
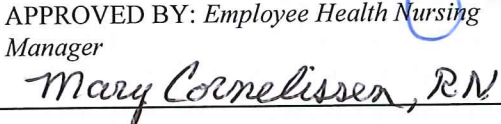

 ONEIDA ONEIDA NATION WORK STANDARD	TITLE: Oneida Nation Fit-for-Duty (FFD) Work Standard	ORIGINATION DATE: 12/17/2015 REVISION DATE: 7-15-19 EFFECTIVE DATE: 9-1-19
AUTHOR: HRD/Employee Health	APPROVED BY: <i>HRD Manager</i> 	DATE: 7/16/19
DEPARTMENT: All	APPROVED BY: <i>Employee Health Nursing Manager</i> 	DATE: 7/16/19
DIVISION: All	COMPLIANCE REVIEW BY: <i>EEO Director</i> 	DATE: 7/16/19
EEO REFERENCE NUMBER: 4000		
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1.0 PURPOSE

- 1.1 To strengthen the Nation's commitment to Health and Safety (Personnel Policies and Procedures, Section VI.)
- 1.2 To provide work standards and procedures when an employee is not able to perform job duties satisfactorily and/or presents a health and /or safety hazard to themselves, other employees, the general public or property.

2.0 DEFINITIONS

- 2.1 **Accommodation:** Modified duty which could include a modified work schedule, reassignment to a vacant position, acquisition or modification of equipment or devices, training materials and or other similar accommodations.
- 2.2 **Area Manager:** Supervisor's supervisor unless otherwise designated.
- 2.3 **Clearance:** Release from all restrictions by the licensed health care provider with appropriate expertise in medical FFD Assessments or their designee.
- 2.4 **Corrective Action:** Any initiative taken by an employee's supervisor with the goal of remedying an employee's undesirable behaviors such as law, policy and rule infractions and /or performance related issues
- 2.5 **DAFWP:** Drug and Alcohol-Free Workplace Policy.
- 2.6 **Danger to Self or Others:** A significant risk of substantial and/or imminent risk of harm or threat of harm to self, others or property established through a recent act, attempt or threat of the same.
- 2.7 **EAP:** Employee Assistance Program.
- 2.8 **Equal Employment Opportunity (EEO):** The Oneida Nation does not discriminate on the basis of race, color, national origin, sex, pregnancy, religion, age, genetic information, and disability status in employment or the provision of services. However, individuals of Indian ancestry and Veterans will be given preference by law in initial employment or re-employment.
- 2.9 **ERTW:** Early Return to Work Policy.
- 2.10 **Employee:** Any individual employed by the Nation, but does not include elected or appointed officials, or individual employees by a tribally chartered corporation.

- 2.11 **Employee Health Nursing (EHN):** Oneida Nation nurses who focus on employee health and safety.
- 2.12 **Fit or fitness-for-duty (FFD):** The state of an employee where he or she has no present physical, mental, nervous, organic or functional disease or psychiatric disorder which is likely to interfere with his or her ability to productively perform the functions of the job and does not pose a direct threat to his or her own safety or the safety of others.
- 2.13 **FFD Assessment:** The evaluation, initial or otherwise, of an employee by a licensed health care provider specializing in FFD Assessments or as directed by the FFD licensed health care provider. The appointment(s) will be scheduled by the EHN Department to determine an employee's ability to perform the functions of the job as outlined in the employee's job description.
- 2.14 **FFD Health Care Provider:** A licensed health care provider with appropriate expertise in medical FFD Assessments.
- 2.15 **FFD Informed Consent and Authorization to Disclose Form:** Form that will be signed by the employee that allows all parties involved in the FFD Assessment process the permission to share information. The employee agrees to participate with the FFD Assessment(s) and process.
- 2.16 **FFD Psychological Assessment:** A psychological (mental health) assessment deemed necessary by the medical FFD health care provider in order to gauge whether an employee is able to safely perform psychological job functions according to job description.
- 2.17 **FFD Physical Assessment:** A physical assessment required by the Oneida Nation in order to gauge whether an employee is able to safely perform the physical job functions according to job description.
- 2.18 **Good Faith:** Sufficient indications or signs to cause an employee to believe that another employee presents a health and or safety hazard to themselves, other employees, or the general public.
- 2.19 **Human Resource Department (HRD):** The Nation's Human Resource Department.
- 2.20 **Human Resource Equal Employment Opportunity Officer (HRD EEO):** Position responsible to consult/advise employees and supervisors to ensure compliance with the Personnel Policies and Procedures.
- 2.21 **Leave of Absence (LOA):** Approved absence up to 90 days from work without loss of job seniority.
- 2.22 **Modified Duty:** Temporary, transitional work within the healthcare provider's prescribed activities, restrictions, and other recommendations for the employee, which reflects that individual's functional capacity and/or rehabilitative needs.
- 2.23 **Nation:** Oneida Nation.
- 2.24 **Restriction:** Activity limitations which are prescribed by a healthcare provider for a specified duration of time because of an injury, illness, or pregnancy which results in an employee being unable to perform one (1) or more essential functions of his or her job, or is unable to work the full workday that he or she would otherwise have been scheduled to work.
- 2.25 **Return to Work Recommendation Record Form:** A generic restriction form that the provider can use for restrictions/recommendations.
- 2.26 **Supervisor:** The person responsible or designated to directly oversee the work and performance of an employee. There may be more than one in some cases.
- 2.27 **Supervisor's Supervisor:** Employee who directly supervises the supervisor.

