Licensure (if required for position)

The Application will be determined to be incomplete if any required documents are missing and the application will not be considered. No documentation will be accepted after the closing date.

### **2.0060 EXTENDING THE SEARCH**

If the Hiring Committee determines that the applicants do not meet the minimum qualifications of the open position, they may provide documentation and recommend to the President that the search be

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

re-opened. If the President agrees, the President will authorize the search to be re-opened with notification to the BOD from the HR Manager in the monthly board report.

### **2.0070 SUSPENDING THE SEARCH**

If there are no applicants for a position or extenuating circumstances arise (ex. declining enrollment or funding), the search may be suspended with recommendation from the supervisor and approval by the President.

### **2.0080 SCREENING**

The Human Resource Manager will maintain an established personnel system for screening applicants under this policy, which will be reviewed annually. The system will be in compliance with applicable tribal, state and federal laws governing Veterans and Indians preference.

Full-time regular employees who apply for a position within the College and have completed their probationary period will receive five “in house” preference points.

The President will be responsible for ensuring the established personnel system is adhered to.

### **2.0090 HIRING AUTHORITY**

The Hiring Committee will make the hiring recommendation to the President. The Human Resource Manager will conduct and present recommendation and completed reference checks to the President. The human Resource Manager will bring the President’s selection to the BOD for information. For Vice President and Comptroller hires, refer to the BOD Bylaws.

Employment of all employees shall be “at will”.

All selected applicants must consent to a post-offer, pre-employment background investigation, and drug test, following established TMCC policies. Some positions may also require a pre-employment physical.

### **2.0100 ORIENTATION**

The Human Resources Manager and Supervisor will provide an orientation program for all new employees to acquaint them with TMCC policies and procedures, responsibilities of their position, and benefit information.

## **5.3.0000 NEW EMPLOYEE PROCESSING PROCEDURE**

### **3.0010 QUALIFICATIONS FOR NEW EMPLOYMENT**

TMCC will employ persons on the basis of merit and fitness and will avoid favor of discrimination based on race, color, creed, gender, national origin, religion, disabilities, or sexual orientation in its educational programs, admissions, activities, or employment practices. The Human Resource Manager in consultation with the supervisor/department head will determine clearance for employment. Disqualification of a candidate will be based on:

- .01 Falsification of an application or authorization information.
- .02 Unsatisfactory reference check as it relates to the position
- .03 Unsatisfactory background check as it relates to the position.
- .04 Unsatisfactory pre-employment physical or drug test.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

A new employee, if required by position, must submit a completed medical statement form signed by a qualified medical provider stating that the employee is fit for duty. If required, the cost of the exam will be reimbursed by the College with submitted receipt.

### **3.0020 NEW EMPLOYEES**

New employees will complete required paperwork, forms, and fringe benefit package information on their first day of employment with the Human Resource Manager. New employees will also receive a copy of their specific job description/duties at this time.

### **3.0030 NEW EMPLOYEE ORIENTATION**

New employees will attend an orientation session with the Human Resource Manager and supervisor and be given an opportunity to ask questions as well as familiarize themselves with the College. Each employee must sign and date a statement acknowledging that they received information on how to obtain a Policy Manual.

### **3.0040 REINSTATEMENT**

A former full-time employee who resigned or separated while in good standing will be allowed credit for prior service in establishing eligibility for employment benefits provided they are full-time status in reemployment and this occurs within one (1) year (365 days) from last day of employment.

## **5.4.0000 FRINGE BENEFITS**

Specific information on each of these benefits is available from the Human Resource Manager upon request.

### **4.0010 BENEFITS TABLE**

Employees are entitled to benefits as indicated:

Benefit	Full-Time Staff (12 Month)	Full Time Staff (9 Month)	Full Time Faculty (9 month)	Part-Time Regular Staff	Adjunct Faculty & Temporary
College's contribution to FICA/Medicaid	X	X	X	X	X
Workforce Safety and Insurance Employer Service	X	X	X	X	X
Unemployment Insurance	X	X	X	X	X
Short-Term Disability	X	X	X		
Life Insurance	X	X	X		
TMCC's Contribution to Retirement	X	X	X		
Annual Leave	X				
Sick Leave	X				
Paid Holidays	X	X	X		
Tuition Waiver	X	X	X		

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

Benefit	Full-Time Staff (12 Month)	Full Time Staff (9 Month)	Full Time Faculty (9 month)	Part-Time Regular Staff	Adjunct Faculty & Temporary
With approved Faculty Qualification Plan:					
Tuition Assistance			X		
Optional – at Employee’s Expense					
Health Insurance	X	X	X		
Dental Insurance	X	X	X		
Long Term Disability	X	X	X		
Voluntary Group Term Life insurance	X	X	X		
Voluntary Universal Life Insurance	X	X	X		
Accident Insurance	X	X	X		
Vision Insurance	X	X	X		

### 4.0020 SOCIAL SECURITY AND MEDICARE

Social Security and Medicare Benefits shall be provided for College employees through payroll deductions and from matching funds provided by the College.

### 4.0030 WORKFORCE SAFETY and INSURANCE EMPLOYER SERVICE

All employees are protected by Workforce Safety and Insurance Employer Service against accidental injuries or occupationally incurred illness in the performance of their official duties.

- .01 All on-the-job accidents and injuries or occupationally incurred illnesses must be reported immediately to the employee’s supervisor and the Human Resource Manager. This is for the protection of the employee as well as the institution and is required by the Workforce Safety and Insurance Employer Service.
- .02 In case of absence due to illness or injury, for which Workforce Safety and Insurance Employer Service time-loss benefits are received, sick leave pay may be utilized to the extent of the difference between such benefits and the employee’s regular salary. The employee may elect to use Workforce Safety and Insurance Employer Service only, or use it in combination with sick leave and/ or annual leave. However, the employee’s leave account shall only be charged that percentage of time, which corresponds to the percentage of salary that the institution shall pay. For the purpose of this policy, full-time instructors who do not earn annual or sick leave hours, an allowance of 96 hours will be granted using a base of 14.8 hours per week. Upon using all accrued benefits, an employee will be placed on leave without pay for the remainder of the recovery period, unless unsolicited donated leave is given in accordance with section [5.14.0020](#). The total time-loss payment shall not be more than the employee’s regular pay.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

### 4.0040 STATE UNEMPLOYMENT INSURANCE

The College participates in the North Dakota Unemployment Insurance Program, which provides unemployment benefits to eligible workers.

### 4.0050 RETIREMENT

- .01 Employer's Share -- Effective July 1, 2004 all eligible full-time employees will receive the following contribution to the 401(k) retirement:
  - 1-10 years will receive an increase of 1% annually.
  - 11+ years will receive an increase of 2% annually to a maximum of 20%.
- .02 Employee Contribution – Employees may choose to contribute to their own 401(k) plan. Employer's and employees' portion cannot exceed the percentage allowable under the IRS code.

### 4.0060 SERVICE AWARD

The College administers a Service Award for continuous service as follows:

- .01 Upon completion of the 10<sup>th</sup> year of employment, an employee will receive a \$200 service award.
- .02 Upon completion of the 15<sup>th</sup> year of employment, an employee will receive a \$350 service award.
- .03 Upon completion of the 20<sup>th</sup> year of employment and in increments of five years thereafter, an employee will receive a \$500 service award.

### 4.0070 EMPLOYEE AND BOARD MEMBERS TUITION AND PARTIAL FEE WAIVERS

- .01 It is the policy of the College to grant an institutional tuition and partial fees waivers to members of the BOD and BOT and to full-time regular employees, their legal spouse, and children. Legal children are defined as biological, having legal guardianship, or stepchildren.
- .02 Waivers are granted after satisfactory completion of employee probation. If a Board member is appointed during the semester, the waiver is granted starting the first full semester of enrollment after appointment.
- .03 Waivers are effective at the start of each semester.
- .04 Students not meeting Financial Aid Satisfactory Academic Progress will be reviewed on a case-by-case basis to determine eligibility.
- .05 Institutional tuition waivers are considered a resource applied to the student's financial aid budget.
- .06 If a waiver is granted, and a student receives funding from a program that covers cost of tuition, program dollars will be applied first to the cost of their tuition. Only Student Activities Fee. No other fees will be waived for any type of waiver.
- .07 Dual credit will not be waived
- .08 Any other type of balance that is not waived will remain on the individual's account. Examples include but are not limited to lost library books, lost or damaged textbooks, or lost calculator.
- .09 Employees attending classes during the workday must meet all guidelines as outlined in [5.19.0000](#) Developmental Leave or [5.20.0000](#) Educational Release Time. Waivers will not be granted for amounts in excess of TMCC regular tuition and fee schedule.



## SECTION 5 PERSONNEL POLICY AND PROCEDURES

### 4.0080 PAY DEDUCTIONS – FLSA SAFE HARBOR

The employer takes all reasonable steps to assure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on the scheduled payday. Any deductions to an employee's salary are to be in compliance with the Fair Labor Standards Act (FLSA). The employer prohibits improper pay deductions as identified in [29 CFR 541.602](#).

Exempt employees are paid on a salary, because they are expected to work as many hours as needed to perform the work required. Because of this expectation, an exempt employee's salary is not subject to reduction because of variations in the quality or quantity of the work performed. Exempt employees will receive their full salary for any week in which they perform any work, without regard to the number of days or hours worked. However, exempt employees may not be paid for any workweek in which they perform no work and are not using accrued leave time.

Deductions from the pay for **exempt employees** are permissible under the following circumstances:

- .01 Deductions from pay may be made for unpaid disciplinary suspensions of one or more full days imposed for violations of company policies and procedures or workplace conduct rules.
- .02 Deductions from pay may be made when an exempt employee is absent from work for one or more full days for personal reasons, other than sickness or disability, and is not using accrued paid leave time.
- .03 Deductions from pay may be made for absences of one or more full days caused by sickness or disability (including work-related accidents) pursuant to company's sickness, disability, workers' compensation, Family and Medical Leave Act, and/or other leave policies.
- .04 Deductions from pay may be made to offset amounts an employee receives as jury or witness fees, or for military pay.
- .05 Deductions from pay may be made for a partial week worked during the initial week or the final week of employment.
- .06 Deductions from pay may be made when the employee has authorized in writing the deduction.
- .07 In the unlikely event, that there is an error in the amount paid or an improper deduction against salary, the employee shall promptly notify his/her supervisor so that the correction can be made as quickly as possible.
- .08 Once underpayments or improper deductions are identified, they will be corrected as soon as possible, but no later than the next regular paycheck. Overpayments will also be corrected in the next regular paycheck unless this presents a burden to the employee. In that case, the employer will attempt to arrange a schedule of repayments with the employee. Should employment be terminated while monies are still owed to the employer, such monies will be treated as an unearned advance of wages and withheld from the employee's final paycheck.

### 4.0090 PAYROLL DEDUCTIONS

All employees shall sign a statement that authorizes the College's Payroll Department to deduct any monies owed the College from their payroll and/or their accounts payable check(s). All forms can be found on the Human Resources Forms tab at [www.tm.edu](http://www.tm.edu).

- .01 Santa Club  
Employees have the opportunity to save money for Christmas through a payroll deduction for the dollar amount they choose. A Santa Club account can be opened based on the information they provide on the designated form.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

### .02 Vacation Account

An employee has the opportunity to save money for a vacation through a payroll deduction for the dollar amount they choose. A vacation account can be opened based on the information they provide on the designated form.

### .03 Roger DeCoteau Scholarship Fund

An employee has the opportunity to contribute to scholarship fund in memory of Roger DeCoteau, a former member of TMCC BOT.

### .04 Dollars for Scholars

An employee has the opportunity to contribute to the Dollars for Scholars scholarship fund through payroll deduction (Contributions are 100% tax deductible).

### .05 401 K Plan

An employee may change the percentage contribution to their 401(k) by providing written notice to the Business and Human Resource Office.

### .06 The College Foundation

An employee may contribute to the College's Foundation. Contributions are 100% tax deductible.

## **4.0100 PAYROLL CHANGE NOTICE**

Employees who wish to make changes to their voluntary payroll deductions may do so in writing and submitting it to the Business and Human Resource Office.

## **5.5.0000 EMPLOYEE ASSIGNMENT AND EXPECTATIONS**

### **5.0010 ATTENDANCE POLICY**

Punctual, regular and reliable attendance is an essential function of every position with the College. In cases of absence for any reason, notify your immediate supervisor as soon as reasonably possible. Poor attendance, absence without notification or habitual tardiness will be subject to appropriate disciplinary action, up to and including termination.

### **5.0020 TEMPORARY REASSIGNMENTS**

.01 Temporary reassignments between departments of staff or faculty are permitted with the approval of the supervisors involved and the President. These will not exceed one year.

.02 In the event of transfer, the employee's accrued leave becomes the obligation of the department to which they transfer.

.03 The BOD must concur on temporary reassignments of the Vice President and Comptroller. If there isn't a concurrence, then no temporary reassignment.

### **5.0030 OUTSIDE EMPLOYMENT, CONSULTING, AND COMMITMENT**

Employees are prohibited from engaging in outside employment that constitutes a conflict of interest with his/her TMCC employment or interferes with the performance of his/her duties. Employees requesting outside employment must comply with the following procedures:

1. Submit a written request for outside employment to his/her immediate supervisor and the college president stating the following:

a. The type of work to be engaged in, including an explanation of the task(s) to be performed;

b. The name of the outside hiring organization;

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

- c. The number of hours of work and proposed outside work schedule; and
- d. The reason for desiring such outside employment.

Upon receipt, the immediate supervisor will review the request and if acceptable, submit the request with a memorandum to college President or his/her designee recommending approval/disapproval. Upon approval, a copy of the request and approval will be submitted by the immediate supervisor to the HR manager for filing in the employee's Personnel file. The outside employment must not interfere with the employee's college job responsibilities or be in direct competition with TMCC or its own businesses. Outside employment hours will not be authorized during any part of the regular business hours of the college or the regular tour of duty. The college president has the authority to discontinue approval if a conflict of interest or work performance issues arise. Refer to the fiscal policy conflict of interest section for additional information.

### **5.0040 CODE OF CONDUCT INTRODUCTION**

The Turtle Mountain Community College (TMCC) is committed to ethical and professional conduct. The College's leadership expects that each individual performing any activities on behalf of the College will adhere to those standards in the performance of their duties.

It is the responsibility of each individual BOT, BOD, faculty, staff member, or student employee acting on behalf of the College to comply with legal and regulatory requirements, policies, and procedures that apply to their particular duties. In addition, it is the responsibility of supervisors to adequately train individuals and to monitor their compliance.

There may be instances when a policy or regulation appears difficult to interpret or to apply, in those cases, clarification should be sought through the normal supervisory channels. If necessary, further questions should be directed to the administrative office that has responsibility for the oversight of that policy.

To maintain the highest standards of business conduct, the College depends on each individual to report known or suspected violations relative to the business of the College. Violations may include but are not limited to such subjects as: applicable federal, state, and tribal laws; regulations; government contract and grant requirements; College policies and procedures; or this Code of Conduct. Failure to report known or suspected violations is in itself a breach of College ethical standards and can lead to discipline, up to and including separation from the College. In addition, making an intentionally false report of a violation will result in disciplinary action.

Individuals should understand that the College expects reporting of violations and makes available numerous options for reporting. Individuals must report violations to their immediate supervisor, and/or administration. College policy states that all reports will be investigated.

Reports of suspected violations may be made confidentially. The more information given, the easier it is to investigate the suspected violation. The College will take all appropriate steps to ensure the level of confidentiality desired; however, sometimes the College's legal obligations to investigate or address a violation will override the individual's wish for confidentiality.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

In addition to this Code of Conduct, there are multiple College policies and procedures that apply to individuals at the College, which also expects reporting. They can be found on the college website, student handbook and in the catalog.

- .01 The College's policy and procedures regarding harassment or discrimination (See [5.28.0000](#) HARASSMENT POLICY).
- .02 The College's policy regarding Ethical Conduct in Research, Scholarship, and Creative Activity (See [5.29.0000](#) COPYRIGHT AND ROYALTY PROCEDURES).
- .03 The College's policy regarding Student Financial Aid Statement of Ethical Principles and Code of Conduct (See [www.tm.edu](http://www.tm.edu)).
- .04 The College's policy regarding Employee Responsibilities and Activities: Theft and Fraud (See [5.5.0030](#) CODE OF CONDUCT).
- .05 The College's policy on Conflict of Interest (See [4.10.000](#) Fiscal Policy: CONFLICT OF INTEREST).
- .06 IT Appropriate Use policy (See [Appendix A5-11](#)).
- .07 The Student Handbook (See [www.tm.edu](http://www.tm.edu)).
- .08 The Personnel Policies (See [www.tm.edu](http://www.tm.edu)).

Reports of conduct/inconsistent with the Code of Conduct will be investigated following the procedures set forth in the above policies.

It is expected that all employees comply with this Code. It is expected that employees will use good judgment and best efforts to spend the College's funds including reimbursable expenses. It is expected that employees will not make any false record or communication of any kind. It is expected that all employees will make every effort to communicate completely, accurately, and in a timely manner. It is expected that all employees will only collect personal information necessary for the College's business. It is expected that all employees will retain customer information for only as long as required by the College's record retention schedule. It is expected that access to information will be limited to those with a legitimate business reason to have access.

If it is determined that this Code of Conduct or other policies, regulations, laws, grants, or contracts referenced above have been violated, the offender will be disciplined with penalties up to and including possible termination of employment. In some circumstances, individuals may be subject to civil and criminal charges and penalties.

Administration shall reserve the right to make inquiry into any employee's connection with any group or organization which advocates the overthrow of the local or U.S. Government by force of violence.

The College prohibits retaliation against those who participate in reporting or investigating conduct contrary to law and policy. Further, College policies and grievance procedures also prohibit retaliation.

Each new employee will review the College's Code of Conduct and sign a statement certifying that the employee has read and agrees to comply with the Code.

The College's policies or documents emphasize the Turtle Mountain Community College's commitment to ethical and professional conduct.

This policy will outline employment conduct responsibilities and requirements of personnel of the College.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

- .01 Every employee shall conduct him/herself in a manner to further the College's mission of providing high quality, professional, courteous, and efficient customer services to all community members.
- .02 Employees of the College are expected to perform the duties and responsibilities in their position in a manner that upholds the public's trust and reflects the highest ethical standards.
  - 1) Insubordination at work is when an employee refuses to follow direction from a supervisor, including willful or intentional disobedience of a lawful and reasonable request by a supervisor. This includes unexcused absence from work and may also refer to disrespect or harassment that is directed toward an Administrator.
- .03 Any employee whose actions violate the College's Code of Conduct or these procedures may be subject to disciplinary action. (see [5.23.0000](#) Disciplinary and Dismissal Policy).
- .04 The philosophical foundation of the College is embedded in the system of values that stem from the heritage and culture of the Anishinabe people and expressed in the Seven Teachings of the Tribe.

### 5.0050 NEPOTISM

Relatives of persons currently employed by the college may be hired, but will not be under the direct supervision of the relative. No College Administrator, Program Director or Supervisor shall appoint, hire, promote, advance or advocate the appointment, employment, promotion, or advancement of an immediate family member in which the College Administrator, Program Director or Supervisor is serving.

An immediate family member shall be defined as a spouse, parent, siblings, children, grandchildren, grandparent, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, niece, nephew, uncle, aunt, stepmother, stepfather, stepchild, half-sibling, foster parent, or foster child. The definition of immediate family member also includes any person who resides in the same home as the Board member.

The College reserves the right to re-assign employees or duties when deemed a prudent business or management practice.

### 5.0060 DRESS CODE

- .01 Employees of TMCC are expected to wear attire appropriate to their profession that is neat and clean and provides protection and safety as necessary.
- .02 Regardless of the employee's interaction with students, the public and other employees, each employee projects the reputation of the organization. Part of this impression depends on each employee's choice of dress.
- .03 Employees are expected to use good judgment and to show courtesy by dressing in a manner that is presentable and appropriate. TMCC is an educational institution that strives to demonstrate professionalism at every level.
- .04 When employees attend business meetings or conferences either on or off campus, it is expected that they dress in appropriate business attire.
- .05 The College reserves the right to send home an employee without pay if not dressed in compliance with this policy.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

### 5.0070 SOCIAL MEDIA POLICY

The following is TMCC's social media and social networking policy. This policy provides guidance for employee use of social media, which should be broadly understood for purposes of this policy to include blogs, wikis, microblogs, message boards, chat rooms, electronic newsletters, online forums, social networking sites and other sites and services that permit users to share information with others in a contemporaneous manner. The absence of, or lack of explicit reference to a specific site does not limit the extent of the application of this policy. Where no policy or guideline exists, employees should use their professional judgment and take the most prudent action possible. Consult with your supervisor if you are uncertain.

The following principles apply to professional use of social media on behalf of TMCC as well as personal use of social media when referencing TMCC.

- .01 Your online presence reflects TMCC.
- .02 Be aware that your actions captured via images, posts or comments can reflect that of TMCC.
- .03 There is no expectation of privacy when using the Internet at work.
- .04 Employees need to know and adhere to the TMCC Code of Conduct, Employee Handbook and other company policies when using social media in reference to TMCC.
- .05 Employees should be aware of the effect their actions may have on their images, as well as the image of TMCC. The information that employees post or publish may be public information for a long time.
- .06 Employees should be aware that TMCC may observe content and information made available by employees through social media. Employees should use their best judgment in posting material that is either inappropriate or harmful to TMCC, its employees, clients or customers.
- .07 TMCC prohibits employees from using the Web and Social Networking sites in any way that is injurious, offensive, threatening, intimidating, coercing, profane, harassing, discriminatory, or interfering with TMCC, its employees or with the clients/customers it services, or is a release of proprietary business information. Other company policies apply to what employees do online.
- .08 Employees are not to publish, post or release any information that is considered confidential or not public. If there are questions about what is considered confidential, employees should check with the HR department and/or supervisor.
- .09 Social media networks, blogs or other types of online content sometimes generate press and media attention or legal questions. Employees should not speak to the media on TMCC's behalf without receiving prior approval from TMCC.
- .010 If participating in a personal blog, it should have clear disclaimers that the views expressed by the author in the blog is the author's alone and does not represent the views of TMCC. Any information published on a blog should comply with the company confidentiality and disclosure of proprietary data policies. Your social media postings cannot include company logos or trademarks and must respect copyright, intellectual property, privacy, fair use and other applicable laws.
- .011 If employees encounter a situation while using social media that threatens to become antagonistic, employees should disengage from the dialogue in a polite manner and seek the advice of a supervisor.
- .012 Employees should get appropriate permission before they refer to or post images of current or former employees, appointed board members, vendors, suppliers or students. Failure to receive permission or to attempt to harm, defame, libel or otherwise harass employees, students, board members or TMCC through social media posts will subject an employee to disciplinary actions up to and including termination.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

- .013 Social media use shouldn't interfere with an employee's responsibilities at TMCC. TMCC computer systems are to be used for business purposes only. When using TMCC's computer system, personal use of social media networks or personal blogging of online content is discouraged and could result in disciplinary action up to and including termination.
- .014 Subject to applicable law, after-hours activity that violates TMCC's Code of Conduct or any other company policy may subject an employee to disciplinary action up to and including termination.
- .015 This policy recognizes employees' rights to openly discuss their jobs, working conditions and terms of employment with co-workers provided it does not interfere with job performance.

### **5.6.0000 STAFF SALARY AND WAGE SCALE**

#### **6.0010 INTRODUCTION**

It is the policy of the College to adopt, maintain, and apply an equitable compensation plan for all employees. All employees are employed to perform the duties set forth in a written position description approved by the governing body. Each position description shall detail the requirements of the position which shall serve as the sole basis for establishing the pay grade of the position. Like positions and classes shall be assigned similar pay grades. Pay grades shall serve as the primary basis for employee compensation. No employee shall suffer any reduction in compensation solely as a result of the adoption of this policy.

#### **6.0020 POSITIONS CLASSIFICATIONS**

Positions are classified on the basis of duties and responsibilities. Class specifications indicate the title, duties, examples of work, and recommended qualifications. These are used as a basis for classifying positions and assigning class titles.

- .01 The class title of each position is the official title, which is used on payroll records, budget documents, personnel, and other official records and publications. The department may use functional titles for other purposes.
- .02 The Human Resource Manager is responsible for job analysis, position classification, and maintenance of the job evaluation program. Classification of a position will be reviewed on request of the supervisor or of the employee acting with the knowledge of the supervisor.

