



**HO-CHUNK NATION CODE (HCC)  
TITLE 6 – PERSONNEL, EMPLOYMENT AND LABOR CODE  
SECTION 5 – EMPLOYMENT RELATIONS ACT OF 2004**

**ENACTED BY LEGISLATURE: DECEMBER 9, 2004**

**(Effective Date: January 31, 2005)**

**LAST AMENDED: December 28, 2022**

**CITE AS: 6 HCC § 5**

*This Act supersedes the Ho-Chunk Nation’s Personnel Policies and Procedures Manual initially adopted on December 21, 1994.*

Chapter VII (Drug, Alcohol and Controlled Substance Policy) enacted by Legislative Resolution 10/16/01D and Amended and Restated by Legislative Resolution 06/21/16EE.

Chapter VIII (Worker's Compensation Plan) supersedes the Ho-Chunk Nation Worker's Compensation Plan dated October, 1998 and last Amended and Restated by Legislative Resolution 06/21/16EE.

**TABLE OF CONTENTS**

**Chapter I  
General Provisions**

1. Authority .....	4
2. Purpose .....	4
3. Declaration of Policy .....	4
4. Preamble of Kiisak Wais’ak.....	4
5. Responsibilities.....	5
6. Employment Clause.....	5
7. Employee Rights.....	7

**Chapter II  
Definitions**

8. Definitions .....	15
----------------------	----

**Chapter III  
Employment Policies**

9. Position Classification and Allocation .....	23
10. Discretionary Transfer .....	24
11. Position Reclassification .....	24
12. Probationary Period .....	24
13. Employee Separation Policy .....	25
14. Recall Policy for Layoff .....	26
15. Rehire Policy for Resignation .....	27
16. Compensation and Payroll Practices .....	27
17. Employee Performance Evaluations .....	31
18. Other Workplace Policies .....	32

**Chapter IV Employee  
Benefits**

19. General .....	34
20. Ho-Chunk Nation Holidays .....	36
21. Personal Time Off .....	37
22. Funeral Leave .....	39
23. Hoocak Wosga Leave Policy .....	40
24. Ho-Chunk Funeral Woosga Leave .....	41
25. Jury Duty and Witness Leave .....	41
26. Military Leave .....	42
27. Educational Leave .....	43
28. Administrative Leave .....	44
29. Medical Leave .....	45
30. Unpaid Leave of Absence .....	49
31. Employee Assistance Program (EAP) .....	49

**Chapter V  
Work Rules and Employee Conduct,  
Discipline, and Administrative Review**

32. General Hours of Work and Attendance .....	49
33. Employee Conduct .....	50
34. Employee Discipline .....	53
35. Alternative Dispute Resolution .....	54
36. Employment Conflict Review Process Generally .....	54
37. Employment Conflict Review Process .....	55
38. Judicial Review .....	58
39. Employee Rights .....	60

**Chapter VI**  
**Emergency Declaration**

40. Emergency Policy .....	60
41. Essential Duties/Services.....	60
42. Alternative Work Arrangements .....	61
43. Continuity of Supervisory Coverage .....	62
44. Reporting to Work .....	63
45. Reporting Absences from Work .....	63
46. Treatment of Absences Due to Closing of Nation Offices & Emergency Situations .....	64
47. Shortfalls in Tribal Revenue .....	64

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### **1. Authority.**

a. Article V, Section 2(a) of the Constitution grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.

b. Article V, Section 2(f) of the Constitution grants the Legislature the power to set salaries, terms and conditions of employment for all governmental personnel.

c. Article V, Section 2(h) of the Constitution grants the Legislature the power to enact all laws prohibiting and regulating conduct and imposing penalties upon all persons within the jurisdiction of the Nation.

d. Article V, Section 2(r) of the Constitution grants the Legislature the power to protect and foster Ho-Chunk religious freedom, culture, language, and traditions.

**2. Purpose.** This Act establishes uniform employment practices throughout the Ho-Chunk Nation in the utilization of human resources in the achievement of the desired goals and objectives of the Nation.