3.0 WORK STANDARDS / PROCEDURES

- 3.1 Employees are expected to report to work and perform all duties and responsibilities according to their job description.
 - 3.1.1 An exception to this rule is if an employee is under the care of a health care provider and working with EHN Case Manager with work restriction(s).
 - 3.1.1.1 Employees who have medical restrictions which may affect ability to perform their job duties must initiate contact with EHN for guidance.
 - 3.1.1.2 EHN Case Manager will activate the Early Return to Work Policy when there is a medical restriction(s) for job duties as appropriate.
- 3.2 Supervisors may become aware of an employee who exhibits the inability to safely and competently perform one or more job duties as listed in the job description and may include problems in the performance of, but not limited to:
 - 3.2.1 Manual dexterity;
 - 3.2.2 Coordination;
 - 3.2.3 Alertness;
 - 3.2.4 Speech;
 - 3.2.5 Vision acuity;
 - 3.2.6 Concentration;
 - 3.2.7 Inappropriate interactions with others;
 - 3.2.8 Change in Behavior;
 - 3.2.9 Presence of condition likely to lead to foodborne disease transmission;
 - 3.2.10 Memory problems;
 - 3.2.11 Excessive number of errors in job duties;
 - 3.2.12 Frequent injuries;
 - 3.2.13 Observed health problems (i.e. seizures, falling asleep, trouble breathing, low blood sugar reactions, etc.).
 - 3.2.14 Ability to safely operate vehicles, equipment and power tools.
- 3.3 Supervisors will document identified performance concerns; including, but not limited to, dates, times and statements from others who may have observed performance and/or behavior concerns.
- 3.4 Supervisors will investigate the documented performance and/or behavior concerns with the employee.
- 3.5 Upon the completion of the investigation the supervisor may initiate the following:
 - 3.5.1 Assess for DAFWP concerns (*see DAFWP and flow charts*).
 - 3.5.1.1 If there is reasonable suspicion, follow DAFWP and/or,
 - 3.5.2 Refer employee to see their licensed health care provider about the concern.
 - 3.5.2.1 Contact EHN for blank Return to Work Recommendations Record Form as necessary and / or,
 - 3.5.2.2 If employee refuses to voluntarily see a health care provider of their choice at their expense, then the supervisor will direct employee to submit to a FFD Assessment. and / or,
 - 3.5.3 Consult with EHN regarding a FFD Assessment and / or,
 - 3.5.4 Refer to EAP
- 3.6 Employee who is directed for a FFD Assessment, must utilize the licensed health care provider as directed by EHN.

