

Oneida Nation

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Oneida, WI 54155

BC Resolution # 08-12-20-H Amending Furlough and Layoff Return to Work Protection Additional Weeks and Payout of Vacation and Personal Time

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the COVID-19 pandemic has significantly impacted the Oneida Nation's ability to provide needed governmental services as a result of closure or limited operations of businesses; and
- WHEREAS,** the Oneida Nation has placed at least half of its workforce on furlough or layoff due to the COVID-19 public health emergency, which provides return to work protections for those employees; and
- WHEREAS,** the Oneida Business Committee has received updated financial information regarding revenue recovery after reopening; and
- WHEREAS,** the Chief Financial Officer has identified that complete financial recovery from the pandemic impacts may take as long as two to three years and operations including services and employment levels may not return to pre-pandemic levels; and
- WHEREAS,** the Public Health Officer has identified that the COVID-19 virus will continue to impact public health resulting in ongoing recommendations of social distancing, wearing facemask, increased sanitization requirements, and reduced public gatherings; and
- WHEREAS,** employees in furlough or layoff status may wish to obtain funds allocated for the specific purpose of obtaining job training and education, in lieu of payment of personal and vacation time, to facilitate their transition into a job market with additional training and education; and
- WHEREAS,** delaying payout of personal and vacation time to employees who have been placed in furlough status or layoff status is not in the best interests of those individuals and should be released immediately to assist in meeting their family needs during this pandemic; and
- WHEREAS,** the Oneida Business Committee has determined that protecting the return to work opportunities for employees who have been placed in layoff or furlough status and have not been called back to work prior to the conclusion of the 26-week period should be put in place given the longer recovery period predicted by the Chief Financial Officer;

Additional Weeks of Return to Work Protection

NOW THEREFORE BE IT RESOLVED, the Oneida Business Committee declares that employees who were placed in furlough status or layoff status under the March 26, 2020, COVID-19 Core Decision Making Team declaration “*Adoption of Standard Operating Procedure: Nationwide Tier 5 Emergency Declaration Layoff, EEO Reference # 3284*” and the April 3, 2020, declaration “*Authorizing Use of Furloughs and Amending the Nationwide Tier 5 Emergency Declaration Layoff*” shall be granted an additional thirteen (13) weeks of return to work protection, meaning they shall be eligible for transfer or reassignment into any open position for which they are eligible, and will not experience an interruption in continuous service. This does not include extension of recall status for employees on layoff or recall at the conclusion of the original layoff or furlough period.

BE IT FURTHER RESOLVED, the Human Resources Area Manager is directed to revise standard operating procedures that all postings shall be posted first for internal transfers and reassignments beginning August 12, 2020, which shall include all employees impacted by this resolution.

Full Payment of Accrued Personal and Vacation Time

BE IT FURTHER RESOLVED, employees placed in furlough or layoff status shall have the option of receiving funds to obtain job training in an amount equal to that which would be paid out for their accumulated personal and vacation time, and a payment of funds to receive job training would be in lieu of the payout of personal and vacation time.

BE IT FURTHER RESOLVED, employees placed in layoff status shall have all accumulated personal and vacation time paid out on or before September 30, 2020.

BE IT FURTHER RESOLVED, employees placed in complete furlough status, meaning the employee is not working at any level and has not been returned to work, shall have all accumulated personal and vacation time paid out on or before September 30, 2020.

BE IT FURTHER RESOLVED, employees who have resigned or had been terminated after March 26, 2020 shall have all accumulated personal and vacation time paid out before September 30, 2020.

Supersedes Any Related Declarations by COVID-19 Team

BE IT FINALLY RESOLVED, resolution shall supersede any related directives issued by the COVID-19 Core Decision Making Team.

References For Information Only

Oneida Personnel Policies and Procedures Manual

IV(A)(5)(b). The amount of personal and vacations days shall be determined by continuous service for the Nation. A "lay-off" from Oneida Nation employment shall not be considered an interruption in continuous service where the lay-off is in accordance with the Nation's Layoff Policy, nor shall a preapproved leave of absence.

IV(A)(5)(h). Upon termination from Oneida Nation employment, employees will be paid for any unused personal and/or vacation days.

Layoff Policy, Chapter 207

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.

207.5-3 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.

207.5-6. 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.

March 26, 2020 C-19 Team Declaration

1. The Standard Operating Procedure: *Nationwide Tier 5 Emergency Declaration Layoff, EEO Reference # 3284*, attached to this Declaration is hereby adopted.

2. The fringe benefit regarding payout of accumulated personal and vacation hours is modified as follows for all separations from employment:

Upon separation from employment at the conclusion of any layoff period, accumulated personal/vacation time, up to 40 hours shall be paid out.

3. The Treasurer is directed to ensure that enough cash/funding is set-aside for this expense, whether as a lump sum or accumulated over a short time period.

April 3, 2020 C-19 Team Declaration

1. Chapter 205, Furlough Policy and its related Standard Operating Procedure: Furlough SOP, EEO Reference # 2500, are hereby suspended during the public health emergency.

2. The Standard Operating Procedure: *Nationwide Tier 5 Emergency Declaration Layoff, EEO Reference #3285*, is hereby amended by adding the following sections.

2.7 Furlough: Work force reductions where an employee's hours are reduced all, in part, intermittent or any reduction to hours other than the employee's regular schedule.

Furlough

3.23 A supervisor may place an employee on furlough.

3.24 A furlough is initiated as a 26-week period that may be amended or shortened but shall not be extended or renewed for any reason.

3.24.1 The total cumulative furlough period for any employee shall not be greater than 26 weeks. (e.g. A supervisor cannot place an employee on furlough, then call the employee back to full-time work for a short time, and then place the employee on furlough for another 26-week period.)

3.24.2 A supervisor may rescind an employee's furlough according to the requirements of 3.26.1 but shall not place the employee on furlough or layoff after a rescission.

3.25 An employee placed on furlough does not receive benefits, accumulate personal or vacation time, and cannot take personal or vacation time.

3.26 At the conclusion of the furlough period, the supervisor shall take one of two actions set forth in the following subsections.

- 3.26.1 *Rescind Furlough.* Five business days prior to either the end date of the initial furlough period or the end date of a shortened furlough period, a supervisor shall submit a notice to HRD and the employee which rescinds the furlough. The employee is returned to their prior employment status after the last date of the furlough period; or
- 3.26.2 *Complete Furlough.* Five business days prior to the ending date of the initial furlough period, a supervisor shall submit a notice to HRD and the employee to complete the furlough. A completed furlough results in separation from employment.

Coordination of Layoff and Furlough

- 3.27 In order to ensure equal treatment of employees, each department shall choose either layoff or furlough for all employees in the department.
- 3.28 When added together, the total time an employee spends in either furlough or layoff status shall not exceed 26 weeks for the duration of the emergency declaration.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 8 members were present at a meeting duly called, noticed and held on the 12th day of August, 2020; that the forgoing resolution was duly adopted at such meeting by a vote of 7 members for, 0 members against, and 0 members not voting*; and that said resolution has not been rescinded or amended in any way.



Lisa Summers, Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."