

## **EPA Form 4700 - Attachment**

### **Supplemental Information to EPA-4700-4**

#### **Section XI**

**Relevant excerpts from the Forest County Potawatomi Community Employee Handbook, approved by the FCPC Executive Council on September 10, 2013**

**Anti-Harassment and Anti-Retaliation Policies (Pages 2-3 – 2-5)**

**Conflict Resolution, Separation from Tribal Government Employment, and Transfer Policies, Tribal Authority, Responsibility to abide by all of FCPC's Policies and Employee Acknowledgement Form (Pages 5-10 – 5-1)**

employee to perform the essential functions of the employee's job, even if the employee would prefer a different accommodation.

Any employee who believes that the employee has been subjected to disability discrimination should report the discrimination to the employee's supervisor, manager or directly to Human Resources. FCPC will investigate the issue and take the appropriate remedial action designed to eliminate the discrimination. FCPC is also committed to not discriminating against any qualified employee or applicant because the employee is related to or associated with a person with a disability.

#### **ANTI-HARASSMENT POLICY**

FCPC endorses the principle that all employees have the right to work in an environment free from verbal, physical or any other form of harassment. FCPC is committed to maintaining a workplace that is pleasant, courteous, and free of harassment, and is prepared to take all necessary steps to reasonably ensure a harassment-free workplace.

Harassment is defined as a course of conduct which unreasonably interferes with an employee's work performance; and/or alters the conditions of employment; and/or creates an abusive working environment regardless of whether the conduct occurs off property or during work hours.

Harassment of any employee by another employee, be it co-worker, supervisor, manager, or other official on the basis of race, religion, color, sex, national origin, age, disability, marital status, sexual orientation or any other characteristic protected by applicable tribal, federal, state and/or local law will not be tolerated and is prohibited by this Policy.

FCPC expects that all employees will cooperate in avoiding such harassment, and it is fully prepared to take appropriate measures against any employee who violates this Policy. Each FCPC employee must exercise the employee's own good judgment to avoid engaging in conduct that may be perceived by others as harassment. Forms of harassment include, but are not limited to, the following:

- Verbal—repeatedly using sexual innuendo, racial or sexual epithets, derogatory slurs, ethnic slurs, off-color jokes, propositions, threats, and/or suggestive or insulting sounds;
- Visual/non-verbal—derogatory posters, cartoons, or drawings, suggestive objects or pictures, graphic commentaries, leering, or obscene gestures;
- Physical—unwanted physical contact including touching and interference with an individual's normal work movement or assault; and
- Other—making or threatening reprisals as a result of a negative response to harassment.

### **Sexual Harassment Prohibited**

Conduct that is prohibited by this Policy includes sexual harassment, which is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical acts of a sexual or sex-based nature.

Examples of conduct that could be considered sexual harassment are listed below. These examples are provided to show the kind of conduct that is prohibited by this Policy. The list of examples is not exhaustive, and other types of conduct not listed below may violate this Policy as well.

- Intentional physical conduct that is sexual in nature, including rape, molestation, touching, pinching, grabbing, or brushing up against another's body;
- Sexually oriented gestures, noises, remarks, jokes or comments;
- Promises or preferential treatment to an employee in exchange for that employee's agreement to engage in sexual conduct;
- Taking adverse action against an employee based on the employee's refusal to engage in sexual conduct;
- Displaying or possessing pictures, cartoons, posters, calendars, graffiti, objects or any other materials of a sexual nature; or
- Using e-mail, voicemail, fax machines or the internet to display, transmit or communicate any material of a sexual nature.

### **Reporting and Investigation Procedures**

Individuals who feel they have been subjected to harassing conduct must promptly notify their immediate supervisor, their department director (or the equivalent of a like position for departments of which the Tribal Administrator does not oversee) or the Human Resources Director. When reporting a complaint, employees should be prepared to furnish accurate dates, names and facts. A complaint form is available from the Human Resources Director.