#### **6.0030 SALARY DIMENSIONS**

The salary scale has two dimensions. Both new and current full time staff will be placed on the salary scale based on criteria spelled out in the Staff Salary and Wage Scale.

#### **6.0040 PREVIOUS EXPERIENCE**

New full time staff, part-time regular staff and transfers would be allowed up to three (3) years of prior directly related experience on their initial placement with supporting documentation. The maximum amount that any employee can be granted is three steps.

#### **6.0050 EXCEPTIONAL EXPERTISE/HARD TO FILL**

In extreme situations, exceptional expertise and/or hard to fill positions may be considered a factor in salary determination, with approval by the President with notification to the Board given prior to hire.

#### **6.0060 SALARY SCALE MOVEMENT**

May move through the salary scale after six months and one day in a position if the following are met: a satisfactory performance evaluation subject to approval by the President and availability of funds.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

### 5.7.0000 PERFORMANCE EVALUATION

The College expects excellence from every employee in the daily performance of their duties and responsibilities. Their performance is measured through fair and equitable evaluations. The process of evaluation is essential for the continuous and measureable improvement of all Full-Time and Part-Time TMCC employees.

#### **Purpose:**

The purpose is to provide a fair and equitable means for employees to be assessed on quality and quantity of work performance; and to improve performance standards and goals.

#### **Objectives:**

- 1) Provide a formal annual review of each employee's work performance based on their job description.
- 2) Document work performance of each employee.
- 3) Identify requirements for training and development of individual employees.
- 4) Provide professional development as a result of the evaluation.
- 5) Provide documented basis for salary scale movement.

### 7.0010 EVALUATION PROCESS

#### **Annual Employee Evaluation Review**

All Evaluation Reviews shall be done annually each year. This shall include faculty and staff. All evaluation forms and guides can be found under the Human Resources section on the website ([www.tm.edu](http://www.tm.edu)) and are available by request.

#### **Probationary Evaluation Process Employees**

New employees will be evaluated by their supervisor at end of probationary period (90 days of employment).

### 5.8.0000 FACULTY APPOINTMENTS

#### **8.0010 PROCEDURE**

The procedure leading to appointment of a faculty member under Employee Categories.

#### **8.0020 QUALIFIED FACULTY**

##### **Qualifications for Instructional Staff**

#### **Philosophy:**

Turtle Mountain Community College is a tribal community college with obligations of direct community service to the Turtle Mountain Chippewa Tribe. Under this unifying principle, the college seeks to maintain, seek out, and provide comprehensive higher education services in fields needed for true Indian self-determination.

#### **Procedure:**

This procedure applies to hiring of all faculty at Turtle Mountain Community College (TMCC). It is the responsibility of the prospective faculty member to provide all documentation needed to verify their credentials. This includes, but is not limited to, a resume/curriculum vita, all college transcripts, appropriate licenses or certifications, and required justification for alternative credentialing. The cost to obtain official transcripts (including necessary translations and evaluations of foreign transcripts) and copies of licenses and certifications is borne by the prospective faculty member. The hiring process



## SECTION 5 PERSONNEL POLICY AND PROCEDURES

will be followed per TMCC policy, and hiring recommendations will be forwarded from the hiring committee to the President for approval and the BOD for concurrence.

The TMCC Human Resources department will maintain appropriate credentialing documentation, including records of exceptions, on all faculty who are assigned to teach credit-based college courses. For all cases, the institution is responsible for justifying and documenting the qualifications of its entire faculty. TMCC may periodically request updated documents from faculty members to maintain the personnel file. Faculty will be responsible for updating their individual personnel file, recording these qualifications.

### **Definitions:**

***Determination by Credentials*** – Faculty credentials generally refer to the degree that faculty have earned which provides a foundation for knowing what students will learn in a specific discipline or field. Because of the distinctive cultural mission of TMCC and because other institutions from whom the faculty may have received degrees vary widely in interdisciplinary and cross-disciplinary nature of many academic programs, as well as tested experience, TMCC reserves the right to:

- .01 Recognize as qualified our present faculty whose specific discipline and subfield preparations have been adjudged to meet the qualifications required to teach courses they are presently teaching and those they have been assigned to teach in the past. The personnel file will record the data and decision-making in relation to these factors.
- .02 TMCC will use a procedure to select and employ new faculty whose specific discipline and subfield preparations have been adjudged, in light of the above elements of discipline and tested experience, to meet the qualifications required to teach courses as follows:
  - 1) Faculty should have completed a program of study from an accredited institution of higher learning in the discipline or subfield in which they teach, with coursework at least one level above that of the courses being taught.
    - a. Those teaching general education courses, and/or other courses that transfer typically hold a master's degree or higher in the discipline or subfield. If a faculty member holds a master's degree or higher in the discipline or subfield other than that in which they are teaching, that faculty member should have completed a minimum of 18 graduate credit hours in the discipline or subfield. This is the minimum threshold for educational credentialing requirements.
    - b. Faculty teaching developmental courses must have a minimum of a baccalaureate degree in the discipline or related field.
    - c. All Career and Technical Education faculty are expected to meet the North Dakota Career and Technical Education requirements.

***Determination by Factors other than Credentials*** – Qualified faculty are identified primarily by credentials, but other factors may be considered.

- .01 Besides credentials, other attributes may be necessary to qualify someone to teach, such as the ability to design curricula, develop and implement effective pedagogy/andragogy.
- .02 In some cases, such as practice-oriented disciplines or programs, tested experience in the field may be needed as much as formal education preparation at the prescribed level.

***Tested Experience*** – Tested experience implies that some objective measure ensures that the individual knowledge and expertise are sufficient for determining what students will learn and have learned.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

Alternative credentials ensure that faculty members have experience that clearly contributes to student learning outcomes and can be considered in lieu of formal academic preparation. This may be particularly true in the areas of Ojibwa and/or Mitchif Language and Native American Studies. In these cases, the applicant may present a portfolio that documents such experience. TMCC also considers competence in field, national accreditation, professional licensure, and/or certificates, honors and awards, continuous documented excellence in teaching, published work, community service, fellowship, field work, or other demonstrated competencies and achievements that contribute to effective teaching and student learning outcomes (See Qualified Faculty Certification of Credentials form).

**Emerging Fields** – Exceptions may be made in instances where the program area is so new that the educational preparation requirements and the occupational experience requirements are not yet clearly defined. This exception shall terminate when the system minimum qualifications are established.

### **Tuition Assistance**

- .01 TMCC will pay for the tuition, mandatory fees, course fees and books for full time faculty for graduate courses taken in accordance with the approved Qualification Plan.
  - 1) Such payment will not exceed \$400 per credit, not to exceed 8 credits per semester, and not to exceed 2 years or 6 semesters (including summer).
- .02 In the event the course is not completed with a grade of “C” or higher, the course is dropped, or the faculty member is otherwise withdrawn, the faculty member will be ineligible for tuition assistance for the next course taken pursuant to the approved qualifications plan. Extenuating circumstances may be considered on an individual basis.
  - 1) If timelines for meeting TMCC degree requirements are not met as required, employment actions including non-renewal of appointment, course reassignments, or termination of employment may occur.
- .03 Tuition assistance will not be provided when other funds are available to pay the tuition, mandatory fees, course fees, and/or books. Examples of other funds that could be available include scholarships, tuition waivers, grants, public tuition payment programs (e.g. GI Bill, Military TA) or other public or private third party payments.
- .04 Should the President of TMCC declare an institutional financial hardship, the tuition assistance and funding outlined in this policy may be withdrawn.
- .05 A contract will be signed between faculty person and TMCC President. Repayment is one semester for one semester.

### **8.0030 TERMS OF EMPLOYMENT**

The general terms and conditions of employment of the faculty will be stated in writing, and a copy of the employment contract will be supplied to the faculty member upon request. Any subsequent extensions or modifications of the employment and any special understanding or any notices incumbent upon either party shall be confirmed in writing and a copy given to the faculty member. Each faculty member will be advised at the time of initial employment of the institutional process for evaluation of faculty. This may be accomplished by a published description of the process in this manual.

Faculty contracts will be issued by April 15 of each year, with signed contracts returned to the Human Resource office by May 15 of each year. Contracts not returned will relieve the institution of any obligation to re-appoint the faculty member.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

### 8.0025 ACADEMIC FREEDOM

The primary responsibilities of this academic community are to provide for the enrichment of intellectual experience, to promote life-long learning, to serve the tribal community, and to integrate Indian culture into the learning environment. Essential to the realization of these ideals is a free and open academic community, which takes no ideological, or policy position. Conflict of ideas cannot occur unless there is opportunity for a variety of viewpoints to be expressed. Toleration of what may be error is an inescapable condition of the meaningful pursuit of truth. The academic community must be hospitable even to closed minds and it must welcome the conflict of ideas likely to ensue. Academic responsibility to provide opportunity for expression of diverse points of view generates academic freedom.

- .01 The instructor is entitled to full freedom in lecturing or conducting demonstrations in their subject or field of competence. They are entitled like any other member of the community in which they live to establish membership in voluntary groups, to seek or hold public office, to express their opinions as an individual on public questions and to take action in accordance with their views. Cognizant of their responsibilities to their profession and to their institution, the instructor accepts certain obligations: they respect the rights of others to express opinions, and to insure that their personal views do not interfere with the unfettered search for truth by students and colleagues.
- .02 They must make clear, however, that their actions, statements, and memberships do not necessarily represent the views of the academic community. If there are controls to be exercised over the instructor, they are the controls of personal integrity and the judgment of their colleagues. Violations of academic integrity warrant collegial censure.

### 8.0030 DEPARTMENT CHAIRS

Any full time member of the department shall be considered eligible to serve as Chairperson in the Academic and Career & Tech Ed departments. The Chairperson of the department will be appointed by May 1 by the President upon recommendation of the faculty and the Dean of Academics and CTE Director, for their respective areas. The Chairperson will be appointed for three consecutive years.

The Department Chair will lead all department academic efforts and receive counsel and assistance from department faculty. The Department Chair's primary purpose is to serve the academic component of the department, enabling the faculty to do their all-essential work to the best of their ability. Department Chairs assist in the evaluation of faculty members' performance and assess program effectiveness. Each department chair may call a meeting of their department faculty, set faculty committees whenever they deem it advisable, and must call a meeting when requested to do so by one-fourth of their faculty, or from the Dean of Academics or CTE Director, depending on their area.

In order to fulfill these additional responsibilities, the Department Chair shall be compensated annually.

### 8.0035 ASSESSMENT COORDINATOR

The Assessment Coordinator is nominated and chosen by the Student Learning Committee to lead the assessment efforts and to receive counsel and assistance from the Student Learning Committee. The Assessment Coordinator will be appointed for three consecutive years. The Assessment Coordinator will be confirmed by the President prior to the beginning of their term, which will begin in the fall. The Assessment Coordinator shall convene the Student Learning Committee no later than thirty (30) days after the beginning of the academic year.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

Department Chairs and Department Heads will submit a report of assessment conducted in their respective areas to the Coordinator, complete with recommendations and requests for fiscal and personnel resources. The Coordinator, using these reports, will draft an institutional assessment report that will be shared with Administration, TMCC faculty, staff and community stakeholders.

In order to fulfill these additional responsibilities, the Assessment Coordinator shall be compensated annually.

### **8.0040 NONRENEWAL OF FACULTY**

In all cases, written notice of non-renewal shall be given to the faculty member in advance of the expiration of his/her contract, as follows:

- .01 No later than April 15 of the academic year if the contract expires at the end of that academic year.
- .02 When a decision not to renew an appointment has been reached, the faculty member involved shall be informed of that decision in written form by the President, and if the faculty member so requests, he or she will be advised of the reasons which contributed to that decision. The faculty member may also request a reconsideration of the decision and a written confirmation of the reasons given in explanation of the non-renewal.
- .03 Peer Review Committee – In so far as the faculty member alleges that the non-renewable decision was based on inadequate consideration, a Peer Review Committee shall review the faculty member's allegations and determine whether the decision was the result of inadequate consideration in terms of relevant standards of the institution. If the Peer Review Committee believes that adequate consideration was not given, it shall request reconsideration, indicating the aspects in which it believes the consideration may have been inadequate.
- .04 The Peer Review Committee shall provide copies of its findings to the faculty member, the recommending body or individual, the President, and other appropriate administrative officers.
- .05 Grievance procedures – If a faculty member alleges that the non-renewal decision was based significantly on considerations of academic freedom, rights guaranteed by the United States Constitution, or right previously conferred by written agreement, the allegation shall be given preliminary consideration by a Peer Review Committee.
- .06 This committee shall seek to settle the matter by informal methods. A statement that the faculty member agrees shall accompany the allegation to the presentation, for the consideration of the faculty committees or such reasons and evidence as the institution may allege in support of its decisions. If the difficulty is unresolved at this stage, and if the Peer Review Committee so recommends, the matter shall be heard by the BOD. The faculty member making the complaint shall be responsible for stating the grounds upon which it is based, and the burden of proof shall rest upon the faculty member. If the faculty member succeeds in establishing a prima facie case before the BOD, it shall be incumbent upon those who made the non-renewal decision to come forward with evidence in support of their decision.

### **8.0050 TERMINATION OF APPOINTMENT BY A FACULTY MEMBER**

A faculty member may terminate an appointment effective at the end of the academic year, provided that he or she gives notice in writing at the earliest possible opportunity, but no later than May 15. The faculty member may request a waiver of this requirement of notice in case of hardship or in a situation where they would otherwise be denied substantial professional advancement or other opportunity.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

### **8.0060 DISMISSAL DURING A CONTRACT PERIOD**

The President, only for adequate cause, may dismiss of a faculty member before the end of the specified term. Adequate cause shall be defined to include the following behaviors: (1) Demonstrated incompetence or dishonesty in teaching or research, (2) Substantial and manifest neglect of duty, (3) Personal and moral conduct which substantially impairs the individual's fulfillment of his institutional responsibilities, (4) A physical or mental inability to perform assigned duties, and (5) Failed or refusal of drug screen or test.

- .01 Schedule of written notice for dismissal - A faculty member selected for dismissal under this section shall be given written notice of dismissal citing reasons for such dismissal.
- .02 Pending final decision of dismissal, the faculty member may be suspended or placed on administrative leave with or without pay.
- .03 Other requirements for termination or dismissal – The termination or dismissal of any faculty member will not become final until the following steps have taken place in the order listed: (1) Notification of intent to terminate or dismiss, and (2) The faculty member has been informed of rights of due process and given an opportunity to answer the charges and to have representation at the employee's own expense.

### **8.0070 ADMINISTRATIVE ACTIONS OTHER THAN DISMISSAL**

- .01 Administrative actions other than dismissal- If administration determines the conduct of a faculty member does not constitute grounds for termination or dismissal, a justified imposition of a sanction may be implemented. The faculty member must be informed in writing of the sanction. No faculty member shall be subjected to demotion in status or reduction in salary.
- .02 Budget restrictions - Budget restrictions may require a reduction in force. The College reserves the right to implement budget adjustments when faced with funding restrictions upon notification to BOD.

## **5.9.0000 FACULTY SALARY**

### **9.0010 INTRODUCTION**

It is the policy of the College to adopt, maintain, and apply an equitable compensation plan for all faculty. All faculty are employed to perform the duties set forth in a written position description approved by the governing body. No faculty member shall suffer any reduction in compensation solely as a result of the adoption of this policy.

### **9.0015 POSITIONS CLASSIFICATIONS**

Positions are classified on the basis of duties and responsibilities. Class specifications indicate the title, duties, examples of work, and recommended qualifications. These are used as a basis for classifying positions and assigning class titles.

- .01 The class title of each position is the official title, which is used on payroll records, budget documents, personnel, and other official records and publications. The department may use functional titles for other purposes.
- .02 The Human Resource Manager is responsible for job analysis, position classification, and maintenance of the job evaluation program. Classification of a position will be reviewed on request of the supervisor or of the employee acting with the knowledge of the supervisor.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

### 9.0020 SALARY DIMENSIONS

All full-time faculty will be placed on the salary scale based on criteria spelled out in the faculty salary scale.

### 9.0030 PREVIOUS EXPERIENCE/EXCEPTIONAL EXPERTISE

New full time hires must provide supporting documentation for placement on the faculty salary scale.

### 9.0040 EXCEPTIONAL EXPERTISE/HARD TO FILL

In extreme situations, exceptional expertise and/or hard to fill positions may be considered a factor in salary determination, with approval by the President and concurrence by the BOD. In these instances, notification to the Board will be given prior to hire.

### 9.0050 SALARY SCALE INCREASE

Employees may move through the salary scale after one (1) full year in a position if the following are met: a satisfactory performance evaluation and approval by the President and availability of funds.

## 5.10.0000 ADJUNCT FACULTY WAGE SCALE

An adjunct faculty member is hired temporarily to teach on a per-term basis. Human Resources maintains an Adjunct Pool that is maintained after Advertisement or notification in local newspaper of adjunct positions and how interested parties can have their application placed in the “adjunct pool”. Proposed courses will also be considered, if curriculum with objectives and syllabus are provided along with: Application for Employment, resume, and submitted copies of transcripts and/or documentation verifying degrees/credentials.

The adjunct pool is continuously open for applicants to apply to; there are no closing dates. Per semester, the pool is presented to TMCC’s Department Chairs for overall approval. To ensure fairness and equity, in all instances, even emergency hires, all adjunct faculty hired must be in the Adjunct Pool. The Dean of Academics, CTE Director, and Teacher Education Director are responsible and accountable for recommending adjunct faculty be hired by the President out of the approved Adjunct Pool. The Dean of Academics, CTE Director, and Teacher Education Director will be responsible for including adjunct selection information in quarterly board reports.

Adjunct faculty are an important component of the TMCC workforce. The following will be used to determine adjunct faculty contracts:

1 Credit	2 Credits	3 Credits	4 Credits	5 Credits
1,500.00	\$ 1,900.00	\$ 2,300.00	\$ 2,700.00	\$ 3,100.00

This salary schedule will be reviewed bi-annually by the BOD at the December meeting. Any changes approved by the BOD will go into effect the following July 1.

## 5.11.0000 PERSONNEL STAFF ANNUAL SALARY NOTIFICATION

### 11.0010 SALARY NOTIFICATION

Personnel salary notifications follow approved salary scales. The salary notification year is from July 1 to June 30 for the non-teaching staff. The BOD will review and approve the salary scales annually.

- .01 The President and Vice President and Faculty are excluded and will be issued contracts.
- .02 The President or a designee is responsible for signing contracts.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

- .03 Upon approval of the President's contract by the BOD, the Board will sign the President's contract.
- .04 The President negotiates and signs the Vice President's contract with Board of Director approval.

### **11.0020 TIMECARD ENTRY**

All employees are required to enter their time and effort into the Jenzabar system no later than the Monday prior to each payday.

### **11.0040 PAYROLL**

Payroll is prepared based upon contracts, salary notifications, and authorized deductions.

- .01 All employees are required to utilize direct deposit by completing the appropriate form.
- .02 An itemized statement of all deductions from the staff member's wages can be accessed by the employee through the online employee portal.

### **11.0050 PAY DAY**

Payroll is distributed every two weeks. The direct deposits will be deposited into the employees' accounts on Thursday of pay week.

### **11.0060 PAYROLL SCHEDULE**

The Payroll Schedule is located on the TMCC website.

### **11.0070 SCHEDULED HOLIDAYS**

During the calendar year, under normal conditions, employees will observe the holidays listed below. When a holiday falls on Sunday, the following Monday is observed. When a holiday falls on Saturday, the Friday preceding shall be observed.

- New Year's Day-January 1
- Martin Luther King, Jr. Day-3rd Monday in January
- President's Day-3rd Monday in February
- Good Friday and Monday following Easter
- Memorial Day-Last Monday in May
- Independence Day-July 4
- Labor Day-1st Monday in September
- College Founding Day-2nd Monday in October
- Veteran's Day-Same date as Federal
- Michif Day-early November
- Thanksgiving Day-4th Thursday in November
- Native American Heritage Day – 4<sup>th</sup> Friday in November (Day after Thanksgiving)
- Christmas Day-December 25

## **5.12.0000 WORK SCHEDULE**

### **12.0010 NORMAL WORK WEEK**

The normal work week for all employees is Monday through Friday, 8:00 a.m. to 4:30 p.m. with a one-half hour lunch break. Hours may vary if circumstances warrant a change in the scheduled work hours,

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

upon supervisor approval. An employee will be allowed break periods of 15 minutes each half day to be arranged with the supervisor. Omitting the break period may not shorten the workday.

### 12.0020 OVERTIME

Overtime hours must have **prior approval through formal request from the supervisor with the President's concurrence.** With prior approval from the supervisor and President or designee, non-exempt personnel working beyond the normal work day will be allowed equivalent release time to be taken within the month. Non-exempt employees are required to account for time worked on an hourly and fractional hourly basis and are to be compensated for qualified overtime hours at the premium (time and one half) rate.

### 5.13.0000 ABSENCE AND LEAVES

#### 13.0010 ABSENCE AND LEAVES

- .01 Planned absences of more than a week in duration must be approved by the immediate supervisor. Leave requests of more than two consecutive weeks must be approved by the Supervisor and President.
- .02 Leave requests of one day or less in duration shall be requested at least three days in advance (when possible). Exception: If an emergency warrants, discretion will be used.
- .03 Failure to report absences and leave is a form of fraud and will result in disciplinary action. The disciplinary action taken can range from a letter of reprimand, suspension without pay, or termination. The length of the absence(s) and the number of offenses will be considered in determining the appropriate disciplinary action.

### 5.14.0000 SICK LEAVE

#### 14.0010 SICK LEAVE

Sick leave is a benefit granted by the College to full-time regular staff and is not a benefit to be used for vacation or as a means of extended leave upon ending employment. It is an insurance benefit that allows employees to build a reserve of days they can use for extended illnesses. Excess abuse of this privilege may be grounds for termination.

- .01 Sick leave taken is computed in ½ hour increments.
- .02 Sick leave is earned on the basis of continuous service from date of employment for all employees that are eligible for annual leave.
- .03 Sick leave accrues on the basis of 4 hours per pay period with unlimited accumulation; however, you must be paid for at least 24 hours during each week to earn sick leave.
- .04 Medical verification of illness may be required.
- .05 The employee utilizing sick leave should call within the first half hour of work or arrange for a relative or friend to notify their supervisor.
- .06 When a holiday occurs during a paid sick leave, the holiday is not considered a day of sick leave.
- .07 No payment will be made for accumulated sick leave upon termination of employment.
- .08 Unless an approved leave of absence has been granted, an employee who is off the payroll for one year shall lose unused sick leave.
- .09 Sick leave is to be used for the employee's medical and dental appointments and illness. Sick leave may also be used to take immediate family members under your care to appointments or to care for them in time of illness.
- .010 Employees will be credited with hours or days worked for time when they are on sick leave.
- .011 Leave cannot be used until the following pay period from which it was earned



## SECTION 5 PERSONNEL POLICY AND PROCEDURES

### 14.0020 SICK LEAVE DONATION POLICY

Employees of TMCC can request consideration for unsolicited donation of sick leave for extenuating circumstances, through their immediate supervisor, once all other accumulated leave is exhausted. If the supervisor concurs with the request, the supervisor will make a written request for approval by the President. The President will inform all employees of approved requests. Donated sick leave must not exceed 30 calendar days or a maximum of 160 hours per calendar year.

Employees are not allowed to solicit donated sick leave. An employee who solicits donated sick leave may be ineligible for sick leave donation. The College reserves the right to deny use of donated sick leave when it feels this benefit is being abused.

### 5.15.000 ANNUAL LEAVE

#### 15.0010 ANNUAL LEAVE INFORMATION

- .01 Annual leave taken is computed in ½ hour increments.
- .02 Annual leave with pay for 12-month full time employees is earned on the basis of continuous service from the date of employment as follows:
  - Four Hours Per Pay Period – 1st thru 5th year
  - Six Hours Per Pay Period – 6th thru 11th year
  - Eight Hours Per Pay Period – 12 Years and Over of Service
- .03 All employees hired prior to July 1, 2000, currently earning 10 hours annual leave are exempt from the above.
- .04 To earn Annual Leave, you must be paid for at least 24 hours during each week.
- .05 Leave cannot be used until the following pay period from which it was earned

#### 15.0020 ANNUAL LEAVE USE

- .01 Each employee will be required to use all leave in excess of 240 hours by December 31 of each year or lose it.
- .02 When a holiday occurs during annual leave, the holiday is not considered to be a day of annual leave.

