

Title 2. Employment – Chapter 205 FURLOUGH POLICY

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205.1. Purpose and Policy

205.1-1. *Purpose.* The purpose of this Policy is to enable the Tribe to implement a furlough as a tool to remedy an operating budget deficit.

205.1-2. *Policy.* This Policy shall apply to all employees of the Tribe. To utilize a furlough, a decrease or lapse of revenue or funding and/or any other budget situation warranting an unpaid leave shall be identified.

205.2 Adoption, Amendment, Repeal

205.2-1. This Policy was adopted by the Oneida Business Committee by resolution BC-11-10-15-B.

205.2-2. This Policy may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

205.2-3. Should a provision of this Policy or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this policy which are considered to have legal force without the invalid portions.

205.2-4. In the event of a conflict between a provision of this Policy and a provision of another policy, the provisions of this Policy shall control.

205.2-5. This Policy is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

205.3 Definitions

205.3-1. This section shall govern the definitions of words or phrases as used within this Policy. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Direct report level position” means the highest level in the chain of command under the Oneida Business Committee and who is responsible for a Tribal Department and/or Division.

(b) “Employee” means any individual who is employed by the Tribe and is subject to the direction and control of the Tribe with respect to the material details of the work performed, or who has the status of an employee under the usual common law rules applicable to determining the employer-employee relationship. “Employee” includes, but is not limited to, an individual employed by any program or enterprise of the Tribe and political appointees, but does not include elected or appointed officials.

(c) “Furlough” means a temporary, unpaid leave from work for a specified period of time.

(d) “Indian preference” means a preference granted to retain an Oneida member employee over other non-member employees.

(e) “Supervisor” means a person who directly oversees the work and performance of an employee on a daily basis.

(f) “Tribe” or “Tribal” means the Oneida Tribe of Indians of Wisconsin.

205.4 Furlough

205.4-1. *Furlough Resolution.* If the Oneida Business Committee has identified the necessity for a furlough, a directive by resolution shall be given to the appropriate Direct Report Level positions. The resolution shall direct the beginning and ending dates of the furlough.

205.4-2. *Implementation of Furlough Plans.* Upon the passage of a resolution directing that a furlough be implemented, all Direct Report Level positions shall immediately carry out the furlough plans for his or her respective departments or agencies. An employee shall be furloughed on days that the employee is normally scheduled to work or on holidays recognized by the Tribe, whether the employee is normally scheduled to work or not.

205.4-3. *Notice.* A supervisor shall give an employee notice at least five (5) business days prior to a furlough being implemented for his or her position.

205.4-4. *Continuous Service.* A furlough shall not constitute a break in continuous service. Employees shall not perform any work for the Tribe while furloughed. This includes responding to work-related e-mail and voice mail, as well as traveling on behalf of the Tribe.

205.4-5. *Unemployment.* Furloughed employees shall be responsible for contacting the State of Wisconsin Department of Workforce Development to determine if they qualify for unemployment insurance benefits. Eligibility for unemployment insurance benefits is determined by the State of Wisconsin.

205.4-6. *Benefits.* Employees shall not use or accrue personal or vacation time when on furlough. Employees shall continue to receive other benefits during a furlough.

205.4-7. *Overtime and Additional Duty Pay.* When a furlough is implemented in a department or agency, no employee in that department or agency shall be eligible for:

- (a) overtime during the same pay period that another employee from the same department or agency is on furlough; or
- (b) additional duty pay for performing duties for other employees in his or her department or agency who are on furlough.

205.4-8. *Back Pay.* Employees on furlough shall not be eligible for back pay awards upon return to work.

205.5 Furlough Plans

205.5-1. *Furlough Plans.* The Direct Report Level positions shall develop furlough plans for their respective departments and agencies.

205.5-2. The furlough plans shall set forth how each department or agency intends to implement a furlough. The plan shall include, but not be limited to, the following:

- (a) an explanation of how employees will be selected;
 - (1) Temporary employees shall be furloughed first, followed by employees who volunteer to be furloughed. All other employees shall then be eligible to be furloughed.
- (b) a tentative schedule for a furlough;
 - (1) Furloughs shall be scheduled in a way that allows the departments to continue to provide a basic level of service.
- (c) the estimated number of employees affected; and
- (d) a summary of how the furlough will relieve budgetary shortfalls.

205.5-3. *Disciplinary Furlough.* Furloughs shall not be used for disciplinary reasons.

205.5-4. *Indian Preference.* Indian preference may not be used as a consideration in identifying employees to be furloughed.

205.5-5. All furlough plans shall be kept on file with the Human Resources Department.

205.6 Supervisor Responsibilities

205.6-1. Upon notification from the appropriate Direct Report Level position that furloughs are necessary, a supervisor shall:

- (a) Identify those employees who will be furloughed.
- (b) Notify those employees that they will be furloughed and their furlough dates;
- (c) Notify the Human Resources Department of the chosen employees and their furlough dates.

205.7. Appeal

205.7-1. An employee who has been furloughed under this Policy may only appeal a furlough that is based on disciplinary reasons. A written appeal must be submitted to the Direct Report Level position within ten (10) days from the notification of the furlough. The burden for showing that the furlough is based on disciplinary reasons rests on the employee. The Direct Report Level position may make a decision based on the written appeal alone. The Direct Report Level position shall provide a written decision on the matter to the employee and the supervisor. This decision is final and cannot be appealed.

205.7-2. An employee who has been furloughed does not have any other right to appeal a furlough decision under any Tribal law, policy or the personnel grievance process.

End.

Emergency Adoption – BC-10-15-13-A
Emergency Adoption Extension – BC-04-09-14-D
Adoption – BC-11-10-15-B