

# Oneida Tribe of Indians of Wisconsin

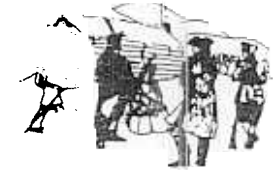
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UGWA DEMOLUM YATEHE  
Because of the help of  
this Oneida Chief in  
cementing a friendship  
between the six nations  
and the colony of  
Pennsylvania, a new  
nation, the United States  
was made possible.



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

## BC Resolution # 09-23-98-D *Permanent Adoption of Lay Off Policy*

WHEREAS, the Oneida General Tribal Council is the duly recognized governing body of the Oneida Tribe of Indians of the Wisconsin, and

WHEREAS, the General Tribal Council has been delegated the authority of the Constitution of the Oneida Tribe of Indians of Wisconsin, and

WHEREAS, the Oneida Business Committee may be delegated duties and responsibilities by the Oneida General Tribal Council and is at all times subject to the review powers of the Oneida General Tribal Council, and

WHEREAS, the Lay-Off Policy was developed by the Human Resources Department to address the possibility of lay-off of a large number of employees as a result economic circumstances, and

WHEREAS, this policy was adopted on an emergency basis in October of 1997 with directives to the Human Resources Department to monitor the use of the policy and identify necessary corrective language, and

WHEREAS, the Human Resources Department has presented the required information and the policy has been forwarded for Public Hearing, and

WHEREAS, the Legislative Operating Committee and the Human Resources Department have reviewed the comments to the policy and made appropriate changes,

NOW THEREFORE BE IT RESOLVED, that the Lay Off Policy is hereby adopted on a permanent basis to be effective immediately, and

NOW THEREFORE BE IT FURTHER RESOLVED, that the Human Resources Department is directed to continue its efforts to create a systematic approach to lay offs under this Policy that allows departments to address economic lay offs in a business-like manner.

### 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. 7 members were present at a meeting duly called, noticed and held on the 23rd day of September, 1998; that the foregoing resolution was duly adopted at such meeting by a vote of 6 members for; 0 members against, and 0 members not voting; and that said resolution has not be rescinded or amended in any way,

  
Julie Barton, Tribal Secretary  
Oneida Business Committee

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### STATEMENT OF EFFECT Resolution Regarding Permanent Adoption of Lay Off Policy

#### Summary

This resolution proposes the permanent adoption of the Lay Off Policy originally adopted by emergency action.

#### Analysis

The Lay Off Policy sets forth the processes for laying off employees as a result of economic conditions. The Policy attempts to follow federal laws regarding mass lay off as well as integrate the needs of the Oneida Tribe. The Policy identifies that a department must file a Strategic Lay Off Plan with the Human Resources Manager. In all cases the plan must be approved by the Human Resources Manager and then the Oneida Business Committee prior to implementation. The Policy also contains general rules for laying off employees.

Once a lay off has occurred, the Policy indicates that a protected job status is in place for 26 weeks, at which point the employee is considered to have been terminated if he or she does not return to work. The policy also allows employees to be considered as transfers in regards to other positions within the Oneida Tribe, rather than the full application process.

The Policy has been presented for Public Hearing, and the comments have been reviewed and included. Further, the processes for developing lay off plans have also been reviewed, as well as individual plans within departments.

It should be noted that there is a period between the expiration of the emergency action and adoption of this resolution. It is not clear if action by the Oneida Business Committee was taken to extend the emergency action. However, it does not appear that any lay off's occurred during this period.

#### Conclusion

There are no legal issues which would prohibit adoption of this resolution and implementation of the Policy.

## Layoff Policy

### A. PURPOSE

1. To establish a fair, respectful policy for employee layoff and recall which enables Oneida Nation programs and enterprises to operate effectively and efficiently in varying economic conditions within the parameters of Oneida Nation Seventh Generation Mission, Priorities, and Objectives.

### B. SCOPE

1. This policy covers all employees of the Oneida Nation. Employees whose salary is funded through external programs are subject to their respective program guidelines. Standard Operating Procedures (SOP's) shall be developed by individual business units to meet their unique needs provided that no SOP can be less restrictive than employment requirements and protections set forth in the Personnel Policy and Procedures.

