

Chapter 397 Voluntary Severance

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397.1. Purpose and Policy

397.1-1. It is the purpose of this law to determine when and how regular status employees who voluntarily resign from employment with the Oneida Tribe may receive severance.

397.1-2. It is the policy of the Tribe to maximize the use of Tribal resources and avoid layoffs by offering severance to any eligible employee who voluntarily resigns from the Tribe, if:

- (a) the Oneida Business Committee has determined severance is available upon an employee's voluntary resignation;
- (b) the resignation and subsequent severance results in a cost benefit to the Tribe; and
- (c) a position within the Tribe is eliminated upon the employee's resignation.

397.1-3. This law shall not affect the validity of any severance agreement entered into prior to the adoption of this law.

397.2. Adoption, Amendment, Conflicts

397.2-1. This law was adopted by the Oneida Business Committee Resolution BC-03-23-11-A.

397.2-2. This law may be amended by the Oneida General Tribal Council or the Oneida Business Committee in accordance with Tribal law.

397.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

397.2-4. In the event of a conflict between a provision of this law and a provision of another law, ordinance, policy, regulation, rule, resolution, or motion, the provisions of this law shall control. Provided that, this law repeals Resolution BC-09-14-94-B (Prohibiting Severance Pay).

397.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

397.3. Definitions

397.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) "COBRA" means the Consolidated Omnibus Budget Reconciliation Act, which gives workers and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan for limited periods of time under certain circumstances such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce and other life events.
- (b) "Executive Manager" means one of the following: General Manager, Gaming General Manager, Chief Financial Officer, Chief of Staff or Chief Counsel.
- (c) "Regular status employee" means a part-time, half-time or full-time status employee who is not a temporary employee, elected official or under an employment contract with the Tribe.
- (d) "Resign" means to give formal notification to an employer that the employee gives up his or her employment position within the organization.
- (e) "Severance" means a sum of money given to an employee at resignation, typically pursuant to an agreement with the employer, to compensate an employee for his or her

voluntary resignation.

(f) “Temporary employee” means an emergency temporary, limited term, sub-relief, seasonal, student intern, political appointee, or youth worker.

397.4. Severance

397.4-1. This law shall govern all severance agreements offered by the Tribe. No severance agreement shall be made available to any employee unless the agreement is in compliance with the provisions of this law.

397.4-2. The Oneida Business Committee shall determine, by motion, when employees are able to voluntarily resign from the Tribe and receive severance. The Oneida Business Committee shall announce the last day an employee can request to voluntarily resign and receive severance at least twenty-one (21) calendar days prior to the deadline date.

397.4-3. When the Oneida Business Committee determines that employees may voluntarily resign with severance, the Human Resource Department shall inform all regular status employees of this opportunity and any deadline dates that have been established. The Human Resource Department shall also administer severance to employees who voluntarily resign from the Tribe.

(a) All regular status employees shall be eligible to request to voluntarily resign with severance. Temporary employees, elected officials and employees under contract with the Tribe shall not be eligible for severance.

(b) The Human Resource Department shall be the only department authorized to receive voluntary resignation requests.

(c) After receiving a voluntary resignation request, the Human Resource Department shall forward relevant information up the chain of command from the employee’s supervisor to the Executive Manager. For any non-divisional entity, the Human Resource Department shall assign an Executive Manager to that entity and forward the relevant information to him or her.

(1) Relevant information includes the name of the employee, position title, wage or salary, hours worked per week and per year, years of service, and any enrollment in the Tribe’s medical insurance plan.

(2) Performance issues shall not be considered “relevant information” to determine whether an employee who requests to voluntarily resign from the Tribe is eligible for severance.

397.4-4. The Executive Manager shall approve or deny an employee request to voluntarily resign with severance based on a cost/benefit analysis which demonstrates a savings to the Tribe and elimination of a position within the Tribe.

(a) Justification of approval and denials shall require supervisor approval, from the employee’s immediate supervisor up to the Executive Manager.

(b) If multiple employees within a department request to voluntarily resign with severance, the employee(s) shall be selected based on management discretion. An Executive Manager shall deny a voluntary resignation with severance if there is not a cost benefit to the Tribe.

(c) Employees who request to voluntarily resign with severance shall be notified by the Human Resource Department within forty-five (45) calendar days of submitting their request if the request has been approved or denied. An employee whose request has been approved shall receive a severance agreement no later than seven (7) calendar days after being notified that his or her voluntary resignation with severance was approved.

(d) There is no appeal of this process.

397.4-5. An employee shall have twenty-one (21) calendar days to review the severance agreement if his or her request to voluntarily resign with severance is approved. If the employee does not accept the severance agreement in writing by the close of business within twenty-one (21) calendar days after receiving the severance agreement, the severance agreement shall be invalid.

397.4-6. The day an employee submits a signed severance agreement shall be the employee's last day.

397.4-7. Severance shall be calculated as follows: two (2) weeks of pay for every complete year of continuous service of regular status employment as of the date the Human Resource Department receives an employee's request to voluntarily resign with severance, with a maximum of thirty (30) weeks of payment.

(a) A break in service occurs whenever an employee was a temporary employee, served as an elected official or was laid off from the Tribe for a period greater than twenty-six (26) weeks.

(b) If the employee is enrolled in the Tribe's medical insurance plan at the time of his or her voluntary resignation, the severance agreement shall include a COBRA premium through the end of the month in which the severance period ends. The COBRA premium shall be paid to the employee on a weekly or monthly basis and shall be equal to the employer's cost of the employee's medical insurance premium.

(c) The severance agreement, including the calculation of the amount of the severance, is not negotiable.

397.4-8. Severance may be paid to the employee in a lump sum, one time payment or on a weekly basis as determined by the Executive Managers.

397.4-9. Employees receiving severance shall release the Tribe from liability and all re-employment rights, including being re-called, by written agreement.

397.4-10. Employees shall be paid for any unused personal, vacation or banked time.

397.4-11. An employee may apply for employment with the Tribe after the number of weeks of severance has elapsed. The employee is not eligible for employment with the Tribe during the severance period.

397.4-12. The Tribe shall not challenge unemployment compensation benefits for employees who accept severance.

End.

Adopted BC-03-23-11-A, Emergency