#### **3. Declaration of Policy.**

a. This Employment Relations Act is the official employment law of the Ho-Chunk Nation. It supersedes the Nation's Personnel Policies and Procedures Manual and all policies, rules, and regulations enacted by legislative resolutions pertaining to the employment law of the Nation.

b. This Act is applicable to all employees of the Ho-Chunk Nation.

c. The provisions of this law are severable. If any provisions of this law are declared invalid or unconstitutional, that declaration shall not affect the provisions which remain, which shall remain in full force and effect.

#### **4. Preamble of Kiišak Waiš'ak.**

a. In accordance with the Constitutional authority granted to Legislature to protect and foster Ho-Chunk religious freedom, culture, language, and traditions, this Act in utilizing human resources includes the traditional Ho-Chunk teaching of "Kiišak Waiš'ak," or giving respect to everyone, as it was determined by our Hocak forbearers.

b. It is the desired goal and objective of the Nation to promote a safe and thriving workplace that reflects the strength, professionalism, and traditional vitality of all Nation employees. Ho-Chunk culture promotes that everyone is owed respect, and that respect is also earned.

c. As taught by our ancestors, “Kiišak Waiš’ak” requires individuals to act on this belief in their day-to-day lives. Nation employees pay tribute to “Kiišak Waiš’ak” when they are cognizant of the respect that is given to individuals, and strive to remain courteous in their discourse and communications with them.

d. “Kiišak Waiš’ak,” or giving respect to everyone, reinforces and sustains our Ho-Chunk traditional way of life for future generations. By enforcing “Kiišak Waiš’ak” in the workplace, the Nation, through Legislature, is fulfilling its Constitutional promise to protect and foster Ho-Chunk religious freedom, culture, language, and traditions.

## **5. Responsibilities.**

a. Department of Personnel. The *Department of Personnel Establishment and Organization Act* (1 HCC § 10) delegates to the Executive Director of the Department of Personnel the functions and authority to implement, manage, enforce, and promulgate i.e. create, establish, publish, make known and carry out the policies within this Act.

b. Departments and Units.

(1) Each Branch, department, division, or unit of the Nation, may develop, implement, and revise as necessary internal procedures, operating rules and policies pertaining to the unique operational requirements of the work unit for efficient and effective performance. Advance notice of internal unit procedures and rules shall be provided to affected employees and must be posted in public places to serve as notice to all employees. Each Branch shall obtain necessary approval applicable to its own specific internal procedures, operating rules and policies.

(2) Internal unit procedures, rules and policies shall not conflict with this Act. Where conflicts may arise between internal rules and procedures, this Act will govern.

## **6. Employment Clause.**

a. Equal Employment Opportunity. With the exception of Ho-Chunk and Native American Preference in Employment as set forth in paragraph (b), below, it will be a violation of this Act to discriminate based on an individual’s sex, race, religion, national origin, pregnancy, age, marital status, sexual orientation, or disability.

b. Ho-Chunk Preference in Employment Clause. The Nation exercises Native American Preference in employment and shall exercise Ho-Chunk Preference in employment under limited circumstances, which furthers a legitimate governmental purpose,.

(1) The Nation will exercise Ho-Chunk and Native American Preference in Employment, prioritized as follows:

- (a) Enrolled Hocak Wazijaci member.
- (b) Child of enrolled Hocak Wazijaci parent.
- (c) Spouse or Parent of a dependent Hocak Wazijaci member.
- (d) Enrolled Native American of a federally recognized tribe.

When the Ho-Chunk Nation is the employer providing funding, it shall give preference in equal employment opportunities first to Ho-Chunk members, then to the Child of enrolled Ho-Chunk member, Spouses or Parents of Ho-Chunk members, and then to other Native Americans; provided, that the minimum necessary qualifications are met. Candidates who do not meet the necessary qualifications who are capable of being trained to the minimum necessary qualifications of the position may be selected for hire under Condition of Employment. Thereafter, the employment opportunity shall be open to any other candidate who meets the minimum necessary qualifications of the position.

