

OBC Forum

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Out of all the legislative proposals the LOC is currently processing, the proposed Employment Law seems to be receiving the most attention. I want to provide some information about that proposal; to make sure that the Membership has accurate and up-to-date information.

History

Up through the 1960's, the Tribe did not have its own employee base—most business was done on behalf of the Tribe through federal agencies; and persons who worked for the Tribe typically received their pay from the BIA or Great Lakes Intertribal Council.

Then, as we entered this period of self-determination, the Tribe experienced new revenue through federal grants and contracts; and we began to look at providing jobs for our own people. In 1970, the OBC reviewed and approved the first job descriptions, and the Tribe stepped into the new role of employer.

In 1974, the OBC adopted the Tribe's first set of employment policies and procedures, which were then ratified by GTC in 1976. These were known as the "Red Book" (the predecessor to today's "Blue Book".)

These personnel policies and procedures have remained in effect, in some form, since that time. The last review of the Tribe's personnel pol-

icies (the Blue Book) took place in 1985—almost 31 years ago.

The Blue Book

When our personnel policies were developed, the OBC and GTC had a completely different picture of the Tribal workplace:

- The Tribe's total operating budget for FY 1971 (when the first Tribal employee positions were created) was \$200. By comparison, the Tribal operating budget for this year is \$430,022,309.
- When the OBC first adopted personnel policies and procedures, there were roughly 6 Tribal employees. Today, there are over 2,700 employees.
- When the Blue Book was revised in the mid-1980s, there were less than 400 Tribal employees. Today, our employment base is over seven times that size.

Over the years, as the Tribal workforce and operating budget exploded in size, changes have been made to the personnel policies and procedures to try and keep up; but because changes were so difficult (all changes must be approved by GTC) this usually just



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consisted of making specific fixes only when they became absolutely necessary, or by just adopting a separate stand-alone policy or processes that interpreted the application of the Blue Book or incorporated

new processes within existing systems in the Blue Book.

As the Human Resources Department (HRD) developed, they also had to develop a lot of interpretations and guidelines to address the gaps in coverage and changing needs of the workplace.

As a result, the Tribe's body of employment law includes Tribal policies, stand-alone HRD policies, Tribe-wide SOPs, HRD interpretations, OPC and OAC case law, Tribal laws, and the Blue Book, which was written for a much smaller workforce.

Now, we are taking the opportunity to thoroughly review and update the personnel policies with the Tribal workforce of 2016 in mind.

The Employment Law

The current proposal would replace the Blue Book with a new Employment Law, which would be adopted by

GTC. With this Law, we hope to centralize all employment-related legislation and formalize a rulemaking process that provides avenues for employee feedback and increased public notice and involvement.

The law would set out the permanent foundation—all of the requirements that we want to preserve and that we want to remain constant. Other employment-related laws and policies would be reorganized and would join the Employment Law in a specific section of the Code of Laws reserved for employment-related law.

Rulemaking

This Law delegates rulemaking authority to HRD to create rules to govern many issues, including some matters that are currently set out in the Blue Book.

Right now, the Blue Book contains many requirements that are difficult to change, because changes must be approved by GTC. By allowing HRD to establish some requirements by rule, it makes it easier for the Tribe to adapt and adjust our rules to changes in the workplace, changing economies and employment environments in the future.

The Employment Law would also require HRD to follow a stringent rulemaking process when doing so—right now, when HRD develops interpretations, Tribe-wide SOPs

or any other sort of guidelines or processes, it is not subject to any sort of real oversight, and there is very little opportunity for the membership or employees to provide input. But if the proposed Employment Law is adopted, HRD would be required to follow a formalized process for developing rules—which would include requirements for public meetings, and for OBC review.

Personnel Commission

The Employment Law would initially scale back the role of the Personnel Commission (OPC) by transferring the OPC's hiring and selection duties to HRD, and then later, once the Administrative Court is up and running as part of the Judiciary, it would transfer the OPC's hearing authority to the Administrative Court and dissolve the OPC.

When the Personnel Selection Committee (which later became the OPC) was created, it served critical purposes: ensuring fairness and preventing nepotism in hiring and other employment decisions; and later, it also assumed the authority to conduct hearings for various employment-related actions.

However, since the OPC's creation, we established our HRD and a Tribal Judiciary, so the services provided by the OPC became duplicative.

The current HRD processes have eliminated the potential risks that

originally made the OPC necessary—for example, the Trust/Enrollment department is able to confirm familial relations. With the implementation of the Blue Book and policies, the increased size of the workforce, and the greater oversight of HRD made it more difficult for nepotism to occur. And it makes sense to have the Judiciary hear grievance actions, because that brings us closer to standardizing the hearing process for all Tribal entities—this is the natural move to make full use of the Judiciary that GTC voted to implement.

Further, the current process of resolving employment matters through the OPC takes too long and costs too much money—the OPC's current budget is \$336,871—if HRD and the Judiciary assume OPC's responsibilities, it would result in a substantial cost savings to the Tribe.

We will provide additional information and discuss the Employment Law in greater detail in future issues of the Kalihwisaks. As always, we encourage the membership—and any employee—to contact any LOC member to learn more or to ask questions. As always, your input helps to shape the final proposals that we present for the OBC or GTC to consider adopting, and we greatly value that input.

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