#### 15.0030 ANNUAL LEAVE CARRY FORWARD

- .01 Employees will be allowed to carry over the maximum of 240 hours at the end of the calendar year. All annual leave in excess of 240 hours at end of calendar year will be lost (Use or lose will be in effect).
- .02 At the end of each calendar year, the Business Office will determine each employee's leave balance.

#### 15.0040 LEAVE PAYOUT UPON TERMINATION

- .01 When an employee terminates employment after three months of continuous service, the employee will be encouraged to use all accrued annual leave. If this is not possible, the employee will be compensated an amount equal to their hourly rate of pay (at the time their employment is terminated) times the number of hours of their current annual leave balance.
- .02 In case of death, an employee's beneficiary will be entitled to payment of all current earned and unused annual leave, less appropriate taxes.

### 5.16.0000 OTHER LEAVE

#### .01 BEREAVEMENT LEAVE

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

Absence from work because of death in the immediate family may be excused without loss of pay for a maximum of five days. The term “immediate family” is defined as husband, wife, father, mother, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, children, step-children, foster parents, foster child, grandparents, and grandchildren, step parents and domestic partner of the employee. The Supervisors may require verification of relationship.

In cases of death in the employee’s extended family, absence from work may be excused without loss of pay for a period of three days. The extended family shall include aunts, uncles, nieces and nephews of the employees. The supervisor may require verification at their discretion.

### **.02 FUNERAL LEAVE**

An employee, with supervisor’s approval, may take earned leave to attend the funeral of a person not designated as part of the immediate or extended family. If no earned leave available, the funeral leave will be without pay.

### **.03 MATERNITY/PATERNITY LEAVE**

Fifteen days of leave with pay may be granted to employees immediately prior to or following delivery or adoption. The leave must be taken consecutively. Maternity/paternity leave will be granted only after successful completion of the probationary period. Annual leave and sick leave may also be used for pregnancy and delivery. Maternity/paternity leave cannot be accumulated. Maternity/paternity leave will run concurrently with FMLA leave.

### **.04 LEAVE OF ABSENCE**

Staff: An employee may apply through their supervisor and be granted by the President an approved **unpaid** Leave of Absence for up to one full year or twelve consecutive months with reinstatement to the same position or to other employment provided available funding and workload are available, and subject to President approval. A reasonable notice will be given. Employees who do not apply for reinstatement within the time specified will be automatically terminated. Employees shall provide at least 30 calendar days’ notice of intent to return to work status at any time prior to the end of the leave of absence or 30 calendar days prior to the end of the leave of absence; failure to provide such notice at the end of the leave of absence will be deemed as resignation from employment.

Faculty: A faculty member may secure a one-time per semester leave of absence for one week or less without loss of pay by securing permission from the Dean of Academic Programs or CTE Director and by making satisfactory written arrangements for handling classes missed. College business, professional obligations or appearances, and emergencies are the usual reasons for a short leave.

### **.05 JURY DUTY**

An employee may be allowed leave with pay for jury or other legal duty when subpoenaed for such services.

### **.06 COURT APPEARANCES**

An employee who is personally interested in or party to a criminal or civil action or who voluntarily appears as a witness must charge his absence against earned annual leave or take leave without pay. If an employee is subpoenaed (involuntary), the employee will not be charged leave.

### **.07 MILITARY LEAVE**

The Uniformed Services Employment and Reemployment Rights Act ([USERRA](#)) enacted in 1994 covers all civilian employers and prohibit employment discrimination against members of the “Uniformed Services.” The term Uniformed Services means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Services, and any other category of persons designated by the President in time of war or emergency.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

Regular full-time and regular part-time employees who are members of any “Uniformed Service” will be granted leave without pay for required training or duty. The leave will be granted according to USERRA.

Reinstatement of Employment: the employee must return to work within the specified period according to USERRA after they are relieved from the military service. The following criteria apply:

- What date they gave notice to the employer prior to leaving;
- The cumulative period of active service did not exceed the initial request/requests;
- The employee was not dishonorably discharged from the military; and
- The employee reported back to the civilian job in a timely manner.

### **.08 COMMUNITY SERVICE**

Community service positively influences accreditation, and employees are encouraged to perform community service. An employee may be granted 40 hours maximum per year, with prior supervisory and presidential approval.

### **.09 STORM DAYS**

Official closing of the College during periods of severe weather will be announced over local radio stations (KEYA and KBTO) and via the ALERTNOW system when deemed necessary by the President, Vice-President, or designee.

### **.010 EMERGENCY ADMINISTRATIVE LEAVE**

1. In response to national, tribal or local emergency declared by the Turtle Mountain Band of Chippewa Indians, the State of North Dakota, or the U.S. government, the President of Turtle Mountain Community College (“College”) is authorized to grant Emergency Administrative Leave, including Paid Administrative Leave, to College Employees when:
  - A. The President has determined such Leave is necessary to protect:
    - i. the health and safety of College employees;
    - ii. the health and safety of College students; or
    - iii. the public health and safety of the communities served by the College; and
  - B. The period for which the Emergency Administrative Leave is granted is the minimum amount of time necessary to achieve the interests set forth in this policy, based upon the facts known at the time the leave is authorized; and
  - C. There are no other effective alternatives available such as authorizing work from home or altering the location of work for the employees who are granted Emergency Administrative Leave.
2. Prior to making a determination under subsection 1, the President shall ensure that:
  - A. The College has in place an established written leave policy that allows for Paid Emergency Administrative Leave (e.g., this section)
  - B. The costs of such leave are equitably allocated to all related activities, including Federal awards; and

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

- C. The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the non–Federal entity or specified grouping of employees<sup>3</sup>
3. The President will issue written notification to affected employees specifying:
  - A. The employees granted Emergency Administrative Leave by class or title;
  - B. The basis for granting Emergency Administrative Leave under this Policy;
  - C. The duration of the Emergency Administrative Leave.
4. The President has the authority to enact intermittent or ongoing, as relevant, Emergency Administrative Leave to all or classes of employees in response to any pandemic that requires social distancing as a mechanism to prevent the spread of a virus.
5. The President shall notify the TMCC BOD in writing within 48 hours when any Emergency Administrative Leave has been granted. Such notification shall include assurances that the College is in compliance with subsection B, above.
6. This policy is based on and consistent with the following federal regulation: **2 CFR 200.431(a)**.

### 5.17.0000 FAMILY AND MEDICAL LEAVE ACT

The Family and Medical Leave Act (FMLA) entitles eligible employees to take unpaid job-protected leave, with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. When the employee returns to work from FMLA leave, the employee will be restored to the same job or similar job with virtually identical pay, benefits and other conditions of employment.

Eligible employees can take up to 12 weeks of unpaid job-protected leave in a 12-month period for childbirth, adoption or foster care placement; for employee's own serious health condition or to care for employee's immediate family member who has a serious health condition; or any "qualifying exigency" arising out of the deployment to a foreign country of employee's spouse, child or parent who is in the Regular Armed Forces or National Guard or Reserves. Eligible employees may also take up to 26 weeks of job-protected leave in a single 12-month period to care for a covered service member with a serious injury or illness from the line of duty or active duty. The purpose of this policy is to identify the eligibility and leave requirements under the FMLA.

Employee Eligibility – To be eligible for FMLA benefits, an employee **must**:

- Work for the covered employer
- Have been employed with employer for at least 12 months

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<sup>3</sup>According to federal regulation, when a non–Federal entity uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment. Further, the accrual basis may be only used for those types of leave for which a liability as defined by GAAP exists when the leave is earned. When a non–Federal entity uses the accrual basis of accounting, allowable leave costs are the lesser of the amount accrued or funded.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

- Have worked at least 1,250 hours with the employer during the 12 months period immediately preceding the leave: and
- Work at a location for the employer where at least 50 employees are employed within 75 miles.
- The 12 months of employment do not have to be consecutive. That means any time previously worked for the employer (including seasonal work) could, in most cases, be used to meet the 12-month requirement. If the employee has a break in service that lasted seven years or more, the time worked prior to the break will not count unless the break is due to service covered by the Uniformed Services Employment and Reemployment Act (USERRA), or there is a written agreement, including a collective bargaining agreement, outlining the employer's intention to rehire the employee after the break in service.

### LEAVE ENTITLEMENT

#### **17.0010 FAMILY AND MEDICAL LEAVE**

TMCC will provide up to 12 work weeks of unpaid family and medical leave during a 12-month period to an eligible employee who is temporarily unable to work for one or more of the following reasons:

- For the birth and care of a newborn child of the employee;
- For placement with the employee of a child for adoption or foster care;
- To care for a spouse, son, daughter or parent of the employee who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- For any qualifying exigency arising out of the fact that a spouse, son, daughter or parent is a military member on covered active duty or call to covered active duty status.

An employee's spouse, children and parents are immediate family members for purpose of the above family and medical leave. The term "parent" does not include a parent "in-law". The term "**child**" or "**son or daughter**" does not include individuals age 18 or over unless they are "incapable of self-care" because of a mental or physical disability. **Child** includes biological, adopted, foster, stepchild, legal ward or child in which the employee has assumed the parental obligations but has not legal or biological connections to child.

#### **17.0020 MILITARY FAMILY LEAVE**

The military family leave provisions of the FMLA entitle eligible employees of covered employers to take FMLA leave for any "qualifying exigency" arising from the foreign deployment of the employee's spouse, son, daughter, or parent with the Armed Forces, or to care for a service member with a serious injury or illness if the employee is the service member's spouse, son, daughter, parent or next of kin. Eligible employees are granted up to **12 workweeks** of unpaid, job-protected leave during any 12-month period for qualifying exigencies that arise when the employee's spouse, son, daughter or parents is on covered active duty or has been notified of an impending call or order to covered active duty. **Covered active duty** means members of the Regular Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or members of the Reserve components of the Armed Forces (members of the National Guard and Reserves) duty during deployment of the member with the Armed Forces to a foreign country under call or order to active duty in support of a contingency operation. Qualifying exigencies for which an employee may take FMLA leave include making alternative child care arrangements for a child of the deployed military member, attending certain military ceremonies and briefings, or making financial or legal arrangements to address the military member's absence.

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### 17.0030 MILITARY CAREGIVER LEAVE

Employer will provide up to 26 workweeks of unpaid military caregiver live during a “single 12-month period” to an eligible employee who is a spouse, child, parent or next of kin of a “covered service member” with a serious injury or illness to care for the recovering service member. “**Serious injury or illness**” is one that was incurred by a service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank, or rating. “**Single 12-month period**” for military caregiver leave begins on the first day the employee takes leave to care for a covered service member with a serious injury or illness and ends 12 months later, regardless of the 12 month period established by the employer for other types of FMLA leave.

Unless otherwise indicated in this policy, the 12-month period is calculated as identified on the Notice of Eligibility and Rights and Responsibilities form (Form WH-381) which Employer will provide to FMLA eligible employee within 5 days of employee notice of FMLA leave. Additional information on the FMLA is available at [www.dol.gov/whd/fmla](http://www.dol.gov/whd/fmla).

### 17.0040 SERIOUS HEALTH CONDITION

A “**serious health condition**” is an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider. Some common serious health conditions that qualify for FMLA leave include conditions requiring an overnight stay in a hospital or other medical care facility; conditions that incapacitate for more than three consecutive days and require ongoing medical treatment (either multiple appointments with a health care provider, or a single appointment and follow-up care such as prescription medication); chronic conditions that cause occasional periods when the employee is incapacitated and that require treatment by a health care provider at least twice a year; and pregnancy (including prenatal medical appointments, incapacity due to morning sickness, and medically required bed rest). An employee is unable to perform the functions of the position where the health care provider finds that the employee is unable to work at all or is unable to perform any one of the essential functions of his/her position. An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment.

Some common serious health conditions that qualify for FMLA leave to care for a family member include conditions requiring an overnight state in a hospital or other medical care facility; chronic conditions that cause occasional periods when the family member is incapacitated and that require treatment by a health care provider at least twice a year; and long-term or permanent conditions where treatment may not be effective but the family member is under the continuing supervision of a health care provider.

### 17.0050 LEAVE LIMITATIONS

- .01 An eligible employee is limited to a **combined total of 26 work weeks** of leave for any FMLA qualifying reason during the “single 12-month period”. Only 12 of the 26 weeks may be for a FMLA-qualifying reason other than to care for a covered service member.
- .02 Spouses employed by the same employer are limited in the amount of family leave they may take for the birth and care of a newborn child, placement of a child for adoption or foster care, or to care for a parent who has a serious health condition to a **combined total of 12 weeks** (or 26 weeks of leave to care for a covered service member with a serious injury or illness is also used).
- .03 Any other leave available to the employee (such as paid time off, vacation, sick, disability, or any leave under federal, state or local law) runs concurrently with the family and medical leave and the military leave so that the employee has a maximum of twelve (12) work weeks of leave in a 12-month period (or 26 weeks of leave to care for a covered service member with a serious injury or illness).
- .04 Leave will be unpaid, except if the employee has available accrued paid leave under TMCC’s policy (e.g. annual leave, sick leave), then the employee must take any available leave prior to receiving unpaid leave.

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In addition, if the employee has accrued annual leave, then the employee must take any available annual leave prior to receiving unpaid leave.

- .05 FMLA leave taken due to the birth of a child or placement of a child for adoption or foster care must be concluded within 12 months after the birth or placement and must be taken in consecutive days.
- .06 FMLA leave taken to care for a spouse, child or parent, or because of the employee's own serious health condition may be **taken intermittently** or on a reduced leave schedule if such intermittent or reduced schedule leave is medically necessary.
- .07 FMLA leave may be **taken intermittently** whenever medically necessary to care for a covered service member with a serious injury or illness. FMLA leave also may be taken intermittently for a qualifying exigency arising out of the active duty status or call to active duty of a covered military member.
- .08 When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operation.

### 17.0060 HOW TO REQUEST FMLA LEAVE

- .01 Notice:
  - 1) Employees seeking to use FMLA leave are required to provide 30-day advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable. If leave is foreseeable less than 30 days in advance, the employee must provide notice as soon as possible – generally, the same or next business day. When the need for leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, employees must comply with the employer's usual and customary notice and procedure requirements for taking leave.
  - 2) The employee must also notify their supervisor and make a reasonable effort to schedule the leave so as not to disrupt the Company's business operations. Failure to give required advance notice when such leave is foreseeable may in denial of the requested leave until the required notice period is satisfied.
  - 3) Within five business days of the employee notice of the need for FMLA leave, Human Resources will provide employee with the Notice of Eligibility and Rights & Responsibilities and whether employee is eligible for FMLA. Employees must provide sufficient information for an employer to reasonably determine whether the FMLA may apply to the leave request. When an employee requests leave for a FMLA-qualifying reason for which the employer has previously provided the employee FMLA leave, the employee **must** specifically inform the employer of the qualifying reason for FMLA leave or the need for FMLA leave. If employee is determined to not be eligible for FMLA, employee will be provided with reason why.
- .02 Certification Requirements:
  - 1) Medical Certification: TMCC may require medical certification to support a request for leave because of a serious health condition, and may require second and third opinions (at TMCC's expense) and periodic recertification of a serious health condition. An employee requesting FMLA leave to care for a spouse, child or parent or due to his or her own serious health condition must present TMCC with a medical certification completed by a health care provider, summarizing the serious health condition and its probable duration. The Medical Certification form may be obtained from Human Resources and must be returned within 15 days of receipt of the form. A medical certification is not required or requested for leave to bond with a newborn child or a child placed for adoption or foster care. Periodic reports may be required from the employee regarding the employee's status and intent to return to work. Before returning to work, an employee who is entitled to a leave due to the employee's serious health condition must provide a certification from his/her health care provider that he/she is able to resume work. If reasonable safety concerns exist, TMCC may require a certificate for

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employees returning from intermittent FMLA leave. The Medical Certification forms may be obtained from Human Resources.

- 2) **Military Certification:** An employee's request for military family leave must be supported by the appropriate Certification for Military Family Leave. The Certification forms may be obtained through Human Resources. In addition, leave for a qualifying exigency must be supported by a copy of the covered military member's active duty orders. Leave to care for a covered service member with a serious injury or illness must be supported by a certification completed by an authorized health care provider **or** by a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered service member's family.
- 3) **Fitness for Duty:** In general, a fitness-for-duty certification may not be required for each absence taken on an intermittent or reduced leave schedule. However, if TMCC has a reasonable belief that the employee's return to work presents a significant risk of harm to the employee or others, TMCC may require a fitness for duty certification up to once every 30 days. As long as TMCC has provided the required notice regarding any fitness-for-duty certification requirement, the employee's return to work may be delayed until the fitness-for-duty certification is provided. TMCC may contact an employee's health care provider to clarify or authenticate a fitness-for-duty certification, but cannot delay the employee's return to work while making that contact. TMCC may not require second or third opinions for a fitness-for-duty certification. The employee is responsible for paying any cost of obtaining the fitness-for-duty certification.

### **17.0070 MAINTENANCE OF HEALTH BENEFITS**

TMCC will maintain the employee's health coverage but the employee is responsible for his/her portion of the premium. Any share of group health plan premiums which had been paid by the employee prior to FMLA leave must continue to be paid by the employee during the FMLA period. If applicable, arrangements will need to be made for the employee to pay his/her share of health insurance premiums while on leave.

An employee on unpaid FMLA leave must make arrangements to pay the normal employee portion of the insurance premiums in order to maintain insurance coverage. If the employee's premium payment is more than 30 days late, the employee's coverage may be dropped. TMCC must provide written notice to the employee that the payment has not been received and allow at least 15 days after date of notice before coverage may stop. Coverage for the employee may be terminated at the end of the 30-day grace period, where the required 15-day notice has been provided.

If the employee fails to return to work after the expiration of the leave, the employee will be required to reimburse TMCC for payment of health insurance premiums during the family leave, unless the employee does not return because of circumstances beyond the employee's control.

### **17.0080 RESTORATION OF EMPLOYMENT**

Upon return from FMLA leave, an employee will be restored to their original or equivalent position with equivalent pay, benefits and other employment terms. A determination as to whether a position is equivalent will be made by TMCC. Employees, while on leave, shall retain their years' service rights and accumulated benefits, but shall not accrue additional benefits while absent. An employee has no greater right to restoration or to other benefits and conditions of employment than if the employee had been continuously employed.

An employee on FMLA leave is not protected from actions that would have affected him or her if the employee was not on FMLA leave. For example, if a shift has been eliminated or overtime has been decreased, an employee would not be entitled to return to work that shift or the original overtime hours. If an employee is laid off during the



## SECTION 5 PERSONNEL POLICY AND PROCEDURES

period of FMLA leave or position was eliminated, TMCC must be able to show that the employee would not have been employed at the time of reinstatement.

TMCC may also deny restoration to a “key” employee under certain circumstances. A key employee is a salaried, FMLA-eligible employee who is among the highest-paid 10% of all TMCC’s employees within 75 miles. To deny restoration to a key employee, TMCC must have determined that substantial and grievous economic injury to its operations would result from the restoration, must have provided notice to the employee that he or she is a key employee and that restoration will be denied, and must provide the employee a reasonable opportunity to return to work.

### **17.0090 FAILURE TO RETURN FROM LEAVE**

Employees who fail to return from leave on the agreed upon date, will be presumed to have resigned his or her employment. It is important for employees on FMLA leave to timely communicate with TMCC and update TMCC on any changes in the FMLA leave affecting employees return to work date.

Further information regarding this policy can be obtained from Human Resources and the D.O.L. website at <http://www.dol.gov/whd/fmla/>.

### **5.18.0000 LEAVE WITHOUT PAY**

- .01 Leave without pay will be granted for the following reasons: 1) an employee has exhausted all other leave
- 2) an employee did not sign appropriate leave and 3) an employee requests time off for personal reasons.
- .02 Leave without pay may be authorized by the supervisor for a period of 40 hours or less.
- .03 Leave without pay for more than 40 hours shall require written approval from the President.
- .04 Failure of an employee to report for duty on expiration of leave without pay may be cause for termination.
- .05 Employees while on leave shall retain their years of service rights and accumulated benefits but shall earn no additional benefits.
- .06 Employees while on Leave Without Pay are in a non-pay status and do not earn Annual or Sick Leave.

### **5.19.0000 DEVELOPMENTAL LEAVE**

The purpose for “Developmental Leave” is to enhance the goals and objectives of the College and to improve the knowledge, skills, and abilities of employees who chose to do so. Development Leave is unpaid leave.

#### **19.0010 ELIGIBILITY**

Upon approval by the supervisor, affirmation from the President, and final approval by the BOD; a full-time employee who has worked at the College for three consecutive years or three consecutive contract years is eligible to apply for developmental leave.

#### **19.0020 APPLICATION PROCEDURE**

Applications are available in the HR department and must be submitted for approval to the Supervisor and forwarded to the President. Final approval must be requested to the Board no later than 160 days prior to start of requested leave. The request shall present a clear and detailed narrative and must include the following:

- 1) Purpose;
- 2) Dates to be considered;
- 3) Alternative ways of handling distribution of work responsibilities, if applicable;
- 4) List of courses in the program of study to be taken;
- 5) How the leave will benefit the institution; and

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### **19.0030 SIGNED COMMITMENT**

A commitment shall be signed by the employee to return to the institution for a two-year period of time immediately following the completion of the developmental leave.

### **19.0040 CONDITIONS**

- .01 Developmental leave shall be no longer than six consecutive months unless “special consideration” was made prior with the President and approved by the Board.
- .02 In cases where the institution requires an employee to upgrade or enhance their knowledge, skills, and abilities, the institution may pay for the cost of training as required with approval by president and BOD.

All requests for leave are to be submitted through the appropriate institutional channels and the BOD shall grant final approval. A decision will be rendered no less than 60 days prior to the start of the requested developmental leave.

Upon completion of the submitted program of study, the employee will return to the same position they held prior to their leave. If their position does not require them to have obtained the higher degree for their position, the employee will not be eligible for an increase in pay. If the employee fails to complete the submitted program of study or withdraws from the program, the issue shall be reported to the President, who will then report to the Board for final determination.

Transcripts should be submitted to the Human Resource Manager and supervisor upon the completion of each term, who will report status to the President.

Employees while on leave without pay or external development leave shall not lose their years of service rights and accumulated benefits but will not earn annual leave and sick leave or advance years for employer’s contribution in the 401 (k) retirement plan.

### **5.20.0000 EDUCATIONAL RELEASE TIME**

The purpose of “Release Time” is to allow employees who meet the required criteria, to receive time off from work to pursue types of training and/or college classes to improve their knowledge, skills, and abilities, which will in turn enhance the goals and objectives of the College which would not fall under the category of “Developmental Leave”.

An employee may be allowed up to four hours per week of release time / 16 hours per month for enrolling in training and/or college courses.

- .01 Eligibility - Upon approval by the supervisor, a full-time employee beyond their probationary period is eligible to apply for release time.
- .02 Application Procedure – Applications are available in the HR department and must be submitted for approval to the Supervisor and President.

### **5.21.0000 TERMINATION/RESIGNATION PROCEDURE**

#### **21.0010 EMPLOYMENT TERMINATION/RESIGNATION PROCEDURE**

In case of resignations, an employee is requested to give two weeks written notice to the department head. One week’s notice is requested for temporary or probationary employees. This period of notice may be reduced or waived upon recommendation of the department head.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

Job abandonment will be considered termination. Job abandonment occurs when an employee has not contacted their supervisor and has not reported to their scheduled work shift for three consecutive days without approval. The College will notify the employee, in writing by certified mail that the employee's failure to report to work or to contact the employer constitutes job abandonment and termination is effective the last day worked.

### **21.0020 EMPLOYMENT TERMINATION**

An employee may be terminated for just cause. Just cause includes but is not limited to illegal, unethical, abusive or unsafe acts; violation of College policies and procedures; neglect or abandonment of duties; failure to follow chain of command; participation in prohibited political activities; abuse of sick leave or other benefits; tardiness or absences without leave; falsification of official documents or records; being under the influence of drugs or intoxicating beverages while on duty; unauthorized use of college property; theft/fraud and/or use of unauthorized/confidential college information.