All such complaints will be promptly and thoroughly investigated by Human Resources or Tribal Administration, and if necessary, the Legal Department. Such incidents may be referred to a third party investigator to perform a thorough, neutral investigation. Under no circumstances will an investigation be conducted by a supervisor or other person accused of harassment. Prompt and reasonable corrective and preventative actions will be taken where necessary. All information disclosed in the complaint and the investigation procedure will be held in the strictest of confidence and only disclosed when necessary to investigate and resolve the matter or



as otherwise required by law. Any employee who witnesses harassment of another employee should report such harassment to the Human Resources Director.

Employees should, at all times, treat each other with dignity and respect in a manner so as not to offend their sensibilities. FCPC is committed to vigorously enforcing this Policy. No employee in this organization is exempt from this Policy.

### **ANTI-RETALIATION POLICY**

All employees have the right to make good faith complaints about harassment and discrimination and will be protected from retaliation under this Policy, including those who make a complaint, or assist and cooperate in such investigation. Retaliation against any employee complaining of harassment/discrimination, or participating in a FCPC investigation of harassment/discrimination, is strictly forbidden and will not be tolerated. Any employee who engages in retaliation will be subject to discipline, up to and including termination.

Any employee who wants to report an incident of retaliation should promptly report the matter to his or her immediate supervisor. If the supervisor is the individual who is retaliating against the employee, the employee should immediately notify the Human Resources Director who will notify the Tribal Administrator or the equivalent of a like position for departments of which the Tribal Administrator does not oversee. Employees can raise concerns and make reports of retaliation without fear of reprisal or retribution.

Any supervisor or manager who becomes aware of possible retaliation should promptly advise the Human Resources Director who will notify the Tribal Administrator or the equivalent of a like position for departments of which the Tribal Administrator does not oversee. Anyone engaging in retaliation will be subject to disciplinary action, up to and including the immediate termination of employment.

The Human Resources Director is responsible for investigating retaliation complaints at the direction of the Tribal Administrator or the equivalent of a like position for departments of which the Tribal Administrator does not oversee. If the Tribal Administrator/Human Resources Director is the individual whom the complaint is about, appropriate steps will be taken to assign the complaint of retaliation to a neutral/third party for investigation/processing.

Every complaint of retaliation that is reported will be investigated thoroughly, promptly, and in as confidential a manner as is possible.

### **DRUG AND ALCOHOL POLICY**

FCPC recognizes that drug and alcohol dependency can be a major health problem which potentially impacts the employee, his or her family and his or her work performance. Employees who need help with drug and/or alcohol problems are encouraged to seek assistance through the Employee Assistance Program (the "EAP").

required to return all FCPC property in their possession on or before their last day of work before the leave begins. FCPC property includes, but is not limited to, the following:

- ☐ Photo identification badges;
- ☐ Uniforms;
- ☐ Equipment;
- ☐ Cell phones, computers, or other FCPC-issued electronic devices;
- ☐ Employee manuals, except for Employee Handbook and other like policies;
- ☐ Training materials;
- ☐ Combination locks; and
- ☐ Keys

Failure to return FCPC property may result in FCPC taking legal action against the employee.

Employees who are involuntarily terminated by FCPC must leave the premises and return FCPC property immediately.

### **OPEN DOOR POLICY**

Communication is a joint responsibility shared by FCPC and its employees. If an employee has any questions about the information contained in this Handbook, or about any other aspect of his or her job, the employee can feel free to ask his or her supervisor or manager.

Employee opinions, suggestions and questions are important to us. Employees should follow the FCPC chain of command in discussing issues at work which concern them. We will attempt to provide honest, straightforward responses to employee questions and comments.

At FCPC, we encourage all employees to work together. However, there may be times when an employee might become involved in a conflict with a coworker. Generally, if an employee is having a problem with an individual, we encourage him or her to approach that person first and attempt to resolve the conflict. If that does not resolve the problem, the employee can go to his or her immediate supervisor next. In some cases, an employee and his or her supervisor may decide to gain additional assistance by utilizing the chain of command and following the Conflict Resolution Policy. We ask all employees to not allow a small conflict to grow into a larger one.

If an employee feels that he or she cannot discuss the issue with the co-worker or supervisor, the employee may seek the assistance of Human Resources at any time.

