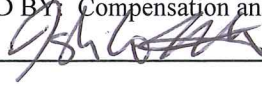


 ONEIDA NATION STANDARD OPERATING PROCEDURE	TITLE: Leave of Absence Tribal Work Standard	ORIGINATION DATE: March 2009 REVISION DATE: June 23, 2020 EFFECTIVE DATE: After last signature
AUTHOR: HRD	APPROVED BY: Compensation and Benefits Director 	DATE: 7/14/2020
DEPARTMENT: All		
DIVISION: All		
EEO REFERENCE NUMBER: #66	COMPLIANCE REVIEW BY: EEO 	DATE: 7/14/20
PAGE NO: 1 of 8	APPROVED BY: HRD Manager 	DATE: 7/14/20

1.0 PURPOSE

- 1.1 To provide employees and supervisors with work standards and procedures for the following Leave of Absences in accordance with the Oneida Personnel Policies and Procedures.

2.0 DEFINITIONS

2.1 Area Manager (AM):

- 2.1.1 An employee's supervisor's supervisor or, in other words, two levels of supervision in the chain-of-command above the employee, or,
- 2.1.2 An individual designated to be the Area Manager by a General Manager Level position.

2.2 Covered Active Duty:

- 2.2.1 For members of the Regular Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or
- 2.2.2 For members of the Reserve components of the Armed Forces (members of the National Guard and Reserves), duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in support of a contingency operation.

2.3 General Manager (GM) Level position: the highest level in the chain of command under the Oneida Business Committee; or, Boards, Committees and Commissions that report directly to the General Tribal Council.

2.4 Health Care Provider (HCP): A provider who may provide certification of a serious health condition that includes:

- 2.4.1 Doctors of medicine, podiatrists, dentists, clinical psychologists, optometrists, nurse practitioners, physician assistants and clinical

- social workers authorized to practice under state law and performing within the scope of their practice as defined under state law;
- 2.4.2 A health care provider listed above who practices in a country other than the United States and who is authorized to practice under the laws of that country;
- 2.4.3 Any health care provider recognized by the HR Employee Insurance Department.
- 2.5 **Immediate family:** Husband, Wife, Mother, Father, Son, Daughter, Brother, Sister, Grandparent, Grandchild, Great-Grandparent, Great-Grandchildren, Spouses Grandparents, Spouses Great-Grandparents, Great-Grandchildren, Son-in-law, Daughter-in-law, Mother-in-law, Father-in-law, Sister-in-law, and Brother-in-law. Immediate family also includes legally-recognized family members that establish the above relationships, such as step-parent, step-child, step-grandparent, step-great-grandparents/grandchildren, adopted child, foster child, and guardian.
- 2.6 **Leave of Absence (LOA):** Approved absence up to 90 days from work without loss of job seniority.
- 2.7 **Limited Term:** An employee who will be utilized for long term assignments over ninety (90) days, but no longer than two (2) years.
- 2.8 **Reduced Work Schedule:** Decrease in hours worked per week.
- 2.9 **Rolling Year:** A twelve (12) month time period which starts the day an employee begins a LOA.
- 2.10 **Serious Health Condition:** An illness, injury, impairment, or physical or mental condition that involves:
- 2.10.1 Any period of incapacity or treatment connected with inpatient care in a hospital, hospice, or residential medical care facility; or
- 2.10.2 A period of incapacity requiring the absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
- 2.10.3 Any period of incapacity due to pregnancy, or for prenatal care; or
- 2.10.4 Any period of incapacity that is permanent or long-term due to a chronic serious health condition (e.g. asthma, diabetes, epilepsy, etc.); or
- 2.10.5 Any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g. chemotherapy, physical therapy, dialysis, etc.)
- 2.11 **Temporary Employees:** includes the following statuses; emergency/temporary, youth worker, sub-relief, student intern and seasonal employee.
- 2.12 **Working Day:** Monday through Friday 8 a.m. to 4:30 p.m., excluding weekends and holidays. Exception to these hours occurs when the program and enterprise hours must vary for the purpose of providing services such as Retail, Gaming, AJNH, Police Department, etc. Shifts will be developed and the shifts will become the regular work day for the employees.

