



COVID-19 Core Decision Making Team Declaration

*Adoption of Standard Operating Procedure: Nationwide Tier 5 Emergency Declaration Layoff,
EEO Reference # 3284
March 26, 2020*

The world is currently facing a pandemic of the coronavirus disease 2019 (*COVID-19*). The *COVID-19* outbreak originated in Wuhan, China and has spread to many other countries throughout the world, including the United States. The World Health Organization has identified that the spread of *COVID-19* is now a pandemic resulting in many countries experiencing the effects of illness and health issues related to *COVID-19* and economic impacts.

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding *COVID-19* which set into place the necessary authority should action need to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses.

On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Emergency Management and Homeland Security law to create and delegate authority to a *COVID-19 Core Decision Making Team (COVID-19 Team)*. [3 *O.C. 302.10*]. When a public health state of emergency has been declared, the *COVID-19 Team* has the authority to declare exceptions to the Nation’s laws, policies, procedures, regulations, or standard operating procedures during the emergency period which will be of immediate impact for the purposes of protecting the health safety, and general welfare of the Nation’s community, members, and employees. [3 *O.C. 302.10-2*].

On March 26, 2020, the Oneida Business Committee adopted resolution # BC-03-26-20-A, *Extension of March 12th Declaration of Public Health State of Emergency*, which extended the emergency period to May 12, 2020 at 11:59 p.m. This extends the enforcement of all Declarations issued by the *COVID-19 Team*.

During this Public Health State of Emergency declaration, the *COVID-19 Team* and the Finance *COVID-19 Team (Finance Team)* created by the Treasurer have monitored closely the financial soundness of the Nation and the ability to make payroll, manage governmental services, and pay expenses. The basic basis of decision making regarding financial decisions has identified that the Nation has limited ‘cash’ resources available. Further, that any action taken to liquidate investments will result on a loss on those investments as given the current financial and economic status of the United States and the world, we would have paid far more for those investments than we would receive on liquidation. Our long-term financial survival depends on managing those investments very carefully.

The Oneida Business Committee will be considering a resolution declares that Tier V budget contingency measures would be implemented and would direct expenditure reductions regarding non-essential government functions and instituted layoffs regarding non-critical personnel. This resolution is proposed by Finance Team as it monitors the financial status of the Nation and makes recommendations regarding expenditure restrictions for the remainder of FY2020, budgeting for FY2021, development of directions for a continuing resolution for FY2021, and other actions necessary to ensure governmental services can

continue to be provided to those most in need and at risk regarding COVID-19 and the health impacts of the virus.

The recommendations made by the Finance Team are based on the following decision rules:

1. All decisions are employee/member/community empathetic/compassionate balanced against cash flow; and
2. All decisions shall protect investments; and utilize only available cash.

The Nation can, if funding is carefully managed, meet the needs of the operations in providing services for a 30-day period beginning from the closure date of the gaming operations. The COVID-19 Team and the Finance Team are –

- working closely with Intergovernmental Affairs and Communications to be kept up to date regarding federal emergency funding opportunities which will assist the Nation in managing the public health crises and has identified that the Nation has a potential gap of 30 to 60 days where federal financial assistance will be authorized and delivered; and
- working closely with the Grants Office, to be kept up to date and has identified that granting agencies will be providing approvals to delay or amend existing grants considering the current public health crises which will assist the Nation in managing expenses during the financial constraints.

The Personnel Policies and Procedures sets forth rules regarding wages and fringe benefits. The fringe benefit of personal and vacation time is currently set that it will be paid out in the event of separation from employment. A fringe benefit is subject to revision or amendment. An amendment adopted by the General Tribal Council through resolution # GTC-07-02-2012-A, *Amendments to the Personnel Policies and Procedures Relating to Vacation and Personal Day Accumulation*, which reduced accrual of personal and vacation time to 280 hours.

The current accumulated personal and vacation time accrual liability is approximately \$6.5 million. It is a very difficult balance between recognizing employee benefits and the cost of such benefits versus being able to meet payroll demands for employees and provide governmental services. In general, for every hour of fringe the Nation attempts to continue, the time the Nation can keep services running is significantly shortened causing potential harm to members and the community. Adopting amendments to the fringe benefit of personal and vacation time is necessary to maintain essential governmental services and maintain employment during a time when no revenues are generated through gaming operations.

