

Title 2. Employment – Chapter 207 LAYOFF POLICY

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207.1 PURPOSE

207.1-1. To establish a fair, respectful policy for employee layoff and recall which enables Oneida Nation programs and enterprises to operate effectively and efficiently in varying economic conditions within the parameters of Oneida Nation Seventh Generation Mission, Priorities, and Objectives.

207.2 SCOPE

207.2-1. This policy covers all employees of the Oneida Nation. Employees whose salary is funded through external programs are subject to their respective program guidelines. Standard Operating Procedures (SOP's) shall be developed by individual business units to meet their unique needs provided that no SOP can be less restrictive than employment requirements and protections set forth in the Personnel Policy and Procedures.

207.3 DEFINITION

207.3-1. *Layoffs* are workforce reductions caused by changing economic conditions or lack of available work. Employees are placed in a layoff, or inactive status which ends upon recall to active employment, or after 26 weeks, employment termination.

207.3-2. *Critical Positions* are those requiring a Professional or Technical License, Certification, and/or Degree and which require skills which cannot be reassigned to another employee.

207.3-3. *Mass Layoffs* affect more than 20% of the full-time employees of a division workforce within a 30-day period. A division is a division of the Oneida Tribal employment structure currently identified as Enterprise, Compliance, Governmental Services, Internal Services, Gaming, Development and Land Management. All other layoffs are routine.

207.4 POLICY STATEMENTS

207.4-1. *Indian Preference*: The Oneida Tribe recognizes Indian preference in the development of layoff SOP's. Indian preference as used in this policy shall mean a preference granted to retain the Oneida member employee when all other things being equal with non-member employees. Provided that, a manager may identify critical positions within the business unit which shall not be subject to Indian Preference.

207.4-2 *Mass Layoffs*: Economic downturns may cause the need for large workforce reductions. Economic changes resulting in the need for layoffs shall be researched and identified in a report presented to the Oneida Business Committee for approval or disapproval of the report and need for layoff. Upon approval, the General Managers shall develop strategic layoff and recall plans with their respective divisions and the Human Resources Department.

207.4-3. *Routine Layoffs*: All employees are subject to layoff according to departmental job needs

and budgets. Routine layoffs are subject to management discretion, provided a departmental layoff SOP is approved by the Oneida Human Resources Manager.

207.5 GENERAL PROCEDURES

207.5-1. Strategic Layoff Plan Development

- (a) Plans must be developed with the Human Resource Manager.
- (b) Reports must be approved by the Oneida Business Committee prior to implementation.
- (c) Plans should include, but are not limited to the items on the Human Resources Department Layoff Checklist.

207.5-2. Emergency Temporary (ET) employees shall be the first laid off, then Limited Term Employees (LTE's), then regular employees. ET's and LTE's are not eligible for recall, but may negotiate a new contract after regular employees are recalled.

- (a) Departments with employees in a layoff status shall not hire ET's or LTE's to replace them.
- (b) ET status includes employees contracted for 90 days or less, interns, seasonal, and substitute relief workers.

207.5-3 Layoffs shall be for a maximum of 26 weeks, after which employment is terminated. The calculation of the 26 week period begins upon the date identified in the layoff notice. The date in the layoff notice should also be identified on the Employee Separation Notice.

- (a) Individuals who are recalled within 26 weeks shall have continuous service for all purposes, but which does not include accumulation of benefits during the layoff period.
- (b) Individuals who are not recalled within 26 weeks shall automatically have their employment terminated by their respective supervisor.

207.5-4. An Employee Separation Report must be received by the Human Resources Department within five working days of the layoff for inclusion in the employee's personnel record.

- (a) Separation reports must include the reason for layoff, date, and supervisor's signature.

207.5-5. Layoffs are not for disciplinary reasons and are not subject to appeal by the employee. Layoffs shall not be used for disciplinary reasons.

207.5-6. Employees in layoff states are eligible to apply for open positions. This includes transfers, promotions, and reassignments. Employees may not be transferred to other business units to avoid layoff status without the consent of the employee.

Human Resource Department Layoff Checklist

1. PURPOSE:

- a. Provide a recommended standard procedure for Tribal layoffs.
- b. Ensure that all employees are treated fairly.
- c. Protect employee privacy and dignity.

2. PROCEDURE:

- a. Consult layoff policy.
- b. Brainstorm alternatives to layoff, including:
 - i. Reduce scheduled hours
 - ii. Reassignments
 - iii. Voluntary time-off
 - iv. Terminate employee contracts
 - v. Other
- c. Determine layoff is necessary:
 - i. Prepare justification report
 - (1) Mass Layoffs: Require OBC approval of report
 - (2) Routine Layoffs: No report is required, but it is recommended for documentation purposes.
- d. Prepare for the layoff
 - i. Approve procedures through the Oneida Human Resources Manager
 - (1) Include seniority considerations
 - (2) Include fair layoff selection criteria
 - ii. Notify Communications Department for mass layoffs
 - iii. Notify EAP
 - iv. Notify Benefits Department
 - v. Notify HRD Manager
 - vi. Arrange out-placement services for mass layoffs
- e. Inform employees of the layoff
 - i. Schedule a notification meeting, with EAP present.
 - ii. Inform the employees at the meeting of why and how the layoff will occur
 - iii. Schedule individual meetings with personnel who will be laid off
- f. Carry out the layoff:
 - i. Give layoff letters to each laid off employee, explaining:
 - (1) Employment alternatives
 - (a) Detailed out-placement services, if any.
 - (b) Eligibility for transfer, application, reassignment
 - (c) Job posting and recruiting resources at HRD
 - (2) EAP address and number
 - (a) EAP counselor should be available
 - (3) Re-training resources.
 - (a) Career Counselor should be available.
 - (4) Dates of layoff.

- (5) Dismissal for layoff over 26 weeks.
- (6) Recall procedures.
- (7) Unemployment Insurance Benefits
 - (a) Claims procedure
 - (b) Telephone numbers
 - (i) HRD Unemployment Representative
 - (ii) State and local numbers
- (8) COBRA Insurance Benefits
- (9) Return equipment, keys, uniforms, name tags, etc.

End.

Adoption - BC-10-8-97-A, Emergency
Adoption - BC-9-23-98-D