### **21.0030 TERMINATION/RESIGNATION PROCEDURE**

An employee leaving the service of the College under any circumstance shall be required to report to the Supervisor and Human Resource Manager for final exiting.

- .01 The employee terminating employment shall complete an exit checkout sheet
- .02 The Human Resource Manager and/or Comptroller shall provide the employee with information on benefits continuation and 401k withdrawal or roll-over.

### **21.0040 LEAVE PAYOUT**

Upon termination or resignation, an employee will be eligible to receive annual leave payout.

## **5.22.0000 REDUCTION IN FORCE**

In the event of the discontinuance of a position because of an organizational or procedural change, diminished workload, lack of funds, grant terminated or ended or other conditions, the employee concerned shall be given at least two weeks' written notice of the reduction. At TMCC's discretion, employee who are terminated may be given two week's pay in lieu of two weeks' notice.

Full time employees shall not be subject to a reduction in force while there are temporary or probationary employees engaged in the same work, serving in the same work unit.

Reductions in force shall be conducted in a non-discriminatory manner and will not be used as a substitute for disciplinary measures.

Based upon need and work to be performed, the supervisor shall provide a recommendation for the position(s) subject to reduction in force. In determining which employees shall be affected, the department shall consider the following:

- .01 An analysis of the acquired knowledge, demonstrated skills, and versatility of its employees compared to the work to be done and the available funding.
- .02 An analysis of the level of demonstrated work performance.
- .03 A review of the length of service of its employees.
- .04 Any documented understandings concerning the position in place at the beginning of employment.

The department shall maintain written documentation of the required analysis and review.

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A copy of the employee's Reduction in Force letter shall be sent to the Human Resource Manager. The employee may be eligible for Unemployment Insurance. A Reduction in Force is not a condition to file a Grievance.

### 5.23.0000 DISCIPLINARY AND DISMISSAL POLICY

#### 23.0010 DISCIPLINARY AND DISMISSAL POLICY

.01 An employee failing to perform their job related duties or violation of policy shall be disciplined by their supervisor with any of the following actions and not necessarily in this order and may not include all procedures depending on the severity of the infraction:

- 1) An oral reprimand shall be issued to the employee with documentation on the Disciplinary Action Form (date, time, incident, and proposed corrective action) and placed in the employee file. After one year, the documentation may be expunged from their employee file at the discretion of the President per employee request.
- 2) A written reprimand will be issued to the employee with documentation on the Disciplinary Action Form (date, time, incident, and proposed corrective action) following or in lieu of the initial written warning and will be filed in the employee file. After one year, the documentation may be expunged from their employee file at the discretion of the employee's request.
- 3) An employee may be suspended from work without pay for a period of not more than ten working days after consultation and approval from the President. In such cases, the supervisor shall notify the employee, and the Human Resource Manager immediately in writing, stating the reason for recommending the suspension and the employee's right to appeal. The Human Resource Manager will inform the Comptroller for payroll purposes.
- 4) In each case of dismissal/termination based on job performance, the supervisor shall notify the President in writing the reason(s) for recommending the dismissal/termination of employee. The President reviews the recommendation of the dismissal/termination and completes a formal investigation. Upon finding the recommendation for dismissal/termination is justified, the President will issue a letter of dismissal/termination to employee. The letter will state the reasons for dismissal/termination and the process to grieve. The Human Resource Manager will be notified and will inform the Comptroller.
- 5) In cases of dismissal/termination not based on job performance, and written recommendation to the President is by someone other than the Supervisor, the President reviews the recommendation of the dismissal/termination and makes a formal investigation. Upon finding the recommendation for dismissal/termination is justified, the President will issue a letter of dismissal/termination to employee. The letter will state the reasons for dismissal/termination and the process to grieve. The Human Resource Manager will be notified and will inform the Comptroller.

.02 Any employee who disputes or wants to grieve a disciplinary action, see Section [5.24.0000](#), Grievances.

### 5.24.0000 GRIEVANCES

#### 24.0010 DEFINITION AND EXCLUSIONS

The grievance process begins when an employee, Director, or Trustee presents in writing an allegation that there has been a violation, misinterpretation or misapplication of a policy, procedure, or practice

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regarding the employee's employment conditions, dismissal, change to a lower pay rate, suspension without pay, reduction-in-force and issues of illegal discrimination cannot be grieved pursuant to this section. The College has the discretion to determine whether a written grievance is applicable under this policy.

### **24.0020 GRIEVANCE PROCESS**

The employee and supervisor along with the Human Resource Manager or designee, if needed, will attempt to resolve the issue of the employee prior to filing a grievance. Timelines are critical and must be adhered to.

The following process will be adhered to when filing a grievance:

- .01 Any employee who believes that they have a justifiable grievance must first discuss the grievance with his/her immediate supervisor. The grievance must be presented in written form, time and date stamped with documentation. The written grievance must state specifically what action or policy has been violated or is in question, and any other specific facts which the employee believes are relevant to the action. The employee must also state what resolution they are seeking. The supervisor shall give the aggrieved a written response within ten (10) working days.
- .02 If the response is unsatisfactory to the employee or the grievance cannot be resolved at the first level, the employee may file a written grievance to the Human Resource Manager within ten (10) working days of the receipt of the response from the supervisor. The Human Resource Manager will schedule a hearing with the Grievance Committee within ten (10) working days of the receipt of the written grievance. The written grievance shall include the following information:
  - The basis for the grievance,
  - The efforts made to resolve the grievance,
  - The issues to be heard by the Grievance Committee,
  - All persons or entities that may be called as witnesses, and
  - The relief/remedy sought by the employee.
- .03 The Grievance Committee will meet within ten (10) working days with the employee and the supervisor to hear both sides of the grievance. The Grievance Committee will be designated by the president. These five (5) selected representatives must:
  - Work outside the aggrieved employee's department,
  - Not have been previously involved with the issue grieved,
  - Not be related to or have a close personal or professional relationship with any of the essential parties involved in the grievance, and
  - Not have any conflict of interest which would interfere with their ability to be fair and impartial.

The Human Resource Manager will chair the hearing, but will not vote on the grievance. The Grievance Committee will hear and review all aspects of the issue. They will determine correctness of policy interpretation along with fairness and logic of decisions previously reached. The Grievance Committee may render their decision immediately or may take grievance under advisement for consideration, and may consult College authorities or experts for advice. A written decision will be made within ten (10) working days to be shared with the President. All parties will be sent a written reply of the decision.

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Recommendations of decisions by the Grievance Committee will be forwarded to the President for final concurrence; once concurred the decision is binding and final. Any attempt to influence or contact members of the Grievance Committee is a violation and may constitute reason to terminate the grievance process.

### **24.0030 GRIEVANCE AGAINST THE PRESIDENT**

Grievance against the President will be heard by the College BOD. The grievance to be considered valid must clearly state grievance being grieved with evidence and specifies what resolution is sought. The BOD will serve as the Grievance Committee. The College BOD shall give the aggrieved a written response within twenty (20) working days.

### **24.0040 GRIEVANCE AGAINST THE BOARD OF DIRECTORS**

Grievance against any BOD member will be heard by the College BOT. The grievance to be considered valid must clearly state grievance being grieved with evidence and specifies what resolution is sought. The BOT will serve as the Grievance Committee. The College BOT shall give the aggrieved a written response within twenty (20) working days.

### **24.0050 GRIEVANCE AGAINST THE BOARD OF TRUSTEES**

Grievance against any BOT member will be heard by the Tribal Council. The grievance to be considered valid must clearly state grievance being grieved with evidence and specifies what resolution is sought. The Tribal Council will serve as the Grievance Committee. The Tribal Council shall give the aggrieved a written response within twenty (20) working days.

### **5.25.0000 DRUG AND ALCOHOL TESTING POLICY**

Turtle Mountain Community College has in place a drug and alcohol drug testing policy which can be found in [Appendix A5-4](#).

### **5.26.0000 EMPLOYEE ASSISTANCE PROGRAM**

The Employee Assistance Program has been designed to assist employees and family members in prevention, assessment, education, and rehabilitation of problems that affect job performance. TMCC will contract with an outside organization to provide employee assistance counseling.

### **26.0010 RESPONSIBILITY**

- .01 The College will provide employees with adequate information on the Employee Assistance Program by providing training to supervisors on referring individuals to the EAP, and continually update employees on various educational initiatives available.
- .02 Supervisor responsibilities in EAP: The following information should be used as a general guideline for dealing with performance problems and for making an administrative referral to the EAP:
  - 1) Observe. Changes in employee behavior can signify that individuals have personal concerns that are interfering with their work performance.
  - 2) Document. The supervisor needs to document observable, verifiable facts. Complete and accurate documentation is essential when dealing with employee performance problems.
  - 3) Prepare. When supervisors have observed deteriorating performance or unfavorable changes in personal or work patterns, their options to assist an employee include, discussing performance difficulties with the individual before the difficulties become

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serious enough to involve higher supervision. The individual should be told about the availability of the EAP.

- 4) Meeting. A private meeting should be scheduled to advise the employee that corrective actions must be taken for unacceptable work behavior, assistance is available through the EAP, and further steps may be taken if the employee's performance does not improve in 30 working days. It is important that the supervisor is specific about the behavior and is consistent in the evaluation of all employees reporting to them, fair by referring only to job performance, and firm and clear about what improvements are expected in job performance.
- 5) Follow up. After the initial performance discussion with the employee and after advising the individual of the availability of the EAP, the supervisor will continue to observe and document performance. If the employee's job performance has not improved in specified allotted time frame, another meeting should be scheduled. The employee's work record again should be reviewed and informed that work problems must be corrected or his/her job may be in jeopardy.

### **26.0020 MAINTENANCE OF RECORDS**

The designated EAP contact person within the institution will maintain and secure all files pertinent to the EAP. These files will be kept separate from the employee's personnel files.

### **26.0030 CONFIDENTIALITY**

Client records maintained by an EAP should adhere to Federal regulations on the confidentiality of alcohol and drug abuse records ([PL 93-282](#)) and the Privacy Act of 1974 ([PL 93-579](#)).

### **26.0040 RESOURCES**

The EAP contact person should maintain current information about drug addiction and alcoholism treatment services and other resources. These include self-help groups, appropriate health care, community service, and other professionals.

### **26.0050 REFERRAL PROCESS**

The program is designed to assure that no person with a problem will have job security or promotional opportunity jeopardized because of a request for assistance or treatment through the EAP. However, in no instance will participation protect the employee from disciplinary action for continued substandard job performance or policy infractions.

There are three ways in which an employee may become involved in the Employee Assistance Program:

- .01 Self-Referrals - Occurs at the employee's own initiative. The employee, recognizing a possible need for assistance, consults with an EAP contact person before job performance problems become an issue. No feedback is given to supervisors under this type of referral. Employees with problems for which the EAP can provide guidance or assistance are encouraged to voluntarily seek information, referral, and related services on a confidential basis by contacting the EAP.
- .02 Administrative Referrals - Initiated by supervisors or Human Resource Manager. When an employee fails a random drug test, the Human Resource Manager will refer the employee to the program. When serious performance problems are recognized, supervisors can refer an employee to the program. Supervisors are given feedback about the employee's level of cooperation in dealing with personal problems that may be causing poor performance.

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Problems that affect work performance are a legitimate concern. One of the functions as a supervisor is to monitor performance by employees and take whatever corrective action is required. Early identification and referral of the employee can result in improved job performance and assist the individual in becoming more productive. The program should be viewed not as a disciplinary method, but as another option or tool for supervisors to use in correcting difficult performance problems.

- .03 Members of the employee's immediate family are also encouraged to seek information and assistance on a confidential basis by contacting the EAP.

### **26.0060 DOCUMENTATION**

Documentation of problems and concerns is essential in order to identify and intervene with an employee. The EAP contact person will document referrals and/or use of the EAP by maintaining the following information:

- 1) Employee(s) involved,
- 2) Date of initial contact,
- 3) Referral by the supervisor or employee initiated contract,
- 4) Agency or individual where referred, and
- 5) Follow-up conducted appropriate to the problem.

### **26.0070 LEAVE**

In instances where employees utilizing the EAP are required to be away from their work for an extended period of time, they may use earned annual leave, sick leave benefits, or Leave without Pay (LWOP) in accordance with the current College policies governing such leave.

### **5.27.0000 DRUG-FREE CERTIFICATION REQUIREMENTS**

This certification is required by the regulations implementing the Drug-free Workplace Act of 1988, 34CFR Part 85, Subpart F. The regulations, published in the January 31, 1989-Federal Register, require certification by grantees, prior to award that a drug free workplace will be maintained. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments and suspension or termination of grants of government-wide suspension or debarment (See 34 CFR 85, Sections [85.615](#) and [85.620](#)).

- .01 College Certification regarding Alcohol and Other Drug-Free Workplace Requirements. This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988. All College employees will certify on an annual basis that they fully understand the College's Drug-Free Workplace Requirements Policy. False certification or violation of the certification shall be grounds for suspension or termination.
- .02 Employees of the College shall sign the following certification indicating they understand the Alcohol and Other Drug-Free Workplace Requirements (See [Appendix A5-8](#)).

### **5.28.0000 HARASSMENT AND BULLYING POLICY**

#### **28.0010 HARASSMENT POLICY**

The College will not tolerate harassment of its employees. Any form of harassment (verbal, written or physical conduct) related to an employee's race, color, gender, religion, national origin, sexual orientation, gender identity, age, or disability, genetic information, marital status, amnesty or status as a covered veteran, or any other protected class covered by law is a violation of this policy and will be treated as a disciplinary matter.

For these purposes, the term "harassment" includes, but is not necessarily limited to:



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- Epithets, slurs, or negative stereotyping
- Threatening, intimidating or hostile physical acts:
- Demeaning jokes, or
- Written or graphic material that demeans, degrades, or belittles or shows hostility or aversion toward an individual or group and that is placed on walls or elsewhere on TMCC premises or circulated in the workplace, on TMCC time or using TMCC equipment via email, phone (including voice messages), text messages, tweets, blogs, social networking sites or other means. Sexual harassment constitutes discrimination and is illegal under Federal and State law. For the purpose of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, or physical conduct of a sexual nature.

For example:

- Submission to such conduct is made either explicitly or implicitly a term or condition for an individual's employment;
  - Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
  - Conduct that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
  - Sexual harassment may include a range of subtle and not-so-subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include:
    - Unwanted sexual advances or requests for sexual favors;
    - Sexual jokes and innuendo;
    - Verbal abuse of a sexual nature;
    - Commentary about an individual's body, sexual prowess or sexual deficiencies;
    - Leering, whistling, or touching;
    - Display in the workplace of sexually suggestive objects or pictures; or
    - Any other physical, verbal or visual conduct of a sexual nature.
- .01 These policies apply to all applicants, employees or anyone directly or indirectly associated with or otherwise contracted with TMCC (ex. outside vendors, consultants or customers).
- .02 Conduct prohibited by these policies is unacceptable in the workplace and in any work related setting outside the workplace, such as during business trips, business meetings and business-related social events.
- .03 Individuals who believe they have been the victim of conduct prohibited by this policy statement or who believe they have witnessed such conduct should immediately report this to his or her immediate supervisor. The supervisor will promptly notify the Human Resource Manager, who will take steps to investigate the matter where appropriate, and recommend to the President disciplinary action. If the employee does not feel the matter can be discussed with the supervisor, the employee should arrange for a conference with the Human Resource Manager to discuss the grievance/complaint. Harassment of employees in connection with their work by non-employees will also be a violation of this policy. Any employee who becomes aware of any harassment of an employee by a non-employee or non-employee by employee should report such harassment to his or her supervisor or to the Human Resource Manager, who is responsible for investigating all such

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incidents. Appropriate action will be taken against any non-employee who violates this policy. All incidents shall be reported to the President.

- .04 Violation of this policy by an employee shall subject that employee to disciplinary action, up to and including dismissal.  
Violation of this policy by a non-employee will be addressed by the President that includes, but is not limited to, a three (3) member committee of full time employees.
- .05 When possible, TMCC encourages individuals who believe they are being subjected to such conduct to promptly advise the offender that their behavior is unwelcome and request that the behavior be discontinued. TMCC recognizes, however, that an individual may prefer to pursue the matter through grievance/complaint procedures.
- .06 TMCC encourages the prompt reporting of grievance/complaint or concerns so that rapid and constructive action can be taken. TMCC requests that the employee files their grievance/complaint within 180 days of the last incident; however, the Human Resource Manager will investigate all incidents, regardless of time.
- .07 Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.
- .08 Retaliation against an individual for reporting harassment or discrimination is a serious violation of this policy and will be subject to disciplinary action.
- .09 Consequences for false reporting/accusing an individual of sexual or other forms of harassment will include disciplinary action, up to and including dismissal/termination according to the report/accusation and conclusion. Legal actions will be taken against non-employees.

### 28.0020 BULLYING POLICY

#### .01 INTRODUCTION

Turtle Mountain Community College is committed to creating and maintaining a workplace environment, which fosters mutual respect, integrity and professional conduct. In keeping with this commitment, the College has established this Policy and a set of reporting/investigation procedures (the "Reporting/Investigation Procedures") for all employees and board members relating to the issue of workplace bullying and harassment. The College will not tolerate bullying or harassment in or out of the workplace and will make every reasonable effort to prevent and eliminate conduct which falls within the scope of this Policy.

#### .02 APPLICATION AND SCOPE

All College employees, Directors, Trustees and officers are covered by this Policy. This Policy applies to all activities which take place on the College's premises (including interpersonal and electronic communications), or which are directly connected to the workplace and during any employment-related duties or activities, including conferences, training sessions, travel and social functions.

#### .03 DEFINING WORKPLACE BULLYING AND HARRASSMENT

**Bullying and harassment:** Includes any inappropriate conduct or comment by a person towards a worker that the person knew or reasonably ought to have known would cause that worker to be **humiliated or intimidated**, but excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment bullying and harassment are often characterized through insulting, hurtful, hostile, vindictive, cruel or malicious behaviors which undermine, disrupt or negatively impact another's ability to do his or her job and results in a harmful work environment of the employee.

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Bullying/harassment may be the result of deliberate intention or not. It is important to recognize that it is the impact of the behavior on others, not the intent, which determines whether or not bullying/harassment has occurred. Depending upon the severity and impact of the behavior, a single significant incident may constitute bullying/harassment, if it is found to be sufficiently offensive, threatening or intimidating. To determine whether or not bullying/harassment has occurred, each situation must be examined reasonably and objectively, based on its specific facts.

Examples of conduct or comments which might constitute bullying and harassment include but not limited to:

- Verbal, written or physical threats and intimidation
- insulting or derogatory remarks, gestures or actions
- shouting, yelling
- swearing and calling someone derogatory names
- targeting an individual through persistent, unwarranted criticism
- public ridicule
- vandalizing personal belongings
- spreading malicious rumors, gossip or negative innuendo
- belittling and making someone feel unimportant,
- constant nitpicking/criticizing over trivial or minor issues/mistakes,
- deliberately overloading with work,
- purposefully withholding information which is needed for the person to do their job properly
- making unreasonable demands
- stealing credit for other employee's work
- intimidating or undermining employees by demeaning their work standards, not giving them credit, setting them up for failure and constantly reminding them of old mistakes.

Bullying or harassment would not include:

- the normal exercise of supervisory responsibilities, including performance reviews, direction, counseling and disciplinary action where necessary, provided they are conducted in a respectful, professional manner, in accordance with the College's policies and procedures;
- social interactions, jokes and bantering, which are mutually acceptable, provided the interactions are respectful and there is no negative impact for others in the work environment; and
- disagreements, misunderstandings, miscommunication and/or conflict situations, provided the behavior of the individuals involved remains professional and respectful.

### **.04 EMPLOYEES' RIGHTS, ROLES AND RESPONSIBILITIES**

Each and every employee and board member of the College is expected to support the implementation of this Policy by:

- 1) Conducting themselves in a manner which demonstrates professional conduct, mutual respect for others and which honors diversity in the workplace;
- 2) Not engaging in the bullying and harassment of others;

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- 3) Participating fully and in good faith in any resolution process or formal complaint and investigation process where they have been identified as having potentially relevant information;
- 4) Reporting any bullying and harassing behaviors which they experience or observe in the workplace which may be in violation of this Policy; and
- 5) Respecting the rights to personal dignity, privacy and confidentiality pertaining to this Policy.

### **.05 MANAGEMENT ROLES AND RESPONSIBILITIES**

While every employee is responsible for maintaining and contributing to an environment which is free from bullying/harassment, those in positions of authority over staff carry more responsibility than other employees within the College's organization. Management personnel have additional obligations to make every reasonable effort to establish and maintain a workplace free of bullying or harassment. Related to this Policy, their responsibilities include but are not limited to:

- 1) Ensuring that employees have full access to information regarding employer policies and standards;
- 2) Respecting the rights of all parties to a fair, equitable and confidential process for responding to complaints;
- 3) Providing support to all those who participate in a problem-solving process; and
- 4) Enforcement of corrective and/or disciplinary measures, where applicable.

### **.06 ANNUAL REVIEW AND RELATED MATTERS**

This Policy and the Reporting/Investigation Procedures which apply to it will be reviewed annually and any changes to this Policy and the related Reporting/Investigation Procedures will be communicated to all persons to whom this Policy applies.

Employees will be provided with a copy of this Policy and the related Reporting/Investigation Procedures and are required to acknowledge that they have read this Policy when they are engaged or when this Policy and related reporting/investigation procedures are introduced or significantly revised.

### **.07 REPORTING/INVESTIGATION PROCEDURES**

Reporting:

The written, signed and dated statement of the complainant should include the following:

- The date and time of the incident(s)
- The location of the incident
- The employee /board member involved
- Any witnesses to the incident(s)
- The precise nature of the complaint
- Any additional facts that are relevant to the complaint.

If the statement was written for the complainant by another individual, the statement needs to be signed by the complainant as an acknowledgement that the employee has read the statement and it is complete and accurate.

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### 28.0030 BULLIED/HARASSED EMPLOYEE

If you believe you are being bullied/harassed, possible action steps include:

- Bringing the situation to the attention of a supervisor, the next person in the chain of command (if supervisor is the issue), or HR.
- Keeping notes detailing the nature of the bullying/harassment (e.g., dates, times, places, what was said or done and who was present).
- Obtaining copies of harassing/bullying paper trails; hold onto copies of documents that contradict the bully's accusations against you (e.g., time sheets, audit reports, etc.).

Expecting the bully to deny and perhaps misconstrue your accusations; have a witness with you during any meetings with the bully; report the behavior to an appropriate person.

### 28.0040 OTHER EMPLOYEES

If you witness someone being bullied/harassed, show support for the individual being bullied and if comfortable, confront the bully in a constructive manner about his/her behavior and its effect on the workplace. Let a supervisor or HR know if the situation persists.

### 28.0050 SUPERVISORS

Ways to minimize and discourage bullying/harassment:

- Educate your employees on respectful workplace behaviors and what acts could constitute bullying/harassment
- Encourage reporting
- Encourage an open door policy
- Develop your sensitivity and skills in dealing with and responding to conflict
- Structure your work environment to incorporate a sense of autonomy, individual challenge, and clarity of expectations. Include your staff in decision-making processes.
- Have a demonstrated commitment about what is and is not acceptable behavior.

### 28.0060 WHEN BULLYING/HARASSMENT IS WITNESSED OR REPORTED

- Take the complaint or situation seriously and investigate it promptly.
- Address the bullying/harassment behavior by stating specific examples of actions that are being perceived as bullying/harassment and the impact on others.
- Assess the extent and pervasiveness of the bullying/harassment.
- Consult with HR on appropriate next steps.

### 28.0070 INVESTIGATION

The investigation should:

- Be undertaken promptly and diligently and as thorough as necessary, given the circumstance
- Be fair and impartial, providing both the complainant and respondent fairness in evaluating the allegations
- Be sensitive to the interests of all parties involved, and maintain confidentiality to the extent possible under the circumstances
- Be focused on finding facts and evidence, which include interviews with the complainant, respondent and any witnesses

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- Incorporate, where necessary, any need or request from the complainant or respondent for assistance during the investigation process

### **Process:**

An investigator should limit questions to requests for factual information, particularly one having the effect of suggesting fault on behalf of any person or the college.

### **Document:**

- 1) When the complaint came to the College's attention
- 2) Who was interviewed
- 3) What was disclosed
- 4) What remedial action was taken
- 5) Why it was taken

The investigation notes should be taken contemporaneously with or soon after each witness interview to ensure accuracy.