- 3.7 Employee who is directed for FFD Assessment may be removed from duty until the supervisor is notified by EHN using the FFD Assessment Request Form
 - 3.7.1 When the employee is removed from duty it is without pay. The supervisor has discretion to allow personal or vacation time, flex time, or time off without pay.
 - 3.7.1.1 See Timekeeping Work Standard.
 - 3.7.2 Employee will be paid for initial appointment(s) time(s) as directed by EHN
 - 3.7.2.1 For the time between the FFD Assessment request and the FFD appointment(s), the supervisor has the option(s) of accommodating (see ERTW Law), approving vacation / personal time, or time without pay.
- 3.8 Refusal of FFD Assessment may result in corrective action, in accordance with the Oneida Nation's Personnel Policies and Procedures.
 - 3.8.1 Consult with HRD / EEO
- 3.9 Refusal to sign requested paperwork from Oneida Nation and/or the FFD provider or their designee may result in corrective action, in accordance with the Oneida Nation's Personnel Policies and Procedures.
 - 3.9.1 Consult with HRD / EEO
- 3.10 Other options may include
 - 3.10.1 Leave of absence (LOA) (requested thru chain-of-command and HRD)
 - 3.10.2 Time off without pay
- 3.11 If transportation arrangements for the initial assessment(s) are necessary EHN will collaborate with the supervisor for arrangements. Supervisor will communicate the arrangements to the employee.
 - 3.11.1 See Employee Transportation Agreement Form
- 3.12 The cost of the initial FFD Assessment(s) (medical and/or psychological) is the responsibility of EHN.
- 3.13 The cost of recommended treatment resulting from the initial FFD Assessment(s) is the responsibility of the employee.
- 3.14 If a health care provider recommends counseling sessions or other medical treatments, the supervisor will work with the employee to reasonably accommodate for time off needed for the appointment.
 - 3.14.1 Supervisor has discretion to allow personal or vacation time, flex time, or time off without pay for counseling sessions or medical treatments.
- 3.15 FFD Assessment information is confidential and will be released on a need-to-know basis only. Disclosures to third parties may only be released with prior written consent from employee see FFD Informed Consent and Authorization to Disclose Form.
- 3.16 EHN will:
 - 3.16.1 Track reason for the FFD Assessment.
 - 3.16.2 Track physical restrictions/recommendations pursuant to the ERTW law.
 - 3.16.3 EHN will communicate with HRD Insurance and Risk Management as needed regarding restrictions /recommendations.
- 3.17 For mental health restrictions/recommendations EHN will;
 - 3.17.1 Receive a copy of the initial licensed health care provider report(s).
 - 3.17.2 Inform the supervisor of provider recommendations.
- 3.18 Employees are responsible to report any concerns in the workplace of another employee's FFD.

- 3.18.1 If the concern involves the employee's supervisor, the employee shall make the notification to the supervisors' supervisor or Area Manager as appropriate.
 - 3.19 A directive by a supervisor to submit to a FFD Assessment is not appealable.
 - 3.20 Supervisors must utilize this Work Standard in a fair and consistent manner, respecting employee's privacy and the confidentiality of medical information.
- 4.0 Employee Responsibility**
- 4.1 Comply with this FFD Work Standard including, but not limited to:
 - 4.1.1 Cooperate and attend the initial assessment(s) scheduled by EHN;
 - 4.1.2 Comply with any follow-up care as recommended by FFD Provider(s).
 - 4.1.3 Sign FFD Assessment Request Form or Occupational Fit-for-Duty Assessment and Disclosure of Patient Health Care Information form.
 - 4.1.4 Sign a FFD Informed Consent and Authorization to Disclose Form related to this FFD Assessment.
 - 4.1.5 Responsible to provide updated restrictions/recommendation following each provider appointment
 - 4.1.5.1 Physical restrictions to:
 - 4.1.5.1.1 EHN
 - 4.1.5.1.2 Supervisor
 - 4.1.5.1.3 HRD Insurance
 - 4.1.5.2 Mental health to:
 - 4.1.5.2.1 EHN (initial only)
 - 4.1.5.2.2 Supervisor
 - 4.1.5.2.3 HRD Insurance
 - 4.1.6 Respond to EHN communication (phone call, emails, etc.) by the next business day.
 - 4.2 Respond to supervisor communication (phone call, emails, etc.) within twenty-four (24) hours regarding the FFD results/recommendations.
 - 4.2.1 Failure to respond to supervisor will result in time off without pay.
 - 4.2.2 Failure to respond may result in disciplinary action.
 - 4.3 Any no show/missed appointment costs will be the responsibility of the employee.
 - 4.4 Employees may choose to receive treatment and release to regular duty from their own provider, after initial FFD Assessment.
 - 4.4.1 The above treatment(s) is the responsibility of the employee.
 - 4.5 All employees must receive a final evaluation and clearance from a FFD Bellin Occupational Health Provider or their designee.
 - 4.5.1 Employees are not paid for their time for the final evaluation and clearance appointment(s) from Bellin Occupational Health Provider or their designee.
- 5.0 Supervisor's Responsibility**
- 5.1 If an employee exhibits or displays any of the following the supervisor shall initiate an investigation:
 - 5.1.1 Behavior that may pose a hazard or risk to themselves or others, and/or
 - 5.1.2 Emotional or psychological behavior that has the potential to endanger the safety and security of persons or property, and/or
 - 5.1.3 Creates disruption in the workplace.
 - 5.1.4 Demonstrates difficulty performing their job functions as listed in section 3.2.
 - 5.2 Upon the completion of the investigation the supervisor may initiate the following:

- 5.2.1 Assess for DAFWP concerns (see DAFWP and flow charts).
 - 5.2.1.1 If there is reasonable suspicion, follow Drug and Alcohol Free Workplace Policy (DAFWP) and procedures and / or,
- 5.2.2 Refer employee to see their health care provider about the concern.
 - 5.2.2.1 Contact EHN for blank Return to Work Recommendations Record form as necessary and / or,
 - 5.2.2.2 If employee refuses to voluntarily see a health care provider of their choice at their expense, then the supervisor will direct employee to submit to a FFD Assessment. and / or,
- 5.2.3 Consult with HRD / EEO and / or,
- 5.2.4 Consult with EHN Case Manager regarding a FFD Assessment and / or,
- 5.2.5 Refer to EAP
- 5.3 The supervisor determines the need for a FFD Assessment. The supervisor completes the appropriate forms;
 - 5.3.1 FFD Informed Consent and Authorization to Disclose Form
 - 5.3.2 FFD Assessment Request Form: Stating reason for request, which shall include information recording the reasons/observations that triggered a FFD Assessment referral. This includes a specific explanation on how the employee is not meeting his or her duties required in their job description.
- 5.4 Fax or scan to EHN the completed:
 - 5.4.1 FFD Assessment Request Form,
 - 5.4.2 Current job description
 - 5.4.3 Keep a copy of the above for the employee's department file;
- 5.5 If FFD Assessment is approved by EHN, supervisor shall meet with the employee and inform the employee of the following:
 - 5.5.1 Reason the request for FFD Assessment referral was initiated.
 - 5.5.2 Sign the FFD Informed Consent and Authorization to Disclose Form
 - 5.5.3 Note: If the employee refuses the directive or to cooperate with attending the FFD Assessment, the supervisor may take corrective action for insubordination or in the case of potential harm to self or others, the supervisor should consult with EEO or HRD.
- 5.6 Fax or scan signed forms to EHN.
- 5.7 EHN will communicate with the supervisor the following:
 - 5.7.1 Date, time and location of the FFD Assessment,
 - 5.7.2 Transportation arrangements as needed.
 - 5.7.2.1 Employee Transportation Agreement form
- 5.8 Supervisor contacts the employee
 - 5.8.1 Date, time and location of the FFD Assessment,
 - 5.8.2 Transportation arrangements.
 - 5.8.2.1 Employee Transportation Agreement form
- 5.9 If necessary, remove employee from the work schedule until after initial FFD Assessment/s referral/s are completed. Options to remove the employee may include:
 - 5.9.1 Allow use of vacation or personal time off
 - 5.9.2 Time off without pay
 - 5.9.3 Supervisor accommodation that does not qualify under the ERTW law
 - 5.9.4 Discuss other potential options with HRD EEO

- 5.10 Receive FFD Assessment results from EHN with or without recommendations/restrictions.
 - 5.10.1 May discuss options for employee with EHN, HRD EEO, and/or Area Manager prior to meeting with the employee.
 - 5.11 Meet with the employee to discuss the results and recommendations of the initial assessment(s) and options for next steps. Next steps may include:
 - 5.11.1 Employee is deemed FFD with no restrictions and returned to regular work.
 - 5.11.1.1 Employee may be eligible for back pay (see back pay law)
 - 5.11.2 Employee is deemed not FFD if employee is issued restrictions/recommendations
 - 5.11.2.1 Employee may be eligible to return to work under Early Return to Work Law.
 - 5.11.2.2 Mental health is NOT covered by Early Return to Work Law
 - 5.11.2.3 Mental Health restrictions /recommendations the supervisor may modify duties within their own department according to the restriction.
 - 5.11.3 Employee deemed not FFD and not eligible to return to work
 - 5.11.3.1 Use vacation or personal time off
 - 5.11.3.2 Employee may apply for a transfer or reassignment into another position
 - 5.11.3.3 Leave of absence (requested thru chain-of-command and HRD)
 - 5.11.3.4 Employee resignation
 - 5.11.3.5 Termination / separation of employment (in consultation with HRD and/or EEO)
 - 5.11.4 Note: Permanent restrictions are not allowed in the ERTW law. Supervisors may consult with EEO and /or HRD for further recommendations.
 - 5.12 Jobs may not be created to accommodate restrictions however; supervisors may re-evaluate the requirements for the job description
 - 5.13 If FFD Assessment is denied by EHN the supervisor will consult with HRD
 - 5.14 Supervisor has the authority to determine the next step.
- 6.0 Employee Health Nursing Responsibility**
- 6.1 Coordinating the FFD Program. This will include the following:
 - 6.1.1 Guiding the supervisor through the FFD process.
 - 6.1.2 Review the FFD Assessment Request Form for completeness and any clarification and compare to job description;
 - 6.1.2.1 Contacting the referring supervisor if there are questions or if additional documentation is needed;
 - 6.1.3 Determine to approve or deny the request for the FFD Assessment for the employee.
 - 6.1.3.1 If approved, notify referring supervisor of initial Fit-for-Duty Assessment date, time and location.
 - 6.1.3.2 If denied, refer supervisor to HRD for further guidance.
 - 6.1.4 Consulting with the FFD licensed health care provider as needed.
 - 6.2 Check in and check out time for initial assessment appointment(s) times and return to work clearance appointment times will be submitted to supervisor using

