

Judicial Findings Appeal Policy

I. PURPOSE

The purpose of this policy is to describe the appeal process available to a candidate whose conditional offer of employment has been withdrawn as a result of the pre-employment criminal history background check. This policy applies exclusively to the application of the Tribe's Judicial Findings Evaluations Guidelines (JFEG) process; no other employment decision may be appealed through this process.

II. SCOPE

This policy applies to all programs, departments and entities that are subject to the PGST Employee Handbook.

III. POLICY

If an employment candidate disagrees with the application of the Tribe's JFEG (as opposed to the JFEG policy itself) he or she may appeal the decision as per the following procedure. The candidate must initiate the appeal personally; no one other than the candidate himself or herself will have the standing to request the appeal.

If, in the hiring Director's sole discretion, it is not practical or possible to hold open the position in question to allow time for the appeal process to take place, the position may be filled with another candidate. In this event, if the appeal is upheld the only remedy available to the appellant will be to have his or her eligibility to apply for other positions restored.

IV. PROCEDURE

- a) The candidate must submit the request for a review in writing to the HR Department within five (5) working days of the notice of the decision to withdraw the conditional offer of employment. Decisions not appealed within this time frame will be considered final.
- b) Appeals will be considered by a three-person panel. The hiring department Director will be a mandatory member and Chairperson of the panel. Two other panelists will be chosen from among the Administrative Directors and Executive Director. Once selected, the members of the panel will select the earliest possible date and time to hear the review.
- c) Any panelist, with the exception of the hiring Director, who feels that he or she has a conflict of interest or that they are for any reason unable to render an unbiased decision must recuse themselves. The hiring Director must participate and may not recuse himself or herself. If too few people remain to make up the 3-

- person panel, other Director-level employees may be assigned by the Executive Director to participate as alternates.
- d) All panelists and the appellant will be required to sign a confidentiality agreement covering all information discussed in the appeal.
 - e) The appellant must appear in person before the panel. He or she will be allowed a maximum of 30 minutes to explain the extenuating circumstances he or she feels should be considered. The appellant may produce any documentary evidence he or she feels appropriate.
 - f) The panel will consider only a single issue: are there any extenuating circumstances that would render the application of the original decision to apply the JFEG unreasonable? The panel's decision will be made by simple majority vote.
 - g) The panel's final decision will be limited to upholding or denying the appeal.
 - 1. If the appeal is upheld, and if the hiring Director was able to hold the position open during the appeal process the conditional offer of employment will be reinstated; if the hiring Director was not able to hold the position open, the appellant's eligibility to apply for any other open position will be restored.
 - 2. If the appeal is denied, the withdrawal of the conditional offer of employment will be confirmed and the appropriate eligibility restoration period will be applied for the appellant's future applications.
 - h) The panel's deliberations will be private. No record of the discussions or the votes of individual panel members will be kept or made public.
 - i) The panel's final decision will be communicated by the Chairperson in writing to the HR Department, indicating only that the appeal was upheld or denied. The HR Department will then notify the appellant as soon as possible following the panel's decision, but in no case more than 24 hours after receipt of the panel's decision.