(2) Ho-Chunk Preference shall be used to recruit, interview, hire, train, recall, reassign, transfer, and retain employees of the Nation. For hiring purposes, Ho-Chunk Preference shall be used for NPD funded positions and Native American Preference shall be used for all federally funded positions. This employment preference policy shall be construed to mean that an individual Ho-Chunk member who satisfies the minimum employment qualifications for a particular position will be afforded preference over all other individuals and that in situations where two (2) or more Ho-Chunk members are being considered for employment, that there is a distinction between qualification and preference. The Department of Personnel is responsible for monitoring the Preference Policy. Disciplinary action will occur for supervisors who do not adhere to this policy.

(3) Candidates for employment may inquire about the hiring practice with the Department of Personnel regarding the denial of the interview and/or selection process within fifteen (15) calendar days. The Department of Personnel will review the documentation and respond by certified mail within three (3) weeks from the date of inquiry.

(4) The Personnel Department shall provide training and orientation in the application of the Ho-Chunk Preference Policy to all employees who serve in a management or supervisory position.

c. Veterans Preference. To be eligible for preference, the veteran will supply a copy of the DD Form 214, (Certificate of Release or Discharge from Active Duty). Veterans are given priority-hiring status over equally qualified individuals for NPD funded positions. Dishonorable discharge disqualifies applicants from veteran preference.

d. Hiring Policy. Applicants claiming preference shall supply the appropriate documentation with their application [i.e., tribal enrollment verification and copy of the DD Form 214 (Certificate of Release or Discharge from Active Duty)].

e. Background Checks for Staff Employees. Staff Employees hired by the President of the nation, a Legislator, or a Judge of the Nation's Judicial Branch are privy, and have access, to information and resources which are entrusted to the care of those individuals who have gained the utmost respect and confidence of the membership of the Ho-Chunk Nation, by having been elected to perform the functions and duties of their respective offices, and are entrusted not to misuse such information. Any Staff Employee performing services for an elected official, who may have access to proprietary information of the Nation and the resources entrusted to such office, may be a threat to the well-being of the Nation if they have been involved in felonious conduct, or have a criminal background involving such conduct.

Therefore, the Nation establishes a policy to require background checks of such employees as a condition of their employment, intended as an official protection of the Nation, to protect the Nation's assets and resources, and establish a minimum standard to deter unpardoned felons from performing services for the Nation.

Specifically, the President, a Legislator, or Judge of the Nation shall not hire an individual as a Staff Employee until the individual has first provided the necessary information and releases to complete a criminal background check, the results of which must be acceptable pursuant to the Staff Employee job description in order to maintain employment.

## **7. Employee Rights.**

a. Access to Employee Information. All employees may review or request a copy of his/her personnel file by submitting a completed and notarized Freedom of Information form to the Department of Personnel.

b. Disclosure of Employee Records.

(1) The Nation shall not disclose, in replying to external inquiries, any personnel or related records or information on an applicant, employee, or former employee, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the records would be, subject to the *Ho-Chunk Nation Discovery Act*.

(2) Potential hiring supervisors and current supervisors may view employee files.

(3) Limitation on Access. Nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of an administrative or judicial action or proceeding.

c. Safe Work Place. The Nation shall endeavor to provide all employees a safe and clean working environment. The Nation's *Occupational Safety and Health Program Act* (6 HCC § 8) shall apply.

d. Harassment.

(1) Harassment (both overt and subtle) is a form of employee misconduct that both demeans another person and undermines the integrity of the employment relationship by creating a work environment that is intimidating, hostile, or offensive.

(2) No employee shall be subject to retaliation or retribution for reporting harassment. Retaliation or retribution is strictly prohibited.

e. Sexual/Gender Harassment.

(1) Purpose. The Ho-Chunk Nation does not tolerate for sexual harassment. The purpose of the Ho-Chunk Nation sexual harassment policy is to:

(a) Prohibit sexual harassment in the workplace.

(b) Encourage employees who are victims or witnesses of sexual harassment to report such instances.

(c) Establish an administrative procedure for the reporting of instances of sexual harassment.