The investigator should have a witness present during all the interviews related to the investigation or have the interviews video or audio recorded.

### **Conducting the investigation**

**Step 1:** Review the policy and procedures on bullying and harassment.

Determine whether the alleged behavior meets the definition of bullying or harassment.

**Step 2:** Meet with each party separately to explain the investigation process

Inform both the complainant and respondent within three business days of the signed written complaint about the following:

- Expected timetable
- Overall process
- Roles and responsibility of anyone involved in the investigation (employers, supervisors, coworkers, investigators, witnesses)
- Confidentiality of the investigation (who will get copies of the report)
- Interim measures to limit the potential for bullying and harassment, if required (such as implementing a process to screen call of aggressive phone calls if the bullying or harassment is coming in that form)

**Step 3:** Select an investigator

An investigation must be fair and impartial. The investigator could be someone from within the College. In more complex or sensitive cases, an external investigator may be appropriate. A selection must be made within five business days of the signed and dated written complaint.

**Step 4:** Gather Evidence

- 1) Begin by speaking separately with both complainant and respondent. If the parties agree on the details of what happened, proceed to Step 5. If they do not agree, interview witnesses or others involved. Collect evidence from any parties involved, including email, handwritten notes, or other records that can help inform the investigation.

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- 2) The investigator interviews the complainant within three days of (the investigator) receiving the written signed and dated statement. The investigator interviews to obtain a complete narrative of the allegations.
- 3) The investigator should be careful to distinguish between what the employee has personally witnessed or experienced and what the employee has heard from others.
- 4) The investigator should obtain in the interview the employee's response to the bullying/harassment and ask how the bullying/harassment has effected the employee (i.e. job performance). The investigator should obtain the identity of all witnesses to the bullying/harassment and any individuals with relevant information.
- 5) The investigator should ask if he or she is aware of any other incidents of bullying by the respondent, and whether the employee knows of any other complaints against the respondent.
- 6) The investigator should obtain any notes, physical evidence or other documentation from the complainant regarding the bullying/harassment.
- 7) The investigator should ask the complainant how he or she would like to see the situation resolved and instruct the complainant to report any subsequent instances of bullying/harassment. The investigator should not promise that the requested resolution will take place.
- 8) If the complainant requests the college keep the complaint confidential, the investigator must explain that the college will keep confidential as much as possible but by the nature of the investigation, confidentiality cannot be guaranteed.
- 9) The investigator interviews the respondent. The investigator should explain the nature of the complaint against him or her. The investigator should instruct that retaliation against the complainant will result in disciplinary actions regardless of the outcome of the complaint.
- 10) The investigator should obtain from the respondent during the interview process the response to the complaint against him/her. If the respondent denies the allegations, the investigator should ask if the complainant has any reason to lie (i.e. personality conflicts). The investigator should obtain from the respondent relevant documents or evidence that he or she may have and a list of other individuals that have information that would be relevant to the investigation.
- 11) The investigator interviews witnesses to the bullying/harassment incident(s) in order to conduct a thorough investigation. At the beginning of the interview, the investigator should provide the witness with a brief introduction that includes the reason for the interview, as well as a disclosure that the employee will not be retaliated against for providing truthful information.
- 12) During the interview, the investigator should ascertain what, if anything, the employee personally witnessed with regards to the bullying/harassment. This includes a detailed description of the respondent behavior toward the complainant and toward other in the workplace. The complainant's behavior/reactions during the incident.
- 13) The interviewer should obtain any communications that the witness has had with the complainant and/or the respondent regarding the incident(s).
- 14) The investigator should explore any other conduct that the witness has seen in the past that may be relevant to the complaint.
- 15) The investigator should obtain any relevant documents and identity of any other individuals with knowledge.

**Step 5:** Review the evidence and make a decision

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Based on the available evidence, determine whether bullying/harassment occurred. Carefully consider whether the behavior meets the definition of bullying and/or harassment in these policies. The appropriate response depends on whether the allegations are corroborated, disproven or if the college is unable to reach a definitive conclusion regarding whether the allegations have merit.

The college should be mindful that a bully is not always a harasser, unless the conduct is directly at the target because of his or her membership in a protected group.

### **Allegations proven**

If the investigation establishes that the employee was subject to bullying/harassment because of a protected class, then the college must take further appropriate action in accordance with the laws applicable.

If the investigation establishes that the employee was subject to bullying/harassment, the college must determine the appropriate level of discipline in accordance with the college disciplinary policy, in relation to the allegations.

### **Allegations disproven**

If the allegations are disproven by the investigation, the employee should communicate the results to the complainant first. The college will not tolerate retaliation against the complainant. It is important that any action taken regarding the complainant not be perceived in a way that undermines the colleges policies or discourages future reporting of bullying/harassment by others.

### **Allegations inconclusive**

The college should inform the parties involved that a thorough investigation was conducted and was inconclusive (no corroborating witnesses, documentation). The college should inform the complainant to immediately report any further instances of bullying, harassment, discrimination or retaliation.

### **Step 6: Discuss the findings**

The investigator, employer or supervisor could meet separately with both the complainant and respondent, confidentially, to explain the investigation's findings.

### **Step 7: Take corrective action**

The college should apply the disciplinary actions outlined in the personnel policy. The college must aid to fully address the incident and ensure that future bullying and harassment is prevented or minimized at the workplace.

Other corrective actions the employer might take include:

- Updating the workplace policy statement
- Putting new preventive steps in place
- Updating and providing training, education, and information for all workers
- Reminding supervisors and workers of their duties regarding bullying and harassment
- Ongoing monitoring
- A change in the reporting relationship if the respondent is the supervisor

### **Step 8: Keep a record**



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The investigative report should be kept and contain the following information:

- Complaint details
- Names of all the parties, including who made the complaint and who received the complaint
- When the report was made
- Details of the specific behaviors (including names and dates)
- A summary of interviews with the affected parties
- Any supporting documents reviewed during the investigation
- Outcomes and findings
- Actions taken to respond to the complaint and to deal with any adverse symptoms resulting from the incident.

### **5.29.0000 COPYRIGHT AND ROYALTY POLICY PROCEDURES**

#### **29.0010 DEFINITIONS**

- .01 College - Turtle Mountain Community College.
- .02 Author - Originator or maker of instructional materials.
- .03 Instructional materials - films, filmstrips, slides, tapes, models, records, programmed units, articles, essays, books, computer software, and other creative work.

#### **29.0020 POLICY**

- .01 The College will share in the copyright and the sales if any part of the costs of producing such property was supported by the College. Costs of producing such properties will include portions of the employee's salary, whether during the academic year or summer period and whether part of regular salary or overload, paid by grant or contract funds.
- .02 If professional services are utilized in developing the materials, copyright will be held by the College and have the right to reproduce and use the materials in courses and programs.
- .03 In the language of copyright and patent law, these are "shop rights". As part of this proviso, a faculty or staff author is granted the right to remove the materials from use after five years from the date of initial distribution. Internal use by the College will involve no financial responsibility to the author.
- .04 An agreement will be developed between College and faculty or staff for publishing or selling materials developed by faculty or staff.

#### **29.0030 AGREEMENT**

The agreement will be formal and will be determined on a case by case basis.

### **5.30.0000 SMOKING/E-CIGARETTES/SMOKELESS TOBACCO POLICY**

The College is dedicated to provide a healthy environment for all employees, students, and citizens. Smoking and other tobacco use can be hazardous to the health of both users and non-users.

The College will provide smoke-free facilities. This is a ban on using smoking, e-cigarettes, and smokeless tobacco within all the buildings on all campuses. In order to keep the smoke from entering the facilities from outdoors, smoking will not be permitted in front of the main campus buildings. Smoking is permitted ONLY in personal vehicles.

Only in the case of cultural ceremonies will the use of tobacco be allowed.

## SECTION 5 PERSONNEL POLICY AND PROCEDURES

All individuals on all College campuses share in the responsibility of adhering to this policy. Any violation by employees shall be referred to the appropriate supervisor.

Individuals who come to the campus shall be asked to comply with the established policy. If the individual fails to comply with the request, the incident should be reported to the security personnel. The individual will be asked to leave the College property.

### **5.31.0000 EMERGENCY MANAGEMENT PLAN**

An emergency is any sudden large-scale event that threatens the school, staff, students and/or visitors. There are many events, natural and man-made, accidental and malicious, that can cause harm to members of the College community and effect operations.

A copy of TMCC's Emergency Management Plan is available on the TMCC [website](#).

### **5.32.0000 ACTING CHIEF EXECUTIVE OFFICER**

In the President's absence, a designee appointed by the President shall serve as Chief Executive Officer for the College.

### **5.33.0000 AMENDMENTS AND EXCEPTIONS**

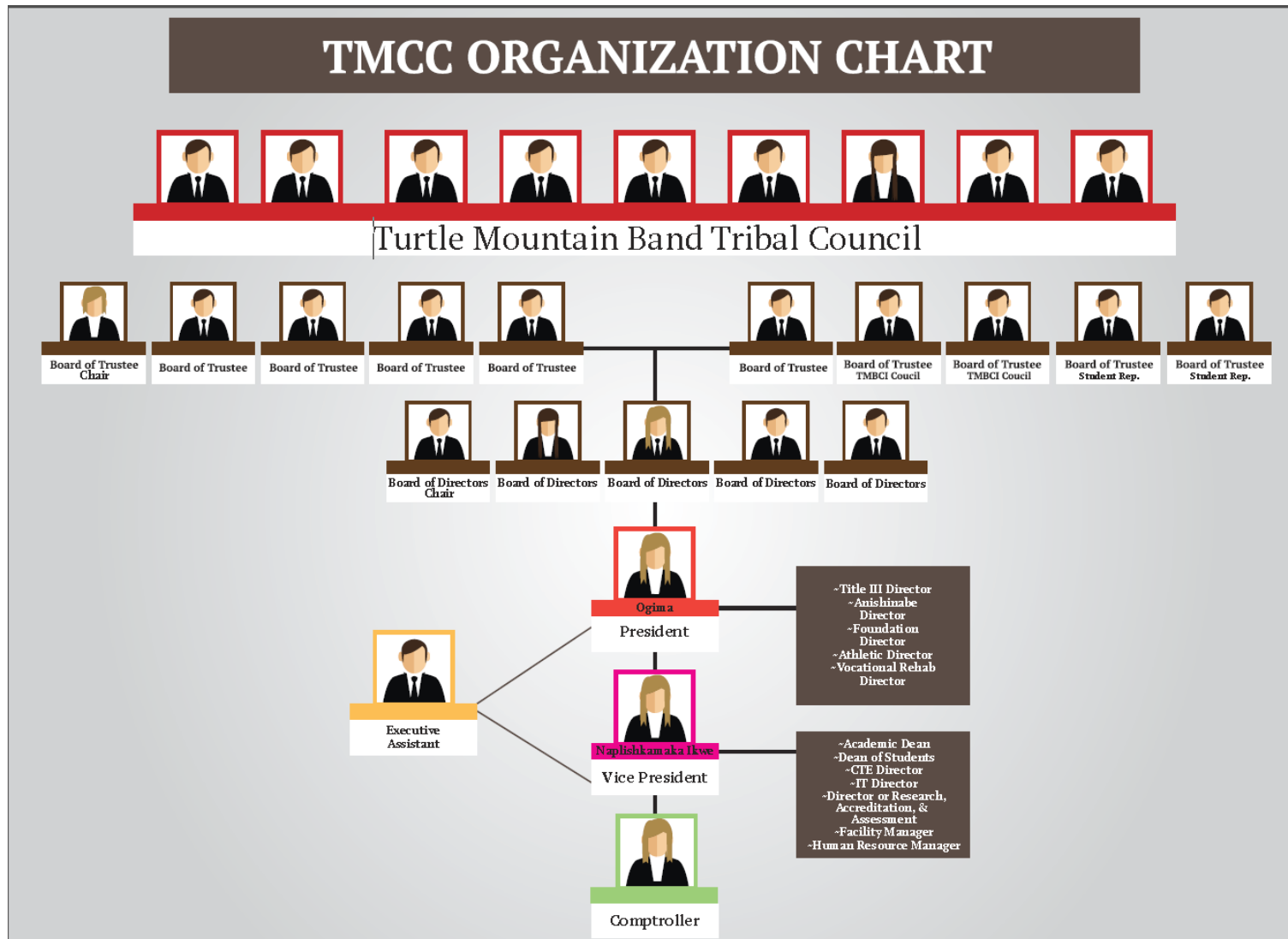
All policies included in this manual are in effect unless otherwise revised or amended by official action of the BOD.

### **5.34.0000 ADMINISTRATION**

The President is responsible for the administration of these policies.

# APPENDICES

## APPENDIX A1-1 MODEL OF EXTERNAL AND INTERNAL ADMINISTRATION



**APPENDIX A2-1 CONFLICT OF INTEREST STATEMENT**

**Conflict of Interest Statement**  
**For**  
**Board of Trustees and Board of Directors**

**Statement:**

It is the policy of Turtle Mountain Community College Board of Trustees and Board of Directors to ensure that the image and implementation of fairness, propriety and integrity remain an integral part of the duties and responsibilities of the member of the Board of Trustees and Directors toward the college and their constituents.

**General Policies**

1. Definition:
  - a. An actual Conflict of Interest arises in a situation where financial or other personal or professional considerations compromise an individual's objectivity, professional judgment, professional integrity, and/or ability to perform his or her professional responsibilities to Turtle Mountain Community College. In addition to situations that clearly give rise to an actual Conflict of Interest, individuals are cautioned also to consider gray areas that might create the perception of or the potential for a Conflict of Interest. Perceived or potential Conflicts of Interest can be said to exist in situations where an individual member of Turtle Mountain Community College (Member), a member of the individual's family (Family), or a close personal relative (Close Relative) has financial interests, personal relationships, or professional associations with an individual, individuals, or outside organization, such that his or her activities within Turtle Mountain Community College could appear to be influenced by that interest or relationship.
  - b. An immediate family member shall be defined as a spouse, parent, sibling, children, grandchildren, grandparent, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, niece, nephew, uncle, aunt, stepmother, stepfather, stepchild, half-sibling, foster parent, or foster child. The definition of immediate family member also includes any person who resides in the same home as the Board member. Such conflict of interest also occurs if the family member has a conflict by virtue of being an officer, director, employee, member, partner, trustee, or controlling stockholder of any organization with an interest in the matter before the Board.
  - c. Nepotism shall be a conflict of interest. Nepotism is defined as the hiring, selecting, appointing, promoting, advancing, or advocating of an immediate family member without regard to qualifications.
2. No Trustee/Director shall engage in any activity, transaction or Board decision wherein the Trustee/Director may receive significant personal or financial gain or benefit for himself/herself or the Trustee/Director's family member or business wherein the Trustee/Director's or the family member has an interest.
3. No Trustee/Director shall coerce or exert undue influence up the Board or College for any personal or financial gain or benefit for himself/herself or for the Trustee/Director's family

member or a business owned by the Trustee/Director or family member or a business wherein the Trustee/Director or the family member has an interest.

4. No Trustee/Director shall accept any gratuities, monetary payment or special favors in for influences the Trustee/Director's position may have on deliberations or decisions of the Board for final results.
5. No Trustee/Director shall be an employee of the College nor obtain any type of short or long term employment, consulting or other contract from the College. However, this provision does not prevent the Trustee/Director from receiving the stipends from attendance of Board meetings. Student Trustees may be employed as identified as in the Charter.
6. A Trustee/Director making or issuing public statements or opinions regarding the College must notify the receiver of the statement or opinion that such statement or opinion is issued at the direction of the Board, or alternatively, that such statement is the personal opinion of the speaker and does not reflect the view of the Board.
7. No Trustee/Director may publicly advocate his/her personal or political opinion to the general public within his/her capacity as a Trustee/Director.
8. No Trustee/Director shall defame, by slander, libel or otherwise, the College, other Trustees or Directors or the Board of as a whole.
9. No Trustee/Director shall promise, convey or otherwise obligate assets, efforts or support of the College or Board of Trustees/Directors without the express directive or authorization of the Board.
10. No Trustee/Director shall disclose any private, privileged or other confidential information arising from the Board of Trustees/Directors meetings or functions that would give unfair financial, personal or political advantage to any individual, organization or business entity.
11. No Trustee/Director shall disclose any private or confidential information arising from Board of Trustees/Directors meeting, function, correspondence or other communications especially from executive sessions.
12. No Trustee/Director shall participate in any Board of Trustee/Directors action that would constitute an action of nepotism for the Trustee/Director. No Trustee/Director shall participate in the deliberation, decision or vote of any matter concerning the Trustee/Directors family member but shall abstain from the deliberation and decision or vote, except for matters that affect the entire employee population; i.e. COLA increases and that otherwise do not violate any policy or law.
13. All Trustee/Directors, upon his/her appointment, shall sign this agreement and abide by the bylaws, policies, and this agreement as adopted and required by the Boards

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Board of Trustee/Director member

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Date

**APPENDIX A3-1 EVALUATION OF THE PRESIDENT****TURTLE MOUNTAIN COMMUNITY COLLEGE****EVALUATION OF THE PRESIDENT****FOR THE PERIOD OF \_\_\_\_\_**

The President's Evaluation Form is provided as an evaluation tool for the Board of Directors and the President to assess and discuss job performance. The focus of the performance review is to establish a mutual understanding between the President and the Board of Directors regarding the requirements for effective job performance.

Process for the President's Evaluation:

1. Both the President and the Board of Directors review the current job description and jointly develop any additional performance factors, based on the job description or specific duty assignments, and include these on the evaluation form.
2. The Board of Directors then completes the President's review form, rating each performance factor as (5) Superior, (4) Exceed Requirements; (3) Competent, (2) Requires Improvement, or (1) Unsatisfactory.
  - A. A Rating Factor Guide is included to assist the Board of Directors in providing an accurate assessment of performance.
  - B. Written comments are required for any factor rated less than "Competent" along with supporting evidence and the section of the policy and/or job description where these job duties are outlined and noteworthy performance in any particular factor(s).
3. The President and the Board of Directors meet privately to conduct the performance interview and enter the required signatures.

**Rating Scale**

**SUPERIOR:** Performance of job requirements noticeably exceeds established expectations and standards for quality, quantity, and timeliness. Outcomes are well above fully competent performance; performs more than asked; explores improved methods of accomplishing tasks; and small room for improvement.

**EXCEED REQUIREMENTS:** Performance of job requirements exceeds established expectations for quality, quantity, and timeliness. While performance at this level can still be improved, the President at this level exceeds the performance expected of a fully capable individual in most aspects of job performance.

COMPETENT: Performance of job requirements achieves acceptable standard results expected by this position. Periodic incidents or problem work performance are not typical in the class of work performed.

REQUIRES IMPROVEMENT: Performance of some job requirements is unacceptable, which does not achieve results expected by this position. Incidents of problem work performance are typical in the class of work performed and improvement is required.

UNSATISFACTORY: Performance of some job requirements is consistently unacceptable. Training and reminders for improvement have not improved work performance.

### **Performance Factors**

Rate each of the eleven factors for job performance on a scale of 5 (Superior) and 1 (Unsatisfactory) by circling the appropriate number:

1. Mission Statement: Fully understands the mission of the college. 5 4 3 2 1  
Integrates and utilizes the mission in an appropriate manner. Promotes the mission with students, staff, faculty, Board of Directors and Board of Trustees, and general public.

Comments:

2. Leadership: Provides the necessary leadership in all aspects of the job. 5 4 3 2 1  
Projects and implements a leadership style that is communicative, instills teamwork, promoting high expectations, and is conducive to achieving results.

Comments:



- |    |  |                   |
|----|--|-------------------|
| 3. | Budget/Funding: Develops and implements appropriate procedures, policies, processes, and practices for the development, management, and implementation of an approved annual budget. Reviews processes and practices as needed to assure that the approved budget results in a balanced budget at the end of the fiscal year. Seeks funding from various sources which includes state, federal, corporate, and private for purposes of initiating special projects and programs. Develops and seeks private donations via the Foundation which serves as a source of revenue to the College. | 5   4   3   2   1 |
|----|--|-------------------|

Comments:

- |    |  |                   |
|----|--|-------------------|
| 4. | Planning/Strategic Planning: Assures that a strategic plan is in place and is managed so measurement is an on-going process. The strategic plan is based on an internal and external assessment of needs of the College community. | 5   4   3   2   1 |
|----|--|-------------------|

Comments:

- |    |  |                   |
|----|--|-------------------|
| 5. | Communication: Works to effectively communicate with the Board of Directors on all matters related to the College community and the College that includes faculty, staff, and students. Represents the College in a respectful and professional manner that involves tribal, regional, state, and national organizations and agencies. | 5   4   3   2   1 |
|----|--|-------------------|

Comments:

- |    |   |                   |
|----|---|-------------------|
| 6. | Policies: Annually reviews and updates policies that involve personnel, fiscal, and other policies that pertain to the College and makes recommendations to the Board for adoption. Adheres to policies and procedures in the daily function of duties. | 5   4   3   2   1 |
|----|---|-------------------|

Comments:

- |    |   |                   |
|----|---|-------------------|
| 7. | Facilities: Seeks to continually improve the current facilities that involves safety; and adequate space for programs and activities appropriate for student, faculty, and staff use. Assess the need for additional space for programmatic, instructional, and academic use. Secure financial resources for the design and construction of needed facilities | 5   4   3   2   1 |
|----|---|-------------------|

Comments:

- |    |   |                   |
|----|---|-------------------|
| 8. | Personnel: Provides for an annual performance evaluation of all employees and continuously seeks for improvement of performance of employees. Provides for the individual training needs of employees in order that employees are performing at their required capacities. Provides appropriate supervision of employees that will allow them to perform their duties and grow in the performance of said duties. | 5   4   3   2   1 |
|----|---|-------------------|

Comments:

- |    |   |                   |
|----|---|-------------------|
| 9. | Instruction: Assures that instructors are providing quality instruction to students as well as possess the knowledge of content that allows for a quality education in all subjects and programs of study. Assures that programs of study meet the accreditation standards. | 5   4   3   2   1 |
|----|---|-------------------|

Comments:

- |     |   |                   |
|-----|---|-------------------|
| 10. | Academics/Career and Technical Education: Assesses on an annual basis the curricular and programmatic needs of the local College community; and designs, develops, organizes, and implements academic/career and technical programs that respond to the most critical community needs based on available human and financial resources. Assures that programs of study meet the accreditation criteria and standards of the Higher Learning Commission as well as the North Dakota state standards. | 5   4   3   2   1 |
|-----|---|-------------------|

Comments:

- |     |  |                   |
|-----|--|-------------------|
| 11. | Student Services: Seeks to continually assess the quality of student | 5   4   3   2   1 |
|-----|--|-------------------|

services that involves but is not limited to recruitment, retention, advising, graduation, job placement, financial aid, and work study. Addresses and updates student policies that don't stifle our ability to be creative and innovative and are in line with good recruiting and retention practices.

Comments:

Total score based on overall assessment by the Board of Directors is: \_\_\_\_\_

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**BOARD OF DIRECTORS COMMENTS AND IDENTIFICATION OF  
PERFORMANCE GOALS**

(Attach additional sheets as needed)

Board of Directors Chairperson Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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**PRESIDENT'S COMMENTS**

(Attach additional sheets as necessary)

This rating constitutes the Board of Directors' evaluation of your job performance during the rating period. Your signature below certifies only that you have received a review and had the opportunity to discuss your rating with the Board of Directors. Please respond to this performance review by indicating agreement or disagreement with any of the statements on this document and a concise narrative of the nature of agreement or disagreement feel that way. Also, provide documentation and evidence to support disagreement of the rating.

President's Signature: \_\_\_\_\_

## **APPENDIX A3-2 PRESIDENTIAL SEARCH PROCESS**

### **Preliminary steps**

As soon as practical after it is known that the president position vacancy will occur, the Chairman of the Board of Directors will inform the remaining Board members.

The Chairman of the Board will consult with campus constituency groups, including the campus governance leaders, regarding the search plans and development of the search committee.

The search committee should consist of:

1. Board of Director Chair – Serves as chair of the committee and is a voting member
2. Another Board of Director member
3. TMCC Vice President
4. Comptroller
5. Academic Dean
6. Dean of students
7. CTE Director
8. Faculty Representative
9. Staff representative

For each constituent group listed, a member will be selected from within that constituent group to serve on this search committee to reflect a sense of shared governance across the institution.

