

ONEIDA TRIBE OF INDIANS OF WISCONSIN
Human Resources Development Department

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Human Resource Department Interpretation

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RE: Interpretation of "Adverse Employment Action"

The Oneida Judiciary, in Docket No. 15-AC-005, *Mays v. Boucher*, clearly states, "It is understandable that the Respondent would feel adversely affected by the layoff however she still had the heavier burden of proving the implied facts of her allegation, i.e. that the Layoff Policy was violated making the layoff an "Adverse Employment Action." In this case, the Oneida Judiciary found that the Layoff Policy was followed correctly and ruled the Oneida Personnel Commission erred in ruling the layoff was an "Adverse Employment Action."

The above case does not change the fact that formal disciplinary actions can be appealed by the clear procedures set out in the Oneida Personnel Policies and Procedures.

HRD Interpretation

Adverse Employment Actions include any action that affects an employee's wage and/or status, given the employee can provide facts to support an allegation of deviation from a required process or policy that would prove the process was not followed or was inappropriately applied. This employee burden also applies to formal disciplinary actions.

All employees have the right to file an appeal of Adverse Employment Action; however, the employee must provide facts to support that an approved policy or procedure was not followed or was inappropriately applied. If the employee cannot provide facts to the Area Manager level showing an approved policy or procedure was not followed or was inappropriate, the action shall be upheld by the Area Manager and no further grievance shall be accepted.

Procedural Due Process establishes basic fairness. In the simplest of terms, due process is the right to notice, right (*not guarantee*) to representation, right to be heard and the right to a timely and reasoned decision. Therefore, an employee's due process rights are met when an employee receives an action they believe to be adverse and they file an appeal to the Area Manager.


Geraldine R. Danforth
HR Area Manger

9/8/15