(2) Policy. Sexual harassment by or of supervisors, employees, or non-employees is strictly prohibited and will be investigated for possible violation of this policy and disciplinary action.

(a) No employee shall be subjected to unsolicited and/or unwelcome sexual overtures or conduct, either verbal or physical.

(b) Sexual harassment will be treated as misconduct with disciplinary sanctions, up to and including termination.

(c) No employee shall be subject to retaliation or retribution for reporting sexual harassment. Retaliation or retribution is strictly prohibited.

(d) The Department of Personnel, shall promulgate guidelines and procedures for reporting complaints.

(e) To ensure that all sexual harassment complaints are dealt with quickly and equally, the Executive Director of Personnel or their designee is granted the full authority to investigate and discipline any employee or supervisor for sexual harassment, and is free to take any disciplinary action, including termination. Supervisors of employees disciplined in this way shall have no ability to appeal such disciplinary actions.

(f) An employee who believes that he or she has been subjected to unwelcome sexual conduct or that there exists a hostile work environment has a duty to report. Such report shall be made directly to the Executive Director of Personnel or their designee. Supervisory personnel who receive any report of sexual harassment shall be required to provide a written report to the Executive Director of Personnel.

(g) The Executive Director of Personnel or their designee shall have the full authority to interview all employees who may have been victims of, witnesses to, or perpetrators of, sexual harassment. The Executive Director of Personnel or their designee may also request assistance from the Department of Justice to have an attorney and/or the compliance division assist with investigation. Any employee who refuses to cooperate with an investigation will be disciplined, up to termination. If it appears a criminal act may have occurred, the Department of Personnel shall also provide the reports to the Department of Justice and law enforcement for potential investigation and prosecution.



(h) If after an investigation, the Executive Director of Personnel or their designee believes sexual harassment has occurred the Executive Director or their designee has full authority to institute any penalties as laid out in this section, including having the sole authority to discipline employees for violations of this policy.

(3) Prohibited Conduct.

(a) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes prohibited sexual harassment when at least one of the following criteria is met.

1 Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.

2 Submission to or rejection of such conduct by an individual is used as the basis for an employment decision.

3 Such conduct has the purpose or effect of reasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

(b) Examples of prohibited conduct include, but are not limited to:

1 Unwelcome sexually suggestive comments or sounds.

2 Unwelcome sexual flirtation.

3 Unwelcome touching.

4 Unwelcome advances or propositions.

5 Unwelcome jokes of a sexual nature.

6 Unwelcome slurs and other verbal, graphic, or physical conduct relating to an individual's gender.

7 Any display of sexually explicit pictures, greeting cards, articles, books, magazines, photos, or cartoons.

(c) The authoring, forwarding, viewing, or sending of graphic nudity, obscene, or pornographic material and the use of obscenity or profanity is strictly prohibited by the Nation's *Computer Usage Act* (6 HCC § 4).

(4) Penalties.

(a) Where an investigation substantiates that an employee has committed an act of sexual harassment, that employee shall be subject to disciplinary action

from the Executive Director of Personnel or their designee which may include, but is not limited to: warnings, reprimands, suspensions, being placed on a one-year probationary period, or termination, as a violation of the Employment Relations Act (6 HCC § 5)

(b) Offending employees, including supervisors and non-supervisors, can be held liable for monetary damages (and may be required to pay for their own attorney) if an offended employee files a lawsuit.

(c) Allegations of sexual harassment must be made in good faith and not out of malice. Knowingly making a false or frivolous allegation of sexual harassment, whether in a formal or informal context, will be treated as a serious offense under this Act and shall be subject to disciplinary action which may include, but is not limited to: warnings, reprimands, suspensions, or termination, as a violation of 6 HCC § 5.

(d) Directors/managers/supervisors are in key positions to make an impact in terms of correcting inappropriate behavior in the work place and ensuring that a discrimination, hostile-free work place is maintained. Therefore, the law has placed a greater responsibility on key positions to act when they observe, or learn of a potential sexual harassment situation. When directors/managers/supervisors fail to promptly respond to, or report a sexual harassment matter, they shall be subject to disciplinary action which may include, but is not limited to: warnings, reprimands, suspensions, or termination, as a violation of 6 HCC § 5.