If for some reason any search committee member cannot sit on the committee, the Chairman of the Board will appoint another person from within the college that has similar knowledge and expertise that can serve on the committee.

The Human Resource Manager will serve as liaison to the committee as a nonvoting member to guide and oversee the process. The HR Manager will provide general assistance for each step of the process.

The Board secretary will assist the search committee and coordinate clerical work, take minutes, notify members of meetings, etc. This person will sign the same confidentiality agreements as the committee, as outlined below. The HR Manager may be designated to do some of this work to ensure confidentiality or for timeliness. The HR Manager could serve as the secretary.

A Budget for the search should be determined in conjunction with the comptroller. The budget should include cost of advertising the position, travel of candidates to all interviews, postage, copying, etc.

### **The Search Process**

**Constituent Input:** While the position is advertised, the search committee holds community and internal constituent feedback listening sessions to solicit input regarding the opportunities and needs of the college and to learn how they translate into expectations for the next president. The purpose of these sessions would be to hear all constituent concerns and to gather broad information about dynamics of the ideal candidate for a new president in the context of specific issues that may impact each group. The following constituent groups will be given the opportunity to share their perspectives:

- Students
- Faculty
- Staff
- Administrators
- The public

The search committee will devise the best method of eliciting feedback in person from each of these constituent groups.

**First Meeting of the Search Committee:** The names of the applicants will be told to the committee and each member will be given an opportunity to recuse themselves if necessary. Any member who recuses themselves still must sign the confidentiality agreement. After this, no substitutions of committee members are allowed. The purpose of this initial meeting is as follows:

- a) Acquaint committee members of the search procedures
- b) Address any specific instructions from the Board of Directors
- c) Set and commit to the schedule/timetable dates using the timeframe table in Appendix A3-2.
- d) Discuss importance of confidentiality, integrity, and ethics
- e) Sign confidentiality agreements, integrity, and ethics
- f) Set a budget for the search
- g) Review and update job description of the President to meet the current and future leadership needs of TMCC keeping in mind the constituent input.
- h) Assign a search committee member to develop the campus prospectus if this hasn't been completed at this point

Only the search committee and the HR Manager are to participate in the confidential work of the committee with the exemption of the budget and institutional data seen by the Comptroller and IRRA Director respectively.

At the first committee meeting, the HR Manager in conjunction with the chair of the committee will discuss the importance of confidentiality. All members of the committee must agree via a signed document to preserve the confidentiality of the search and the names of the candidates, to uphold integrity for a quality process, and to conduct themselves with integrity at all stages of it.

It is assumed that if a member of the search committee knows of a conflict of interest, that member will self-disclose prior to the initial meeting so that a replacement can be determined. If

any conduct occurs by a search committee member that violates the signed confidentiality, integrity, and ethics form, any member of the search committee draw attention to this matter. The chair of the committee is obligated to entertain via official committee action a motion to dismiss any committee member if there is evidence that a member has breached confidentiality of the search, or has a conflict of interest, or a committee member is believed to be unduly biased, a non-participant, or otherwise unable to fulfill his/her responsibilities in the search process. If the chair of the committee is the member dismissed, then the Board of Director member assumes the chair responsibilities. The decision of whether or not to dismiss a member as well as whether or not to replace the member will be based on the vote of the entire search committee. After the names of all candidates are known and the review process has started for them, members will not be replaced in the event that dismissal is required after this time.

**Prospectus:**

Within 45 days of the date of the announcement of the president's departure, the campus prospectus is completed; the presidential job description is reviewed and updated; and the job announcement is posted for 30-60 days and maybe extended if necessary.

A campus prospectus and an update of the President's job description updated to reflect the future leadership needs of the college. The prospectus should contain at least the following:

- a. A general description of the college, including its current strengths, opportunities, and relevant challenges
- b. The strategic plan, vision and mission
- c. Accreditation status
- d. Statement on student success
- e. Cost of attendance, programs offered, community programs
- f. Operating budget
- g. Student profile/demographics
- h. A brief history of Tribal colleges, and of TMCC in particular
- i. A brief narrative about Turtle Mountain Band of Chippewa Tribe and culture
- j. The brief narrative about the community in particular
- k. Include the required verbiage relating to equal opportunity employer
- l. The required and preferred qualifications for the position
- m. Expectations of the new president
- n. How to apply

**Vacancy Announcements:**

Vacancy announcements will be advertised in a way intended to generate a diverse pool of candidates. The vacancy may be broadly advertised in recruitment sources that target the higher education sector and/or are determined to be Equal Opportunity recruitment outlets such as:

- The Chronicle of Higher Education
- Inside Higher Education



- Higheredjobs.com
- Military Hire
- Tribal College Journal
- Local and state sources

### **Review Preparation:**

Prior to commencing a review of the candidates, the committee should:

- a. Establish evaluation criteria and interview questions based on the qualifications described in the advertisement and job description. (This will be done after constituent listening session and prior to initial review of any applicants. The purpose of this timing is to avoid (the appearance of) biasing questions for or against a particular candidate.)
- b. Become familiar with requirements of the position and the required and preferred qualifications of the position.
- c. Discuss the role of the search committee members in representing first the best interest of the College, and second the constituencies that they represent; and
- d. Commit to the fair and just selection process presented by the HR Manager.

In consultation with HR Manager, the committee will commit to an initial application screening method used in personnel policy manual and identify those candidates who meet minimum qualifications. A letter should be sent to those who do not meet the minimum qualifications for the position as soon as practical. This will be done by the HR Manager.

From the pool of candidates who meet the minimum qualifications, the committee shall use the agreed upon evaluation criteria to rate the applicants. Additional information may be collected on the top rated group of candidates by the HR Manager.

### **Applicant Review:**

Once the additional information is collected, the committee will meet to review the applications of the candidates and to discuss the additional information. The committee will then select a group to be interviewed. The interview site selected must be designed to assure that confidentiality of the names of the candidates will be maintained.

All members of the search committee must attend the personal interviews in person. A video conference interview is allowable for the candidate.

Following the interviews, the committee will meet to discuss and review the qualification of the candidates interviewed and to select a small group of no more than five as semifinalists. Candidates other than the semifinalists should be notified prior to the release to the public of the names of those candidate semifinalist invited to campus visits.

### **Campus Visits:**

At this point, the search can proceed with publically announced campus visits by the semifinalist. Where appropriate during campus visits, the candidates spouse/partner or family members may also be invited to visit.

Up to this point in the search process, the names of the candidates have been kept confidential. When the semifinalists are scheduled to visit campus, their names are released to the public, along with general information about their background and qualifications. It is recommended that the name of each be made public at least 48 hours prior to the campus visits. The names can be released at the same time or staggered throughout the process.

Campus visits should be designed to allow a large number of campus and community members to meet and hear from each candidate. There will be an open meeting for each candidate to present to all internal and external constituents. The Board of Directors is expected to attend these open public meetings and to evaluate the merits of each candidate along with other constituents.

At this stage, a final interview occurs with all Board of Directors members to be held on campus

### **Selection Process**

The Board of Directors shall meet and deliberate on the merits of each semi-finalist given the data generated from search committee screening interviews, constituent feedback and final interview. A thorough background check begins on the top two candidates. The following will be checked:

- a. Social security number verification
- b. Criminal history check
- c. Civil litigation history check
- d. Education verification
- e. Employment verification
- f. Personal credit history check
- g. Verification of tribal enrollment (if applicable)

The Board of Directors will meet again to discuss the thorough background check and the selection of the President.

The following day, the Board of Director Chairman and the HR Manager together will notify the candidate.

In the event that negotiation cannot be reached with the candidate and the Board of Directors, the board will notify the candidate that the offer of employment is revoked.

The Board of Directors will meet again to determine if the second top candidate will be offered the position or to advertise

## APPENDIX A3-2A PRESIDENTIAL SEARCH TIMELINE

Day 1	President announces departure
Next 2 months	<ol style="list-style-type: none"> <li>1. The search committee is identified per the Presidential Search Process document.</li> <li>2. The search committee will have its first meeting to: <ol style="list-style-type: none"> <li>a. Acquaint committee members of the search procedures</li> <li>b. Any specific instructions from the Board of Directors/Trustees</li> <li>c. Set and committee to the schedule/timetable dates</li> <li>d. Discuss importance of confidentiality</li> <li>e. Sign confidentiality agreements, integrity and ethics</li> <li>f. Set a budget for the search</li> <li>g. Review and update President job description to meet the current and future leadership needs of TMCC</li> <li>h. Assign who will develop the campus prospectus</li> </ol> </li> </ol>
< 45 days	<p>The first search committee meeting occurs.</p> <p>The campus prospectus is completed,</p> <p>The presidential job description reviewed and updated, and</p> <p>Community and various constituent feedback meetings</p>
Month 2	Job Announce is posted
<1 Week of constituent meeting completion	Search committee devises interview questions and evaluation criteria prior to closing of job announcement
within week of closing date	Search Committee meets to review pool and to rate the candidates Letters go out to those who do not meet minimum qualifications
Next 2 weeks	HR seek additional information
Within week of additional information	The committee meets to discuss additional information and select those to be interviewed
Over next 3-4 weeks	Interviews are conducted
Immediately after last interview	Semifinalists are selected for campus visit using evaluation criteria
As soon as practical but prior to campus visits	Letters go out to those who are not selected as semifinalist
Over next 2-3 weeks	Campus visits are conducted along with campus and community members to meet and hear from the candidates
During campus visits	Final interview is conducted with the search committee
Week following campus visits	Search committee meets and deliberates on the merits of each semifinalist. Top two are selected for thorough background check
Next 2-3 weeks	Thorough background checks are conducted
Within 1 week of background checks complete	The search committee meets again to discuss the thorough background checks and put a recommendation in writing.
As soon as possible	Joint meeting of the Board of Directors and Board of Trustees held to discuss and concur on the recommendation

Following day	Chairman of the Board of Directors along with HR Manager inform the candidate of selection.
Within a month of notification	Negotiation with candidate completed

**\*NOTE: This timeline is a guide and may be adjusted as needed.**

**APPENDIX A3-3 BOARD OF DIRECTORS SELF EVALUATION**



**Board of Directors  
Annual  
Self-Evaluation**

**Turtle Mountain Community College  
Board of Directors  
Annual Self-Evaluation**

***Directions: Please use the 1 to 5 Likert Scale below each question to indicate your rating, with 5 being the highest possible rating.***

- 1) Please indicate your views regarding the level to which the TMCC Board of Directors upholds the Mission, Goals, and Objectives of TMCC.

(Low)      ☐1                  ☐2                  ☐3                  ☐4                  ☐5                  (High)

- 2) Please indicate your views regarding the level to which the TMCC Board of Directors upholds the Strategic Planning of TMCC.

(Low)      ☐1                  ☐2                  ☐3                  ☐4                  ☐5                  (High)

- 3) Please indicate your views regarding the knowledge, involvement, and support of the HLC accreditation activities for TMCC.

(Low)      ☐1                  ☐2                  ☐3                  ☐4                  ☐5                  (High)

- 4) Please indicate your views regarding the level to which the TMCC Board of Directors develops meaningful policies relating to the welfare of TMCC.

(Low)      ☐1                  ☐2                  ☐3                  ☐4                  ☐5                  (High)

- 5) Please indicate your views regarding the level to which the TMCC Board of Directors upholds the policies of TMCC.

(Low)      ☐1                  ☐2                  ☐3                  ☐4                  ☐5                  (High)

- 6) Please indicate your views regarding the level to which the TMCC Board of Directors refrains from involvement with management and day-to-day operations of TMCC.

(Low)      ☐1                  ☐2                  ☐3                  ☐4                  ☐5                  (High)

- 7) Please indicate the level to which the TMCC Board of Directors provides a quality evaluation of the President.

(Low)      ☐1                  ☐2                  ☐3                  ☐4                  ☐5                  (High)

- 8) Please indicate the level to which the TMCC Board of Directors supports and maintains a quality working relationship with the President in the decision making process.

(Low)      ☐1                  ☐2                  ☐3                  ☐4                  ☐5                  (High)

9) Please indicate your views regarding the level to which the TMCC Board of Directors supports faculty and staff and their involvement in the decision making process.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

10) Please indicate your views regarding the level to which the TMCC Board of Directors supports the student service programs and their involvement in the decision making process.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

11) Please indicate your views regarding the level to which the TMCC Board of Directors supports students and their involvement in the decision making process.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

12) Please indicate your views regarding the level to which the TMCC Board of Directors maintains Budget/Fiscal responsibilities insuring financial solvency.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

13) Please indicate the level to which the TMCC Board of Directors monitors and approves the curriculum and academic programs at TMCC.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

14) Please indicate the level to which the TMCC Board of Directors supports Cultural Promotion throughout the TMCC .

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

15) Please indicate the level to which the TMCC Board of Directors supports the Physical Plant-Facilities/Grounds Construction Projects, Bids, Architectural Firm Selection, etc.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

16) Please indicate the level to which the TMCC Board of Directors promotes/enhances the institutions public image.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

17) Please indicate the level to which the TMCC Board of Directors holds productive Board of Directors and Special meetings.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

18) Please indicate the level to which the TMCC Board of Directors provides and adheres to quality meeting agendas.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

19) Please indicate the level to which the TMCC Board of Directors abides by the Conflict of Interest policy.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

20) Please indicate the level to which the TMCC Board of Directors are well prepared for meetings.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

21) Please indicate the level of satisfaction regarding the attendance of Board meetings by Board of Directors.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

22) Please indicate the level to which the TMCC Board of Directors is actively involved with Committees when requested.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

23) Please indicate your views regarding the Board of Directors ability to distinguish between policy and management.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

24) Please indicate the level to which the TMCC Board of Directors understands and utilizes institutional data in decision making and development of policy.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)

25) Please indicate your overall views regarding the overall effectiveness/performance of the TMCC Board of Directors.

(Low)      ☐1              ☐2              ☐3              ☐4              ☐5              (High)



## Board of Directors Goal Attainment

Directions: Please indicate the degree of attainment of each goal.

**GOAL 1:** Develop a greater understanding of HR policies, salary scale, hiring process, and salary negotiations to ensure transparency.

(Not Attained)                      ☐1    ☐2    ☐3    ☐4    ☐5                      (Attained)

**GOAL 2:** Develop a greater understanding and appreciation of the TMCC President's duties, responsibilities, and efforts to promote increased trust, cooperation, and transparency.

(Not Attained)                      ☐1    ☐2    ☐3    ☐4    ☐5                      (Attained)

**GOAL 3:** Explore, develop, and approve a quality plan for the efficient management of all TMCC construction projects from inception to completion.

(Not Attained)                      ☐1    ☐2    ☐3    ☐4    ☐5                      (Attained)

**GOAL 4:** Determine the viability of TMCC continuing to operate and subsidize Arrowhead Printing and the Cafeteria and examine options that would likely result in discontinuing subsidies, reduced/increase subsidy, or the realization of profit.

(Not Attained)                      ☐1    ☐2    ☐3    ☐4    ☐5                      (Attained)

**GOAL 5:** Develop and schedule a quality mandatory orientation program for all current and new Board of Directors to ensure that Board members are well trained and knowledgeable about all aspects of TMCC along with its unique role and characteristics as a tribal community college as compared to other educational institutions.

(Not Attained)                      ☐1    ☐2    ☐3    ☐4    ☐5                      (Attained)

**GOAL 6:** Establish a calendar with specific dates regarding key functions of the Board of Directors to improve transparency.

(Not Attained)                      ☐1    ☐2    ☐3    ☐4    ☐5                      (Attained)

**TMCC Board Strengths, Weaknesses, and Recommendations**

Strengths:

Weaknesses:

Recommendations for Improvement:

## APPENDIX A3-4 BOARD OF DIRECTORS CALENDAR OF EVENTS

[illegible]

**APPENDIX A4-1 WRITE OFF'S**

As of June 30, those students who have not paid tuition and fees are identified with the amount they owe and presented to the board to determine if the amounts should be written off.

**APPENDIX A4-2 PETTY CASH ACCOUNTS**

South Campus Facilities .....	300.00
Main Campus Facilities .....	400.00
Library .....	20.00
Basketball Concessions .....	500.00
Café .....	200.00
Vending Machines.....	400.00

**APPENDIX A4-3 INDEPENDENT CONTRACTOR TEST**

Independent Contractor Test  
Taken from IRS Publication 15-A

**Behavioral control**

Facts that show whether the business has a right to direct and control how the worker does the task for which the worker is hired include the type and degree of—

1. *Instructions the business gives the worker.* An employee is generally subject to the business' instructions about when, where, and how to work. All of the following are examples of types of instructions about how to do work:
  - a. When and where to do the work
  - b. What tools or equipment to use
  - c. What workers to hire or to assist with the work
  - d. Where to purchase supplies and services
  - e. What work must be performed by a specified individual
  - f. What order or sequence to follow

The amount of instruction needed varies among different jobs. Even if no instructions are given, sufficient behavioral control may exist if the employer has the right to control how the work results are achieved. A business may lack the knowledge to instruct some highly specialized professionals; in other cases, the task may require little or no instruction. The key consideration is whether the business has retained the right to control the details of a worker's performance or instead has given up that right.

2. *Training the business gives the worker.* An employee may be trained to perform services in a particular manner. Independent contractors ordinarily use their own methods.

**Financial control**

Facts that show whether the business has a right to control the business aspects of the worker's job include:

3. *The extent to which the worker has unreimbursed business expenses.* Independent contractors are more likely to have unreimbursed expenses than are employees. Fixed ongoing costs that are incurred regardless of whether work is currently being performed are especially important. However, employees may also incur unreimbursed expenses in connection with the services they perform for their business.
4. *The extent of the worker's investment.* An employee usually has no investment in the work other than his or her own time. An independent contractor often has a significant investment in the facilities he or she uses in performing services for someone else. However, a significant investment is not necessary for independent contractor status.
5. *The extent to which the worker makes services available to the relevant market.* An independent contractor is generally free to seek out business opportunities. Independent contractors often advertise, maintain a visible business location, and are available to work in the relevant market.
6. *How the business pays the worker.* An employee is generally guaranteed a regular wage amount for an hourly, weekly, or other period of time. This usually indicates that a worker is an employee, even when the wage or salary is supplemented by a commission. An independent contractor is usually paid by a flat fee for the job. However, it is common in some professions, such as law, to pay independent contractors hourly.
7. *The extent to which the worker can realize a profit or loss.* Since an employer usually provides employees a workplace, tools, materials, equipment, and supplies needed for the work, and generally pays the costs of doing business, employees do not have an opportunity to make a profit or loss. An independent contractor can make a profit or loss.

### **Type of relationship**

Facts that show the parties' type of relationship include:

8. *Written contracts describing the relationship the parties intended to create.* This is probably the least important of the criteria, since what really matters is the nature of the underlying work relationship, not what the parties choose to call it. However, in close cases, the written contract can make a difference.
9. *Whether the business provides the worker with employee-type benefits, such as insurance, a pension plan, vacation pay, or sick pay.* The power to grant benefits carries with it the power to take them away, which is a power generally exercised by employers over employees. A true independent contractor will finance his or her own benefits out of the overall profits of the enterprise.
10. *The permanency of the relationship.* If the company engages a worker with the expectation that the relationship will continue indefinitely, rather than for a specific project or period, this is generally considered evidence that the intent was to create an employer-employee relationship.

*The extent to which services performed by the worker are a key aspect of the regular business of the company.* If a worker provides services that are a key aspect of the company's regular business activity, it is more likely that the company will have the right to direct and control his or her activities. For example, if a law firm hires an attorney, it is likely that it will present the attorney's work as its own and would have the right to control or direct that work. This would indicate an employer-employee relationship.

## APPENDIX A4-5 PROPERTY MANAGEMENT FORM



**Turtle Mountain**  
Community College

## Inventory Transfer / Disposal Form

Please print all information

Item Description \_\_\_\_\_

Tag # \_\_\_\_\_ Serial # \_\_\_\_\_ Make/Model \_\_\_\_\_

Employee name (print) \_\_\_\_\_ Employee ID \_\_\_\_\_

Reason for Transfer or Disposal: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

From:

Building \_\_\_\_\_  
Room/office \_\_\_\_\_  
Depart \_\_\_\_\_

Transfer to:

☐

Building \_\_\_\_\_  
Room/office \_\_\_\_\_  
Depart \_\_\_\_\_

☐

Disposed
----------

Employee requesting \_\_\_\_\_

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

Supervisor/Chair \_\_\_\_\_

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

IT Department if applicable \_\_\_\_\_

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

Receiving employee/department if transfer \_\_\_\_\_

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

Disposal Authorized by: \_\_\_\_\_

Disposal or Transfer Date: \_\_\_\_\_

Method of Disposal: Sold ☐ Recycled ☐ Donated ☐ \_\_\_\_\_

Appropriately destroyed ☐ Landfill ☐ Other ☐ \_\_\_\_\_

To whom \_\_\_\_\_

Specify \_\_\_\_\_



## **APPENDIX A4-6 PROCEDURES FOR DRAWDOWNS**

Procedures for drawdowns:

Electronic drawdowns are performed through the secure website such as Award Cash Management Service (ACM\$). Physical drawdowns are prepared for and signed by the Comptroller.

A review of the ledger is performed by the accountant to look for errors in posting or unallowable costs. Errors detected are corrected prior to the draw.

The payment request amount is calculated as the difference between the cumulative expenses as of the end date of the month or period of the drawdown is for and the amount of the last drawdown.

The cumulative amounts should come from the cumulative budget vs actual statements for each grant or contract. These statements are prepared using reports pulled from the accounting system. The individual payment request by fund can be tied back to the expense detail report from the accounting system.

The payment calculations are viewed by the Comptroller. The accountant enters the amounts for each award into the drawdown systems such as ACM\$. The accountant can submit and certify the final drawdown.

A copy of the ledger and the cumulative budget vs actual statement is provided to the program director and the comptroller.

## **APPENDIX A5-1 HIRING PROCEDURES**

### **TURTLE MOUNTAIN COMMUNITY COLLEGE**

#### **HIRING PROCEDURES**

##### **SECTION I: GENERAL PROVISIONS**

1. Scope: These procedures apply to the recruitment, hiring, and promotion process for all Turtle Mountain Community College employees, with the exception of summer youth programs and part-time employees. The President is exempt and will be hired by the Board of Directors. The Vice President and Comptroller require concurrence by the Board of Directors.
2. The College is an Equal Opportunity Employer, which abides by the policy of providing equal employment opportunities without discrimination to all applicants and employees regardless of race, religion, color, national origin, age, gender, disabilities, sexual orientation, marital status, or any other protected class recognized by law, except as allowed by the Indian Preference provision of the Indian Civil Rights Act of 1964, as amended. In adhering to this policy, the College abides by the Title IX requirements.
3. The Confidentiality and Conflict of Interest in Hiring form shall be signed by all hiring committee members.
4. Compliance – These procedures are intended to comply fully with all applicable tribal, state, and federal laws, regulations, and TMCC policies. These procedures are to be interpreted so as to comply with an existing law or law subsequently passed.
5. Oversight: The President is responsible to ensure the integrity of the procedures established by this policy. To assure that the process is clear and understood, the President or designee will be responsible for training the key administrators regarding this policy. If the process has been substantially violated or abused, the President may order that an error be corrected, that a portion of the process be redone, that a member of the committee be excluded from further deliberations, that the process be terminated, or that some other remedial action be taken to assure the integrity of the process.
6. Amendment: This policy may be amended as deemed necessary by the Board of Directors.

##### **SECTION II: RECRUITMENT**

7. Vacant/New Position: The supervisor or director shall submit a request to fill a new and/or vacant position to the President. The supervisor or director is responsible for completing all necessary forms for obtaining required authorizations. After proper authorization and final approval by the President, the supervisor or director shall submit the necessary documentation to the Human Resource Manager who will advertise the position.

8. Position Classification: Positions are classified on the basis of duties and responsibilities. Class specifications indicate the title, duties, scope of work, and recommended qualifications.
9. Position Announcement Content: The Job Announcements shall contain as applicable:
  - a) Position Title
  - b) Opening and Closing dates
  - c) Range of Salary
  - d) Qualifications
  - e) Duties and Responsibilities
  - f) Proficiency Requirements
  - g) Conditions of Employment
    1. Travel may be required
    2. Valid State Driver's License
    3. Physical Examination (if required)
    4. Background security investigation
    5. Drug testing
  - h) Indian Preference
  - i) Veterans Preference
  - j) How to apply
  - k) Equal Opportunity Employer
10. Vacancy Procedure: It shall be the responsibility of the Human Resource Manager to advertise all permanent staff vacancies where appropriate. Notice of vacancy will be posted for a minimum of 10 working days. No vacancy will be filled until after the application deadline.