3.0 WORK STANDARDS / PROCEDURES

General

- 3.1 Employees who are classified as regular (includes part-time, half-time and full-time), limited term, political appointments and elected officials on the Nation's payroll are eligible for a Leave of Absence.
 - 3.1.1 Temporary employees are not eligible for a LOA.
- 3.2 When an employee plans to take more than one (1) work week off unpaid or work a reduced schedule, they should contact HR Employee Insurance to understand how employment or benefits may be affected.
 - 3.2.1 Examples of benefits affected include: insurance premiums, vacation and personal hours accruals will stop, payroll deductions stop, holiday pay; funeral pay, etc.
- 3.3 LOA requests may be a minimum of five (5) working days and will not exceed ninety (90) calendar days.
- 3.4 A LOA without pay may be taken for personal, family medical, maternity, military or educational reasons.
 - 3.4.1 See sections titled Family/Medical Leave, Maternity Leave, Military Leave, Personal Leave, and Educational Leave for more information.
- 3.5 Supervisors shall not take adverse action on employees who are on an approved LOA.
 - 3.5.1 Examples of adverse action include, but are not limited to, elimination of seniority, reduction of bonus, incentives, pay increases, rewards, discipline for attendance, reduction in performance review scores, etc.
- 3.6 Employee and supervisor must maintain communication during LOA.
- 3.7 The employee shall not perform any work while on a LOA.
- 3.8 Employees that need a LOA shall submit a completed Leave Request Form to their supervisor.
 - 3.8.1 The Leave Request form will serve as the required notification of the date the employee intends to return to work, except where medical documentation is required.
- 3.9 Employees will not accrue vacation and personal time or other benefits while on a LOA.
- 3.10 Supervisors must monitor employee's Kronos to ensure that employee is being paid correctly: post requested time off, remove exempt and/or holiday hours, comments for Time and Attendance.
 - 3.10.1 Employees may use, with supervisor's approval, their vacation or personal hours while on an approved LOA.
- 3.11 Employees who may be eligible to file a disability claim needs to contact HRD Employee Insurance for current disability information.
- 3.12 A supervisor may allow an employee to return to work under the Early Return to Work Policy (BC 11-13-13-A).
 - 3.12.1 Time spent by an employee with a reduced schedule, performing light duty, or in a modified duty position is not counted as a LOA.
 - 3.12.2 The supervisor must attempt to accommodate the employee's request within their own department.

- 3.12.2.1 If employee cannot be accommodated, EHN will assist in placement per the ERTW policy.
 - 3.12.2.1.1 Employee wage or salary will be paid from the employee's regular department's budget, minus tips.
 - 3.12.2.2 Supervisor must notify HR Employee Insurance with updates about employee's reduced schedule which may result in a temporary status change.
 - 3.12.2.2.1 For example: full time, forty (40) hour per week employee gets reduced to twenty (20) hours per week due to medical restrictions. Status would be changed to half time.
 - 3.12.2.2.2 Insurance continues for temporary status changes within ERTW.
 - 3.12.2.3 HR Employee Insurance will update employee's status as updates are made available by supervisor/department.
 - 3.12.2.3.1 For example: Employee's hours get updated from twenty (20) hours to thirty (30) hours per week, status would be updated to full time.
 - 3.12.2.4 Department has the discretion to approve modified placement within their department for longer than one-hundred and eighty (180) days.
- 3.13 Employees, who are unable to return to work at the end of their leave, may use the following options:
- 3.13.1 Request a new leave.
 - 3.13.2 Voluntary resignation.
 - 3.13.2.1 Voluntary resignation is for situations where an employee is able to return to work but chooses not to.
 - 3.13.3 Employment separation.
 - 3.13.3.1 Employment separation is for situations where an employee wishes to come back to work but is unable to do so because they no longer meet the requirements of their position.
 - 3.13.4 Discuss additional options with their supervisor. Additional options may include:
 - 3.13.4.1 Return to work and request vacation and/or personal time.
 - 3.13.4.1.1 For Family/Medical Leave (FML) as defined under 3.14.1, employee will need a HCP's release to return to work.
 - 3.13.4.2 Job Reassignment

Types of Leaves:

Family/Medical Leave (FML)

3.14 FML requests are for the following:

- 3.14.1 An employee's own serious health condition with documentation from a HCP; or