As a result, the COVID-19 Team, and all Oneida Business Committee members, have reviewed four (4) options regarding payout of accrued personal and vacation time.

- *Option 1.* Make no changes and pay out all accrued personal/vacation time.
- *Option 2.* Upon separation from employment at the conclusion of any layoff period, accumulated personal/vacation time, up to 40 hours shall be paid out.
- *Option 3.* Upon separation from employment at the conclusion of any layoff period, accumulated personal/vacation time shall not be paid out.
- *Option 4.* Upon separation from employment at the conclusion of any layoff period, accumulated personal/vacation time shall be banked from a one-year period. If the employee returns to work prior to one year following the date of layoff, banked personal/vacation time shall be returned to the employee.

Each of these options posed significant risks to the Nation. A brief impact of each option is presented.

- If Option 1 is chosen, the Nation faces immediate closure of every aspect of its operations because all available cash will be needed to pay out the \$6.5 million value of accumulated hours. Once the

pay out begins, more layoffs will be necessary as available cash becomes immediately reduced. Employees realize 100% of the financial value of the fringe benefit of accumulated hours.

- If Option 2 is chosen, the potential expense is reduced to \$2.5 million. This reduces by one-week available cash for payroll and governmental services. Employees are given some financial compensation for the fringe benefit of accumulated hours.
- If Option 3 is chosen, the expense of accumulated personal/vacation fringe reduces to \$0. The Nation will not use limited funding for this action, that funding will remain available for existing payroll and governmental services. It does not increase available funding. Employees are not given financial compensation for a fringe benefit.
- If Option 4 is chosen, the expense of accumulated personal/vacation time is deferred for one year for all employees laid off. At the end of the one-year period, it is possible that some employees will be re-hired. This creates a future liability. Employees are not given financial compensation for a fringe benefit but may have accumulated time reinstated.

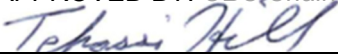

The COVID-19 Team believes that it is important to recognize the change that has been made. We will request that information regarding the accumulated personal and vacation time not paid out be maintained. It is possible that the Nation may have the ability to recognize the accumulations in the future. The COVID-19 Team will request the Oneida Business Committee to consider this commitment for the future within a specific time frame.

The COVID-19 Core Decision Making Team hereby declares:

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.

This Declaration is effective immediately upon adoption.


Oneida Nation Vice-Chairman

 ONEIDA NATION STANDARD OPERATING PROCEDURE	TITLE: Nationwide Tier 5 Emergency Declaration Layoff	ORIGINATION DATE: 03-26-2020 REVISION DATE: n/a EFFECTIVE DATE: 03-26-2020
AUTHOR: Jessica Wallenfang OBC Executive Assistant	APPROVED BY: <i>OBC Chairman</i> 	DATE: 03-26-2020
DIVISION: All	APPROVED BY: <i>OBC Secretary</i> 	DATE: 03-26-2020
EEO REFERENCE NUMBER: 3284	COMPLIANCE REVIEW BY: <i>EEO</i> Not applicable	DATE: Not applicable
PAGE NO: 1 of 4	APPROVED BY: <i>HR Manager</i> Not applicable	DATE: Not applicable

1. PURPOSE

- 1.1. To establish a layoff and recall process for all business units of the Oneida Nation that have employees.
 - 1.1.1. This includes all boards, committees and commission who have employees.
 - 1.1.2. This include all branches of the Oneida Government who have employees (Judiciary, Legislative and Administrative).
- 1.2. These standards and processes will be used in the event a Tier 5 Budget Contingency Implementation is required due to an emergency declaration for purposes such as COVID-19 pandemic, economic downturn, etc.

2. DEFINITIONS

- 2.1. Critical Positions: those positions requiring a professional or technical license, certification, and/or degree and which require skills which cannot be reassigned to another employee.
- 2.2. HRD: Human Resources Department
- 2.3. Layoffs: workforce reductions when employees are placed in an inactive status which ends upon recall to active employment, or after 26 weeks, employment separation.
- 2.4. Mass Layoffs: layoffs affecting more than 20% of the full-time employees of the workforce within a 30-day period.
- 2.5. OBC: Oneida Business Committee
- 2.6. Tier 5 Budget Contingency Implementation: a significant situation declared by the Oneida Business Committee that may affect the health and safety of the people of the Oneida Nation.