### SECTION III: APPLICANT PROCESS:

11. Application Requirements: Applications must include a signed Application for Employment, Curriculum Vitae and/or Resume, college transcripts (official transcripts may be requested), Documentation that supports the application for employment such as Indian preference and/or Veterans preference, and Licensure (if required for the position). The Application will be determined to be incomplete if any required documents are missing and the application will not be considered. No documentation will be considered after the closing date.
12. Application Period: Applications may be submitted for a set period of time and to include "or until filled."
13. Extending the Search: If the Hiring Committee determines that the applicants do not meet the minimum qualifications of the open position, they may provide documentation and recommend to the President that the search be re-opened. If the President agrees, the President will authorize the search to be re-opened with notification to the BOD from the HR Manager in the monthly board report.

14. Suspending the Search: If there are no applicants for a position or extenuating circumstances arise (ex. Declining enrollment or funding), the search may be suspended with recommendation from the supervisor and approval by the President.

#### SECTION IV: HIRING COMMITTEE MEMBERSHIP

15. The Head of the Department and Human Resource Manager will oversee the hiring process.
16. Membership: The Hiring Committee will consist of five (5) members to include the Head of the Department. The Hiring Committee members must remain the same throughout the process.
17. Committee Selection: The Head of the Department (or designee) will chair and serves as a member of the hiring committee and will select two (2) members from their department/area. The Human Resource Manager will select two (2) at large members from outside of the department. All committee members will be trained on the hiring process prior to beginning the process.
18. Orientation: The Human Resource Manager will conduct an orientation meeting to explain roles, duties, expectations, timelines, and the board-approved hiring process to the committee members. All members must sign a statement verifying they will adhere to the Confidentiality and Conflict of Interest in Hiring Statement.

#### SECTION V: APPLICANT SCREENING PROCESS

19. Minimum Qualifications: The Human Resource Manager will present qualified applicants and complete applications for the Rating/Interview Process to the Hiring Committee. (The committee may request to examine all the application packets for further determination of qualifications.)
20. Timing: The rating/interview process will begin within ten working days after the closure of a vacancy announcement.
21. Scoring: Hiring Committee members shall rate each applicant on the Applicant Screening Process Hiring Matrix.  
Recommendation: The Rating/Interview Committee shall evaluate the applications and submit scores and recommendations to the Human Resource Manager. If the recommendation is to interview, the Human Resource Manager will set up appropriate interviews. If no interview is required, the final recommendation will be forwarded to the President for approval and the Board will be informed of the individual selected.

#### SECTION VI: INTERVIEW PROCESS

22. Materials: Prior to the interview, the Hiring Committee will receive from the Human Resource Manager, the following materials on each candidate: application packet, schedule of interviews, interview questions, and Individual Rating Sheet.

23. Questions: The committee, with consultation from the Department Head and Human Resource Manager, will draft interview questions (a minimum of 5) prior to the interview.
24. Set Time: Each applicant shall be afforded the opportunity to have an interview of approximately equal length and will be asked the same questions. Score: At the conclusion of each interview, the committee shall score the candidate. The committee may discuss as a group each candidate immediately after the interview. All committee members will sign each Interview Rating Sheet and submit the form to the Human Resource Manager. Once the President hires the position and the candidate accepts position, all rating sheets will be shredded.
25. Ranked List: The committee members will submit the interview scores to the Human Resource Manager for tallying. The Human Resource Manager will relay to the committee the final interview scores plus final rating scores and the committee will make a recommendation, in form of a motion, as to who to recommend to the President for hiring. The candidate recommended will be forwarded for reference checks by the H.R. Manager; an alternate candidate may also be included in the motion. The Hiring Committee will take into account the combination of total scores when making their recommendation.

#### SECTION VII: REFERENCE CHECKS

26. Timing: Reference will begin immediately by the Human Resource Manager prior to the submission of the recommendation of candidates to the President. Reference checks must be completed within two weeks of the receipt of recommendation. If recommended for hire, reference and background checks will be done. Previous employers WILL be contacted for reference checks. SECTION VIII: CONFIRMATION PROCESS

27. Recommendation: The Human Resource Manager will forward the committee's recommendation of the top candidate and, if applicable, an alternate, to the President.

Hiring: The President will approve or deny the recommended candidate for hire. The Board of Directors will be notified by the H.R. Manager of hires in the monthly Board report. Requirements for Employment: Selected candidates, as required by policy, must submit to a post-offer, pre-employment background investigation and drug test. Some positions may also require a pre-employment physical exam. Any required physical exams will be paid or by the College. If a finalist fails to satisfy the position requirements, the President will revoke the offer of employment.

APPENDIX A5-2 INDIVIDUAL PERFORMANCE AND DEVELOPMENT PLAN FORM

INDIVIDUAL PERFORMANCE & DEVELOPMENT PLAN	
(Attach additional sheets as necessary)	
Employee's Signature:	Date:
Supervisors Signature:	Date:

APPENDIX A5-3 GRIEVANCE FORM

GRIEVANCE FORM

PART I: INITIATING INFORMAL GRIEVANCE

TO: (Immediate Supervisor) \_\_\_\_\_

FROM: (Employee) \_\_\_\_\_

\_\_\_\_\_

SUBJECT: Grievance – Stage 1

1. This initiates a grievance under the Turtle Mountain Community College’s Personnel Policy Manual, Section 5.24.00000
2. See item checked:  
[ ] My presentation is oral

[ ] My presentation is written, as indicated below on attached sheet #1.

(ADD ATTACHMENT)

3. The specific personal relief I seek is: (Add attachment #2)

_____	_____
Employee’s Signature	Date
_____	_____
_____	_____
_____	_____

**APPENDIX A5-4 DRUG AND ALCOHOL POLICY**



# Turtle Mountain Community College

P.O. Box 340

Belcourt, North Dakota 58316

## **DRUG AND ALCOHOL POLICY**

### **A. General Policy--Drugs and Alcohol**

The Turtle Mountain Community College is a drug-free workplace. Any unlawful or unauthorized transfer, sale, distribution, manufacture, possession or use of a controlled substance (schedule I thru V of Controlled Substance Act), or alcohol by a Turtle Mountain Community College employee on the job, in the workplace, or where the business of Turtle Mountain Community College is performed, will subject that employee to disciplinary action including termination.

While the Turtle Mountain Community College does not wish to intrude into the private lives of its employees, it recognizes that employee's off the job and on the job involvement with illegal drugs can have an impact on the workplace, guests, and other employees.

All employees have an obligation to be in suitable mental and physical condition at work, performing their jobs satisfactorily, and behaving appropriately. Employees are expected to report to work free of alcohol or drugs. Achieving this goal is necessary to maintain safety and integrity of our business and safety and health of all employees, students, guests, and general public.

Following is the adopted Drug and Alcohol Policy. The Turtle Mountain Community College has implemented a drug free awareness program that provides information on the dangers and effects of substance abuse in the workplace. Resources are available to employees. Consequences for violations of this policy are outlined.

The Turtle Mountain Community College reserves the right to administer alcohol and drug testing on employees in accordance with this policy. Violations of the policy, including a positive drug test, may lead to disciplinary action and immediate termination of employment, and/or required participation in a substance abuse rehabilitation or treatment program. Such violations may also have legal consequences. TMCC employees are required to report any and all offenses or charges for any act that would constitute a violation of this policy from all jurisdictions including tribal, state, and federal, to TMCC within 15 days of the TMCC employee receiving notice of any offense or charge.

The intention of this policy is to clarify the standard of conduct expected of all employees in the performance of their job duties. Compliance with this policy is a condition of continued employment for all present and future Turtle Mountain Community College employees.



## **B. Employee Assistance--Alcohol/Drug Abuse**

The Turtle Mountain Community College is prepared to assist and support all employees requesting assistance. For this purpose, the Turtle Mountain Community College maintains an Employee Assistance Program (EAP) that provides confidential services to employees seeking assistance in dealing with alcohol and/or drug abuse or for personnel matters requiring confidential counseling.

## **C. Employee Assistance Program Related Leave of Absence**

The Turtle Mountain Community College considers Drug and Alcohol abuse as treatable illnesses. Employees having these illnesses will be given the same consideration and offered assistance presently extended to employees having any other illness.

Employees who have been diagnosed with an alcohol or drug problem are encouraged to seek confidential counseling or to schedule a referral with personnel in the Employee Assistance Program.

After evaluation by a certified counselor, an employee who needs inpatient treatment for drug or alcohol abuse will be allowed to use accrued sick leave or annual leave. The remainder of the treatment time will be without pay; this leave may run concurrently with Family and Medical Leave Act (FMLA). The employee will be allowed the amount of time needed to complete treatment programs for thirty (30) to 180 days without loss or interruption of his or her employment status under the following conditions:

1. Arrangements must be stated in writing, indicating starting date and approximate projected ending dates of leave.
2. Notification must be provided in writing to the Program Director/Immediate Supervisor and HR.
3. At the end of the granted leave, if the employee does not return to work within (1) week after the treatment ending date the employment of the employee automatically terminates, without any further action.

Upon a timely return from the leave, the employee who has complied with this policy will be reinstated to the position which they held at the commencement of leave or will be placed in a position comparable to the position held at the commencement of leave.

## **D. Alcohol and Drug Free Awareness Program**

The Turtle Mountain Community College will implement and maintain an Alcohol and Drug Free Awareness Program to inform employees about;

- The dangers of alcohol and drug use in the workplace.
- The policy of maintaining a drug free workplace.
- The sanctions that may be imposed upon employees for violations of the Turtle Mountain Community College drug free workplace policy.

The Turtle Mountain Community College will use its drug free awareness program in an ongoing effort to prevent and eliminate drug use that may affect the workplace.

## **E. Definitions**

For the purpose of this policy, the following definitions apply:

1. **Illegal Drugs:** All forms of narcotics, hallucinogens, controlled substances (including cannabis), depressants, stimulants, and other drugs whose use, possession, or transfer is restricted or prohibited by law. Drugs prescribed by physicians, dentists, or other authorized health professionals and used in accordance with their instructions are not subject to the restrictions of this policy.
2. **Legal Drugs:** Prescribed and over-the-counter drugs, which have been obtained and are being used for the purpose for which they were prescribed or manufactured.
3. **Reasonable Suspicion:** Means circumstances or behavior indicating alcohol or drug use. Reasonable Suspicion includes, but is not limited to the following circumstances:
  - a. Observable conduct, such as direct observation of alcohol or drug use and/or the physical symptoms of being under the influence of alcohol or drugs;
  - b. A pattern of abnormal conduct, incoherent mental state, or erratic behavior that is otherwise unexplained;
  - c. Physical impairment, e.g. staggering, slurred speech, sleeping on the job, inability to concentrate or memory loss;
  - d. Other actions and conduct that provides sufficient knowledge to believe that the employee is under the influence; and
  - e. Involvement in any work-related, reportable accident.
4. **Reportable Accident:** An accident at the job site that requires medical attention and/or an incident/accident report.
5. **Impairment:** For the purpose of this policy, impairment is the inability to perform one's job in the manner prescribed for that function or in accordance with established practice. Impairment may include the inability to use or operate equipment properly; to communicate clearly; to exercise reasonable judgment in making decisions; to interact with other employees, guests, or business contacts in an appropriate manner; or other inappropriate behavior. Such impairment, when caused by alcohol and drug abuse, is a violation of this policy.
6. **Alcohol:** A liquor or brew containing alcohol as the active agent; "alcohol (or drink), any of a series of volatile hydroxyl compounds that are made from hydrocarbons by distillation. The fluid essence or pure spirit obtained by distillation. The spirituous or intoxicating element of fermented or distilled liquors or more loosely a liquid containing it in considerable quantity. An impalpable powder. A class of compounds analogous to vinic alcohol in constitution. An organic chemical containing one or more hydroxyl groups. Also, an ingredient in a variety of beverages including beer, liqueurs, cordials, and mixed drinks."

**F. Drugs in the Work Place**

The Turtle Mountain Community College prohibits the use, possession, exchange, delivery, manufacture, distribution, sale, or purchase of any illegal drug, or any prescription drug without a valid prescription on Turtle Mountain Community College Properties (including Turtle Mountain Community College motor vehicles) and Turtle Mountain Community College sponsored functions.

**G. Alcohol in the Workplace**

The Turtle Mountain Community College prohibits employee use/abuse of alcohol within their work time and during meal breaks. This policy also prohibits employee use of alcohol, whether in connection with business or personal time, within 6 hours before the employee begins work.

**H. Impairment Related to Alcohol or Drug Use**

Employees who are in a condition that impairs their ability to perform their job and endangers the safety of themselves or others will not be allowed to continue working or remain in the workplace. Employees who are prescribed medication by a licensed health physician that may impair their judgment or their ability to perform their job must report it to their supervisor immediately upon receipt of the medication and a copy of the prescription will be placed in the employee's personnel file.

**I. Sanctions for Violations of the Drug and Alcohol Policy**

If an employee is found to be in violation of the policy, they will be immediately suspended without pay. The employee will also be given an escort to their place of residence if necessary. Further disciplinary action may be imposed including discharge. The Turtle Mountain Community College may also submit evidence (excluding test results) to law enforcement agencies, when it is appropriate to do so.

**J. Alcohol and Drug Testing Program**

To ensure an alcohol and drug free work place and to eliminate alcohol/drug use and abuse by employees at Turtle Mountain Community College, the following procedures will be used for drug testing. The drug testing will take place in a designated area by the Human Resources Department utilizing designated bathrooms. Participants will be required to take the drug test using the drug testing kit provided to them by the confidential tester. The tester and the employee will read the results together.

If the test shows positive, this test will then be sent to the Drug Check Lab for further analysis. If the employee is on a prescription medication, they are required to submit evidence of the prescription to the Turtle Mountain Community College. The Turtle Mountain Community College will then send the prescription to the Drug Check Lab for its determination on whether that medication or other drugs were present in the sample.

### ***Employment Testing***

Upon implementation of this Drug Policy in 2006, all Turtle Mountain Community College employees will be given drug tests.

All employees of the Turtle Mountain Community College will submit to alcohol and drug testing whenever required under this policy as a condition of continued employment with the Turtle Mountain Community College.

### ***Random Drug and Alcohol Testing***

The Turtle Mountain Community College reserves the right to conduct random, unannounced alcohol and drug tests on any and all employees including any business who is directly housed on Turtle Mountain Community College premises. Random drug tests will be conducted at least quarterly. The number of employees to be tested each quarter will be determined by the Administration of the Turtle Mountain Community College.

The names of the employees to be tested randomly will be selected by a computerized program. Employees selected by random with the computer program will be notified by the HR Manager.

### ***Pre-Employment Drug Testing***

All persons selected for hire will be required to take a drug test at a time and place designated by the HR Manager. Each person selected for hire will also be required to sign the "Drug Testing Form." Failure to sign the form will result in discharge of the remainder of the pre-employment process.

Those persons who test positive will not be hired, but will be eligible to reapply after six (6) months. Individuals who fail to show up for their scheduled test will not be hired and will be considered unqualified for employment and will not be eligible to apply for employment until after six (6) months.

### ***Post-Accident Testing***

All employees involved in, or contributing to a "reportable accident", or who cannot be completely discounted as being a contributing factor to an accident, may be required to have an alcohol or drug test immediately after. Use of alcohol by the employee is prohibited following the accident until the post alcohol and drug testing is completed. Violation of this may jeopardize employment.

### ***Reasonable Suspicion Testing***

Reasonable suspicion testing is required whenever a supervisor, management employee, or other employee reasonably suspects an employee or business held on the Turtle Mountain Community College premises are under the influence of alcohol or drugs. Reasonable suspicion test referrals are to be based on documented objective facts, circumstances, or physical evidence, physical signs, symptoms, or a pattern of behavior.

Reasonable suspicion must be documented by the person observing the behavior or activity and signed by the individual writing and observing the behavior.

Whenever an employee is to be tested because of reasonable suspicion, the employee will not be permitted to return to work until the results of the test are received from the Drug Check Lab. In the event that the results are negative for the presence of prohibited level of alcohol or other drug, and the employee has not violated any work rules, the employee will be paid for time the employee is absent while awaiting the test results.

The Turtle Mountain Community College reserves the right to require that an entire department be tested any time that it has a reasonable suspicion that alcohol or drugs use or activity is affecting the work of the department or there is evidence of drug usage in the work area if there is insufficient information to determine which employee(s) are involved in the usage of illegal drugs.

### ***Additional Testing***

The Turtle Mountain Community College may require additional drug and alcohol tests during the following drug and alcohol treatment to ensure compliance with a treatment plan. These tests may be done for up to one year after completion of treatment without prior notice.

### ***Positive Test Results--Procedures***

In the event of a confirmed positive test for alcohol or drugs, the following procedure will apply:

Before Administration decides upon the final course of actions, including potential discipline to be taken in the event of a positive test result, the test will be sent to the Drug Check Lab for further analysis. If the employee is on a prescription medication, they will then have 24 hours to obtain a copy of the prescription, and provide it to the HR Manager. The HR Manager will then send the prescription to the Drug Check Lab for its determination on whether that medication or other drugs were present in the sample.

Upon written request, the Turtle Mountain Community College HR Manager will provide the affected employee with a copy of the confirmed positive test result.

## **K. Goals**

The goals of the Turtle Mountain Community College Drug and Alcohol Policy are to:

- Educate employees about the dangers and problems associated with substance abuse;
- Facilitate the prevention of substance abuse;
- Identify any employee who may be engaging in substance abuse;
- Provide for opportunities for counseling and treatment for any employee abusing drugs and/or alcohol;
- Protect the public and co-workers from those employees abusing drugs and/or alcohol;

- Develop a drug free workplace; and
- Make provisions for employees undergoing treatment to continue to work or return to work with same benefit/same pay/same position as soon as possible consistent with their prescribed treatment program.

**L. Applicability**

The policy applies to all current and future Turtle Mountain Community College employees.

**M. Prohibited Conduct**

- Manufacture, trafficking, possession, and use of prohibited substances. Employees are prohibited from engaging in the manufacture, distribution, dispensing, possession, or use of prohibited substances on Turtle Mountain Community College property, in College vehicles or while on College business. Additionally, law enforcement and/or funding agency will be notified, as appropriate, when criminal activity is suspected.
- Intoxication. All Turtle Mountain Community College employees who are suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty will be disciplined pending an investigation and verification of condition. Employees found to be under the influence of prohibited substances or who fail to pass a drug and alcohol test will be removed from duty and subject to corrective action. A drug or alcohol test is considered positive if the individual is found to have a presence of a prohibited substance in the body. Turtle Mountain Community College or Human Resources will have local law enforcement and/or licensed medical facility conduct testing.
- Alcohol Use: No Turtle Mountain Community College employee will report for duty or remain on duty when their ability to perform assigned duties is adversely affected by alcohol, or when their breath alcohol concentration is measurable. No employee will use alcohol while on Turtle Mountain Community College premises or during the hours they are at work.

**N. Prohibited Substance**

Prohibited substances include:

- Any alcoholic beverage;
- Any prescribed drug not being used for legal purposes; and
- Controlled substance in Schedule I through V of the Controlled Substance Act.

**O. Drug Testing**

**Applicants:** All applicants will be provided a summary of the drug testing policy. Applicants who have received conditional offers of employment with the Turtle Mountain Community College or subsidiaries, must submit to testing for evidence of improper drug use and/or where indicated, to test for the

presence of alcohol. If the tests are positive, the applicant will be refused employment and may not reapply for at least 6 months.

**Employees:** All employees of TMCC and subsidiaries will be subject to random, unannounced testing using a valid method that ensures that each employee will have an equal chance of being selected each time testing is conducted. This random testing will be conducted throughout the year.

**All current employees** whose position require them to perform safety sensitive duties, and/or require a commercial driver's license may be subject to random drug testing at a higher incident than other employees per the regulations of the **Federal Transit Authority (FTA) (49 CFR Parts 653 and 654)**, and per the regulations of the **U.S. Department of Transportation (DOT) (49 CFR Part 40)**.

**Reasonable Suspicion Referrals:** Reasonable suspicion referrals for testing will be made on the basis of documented objective facts and circumstances consistent with the short-term effects of substance abuse. Written reasonable suspicion referrals will be made by the appropriate supervisors. Reasonable suspicion means any circumstance or behavior indicating alcohol or drug use. It includes, but is not limited to: Observable conduct, such a direct observation of alcohol or drug use and/or the physical symptoms of being under the influence; a pattern of abnormal conduct, incoherent mental state, or erratic behavior that is otherwise unexplained; physical impairment, such as staggering, slurred speech, sleeping on the job, inability to concentrate, memory loss, etc.; other actions such as conduct that provides sufficient knowledge that the employee is under the influence; involvement in any work related, reportable accident, etc.

**Reasonable Suspicion Searches:** Turtle Mountain Community College reserves the right to search the employee's desk, locker, or other Turtle Mountain Community College property. Turtle Mountain Community College reserves the right to request law enforcement to conduct searches in the presence of appropriate Turtle Mountain Community College officials and to document their findings.

**Failure to Submit to Drug/Alcohol Testing:** All employees of TMCC and subsidiaries will be subject to drug testing and alcohol testing as a condition of employment. Persons seeking employment who refuse to submit to drug testing will not be eligible for employment by the Turtle Mountain Community College. Turtle Mountain Community College employees who refuse to submit to random, reasonable suspicion or post on-the-job accident drug/alcohol testing may be subject to termination. Refusal can include an inability to provide a sufficient specimen or sample without a valid medical explanation, as well as verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

Any employee who is suspected of providing false information in connection with a test, or who is suspected of falsifying test results through tampering, contamination, alteration, or substitution will be required to undergo an observed collection. Verification that the employee has provided false information or has falsified tests will result in the employee's termination.

Employees on authorized leave that are selected for the random sampling will be rescheduled to be included in the next random sample.

**Confidentiality:** Turtle Mountain Community College will use reasonable precaution to ensure and maintain accuracy and confidentiality of the test results. Only persons authorized by the Chain of Command will view the results of the testing.

**P. Education and Training**

As part of the orientation process, employees will be given information on where to access the Turtle Mountain Community College Policy and Procedure Manual, inclusive of the Alcohol and Drug policies. Training will be provided periodically on the consequences of prohibited alcohol/drug use and abuse. Additionally, supervisors will be required to participate in training on the signs and symptoms of alcohol/drug misuse. The Human Resources Department or designated personnel staff will ensure this policy is followed/adhered to.

**Q. Voluntary Admission of Drug/Alcohol Use**

Any employee, who voluntarily and without reasonable suspicion of supervisors, identifies themselves as having a problem with alcohol or drug abuse, will be referred for assessment and treatment and will follow the same positive drug testing procedures as a positive tested employee. If the employee is unable to perform work duties, the employee may use accrued sick or annual leave or be placed on leave without pay status until the employee can return to work. Employees seeking such assistance should see their supervisor or the Human Resource Department.

**R. Consequences of a Positive Drug or Alcohol Test**

**Pre-employment:** Applicant will be refused employment and will not be allowed to reapply for 6 months.

**Random, Reasonable Suspicion or Post-Accident Test.** Employees and subsidiaries of TMCC will be subject to immediate corrective action after a positive random test, a positive test based on reasonable suspicion, or a positive test after an accident, a citation by law enforcement or loss of license or credentials necessary to complete employee's job duties.

**Initial Positive Test.** The first time an employee of TMCC or its subsidiaries is confirmed to have tested positive, they will be referred to TMCC's Employee Assistance Program (EAP) for an evaluation at the employee's expense and may be suspended without pay. Employees must schedule an appointment with the designated agency within five (5) working days or they will be terminated. Evaluation and recommendation will be adhered to and the employee will be required to complete the recommended treatment/counseling prior to returning to work. Employees will be required to have a negative drug test conducted by Turtle Mountain Community College before returning to work. The employee can use accrued sick or annual leave or can take leave without pay to complete the recommended counseling/treatment. Employees refusing to submit to an evaluation and recommended counseling/treatment will be terminated. Employees who report to work under the influence of drugs or alcohol will not be allowed to drive themselves home or elsewhere (appropriate arrangements will be made). Refusal to comply with this rule may result in immediate termination.