- 3.14.2 To care for an immediate family member with a serious health condition with documentation from a health care provider; or
- 3.14.3 To care for or bond with the employee's child after birth;
- 3.14.4 The placement, with the employee, of a child for adoption or foster care and to care for a newly placed child within one year of placement; or
- 3.14.5 To handle affairs after an immediate family member passes away for up to four weeks;
 - 3.14.5.1 Funeral FML time off is not included with other FML requests.
- 3.14.6 Any qualifying situation arising out of the fact the employee's spouse, son, daughter, or parent is a covered military member on covered active duty.
 - 3.14.6.1 Qualifying situations may include: certain military events, arranging for alternative childcare, attending certain counseling sessions, and attending post-deployment reintegration briefings.
- 3.15 Supervisors must approve FML requests for a total of up to ninety (90) calendar days, per rolling year.
 - 3.15.1 FML requests must be approved by the supervisor, AM, HRD Area Manager (or designee) and GM (or designee).
 - 3.15.2 After ninety (90) days of FML have been exhausted, Supervisors have the discretion to deny the employee's request for a FML, based upon the department's staffing requirements.
- 3.16 The Oneida Nation will continue to pay for the employee's insurance benefits while they are on a FML. Benefits include medical, dental, vision, and disability.
 - 3.16.1 When an employee is on a FML in accordance with 3.14.1, 3.14.2, and 3.14.6 the Oneida Nation will continue to pay for the employee's insurance benefits for a maximum period of one-hundred and eighty (180) calendar days.
 - 3.16.2 When an employee is on a FML in accordance with 3.14.3, 3.14.4, and 3.14.5 the Oneida Nation will continue to pay for the employee's insurance benefits for a maximum period of ninety (90) calendar days.
- 3.17 A HCP must confirm condition(s) identified in 3.14.1 through 3.14.2 exists and this documentation must be attached to the completed LOA form.
 - 3.17.1 HR Employee Insurance Department will make the determination whether the supplied documentation is adequate to process the LOA.
 - 3.17.2 The requested leave dates must correspond with the dates identified on the HCP documentation.
 - 3.17.2.1 The intent to return to work date cannot be longer than the supporting HCP documentation.
 - 3.17.2.1.1 For example: Requested leave cannot be for 90 days, when the supporting HCP documentation is for six (6) weeks.
 - 3.17.2.2 HR Employee Insurance Department may modify the requested LOA start and intent to return dates to correlate

with the HCP documentation and/or applicable employment status changes such as scheduled layoffs.

- 3.18 FML may be taken on an intermittent basis for condition(s) in 3.14.1 and 3.14.2.
 - 3.18.1 Intermittent FML are short periods of absence from work (i.e. Four (4) working days or less).
 - 3.18.1.1 Employees must attempt to schedule appointments so as not to disrupt departmental business operations.
 - 3.18.1.2 Employees must adhere to departmental time and attendance policies.
 - 3.18.2 A HCP must confirm condition(s) identified in 3.14.1 and 3.14.2
 - 3.18.3 Supervisors must approve employees to take intermittent FML for a period of time of up to one-hundred and eighty (180) calendar days.
 - 3.18.3.1 After a period of one-hundred and eighty (180) calendar days, supervisors have discretion to deny intermittent FML based upon business needs.

Maternity Leave

- 3.19 Maternity Leave begins with the childbirth and will be granted for a period of six (6) weeks.
 - 3.19.1 Maternity Leave extends to eight (8) weeks for C-section births.
- 3.20 Employee may request a FML for up to an additional six (6) weeks following the six (6) weeks of Maternity Leave.
 - 3.20.1 If an employee is put on a FML prior to a Maternity Leave, the employee is entitled to the ninety (90) calendar days as defined in 3.14 and the six (6) weeks of Maternity Leave as defined in 3.17. Maternity leave time off is not included with other FML requests.
- 3.21 Maternity Leave only requires Supervisor approval.
 - 3.21.1 If employee requests additional FML, beyond the six (6) weeks of Maternity Leave, chain of command approvals as defined in 3.14.1 are needed.
- 3.22 The Oneida Nation will continue the employee's insurance benefits while employee is on a Maternity Leave.

Military Leave

- 3.23 A leave of absence for employees serving in the military.
- 3.24 Employee must notify immediate supervisor upon notification of being called to active duty in writing and provide a copy of any military notice to the supervisor.
- 3.25 Military Leave only requires Supervisor approval.
- 3.26 Employer will continue existing health care benefits to employee and families for a period of three (3) pay periods after the pay period of the effective date of activation.
- 3.27 A Military Leave is not subject to the ninety (90) calendar day maximum.
 - 3.27.1 See Military Service Employee Protection Act for more information.

Personal Leave

- 3.28 A leave of absence for personal reasons.

- 3.29 Personal Leaves may be granted in increments up to ninety (90) days and approval is discretionary based upon the department's staffing requirements.
 - 3.29.1 Personal Leaves must be approved by the Supervisor, AM, HRD Area Manager (or designee) and GM (or designee).
- 3.30 The Nation will not pay for an employee's insurance benefit while they are on a Personal Leave.
 - 3.30.1 Insurances are cancelled on the employee's last day worked prior to start of leave.
 - 3.30.2 Insurances will be re-instated on the day the employee returns to work.
 - 3.30.3 Employee will be offered COBRA while on an approved Personal Leave

Educational Leave

- 3.31 A leave of absence for education purposes that will not exceed one (1) year.
- 3.32 Educational leave approval is supervisor discretion, based on the department's business needs.
 - 3.32.1 Educational Leaves must be approved by the Supervisor, AM, HRD Area Manager (or designee) and GM (or designee).
- 3.33 Employer will not pay for the employee's insurances while on an Educational LOA.
 - 3.33.1 Insurances are cancelled on the employee's last day worked prior to start of leave.
 - 3.33.2 Insurances will be re-instated on the day the employee returns to work.
 - 3.33.3 Employee will be offered COBRA while on an approved Educational LOA.

