

**RESOLUTION OF THE GOVERNING BODY OF  
THE THREE AFFILIATED TRIBES OF THE  
FORT BERTHOLD RESERVATION**

- WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and
- WHEREAS,** The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and
- WHEREAS,** Article VI, Section 5(l) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to adopt resolutions regulating the procedure of Tribal Government instrumentalities and officials; and
- WHEREAS,** The current Tribal Grievance Procedure provides that formal grievance hearings will be presided over by a Grievance Committee which is constituted, in a particular instance, by that Tribal Business Council Committee which oversees the particular Tribal department in which the grievance at issue arose; each such Council Committee is currently composed exclusively of members of the Tribal Business Council; and
- WHEREAS,** At the time at which the current Grievance Procedure was adopted, all actions affecting the employment of Tribal employees, including employment layoffs and terminations, were taken by a Personnel Selection Committee comprised of the Tribal Secretary, Personnel Director and that program director overseeing the particular Tribal program in which the action at issue was taken; and
- WHEREAS,** More recently by resolution, the Tribal Business Council has assumed all the responsibilities formerly assumed by the Personnel Selection Committee, including employment selection and termination, which change in procedure has often resulted in the curious and questionable situation wherein a former Tribal employee may have been adversely affected and aggrieved by an employment action taken by the seven (7)-member Tribal Business Council and was compelled to appeal that action to a Grievance Committee comprised exclusively of three (3) of the very individuals who took part in the adverse action being appealed; and
- WHEREAS,** The Tribal Business Council has been requested to consider the propriety of such procedurally questionable situation created by the recent assumption by the Council of the responsibilities formerly assumed by the now-defunct Personnel Selection Committee, and the Council has determined that the continued potential for such

situation to arise in the context of requested grievance hearings should be eliminated; and

**WHEREAS,** It is the considered judgment of the Tribal Business Council that future grievance hearings should be presided over by an independent licensed attorney serving as hearing officer, in lieu of a grievance committee as currently provided for in the Grievance Procedure; and

**WHEREAS,** The Tribal Business Council has additionally determined that, in conjunction with this change in the grievance hearing process, the period within which the written hearing decision must be rendered should be extended beyond two (2) days from the date of the hearing as currently prescribed, in view of the likelihood that more than one grievance hearing may be scheduled on one date for the convenience of the traveling hearing officer and for the economic benefit of the Tribes;

**NOW, THEREFORE, BE IT RESOLVED,** That the Tribal Business Council of the Three Affiliated Tribes hereby amends the current Grievance Procedure (codified as Section X of the Three Affiliated Tribes Personnel Policies and Procedures) by substituting an individual Hearing Officer for the current multi-member Grievance Committee in all aspects of the involvement of the Committee in the grievance hearing process, as prescribed in the Grievance Procedure, with the exception that Section 5 of the Grievance Procedure (titled "Establishment and Constitution of Grievance Committee") shall be repealed in its entirety.

**BE IT FURTHER RESOLVED,** That Section 6(h) of the Grievance Procedure shall be amended to read as follows:

"(h) Within a period of five (5) business days (exclusive of holidays), the Hearing Officer shall issue to the Personnel Director the written decision in the matter heard and, upon receipt thereof, the Personnel Director shall forthwith direct to each party to the grievance a copy of the decision by certified mail. The written decision of the Hearing Officer shall be constituted by findings of fact, conclusions of law, and an order. At the conclusion of the hearing, the Hearing Officer may, but shall not be required to, issue to the parties a verbal decision in the matter, which shall, in all cases, be followed by the issuance of the written decision as prescribed herein."

**BE IT FURTHER RESOLVED,** That the amendments made herein to the Grievance Procedure shall take effect immediately and shall apply to (1) each request for a grievance hearing filed with the Personnel Director after the date hereof and (2) each currently pending hearing request for which a hearing date has not yet been set.

**BE IT FURTHER RESOLVED**, That the operative provisions set forth in this Resolution shall supercede any and all conflicting or inconsistent provisions set forth in any and all previously-adopted resolutions of the Tribal Business Council, specifically including Resolution #93-33-JJR, or set forth in any other format as included in the body of law of the Three Affiliated Tribes.

**CERTIFICATION**

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 7 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 17<sup>th</sup> day of January, 2000; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 4 members, 2 members opposed, 0 members abstained, 1 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 17<sup>th</sup> day of January, 2000.

Daylon Spotted Bear  
Secretary, Tribal Business Council

ATTEST:

[Signature]  
Chairman, Tribal Business Council