### C. DEFINITION

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.
2. *Critical Positions* are those requiring a Professional or Technical License, Certification, and/or Degree and which require skills which cannot be reassigned to another employee.
3. *Mass Layoffs* affect more than 20% of the full-time employees of a division workforce within a 30-day period. A division is a division of the Oneida Tribal employment structure currently identified as Enterprise, Compliance, Governmental Services, Internal Services, Gaming, Development and Land Management. All other layoffs are routine.

### D. POLICY STATEMENTS

1. **Indian Preference:** The Oneida Tribe recognizes Indian preference in the development of layoff SOP's. Indian preference as used in this policy shall mean a preference granted to retain the Oneida member employee when all other things being equal with non-member employees. Provided that, a manager may identify critical positions within the business unit which shall not be subject to Indian Preference.
2. **Mass Layoffs:** Economic downturns may cause the need for large workforce reductions. Economic changes resulting in the need for layoffs shall be researched and identified in a report presented to the Oneida Business Committee for approval or disapproval of the report and need for layoff. Upon approval, the General Managers shall develop strategic layoff and recall plans with their respective divisions and the Human Resources Department.
3. **Routine Layoffs:** All employees are subject to layoff according to departmental job needs and budgets. Routine layoffs are subject to management discretion, provided a departmental layoff SOP is approved by the Oneida Human Resources Manager.

### E. GENERAL PROCEDURES

1. Strategic Layoff Plan Development

- a. Plans must be developed with the Human Resource Manager.
  - b. Reports must be approved by the Oneida Business Committee prior to implementation.
  - c. Plans should include, but are not limited to the items on the Human Resources Department Layoff Checklist.
2. Emergency Temporary (ET) employees shall be the first laid off, then Limited Term Employees (LTE's), then regular employees. ET's and LTE's are not eligible for recall, but may negotiate a new contract after regular employees are recalled.
- a. Departments with employees in a layoff status shall not hire ET's or LTE's to replace them.
  - b. ET status includes employees contracted for 90 days or less, interns, seasonal, and substitute relief workers.
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.
4. An Employee Separation Report must be received by the Human Resources Department within five working days of the layoff for inclusion in the employee's personnel record.
- a. Separation reports must include the reason for layoff, date, and supervisor's signature.
5. Layoffs are not for disciplinary reasons and are not subject to appeal by the employee. Layoffs shall not be used for disciplinary reasons.
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.

**Human Resource Department  
Layoff Checklist**

1. PURPOSE:

- a. Provide a recommended standard procedure for Tribal layoffs.
- b. Ensure that all employees are treated fairly.
- c. Protect employee privacy and dignity.

2. PROCEDURE:

- a. Consult layoff policy.
- b. Brainstorm alternatives to layoff, including:
  - i. Reduce scheduled hours
  - ii. Reassignments
  - iii. Voluntary time-off
  - iv. Terminate employee contracts
  - v. Other
- c. Determine layoff is necessary:
  - i. Prepare justification report
    - (1) Mass Layoffs: Require OBC approval of report
    - (2) Routine Layoffs: No report is required, but it is recommended for documentation purposes.
- d. Prepare for the layoff
  - i. Approve procedures through the Oneida Human Resources Manager
    - (1) Include seniority considerations
    - (2) Include fair layoff selection criteria
  - ii. Notify Communications Department for mass layoffs
  - iii. Notify EAP
  - iv. Notify Benefits Department
  - v. Notify HRD Manager
  - vi. Arrange out-placement services for mass layoffs
- e. Inform employees of the layoff
  - i. Schedule a notification meeting, with EAP present.
  - ii. Inform the employees at the meeting of why and how the layoff will occur
  - iii. Schedule individual meetings with personnel who will be laid off
- f. Carry out the layoff:
  - i. Give layoff letters to each laid off employee, explaining:
    - (1) Employment alternatives
      - (a) Detailed out-placement services, if any.
      - (b) Eligibility for transfer, application, reassignment
      - (c) Job posting and recruiting resources at HRD
    - (2) EAP address and number
      - (a) EAP counselor should be available
    - (3) Re-training resources.
      - (a) Career Counselor should be available.

- (4) Dates of layoff.
- (5) Dismissal for layoff over 26 weeks.
- (6) Recall procedures.
- (7) Unemployment Insurance Benefits
  - (a) Claims procedure
  - (b) Telephone numbers
    - (i) HRD Unemployment Representative
    - (ii) State and local numbers
- (8) COBRA Insurance Benefits
- (9) Return equipment, keys, uniforms, name tags, etc.