3. WORK STANDARDS / PROCEDURES

- 3.1. All employees are subject to layoff according to departmental job needs, budgets, and for the health and safety of employees.
- 3.2. Economic downturns may cause the need for large workforce reductions.
 - 3.2.1. Economic changes resulting in the need for mass layoffs shall be researched, identified and reported by the OBC Treasurer and Chief Financial Officer to the OBC for approval or disapproval.
- 3.3. Individual department heads need to develop a Strategic Tier V Contingency Plan, to include the following:
 - 3.3.1. A list of critical positions and positions to be laid off.
 - 3.3.2. A list of non-critical expenses not directly related to health, safety and welfare.
- 3.4. Strategic Tier V Contingency Plans shall be approved by the HRD Manager (*or designees*) and OBC.
- 3.5. Personal/Vacation time shall not be paid out to employees until the employee is no longer eligible for unemployment.
 - 3.5.1 Upon separation from employment at the conclusion of any layoff period, accumulated personal/vacation time, up to 40 hours shall be paid out.

Layoff Determination (*First to Last*)

- 3.6. Volunteers
- 3.7. Emergency Temporary (ET)
- 3.8. Limited Term Employee (LTE)
- 3.9. Political Appointments
- 3.10. Regular Status Employees
- 3.11. The following options may be used when all other criteria is equal:
 - 3.11.1. Indian Preference (in order of least preference to greatest preference)
 - 3.11.1.1 Other (non-Indian) employees
 - 3.11.1.2 Other Native American Indian employees
 - 3.11.1.3 Documented first generation Oneida Descendant
 - 3.11.1.4 Oneida Indian eligible for enrollment in the Oneida Nation
 - 3.11.1.5 Enrolled Oneida Tribal Member
 - 3.11.2. Seniority to the department or Nation (in order of least to greatest)
 - 3.11.3. Workload/ caseload (in order of least to greatest)
- 3.12. Layoffs are not for disciplinary reasons and are not subject to appeal by the employee.

Layoff Notification

- 3.13. Supervisor (*or designee*) will notify the employee(s) to be laid off by emailing the Employee Layoff Notification Form which includes statements regarding:
 - 3.13.1. Purpose of layoff
 - 3.13.2. Employee Insurance Information
 - 3.13.3. Vacation and Personal Time
 - 3.13.4. Eligibility for reassignment/transfer
 - 3.13.5. Call Back Procedures
 - 3.13.6. "Who May Not Play Policy" (Gaming employees)
 - 3.13.7. Unemployment Insurance contact information
 - 3.13.8. Employee Assistance Program and contact information
 - 3.13.9. Effective date of layoff

After Notification – Supervisor (or designee)

- 3.14. Collect all work property (keys, badge, access card, laptop, uniforms, etc.)
 - 3.14.1. For employees out of the office, a coordinated drop off to return work property will be set up within two (2) weeks of the layoff.
- 3.15. Give employee limited time to gather their personal belongings.
 - 3.15.1. For employees out of the office, personal belongings may be picked up when the health emergency is over.
 - 3.15.2. Escort employee out of the building.
 - 3.15.3. Email the Employee Layoff Status Notification Form to the Employee Deletion Disable Group.

Layoff Length

- 3.16. Layoffs shall be for a maximum of 26 weeks.
- 3.17. The 26-week period begins upon the date identified in the layoff notice.
- 3.18. Departments with employees in layoff status shall not hire ETs or LTEs to replace them.

Employee Eligibility During Layoff Status

- 3.19. Regular status employees on layoff are eligible to apply for open positions including reassignments and transfers.
- 3.20. ETs and LTEs are not eligible for recall but may negotiate a new contract after regular employees are recalled.
- 3.21. Employees who are recalled within 26 weeks shall have continuous service for all purposes but does not include accumulation of benefits during the layoff period.
- 3.22. Supervisor (or designee) shall terminate employment of those employees who are not recalled within 26 weeks.

4. REFERENCES

- 4.1. Oneida Nation Layoff Policy

5. FORMS

- 5.1. Employee Layoff Notification Form