***Employees Requiring Counseling/Treatment.*** If the evaluating agency concludes that an employee should receive further counseling or treatment for substance abuse, the employee must meet with the Human Resources Department to discuss available counseling and treatment options and available coverage. The employee will be required to complete and comply with all the conditions set forth by the Turtle Mountain Community College and chosen program. This can include returning to work immediately upon completion of the five (5) working day suspension or leave of absence. Employees refusing to comply with the recommendations of counseling/treatment will be terminated.

***Employees Not Requiring Counseling or Treatment:*** If the evaluating agency concludes that an employee who is confirmed to have tested positive does not require counseling or treatment at this time, or is able to work during treatment, such employee will return to work upon completion of the five (5) working day suspension. Such employee must enter into an agreement with Turtle Mountain Community College and will then be subject to unannounced drug/alcohol testing for up to 12 months. If any of these unannounced tests are positive, the employee will be terminated.

Counseling and treatment will be at the expense of the employee.

#### **S. Agreement**

Employees who return to work following suspension due to positive drug or alcohol test results must agree to the following:

- Employees must provide a release to work from the evaluation or counseling program indicating successful completion.
- A negative test for drugs or alcohol.
- An agreement to frequent follow-up test for a period of 12 months.
- An agreement to follow specific after care requirements with the understanding the violation of the agreement is grounds for corrective action and possible termination.

Employees will be allowed to use their own accrued leave or utilize leave without pay to complete aftercare requirements.

#### **T. Second Failure**

If the employee tests positive a second time, the employee will be terminated and will not be considered for employment by the Turtle Mountain Community College for a period of (12) months.

**All Employees are asked to acknowledge that they have read the Alcohol and Drug Policy of the Turtle Mountain Community College and agree to abide by it in all respects. By policy, this acknowledgment is required of you as a condition of employment.**



# Turtle Mountain Community College

P.O. Box 340

Belcourt, North Dakota 58316-340

## **POSITIVE DRUG TEST PROCEDURES**

In the event you have a positive drug test, these are the steps that you will need to follow as a condition of your continued employment with the Turtle Mountain Community College. **The steps are as follows:**

1. You will be asked to explain why you have a positive drug test. The Turtle Mountain Community College President or designee will be informed immediately of the positive test.
2. If you do not deny the test results, step three will be followed. If you deny the findings of the test, the results will be sent to the Drug Check Lab for further analysis, along with any prescriptions you have been prescribed. If the results of the Drug Check Lab confirm your positive test and you do not have a valid prescription or are using illegal drugs you will go to step three.
3. You will receive a letter of referral to the **Employee Assistance Program**. As a condition of continued employment, you as an employee must then contact the E.A.P. within 5 working days to schedule an evaluation by a certified counselor. You must then contact a certified counselor and provide a copy of the evaluation report and recommended Treatment Program to E.A.P. within 5 working days. Any employee who needs inpatient treatment for drug or alcohol addiction will be allowed to use accrued sick leave or annual leave until depleted, and can then apply for leave without pay.
4. You as an employee will have to show proof of enrollment in a treatment program, either inpatient or outpatient basis with the written permission of the Turtle Mountain Community College President or designee.

**If an employee tests positive for drugs, they will only be allowed to return to work if they have enrolled in a treatment program and passed a drug test conducted by the Turtle Mountain Community College. They will only be able to continue working for the Turtle Mountain Community College if they finish their treatment program and continue to pass periodic drug tests conducted by the Turtle Mountain Community College as a condition of their employment. In the event the employee fails another drug test or does not finish their treatment program, they will be automatically terminated.**

Employees that test positive for drugs and claim to have a prescription will be allowed to return to work pending the results of the confirmed test, providing they give a copy of their prescription to the HR Manager upon being tested or within 24 hours. In the event they fail to provide a copy of their prescription within 24 hours, the employee will be placed on leave without pay. If the confirmed test proves that the drug found in the positive sample is for an illegal drug or the employee does not have a prescription for that drug, the employee will be treated the same as a positive test for illegal drugs and will follow the same procedures, and will be referred to step 3 above.

**I have read and understand the procedures that I will need to follow as a condition of my continued employment.**

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Employee Signature

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Date



# Turtle Mountain Community College

P.O. Box 340  
Belcourt, North Dakota 58316-340

## REFUSAL TO TEST FORM

I, \_\_\_\_\_ am refusing to take a Drug Test for the Turtle Mountain Community College. I realize that this is a condition of my employment and that I will be terminated for refusing to take a Mandatory Drug Test and participate in the Drug Testing Program.

Time: \_\_\_\_\_ AM/PM

_____ Signature	_____ Date
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_____ Witness	_____ Date
------------------	---------------

_____ Witness	_____ Date
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# Turtle Mountain Community College

P.O. Box 340

Belcourt, North Dakota 58316-340

## **Request for Referral to Employee Assistance Program Form**

I am signing this form as a request for a referral to the Employee Assistance Program for Drug and/or Alcohol Rehabilitation. I am admitting that I have an addiction to drugs or alcohol, whether it is prescription medication or illegal drugs. I am requesting assistance from Turtle Mountain Community College as part of their Employee Assistance Program. I am requesting treatment either on an inpatient or outpatient basis, whatever is agreed upon between myself and a certified counselor. I agree to follow procedures as outlined in the Turtle Mountain Community College Drug and Alcohol Policy, and understand that I must keep TMCC informed of my enrollment and progress in a treatment program.

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Signature of Employee

Date:

**APPENDIX A5-5CERTIFICATION REGARDING ALCOHOL AND OTHER DRUG FREE WORKPLACE**



## **Certification Regarding Alcohol and Other Drug Free Workplace Requirements**

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988. The regulations, published in the Federal Registrar, require certification by grantees that they will maintain a drug-free workplace.

1. TMCC prohibits the manufacture, use, and distribution of controlled substances in the workplace. Employees in violation of this policy will be subject to disciplinary action up to and including termination.
2. TMCC's drug-free awareness program is designed to inform employees about the dangers of workplace substance use. TMCC does maintain a Drug and Alcohol Policy and does enforce a drug and alcohol testing policy. Counseling and rehabilitation information is available from the TMCC Human Resource Office; TMCC does offer an EAP (Employee Assistance Program) for all employees and immediate family members.
3. The Drug and Alcohol Policy is available to all employees in the Policy Manual.
4. All TMCC employees are expected to comply with reporting requirements under the Drug-Free Workplace Act which include:
  - a. Notifying the employer (TMCC) within five (5) calendar days if he or she is convicted of a criminal drug violation.
5. TMCC is responsible for notifying the federal contracting agency of any covered violation. Under the terms of the Drug-Free Workplace Act, TMCC has 10 days to report that a covered employee has been convicted of a criminal drug violation.
6. TMCC is required to take direction action against an employee convicted of a workplace drug violation. This action may involve imposing a penalty or requiring the offender to participate in an appropriate rehabilitation or counseling program.
7. TMCC will maintain an ongoing good faith effort to meet all the requirements of the Drug Free Workplace Act throughout the life of the federal contract.

By signing below, I agree to abide by these regulations.

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Employee Signature

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Date

**APPENDIX A5-6 FACILITIES AND GROUNDS USE PROCEDURE****PROCEDURES****1. Application for Use**

- a. Requests for facilities or grounds use must be submitted to the Switchboard Operator/Administrative Assistant. The request must be submitted by the individual or group requesting permission.
- b. A decision on a fully completed application will ordinarily be made within two business days, additional review time may be necessary if an application involves a large-scale or unusual event.
- c. The decision on the application, including applicable permit conditions, will be communicated to the applicant in writing by electronic or other appropriate means of communication. If an application is denied, the applicant will be provided a brief written explanation of the basis of the decision. Appeal of permit conditions or the denial of an application may be taken as specified in this policy.

**2. Space Rental, Services, and Equipment Fees**

- a. The Business Office will maintain a **Facilities Rental Fee Agreement** detailing current rental fee charges (as well as criteria and procedures that may apply to requests for reduced or waived charges); a **Services Fee Agreement** detailing the types of services that may be required as a condition of use approval, and the cost for such services (as well as criteria and procedures that may apply to requests for waiver of charges); and information regarding rental of **College equipment** such as tables, chairs, staging, lights, public address systems, and audio-visual equipment (both fixed and portable), all of which may when available, be requisitioned for use at on-campus events.
- b. The College reserves the right to have, at its sole discretion and at the expense of the Sponsor or Host, its own security services, parking staff, event coordinators, physical plant staff, or other College personnel present at any meeting, conference, event, or activity covered by this policy. Preparation costs incurred by the College will be billed to the unit, group, organization, or entity if the activity is cancelled.

**3. General Conditions of Use**

- a. **Priority of Use:** Organized instruction and official College events shall have priority for use of College facilities, grounds, and equipment. Other events will generally be scheduled on a first-come, first-serve basis; subject to priority given to College recognized groups and organizations if a scheduling conflict arises. Although sponsors, hosts, groups, and organizations may request use of a specific room, facility, or other location; the College shall make final space assignment decisions.

- b. **Non-Discrimination:** The College will not deny use of its facilities on the basis of the viewpoint of the person or entity seeking their use, unless otherwise required by law; all persons and entities using College facilities must allow access to their events on a non-discriminatory basis if attendance is not limited to their own members. Additionally, a person or entity may not offer educational or employment opportunities associated with its campus presence on an unlawfully discriminatory basis if the College is a sponsor of the person or entity, or the person or entity is a College contractor or subcontractor.
- c. **Conduct:** Any person or entity using College facilities or grounds must during the period of use adhere to applicable College policies and procedures, and to federal, state, and tribal statutes, regulations, and ordinances. The College reserves the right to suspend eligibility or deny applications for facilities or grounds use if the prior conduct of a group or entity did not comply with these requirements. Failure to adhere to conditions of a use permit, including without limitation payment of space rental, services, and equipment fees, or event promotion and advertising restrictions, may result in suspension or termination of eligibility for facilities or grounds use.
- d. **Event Promotion and Publicity:** College academic and administrative units, and College-recognized groups or organizations, may advertise that an event is being sponsored by, or is a function of the particular unit or entity. Non-College event promoters may only use the College's name with the written permission of the College obtained through the Administration; however, they may use the name of the College in advertising the location of an event as long as the use is not misleading with regard to sponsorship. At the request of the College, the event sponsor or promoter may be required to place a disclaimer on all advertising that explains that the event is not sponsored or endorsed by the College.
- e. **Occupancy:** Due to personal safety and regulatory compliance considerations, overnight occupancy of temporary structures is permitted only with prior College approval and subject to permit conditions. An occupancy permit generally will not exceed three consecutive nights.

#### **4. Commonly Requested and Permitted Uses/Conditions of Use**

- a. **Use for Organized Instruction:** The presentation of organized credit instruction is the primary function of the College. Space scheduling for credit instruction is handled by the Academic Dean's Office. Non-College-recognized groups and organizations will not be allowed to use College facilities for this type of activity unless the activity is approved through Continuing Education and coordinated through the Academic Dean and facilities.
- b. **Use by Administrative and Academic Units:** College academic and administrative units may use College facilities and grounds for events approved through normal channels whose purposes are complementary to the mission of the unit. No College facility rental fee will be charged for official meetings,

conferences, or events involving faculty, staff, students, or alumni. However, the unit will be held responsible for all expenses the College incurs as a result of services provided (such as event coordination, custodial, parking, and security services). All service charges must be billed to a College budget. Facility rental fees will be charged for events (including fund-raisers) hosted or sponsored by College academic and administrative units for non-College entities. The non-College entity and the College host or sponsor will be jointly responsible for all rental fees and service charges incurred.

- c. **Use by College-Recognized Groups or Organizations:** College-recognized groups or organizations may utilize College facilities and grounds for purposes complementary to the purpose of the organization. No facility rental fee will be charged for events involving faculty, staff, students, or alumni. The group or organization will be held responsible for all service charges. College-recognized groups or organizations may not sponsor or host an event planned by a non-recognized group or organization to enable the latter to avoid paying otherwise applicable rental or service charges.
- d. **Use by Non-Recognized Student Groups or Organizations:** Events held by or for College student groups or organizations not recognized by the Student Government must be hosted or sponsored by a recognized student group/organization, College department, or organization.
- e. **Use for Conferences and Non-Course Credit Activities:** Non-course credit conferences, seminars, workshops, presentations, and similar events of an educational nature in which external participants are registered or enrolled must be sponsored or hosted by College academic or administrative units and coordinated through Adult Education. Event coordination fees, room rental, and service fees will be charged.
- f. **Use by Non-Profit Organizations:** Non-profit organizations recognized as such under federal law may, on a space-available basis with priority given to College needs, request and be granted use of College facilities and grounds for events complementary to their charitable purposes, including fundraising. These organizations will be responsible for room rental fees and service fees, and the events must be approved and coordinated through the Facility Manager.
- g. **Use by For-Profit Entity:** On a space-available basis and with priority given to College needs, for-profit entities may request and be granted use of College facilities or grounds for private events. These entities will be responsible for payment of market-rate room rental and service fees, and the terms and conditions of this policy as applicable. In addition, an event hosted or sponsored by the College or a non-profit entity may include a for profit enterprise as a part of the activity (*e.g.*, concerts, activities fair, etc.). Under the latter circumstances, no rental fee will be charged if the activity primarily serves the College community; otherwise, the College sponsor/host or for-profit entity will be responsible for market-rate rental and service fees.



- h. **Use by Political Candidates or Organizations:** Use of College facilities, grounds, or resources for political activities must conform to legal requirements governing political activities by tax-exempt organizations. No posters, materials, cards, or signs of a political nature will not be allowed on College property.
- i. **Memorial Services:** Memorial services may be held in appropriate College facilities on a date and space-available basis. Interested persons should contact the Facilities Manager to inquire about site suitability and availability.

**5. APPEAL PROCEDURE OF FACILITY USE DENIAL**

Appeals of a denial of a use request as determined by the College may be made in writing within five business days of the denial. Such appeals may address a denial of an application for use or the specified conditions of approval. The appeal will be reviewed by the President or his/her designee and a final decision will be made.

**6. CONSEQUENCES OF UNAUTHORIZED USE**

Unauthorized use of institutional grounds, facilities, and other resources may violate this policy, other applicable College policies, and the Tribal, state and federal civil and criminal laws. A demonstrated violation of policy or law may result in disciplinary or legal action against violators. In addition, the College reserves the right to promptly discontinue unauthorized uses, with possible charges of coordination fees, rental fees, and service fees.

**7. Forms**

Request forms from the Switchboard Operator/Administrative Assistant or go online to: [www.tm.edu](http://www.tm.edu)

**8. Posting of Materials**

All [classified](#) ads, postings, or listings must comply with the following rules and regulations of the College.

1. **Postings are allowed only in designated areas identified throughout the institution. Any posting outside of the area will be discarded.**
2. **Postings must be dated and are allowed for two-week time periods only, unless otherwise approved for longer periods by administration.**
3. You may not include any content or images in your listing or advertising ad that are obscene, offensive, harmful to minors, an invasion of privacy, or otherwise inappropriate.
4. Listings that exhibit any aspect of hatred, violence, racism, or intolerance are not permitted
5. You may not use or manipulate this service for any fraudulent activity or purpose.
6. Your classified ad must be in English, however it may contain words in another language, if necessary, in order to describe the item or service for sale.
7. All items posted, including temporary structures, must be professionally developed and designed.
8. No postings of events at alcohol establishments.
9. All postings of materials must be approved by the Facility Manager.

## **APPENDIX A5-7 INFORMATION TECHNOLOGY APPROPRIATE USE POLICY**

### **Turtle Mountain Community College Information Technology Appropriate Use Policy**

#### **Scope**

This policy applies to all users of IT systems, including but not limited to students, faculty, and staff. It applies to the use of all IT systems. These include systems, networks, and facilities administered by the IT Department, as well as those administered by individual departments, laboratories, and other college-based entities.

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#### **Policy Statement**

The purpose of this policy is to ensure an information technology infrastructure that promotes the basic mission of the college in teaching, learning, research, and administration. In particular, this policy aims to promote the following goals:

- To ensure the integrity, reliability, availability, and superior performance of IT systems.
- To ensure that IT systems are used for their intended purposes.
- To establish processes for addressing policy violations and sanctions for violators.

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#### **Policies and Guidelines**

##### **Unacceptable Use:**

##### **Definition:**

Use of institutional computers, network, and internet services is a privilege, not a right. All users are required to comply with this policy and the accompanying rules.

##### **Policy Statement:**

The following rules are intended to provide general guidelines and examples of prohibited use. Failure to comply with these rules may result in loss of computer and internet access privileges, disciplinary action, and/or legal action.

- All users shall have no expectation of privacy regarding computer files, email, or internet usage. Turtle Mountain Community College reserves the right to monitor all computer files, email, and internet usage without prior notice.
- All users may not attempt to gain unauthorized access to any other computer system or go beyond their authorized access. This includes attempting to log in through another person's account or access another person's files. These actions are illegal, even if only for the purposes of "browsing."

- All users will not make deliberate attempts to disrupt the computer system or destroy data by spreading computer viruses or by any other means.
- All users are not allowed to download, copy, or install any games or unauthorized software on college computers. Any unauthorized software and games, if found in the college computers, will be removed by college IT Department.
- All users will not use obscene, profane, lewd, vulgar, rude, inflammatory, threatening, or disrespectful language. Restrictions against inappropriate language apply to public messages, private messages, and material posted on social media sites.
- All users will not post private information about another person.
- All users will not engage in personal attacks, including prejudicial or discriminatory attacks.
- All users will not knowingly or recklessly post false or defamatory information about a person or organization.

### **Email Policy:**

#### **Definition:**

Use of email by staff, faculty, and students is permitted and encouraged where such use supports the goals and objectives of the institution.

#### **Policy Statement:**

Users of TMCC's email services are expected to act in accordance with the following policies and with professional and personal courtesy and conduct.

- Email is an official means of communication at TMCC. The institution may send communications to users by e-mail and has the right to expect that those communications will be received and read in a timely fashion. Information sent via e-mail has the same importance and needs to be responded to in the same manner as information sent in other ways.
- The Information Technology personnel will assign all users an official institution e-mail address. It is to this address that the institution will send all official e-mail communications.
- Any emails that discriminate against employees by virtue of any protected classification including race, color, gender, religion, national origin, sexual orientation, age, or disabilities, will be dealt with according to the harassment policy.
- All users are expected to read and properly dispose of e-mail promptly. Prompt disposal of e-mail is necessary to manage storage space on the institutional e-mail system. Disposal may include deletion, filing into alternate folders on the institutional servers, or moving the e-mail onto the user's own computer. The institution reserves the right to purge mail from accounts. Prior notification will be given if that notification is feasible and practical to allow users time to save messages.
- All users of electronic communication, including e-mail, need to realize that communication of this type usually leaves traces as to its origin and destination as well as its content. The simple deletion of e-mail or other electronic files does not remove these traces and the file or e-mail is often recoverable for some time after deletion. Further,

users need to realize that the institution makes regular archival copies of all e-mail to ensure the system's integrity and that these archives exist for some time. Therefore, although TMCC's e-mail system and governing policies may grant some privacy to users e-mail, users should treat all e-mail as if they were public documents.

- In some cases, a user may wish to configure his or her TMCC account to forward e-mail to another address. The user takes full responsibility for the correct configuration of that forwarding. The institution takes no responsibility for the handling of e-mail in this fashion. The use of automatic e-mail forwarding does not absolve the user from the responsibilities associated with e-mail sent to the user's official e-mail address. The institution may forbid the automatic forwarding of e-mail in cases where it is found to be problematic. Additionally, the institution may delete e-mail forwarding or other automated e-mail handling rules that cause system problems without prior notification.
- Send or attempt to send spam of any kind.
- The institution uses spam filtering tools to help control unwanted email. The institution will continue to stay up-to-date with the latest spam filtering techniques and will adjust its own processes when warranted. However, no current spam filtering technique is completely effective and will let mail through that should be blocked and occasionally block e-mail that should be delivered. Moreover, each person's definition of spam is unique. Given that, users should expect that on rare occasions, legitimate e-mail may be blocked from delivery. If this happens please contact the IT Department for further assistance.
- Once an employee has resigned or been terminated; or a student has withdrawn or graduated, they will have two weeks to save any email. After the two weeks the account will be deleted.
- Sending mass email that is unrelated to an individual's administrative or academic activity is completely prohibited. Mass e-mails are defined as messages sent to all students, all staff, all faculty, or when individual recipient addressees are not defined. IT manages e-mail distribution lists of current staff, faculty, and students. There is no opt-out provision for these lists. If you need to attach a large file, please contact the IT Department for alternate methods of distribution.
- Keep in mind that the TMCC owns any communication sent via email or that is stored on institutional equipment. Administration and other authorized staff have the right to access any material in your email or on your computer at any time. Please do not consider your electronic communication, storage or access to be private if it is created or stored at work.
- Users that sign a contract to use TMCC equipment including but not limited to laptops, tablets and other electronic devices are responsible for the replacement of damaged, lost or stolen equipment.

### **Network Privileges Policy**

#### **Definition:**

Individuals who are eligible to receive access to network services.

**Policy Statement:**

The following users are identified as eligible to receive network services from TMCC. Any applicant for network not described below should be referred to the IT Department, who will coordinate a decision on that particular case.

- **Students:** All full-time and part-time students may receive network privileges without restriction.
- **Faculty:** All full-time faculty without restriction. Part-time faculty, faculty with temporary or cyclical appointments, and visiting faculty may receive limited network privileges.
- **Full-time regular part-time staff:** All regular, non-faculty, college employees may receive network privileges without limitations.
- **Temporary employees, visitors:** Temporary employees and visitors may receive network privileges at the request of the employing department and the assistance of the Information Technology Department.

**Password Policy****Definition:**

Passwords are an important aspect of computer security. They are the front line of protection for user accounts. A poorly chosen password may result in the compromise of TMCC's entire network. As such, all TMCC staff, faculty, and students are responsible for taking the appropriate steps, as outlined below, to select and secure their passwords.

**Policy Statement:**

The purpose of this policy is to establish a standard for creation of strong passwords, the protection of those passwords, and the frequency of change.

- All system-level passwords must be changed on at least a 120-day basis.
- All production system-level passwords must be changed on at least a 120-day basis.
- All user-level passwords must be changed at every 6 months.
- Passwords must not be inserted into email messages or other forms of electronic communication.
- All user-level and system-level passwords must conform to the guidelines described below.

**Guidelines:**

- It must be at least eight characters in length.
- It must contain at least one alphabetic and one numeric character. It must be significantly different from previous passwords.
- It cannot be the same as the user ID
- It cannot include the first, middle, or last name of the person issued the user ID.
- It should not be information easily obtainable about you. This includes license plate, social security, telephone numbers, or street address.

**Wireless Policy****Definition:**

The purpose of this policy is to provide reliable and secure wireless network access.

**Policy Statement:**

This policy applies to all wireless network users at Turtle Mountain Community College.

- TMCC is solely responsible for providing wireless networking services on campus. No other department may deploy wireless network access points or other wireless service on campus. Private wireless access points in the departments or offices are strictly prohibited.
- TMCC is responsible for maintaining a secure network and will deploy adequate security procedures to support wireless networking on campus.
- TMCC will develop a procedure for the temporary use of a wireless access point to support campus events.

**Consideration:**

Wireless networking has bandwidth limitations compared to the wired network. The wireless network should be viewed as augmenting the wired network, to provide more flexible network use. Applications that require large amounts of bandwidth, or are sensitive to changes in signal quality and strength may not be appropriate for wireless access.

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**Enforcement**

Users who violate these policies may be denied access to institution computing resources and may be subject to other penalties and disciplinary action, including possible expulsion or dismissal. Alleged violations will be handled through the institution disciplinary procedures applicable to the user. The institution may suspend, block, or restrict access to an account, independent of such procedures, when it reasonably appears necessary to do so in order to protect the integrity, security, or functionality of institution or other computing resources or to protect the institution from liability. The institution may also refer suspected violations of applicable law to appropriate law enforcement agencies.

I acknowledge that I have received, read, and understand the Information Technology Appropriate Use Policy and agree to comply with said policy

Printed Name: \_\_\_\_\_ Role: Student or Staff (Circle One)

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

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

IT Approval: \_\_\_\_\_ Date: \_\_\_\_\_