All employees may be assured that they can use this Open Door Policy to, in good faith, voice their concerns without fear of reprisal or retaliation.

### **CONFLICT RESOLUTION POLICY**

It is the goal of FCPC to treat all of its employees with consideration and fairness. The following policy was established by FCPC to address conflicts between employees, co-employees and/or supervisors which could not be resolved by the use of the Open Door Policy set forth in this Handbook.



Employees who believe they have been aggrieved or otherwise treated unfairly by a supervisor or another employee and wish to utilize this Conflict Resolution Policy must file a written complaint with their immediate supervisor within five (5) working days of the incident that is the subject of the complaint. If the employee's supervisor is the subject of the complaint, the employee should file a complaint with that supervisor's immediate supervisor. Failure to file a complaint in this time period prevents an employee from utilizing this Conflict Resolution Policy.

The supervisor may attempt to resolve the complaint. If the employee agrees with the solution proposed by the supervisor, the employee will sign a statement describing the solution, and it will be placed in the employee's personnel file.

If the employee is not satisfied with the solution proposed by his or her supervisor, or over two (2) calendar weeks have passed and the supervisor has not taken any action in response to the employee's complaint, the employee may submit a request in writing to his or her department manager requesting a response to his or her complaint. If the employee does not receive a written response with a proposed solution from his or her supervisor within four (4) calendar weeks of filing his or her complaint, the employee must submit a request in writing to the department manager requesting that the department manager attempt to resolve the employee's complaint, or the employee will be precluded from further pursuing his or her complaint.

The department manager may attempt to resolve the employee's complaint. If the employee agrees with the solution proposed by the department manager, the employee will sign a statement describing the solution, and it will be placed in the employee's personnel file.

If the employee is not satisfied with the solution proposed by the department manager, or over two (2) calendar weeks have passed since the department manager has been involved and the department manager has not taken any action in response to the employee's complaint, the employee may submit a request in writing to the Division Director or the Tribal Administrator or the equivalent of a like position for departments of which the Tribal Administrator does not oversee requesting a response to his or her complaint. If the employee does not receive a written response with a proposed solution from the department manager within four (4) calendar weeks of submitting his or her request to the department manager, or the employee disagrees with the solution proposed by the department manager, the employee must submit a request in writing to the Tribal Administrator or the equivalent of a like position for departments of which the Tribal Administrator does not oversee to resolve the employee's complaint, or the employee will be precluded from further pursuing his or her complaint. The Tribal Administrator or the equivalent of a like position for departments of which the Tribal Administrator does not oversee has two (2) calendar weeks to propose a solution to the employee's complaint and the proposed solution will be final. Upon notice to all parties, the Tribal Administrator or the equivalent of a like position for departments of which the Tribal Administrator does not oversee may extend this time period up to four (4) calendar weeks. In the event the complaint is against the Tribal Administrator or the equivalent of a like position for departments of which the Tribal Administrator does not oversee, the FCPC chain of command will be referenced for guidance in resolving the employee's complaint.

Nothing in this policy requires an employee to use the Conflict Resolution process to resolve an issue. Employees may seek assistance from Human Resources at any time in order to resolve the issue.

This Conflict Resolution Policy does *not* apply to:

- ☐ Matters relating to political activities;
- ☐ Performance evaluations, promotions, demotions or amounts of raises;
- ☐ Decisions that result in separation of employment, including, but not limited to terminations, resignations, and layoffs;
- ☐ Involuntary transfers of employees; or
- ☐ Complaints of harassment, discrimination, and/or retaliation.

Use of the Conflict Resolution Policy does not alter an employee's "at-will" status.

#### **SEPARATION FROM TRIBAL GOVERNMENT EMPLOYMENT POLICY**

##### **Termination**

All terminations must be approved through the Tribal Administrator or the equivalent of a like position for departments of which the Tribal Administrator does not oversee and will occur when it is determined to be in the best interest of FCPC. Either a certified letter or some other official tribal notice will be provided to the terminated employee immediately upon termination.