(e) This Act strictly prohibits retaliation against anyone for engaging in the following actions: reporting discriminatory activity, registering a sexual harassment complaint, assisting in making or registering a discriminatory complaint, or cooperating in an investigation. Any employee who makes a complaint regarding behavior which: (1) the employee reasonably believes in good faith constitutes sexual harassment; (2) assists, testifies, or participates in any sexual harassment investigation or proceeding; or (3) who reasonably opposes such conduct in the work place, will not be adversely affected in the terms and conditions of his/her employment, and will not be discriminated against or discharged for engaging in such activity. Complaints of retaliation will be promptly investigated. If retaliation is substantiated, appropriate disciplinary action will be taken, including placing the retaliatory employee(s) on a one-year probation.

(f) While counseling is not considered a sanction, it may be offered or required in combination with sanctions. Where alcohol is involved in the sexual harassment, AODA counseling may be required.

f. Right to Work Provision

(1) No person shall be required, as a condition of employment or continuation of employment on tribal lands, to:

(a) Resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;

(b) Become or remain a member of a labor organization;

(c) Pay dues, fees, assessments or other charges of any kind or amount to a labor organization; or

(d) Pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments or other charges regularly required of members of a labor organization.

(2) Any strike or picketing to force or induce an employer to make an agreement orally or in writing in violation of this part f. is illegal.

(3) It is illegal for an employee, labor organization, or officer, agent or member thereof, by any threatened or actual interference with the person, their immediate family or property, to compel or attempt to compel such person to join a labor organization, to strike against their will or to leave their employment.

(4) A combination or conspiracy by two or more persons to cause the discharge of any person or to cause such person to be denied employment because such person is not a member of a labor organization by inducing or attempting to induce any other person to refuse to work with such person, is illegal.

(5) Enforcement.

Any agreement by any employer which violates any act prohibited by the laws of the Nation shall be deemed to be null and void and of no force or effect. Any labor organization which seeks to include provisions contrary to the Nation's law in a labor agreement, and any employer who agrees to such provision, shall be subject to a civil penalty not to exceed \$1,000.00 for each violation, in addition to any other damages, which may be awarded by the Nation's Tribal Court. The Nation and any employee shall have standing to bring an action in the Nation's Tribal Court to enforce the provisions of this part f., but nothing herein shall be construed as a waiver of the sovereign immunity of the Nation or its entities.

(6) Notwithstanding any other provision of law to the contrary, any person injured or threatened with injury by an act declared illegal by this part f. shall be entitled to injunctive, declaratory and monetary relief from the Nation's Tribal Court, including the Nation itself, provided that the Nation, its entities or officials and employees retain sovereign immunity from suit.

(7) Registration of Labor Organizations.

(a) Every labor organization operating within the jurisdiction of the Ho-Chunk Nation shall file a report with the Office of Attorney General for the Nation, on or before sixty (60) days after enactment of this part f. and thereafter on or before December 31 of each year.

The report, which shall be filed by the president of the labor organization, shall contain the following information:

1 The name and address of the labor organization;

2 The names and addresses of the president, secretary, treasurer, and business agent of the labor organization;

3 The name and address of the national and/or international organization, if any, with which the labor organization is affiliated;

4 A copy of the collective bargaining agreement(s) between the labor organization and any employer within the jurisdiction of the Ho-Chunk Nation;

5 A copy of the current Constitution and By-Laws of the labor organization, as well as any amendments, i.e., the basic written rules governing the organization;

