

ONEIDA TRIBE OF INDIANS OF WISCONSIN
Human Resources Department

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HRD Interpretation on the Tribe's Applicability to the Family Medical Leave Act (FMLA) of 1993

December 19, 2012

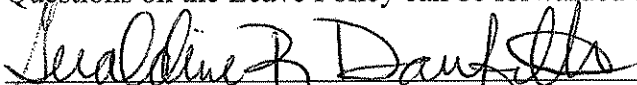
The Federal Family Medical Leave Act makes no mention of its applicability to Indian Tribes, but leaves this specifically to the Tribes to decide on the applicability with the suggestion to develop their own Tribal Laws and/or Ordinances. The Oneida Tribe has taken the stance there is already an approved Tribal Law similar to FMLA in the Personnel Policies and Procedures, Section IV – Compensation and Benefits Section D. 3. a)


3. Leaves of Absence

- a) A leave of absence without pay may be granted to employees for a justifiable reason (including caring for a child, spouse or parent with a serious health condition) and when in the best interest of the Tribe.
 - 1) Leaves of absence will not exceed three (3) months.
 - i. All leaves of absence must be approved by the supervisor, Area Manager, HRD Manager and General Manager.
 - ii. Requests must be documented and submitted to the supervisor with as much advance notice as possible.
 - iii. Disposition of requests will be made on the basis of staffing requirements.
 - 2) Upon returning, the employee will be reinstated in the former position with full status and benefits. Holiday, vacation, and sick leave will not be accrued during the leave of absence.
 - 3) No later than fifteen (15) working days prior to the expiration of the leave period the employee must give notice in writing of his/her intent to return to the position. Notice must be presented to the supervisor.
 - i. Failure to provide written notice will be interpreted to mean that the employee does not intend to return following the leave. The position will be posted and filled through the selection process.

Therefore HRD will not accept Federal or State FMLA forms from employees as they do not apply to our approved laws. Employees are required to complete the Leave Form when requesting a leave to care for a child, spouse or parent with a serious health condition or the employee themselves have a serious health condition. The Leave Form can be found under Frequently Used Forms on the Intranet. Supervisors are required to return any Federal or State FMLA forms to their employees and inform the employee of the Oneida Tribe's laws and appropriate forms to complete to request a leave of absence.

Questions on the Leave Policy can be forwarded to the HRD Employee Insurances staff.


Geraldine R. Danforth, HRD Area Manager


Date