##### **Resignation**

Employees who walk off the job will be allowed a twenty-four (24) hour cooling off period.

- ☐ If no return or written instrument is given, supervisors shall treat the resignation as a resignation without notice. The effective date of resignation will be the day the walk-off occurs.
- ☐ If an employee returns to work within the twenty-four (24) hour period, time missed will be docked, and the employee may be required to undergo a disciplinary probationary period of employment, completion of which does not alter the employee's "at will" employment status.

Employees who walk off the job more than two (2) times in a calendar year or three (3) times throughout their employment will be subject to disciplinary action pursuant to FCPC's attendance and tardiness policies.

**TRANSFER POLICY**

Employees voluntarily transferring between Tribal Departments, including those departments outside of Tribal Administration, will be subject to a one hundred and twenty (120) calendar day introductory period. Accumulated annual and sick leave will transfer with the employee accordingly.

An employee may use accumulated sick leave during this introductory period. The use of annual leave during this introductory period is discouraged; however, it may be allowed with supervisor approval.



**TRIBAL AUTHORITY**

Pursuant to the FCPC Constitution, the FCPC General Council has delegated management authority over Tribal operations to the FCPC Executive Council. The FCPC Executive Council has delegated day-to-day operational authority of the FCPC Tribal Government to the Tribal Administrator or the equivalent of a like position for departments of which the Tribal Administrator does not oversee. The Tribal Administrator or the equivalent of a like position for departments of which the Tribal Administrator does not oversee is directly responsible for the daily operations of the FCPC Tribal Government and reports to the FCPC Executive Council.

Employees report to their immediate supervisor. Supervisors report to their Division Directors. Division Directors report to the Tribal Administrator or the equivalent of a like position for departments of which the Tribal Administrator does not oversee.

**RESPONSIBILITY TO ABIDE BY ALL OF FCPC'S POLICIES**

FCPC's Handbook cannot anticipate every circumstance or question, nor can it contain every policy. In fact, FCPC has other policies not specifically contained in the Handbook that, as an employee of FCPC, you are responsible for being familiar with and complying with. You can ask your supervisor or the Human Resources Department any questions you may have regarding FCPC's policies. Any employee failing to comply with any of FCPC's policies, even those policies not contained in this Handbook, will be subject to discipline, up to and including termination.

FCPC reserves the right to change any one of its policies at any time without advance notice, regardless of whether such policy is in the Handbook. FCPC also reserves the right to add new policies at any time without advance notice, even if such policy is not specifically contained within the Handbook. As an employee of FCPC, you are responsible for being familiar with and complying with changes to existing policies, as well as added policies, even if the changed policy or added policy is not contained in the Handbook itself. You can ask your supervisor or the Human Resources Department any questions you may have regarding FCPC's policy changes and FCPC's added policies. Any employee failing to comply with FCPC's changed policies or added policies, even if not contained in the Handbook, will be subject to discipline, up to and including termination.

**EMPLOYEE ACKNOWLEDGEMENT FORM**

By signing this form, I acknowledge that on the date of my signature as shown below I received a copy of the Employee Handbook (the "Handbook") dated \_\_\_\_\_, 2013, from the Forest County Potawatomi Community ("FCPC"). I understand that the Handbook describes important information about FCPC, and that it is my responsibility to read and become familiar with the contents of the Handbook and to comply with the policies it contains. I also understand that FCPC may change or add to the Handbook or adopt or change other policies as it deems appropriate, with or without advance notice. I further understand that I should ask my supervisor or the Human Resources Department Manager any questions not answered in the Handbook.

I acknowledge that I have entered into my employment relationship with FCPC voluntarily and that I am an employee-at-will. This means that, subject to applicable law, the employment relationship can be terminated at any time for any reason, with or without notice. I understand that no manager or supervisor has any authority to change this employment-at-will relationship.

Furthermore, I acknowledge that this Handbook is not a contract of employment and I understand that FCPC has the right and will exercise the right to take necessary action, including termination of my employment, for conduct that requires such action, whether or not such conduct is referred to in this Handbook.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Employee's Printed Name