- the:
- 6.2.1 Oneida Nation FFD Timesheet Form
 - 6.2.2 Payment for the initial medical, specialist and/or psychological FFD Assessment(s). (excludes follow up appointments and treatments)
 - 6.3 Coordinate the appointment/s for the employee with the assessing licensed health care provider.
 - 6.3.1 Fax the following to the assessing provider:
 - 6.3.1.1 FFD Assessment Request Form
 - 6.3.1.2 FFD Mandatory Notice to Supervisor Form
 - 6.3.1.3 FFD Informed Consent and Authorization to Disclose
 - 6.3.1.4 Oneida Nation FFD Timesheet Form
 - 6.3.1.5 Oneida Nation FFD Fax Transmittal Form
 - 6.3.1.6 Employee Transportation Agreement Form
 - 6.3.1.7 Return to Work Recommendations Record
 - 6.3.1.8 Employees job description
 - 6.3.1.9 DAFWP reasonable suspicion results if related to this FFD Assessment
 - 6.3.2 Provide referring supervisor with the date, time and location of the FFD Assessment.
 - 6.3.3 Work with employee to schedule the initial assessment, rescheduling or cancellation of their initial assessment(s) with the FFD provider to include date, time and location of assessment.
 - 6.3.4 Final clearance(s) from Bellin Occupational Health Provider or their designee.
 - 6.4 Receive test results/recommendation/office notes/restrictions, etc. from the provider(s) related to this FFD Assessment.
 - 6.4.1 Complete the FFD Mandatory Notice to Supervisor Form.
 - 6.4.2 Send form to supervisor and Area Manager per HRD supervisor listing.
 - 6.5 Initiate, maintain and coordinate the employee's FFD Assessment file including final clearances:
 - 6.6 EHN will:
 - 6.6.1 Track reason for the FFD Assessment.
 - 6.6.1.1 Track physical restrictions/recommendations pursuant to the ERTW Law.
 - 6.6.1.2 EHN will communicate with HRD Insurance regarding restrictions /recommendations.
 - 6.6.2 For mental health restrictions/recommendations EHN will;
 - 6.6.2.1 Receive a copy of the initial licensed health care provider report(s).
 - 6.6.2.2 Inform the supervisor of provider recommendations.
 - 6.7 The cost of the initial FFD Assessment(s) (medical and/or psychological) is the responsibility of EHN.
 - 6.8 Employees choosing to receive treatment from a provider other than a Bellin FFD Occupational Health Provider must receive final clearance and release to regular duty from the Bellin FFD Occupation Health Provider. That final clearance(s) cost is the responsibility of EHN.

7.0 Forms

- 7.1 FFD Assessment Request Form

- 7.2 FFD Mandatory Notice to Supervisor Form
- 7.3 FFD Informed Consent and Authorization to Disclose Form
- 7.4 FFD Timesheet Form
- 7.5 Oneida Nation FFD Fax Transmittal Form
- 7.6 Employee Transportation Agreement Form
- 7.7 Return to Work Recommendations Record Form

8.0 Resources

- 8.1 DAFWP
- 8.2 ERTW Law
- 8.3 EHN ERTW SOP
- 8.4 Back Pay Law
- 8.5 Oneida Nation Personnel Policy and Procedures
- 8.6 Timekeeping Work Standard