Procedures

Employee Responsibility

- 3.34 Complete a LOA request form with supporting documentation and give to immediate supervisor for approval.
 - 3.34.1 If it is a FML, documentation from a HCP is required.
 - 3.34.1.1 All updates from the HCP must be provided to the employee's department to review if the LOA will end with the employee's release, or be extended beyond the approved LOA.
 - 3.34.2 If it is a Maternity Leave, the delivery date and type of delivery is required.
 - 3.34.3 If it is a Personal or Educational Leave, an explanation is required.
 - 3.34.4 If it is a Military Leave, official documentation regarding military service is required.
- 3.35 Employee must maintain communication with supervisor regarding the status of their LOA.
- 3.36 For FML as defined under 3.13.1 or Maternity Leaves, provide a HCP's release and/or work restrictions to immediate supervisor and HR Employee Insurance

Department prior to returning to work. Do not return to work without providing a HCP's release.

- 3.36.1 For other FML requests, communicate with supervisor prior to LOA end date. NOTE: The intent to return to work date is on the Leave Request Form.
- 3.37 For Personal and Educational Leaves, communicate with supervisor prior to LOA end date. NOTE: The intent to return to work date is on the Leave Request Form.
- 3.38 For Military Leaves, after the completion of service, notify supervisor and HR Employee Insurance Department of intent to return to work depending upon the duration of service.
 - 3.38.1 30 days or less, the first day upon return.
 - 3.38.2 31 – 180 days, not later than 14 days after completion of service.
 - 3.38.3 181 days or more, not later than 90 days after completion of service.

Supervisor Responsibility

- 3.39 May complete the LOA request form for employee if employee is not available.
- 3.40 Supervisor must maintain communication with the employee regarding the status of their LOA.
 - 3.40.1 Supervisor may need to initiate communication with employee regarding status of their LOA if they do not hear from the employee.
- 3.41 Review the LOA request:
 - 3.41.1 If approved, forward the LOA request to the Area Manager (AM) level.
 - 3.41.1.1 Ensure HCP documentation is included in the request.
 - 3.41.2 If denied, document on the Leave Request form and inform the employee.
- 3.42 Track and retain leave requests, amount of time off and return to work date(s).
 - 3.42.1 A HCP's release to return to work is needed for FML as defined under 3.13.1 and for Maternity leave.
 - 3.42.1.1 Ensure employee provides a HCP's release to return to work, before allowing an employee to return to work.
- 3.43 Submit request to suspend employee work access (i.e. Email, Electronic Work Files, etc.) while the employee is on a LOA.
- 3.44 Notify HRD of employee resignation if employee is unable to return to work.
- 3.45 Notify HR EEO, if employee does not return to work on the intended return to work date on the Leave Form, to discuss options.

Area Manager (or designee) Responsibility

- 3.46 Review the LOA request.
 - 3.46.1 If approved, forward the LOA request to the General Manager (GM) level.
 - 3.46.2 If denied, document on Leave Request form and return to supervisor.

General Manager (or designee) Responsibility

- 3.47 Review the LOA request.

- 3.47.1 If approved, forward the LOA request to the HR Employee Insurance Department.
- 3.47.2 If denied, document on Leave Request form and return to Area Manager (AM) level.

HR Employee Insurance Department

- 3.48 Review the LOA request.
 - 3.48.1 Ensure LOA request and applicable supporting documentation are complete and accurate.
 - 3.48.1.1 If LOA request is complete, forward to HRD Area Manager.
 - 3.48.1.2 If LOA request is incomplete, work with Supervisor to complete.
 - 3.48.2 File LOA request in the Employee Insurance file.

HRD Area Manager (or designee) Responsibility

- 3.49 Review the LOA request.
 - 3.49.1 If approved, forwards the LOA request to HR Employee Insurance Department for processing.
 - 3.49.2 If denied, notifies the General Manager (GM) level.

4.0 REFERENCES

- 4.1 Oneida Personnel Policies and Procedures Section IV – Compensation and Benefits
- 4.2 Early Return to Work Policy (BC 11-13-13-A)
- 4.3 Military Service Employee Protection Act (BC 10-24-07-E)

5.0 FORMS

- 5.1 Leave Request Form