6 Detailed information regarding qualifications for, or restrictions on: membership; levying of assessments; participation in insurance or other benefit plans; authorization for disbursement of labor organization funds; audit of labor organization financial transactions; the calling of regular and special meetings; the selection of officers and stewards and any representatives to other bodies composed of labor organizations' representatives; a specific statement of the manner in which each current officer was elected, appointed, or otherwise selected; discipline or removal of officers or agents for breaches of their trust and a specific statement regarding any past disciplinary action of removal of officers or agents for breach of their trust; impositions of fines, suspensions and expulsions of members including the grounds for such action and any provisions made for notice, hearing, judgment on the evidence, and appeal procedures, along with a detailed statement regarding any imposition of fines, suspensions and expulsions of members including the grounds for such action and any provisions made for notice, hearing, judgment on the evidence, and appeal procedures, along with a detailed statement regarding any imposition of fines, suspensions and expulsions of members in the past calendar year; and

7 A copy of the Labor Organization's Annual Report, as reported to the U.S. Department of Labor.

(b) At the time the report is filed, the labor organization shall pay an annual fee of \$200.00 to the Ho-Chunk Nation.

(c) The president of the labor organization shall file with the Office of Attorney General for the Ho-Chunk Nation a notice of any changes to the information required above within ten (10) days after the changes are made and provide any additional information requested by the Office of Attorney General.

(d) It shall be a violation of this subsection for any labor organization or any person acting on behalf of any labor organization to fail to register or to make any false statements on any reports required to be filed pursuant to this part f.

(8) Registration of business agents.

(a) No person shall act as a business agent of a labor organization within the jurisdiction of the Ho-Chunk Nation unless that person has received a license from the Nation's Legislature.

1 Any person who seeks such a license shall pay a license fee of \$200.00, submit a statement signed by the president and the secretary of the labor organization which establishes the individual's authority to act as a business agent for the organization, and agree to undergo a background investigation.

2 No person shall be issued a license to act as a business agent within the jurisdiction of the Ho-Chunk Nation if that person has been convicted of a felony, has been convicted of a misdemeanor involving moral turpitude, is currently facing charges on a felony or on a misdemeanor involving moral turpitude or, based on the background investigation, is deemed by the Legislature to be of questionable moral character.

3 At any time after issuance of the license the Legislature receives reliable information that the licensee should be deprived of his or her license based on the factors stated above, then the Legislature may suspend or revoke the license. The license shall run for the calendar year for which it is issued unless sooner surrendered, suspended, or revoked.

4 All licenses shall expire at midnight on December 31 of each year but may be renewed by the Legislature on a form prescribed by the Legislature for that purpose and upon the payment of an annual renewal fee of \$ 200.00. However, if any license has been surrendered, suspended or revoked during the year, then the applicant must go through the requirements set forth in subsection (a)(1) above.

(b) It shall be a violation of the part f. for any person to:

1 Act as a business agent for a labor organization without having obtained a valid license;

2 To act as a business agent of any labor organization without the authority of the labor organization to do so;

3 To make any false statement on any reports required to be filed pursuant to this Article;

4 To make any false statement in an application for a business agent's license.

(9) Penalties. Any person who, directly or indirectly, violates any provision of this Section shall be subject to a fine not exceeding \$1,000.00 for each violation or exclusion from the jurisdiction of the Ho-Chunk Nation, or both.

(10) Civil remedies. Any person injured as a result of any violation or threatened violation of the provisions of this part f. shall be entitled to injunctive, declaratory and monetary relief from the Nation's Tribal Court, including the Nation itself, provided that the Nation, its entities or officials and employees retain sovereign immunity from suit.

(11) Severability. The provisions of this part f. are hereby declared to be severable, and if any provision is declared void, invalid, or unenforceable in whole or in part, then that declaration shall not affect the remaining provisions of this part.

(12) Sovereign immunity. Nothing in this Section shall be construed as waiving the sovereign powers or immunities of Ho-Chunk Nation or its agents, entities, instrumentalities, employees, or officials, nor shall anything in this part f. be construed as imposing any requirements of the National Labor Relations Act on the Tribe, its agents, entities, instrumentalities, employees, or officials.

(13) Definitions.

(a) "Business agent" means any person who acts or attempts to act for or on behalf of any labor organization in:

1 The issuance of membership or authorization cards, work permits, or any other evidence of rights granted or claimed in, or by, a labor organization;

2 Soliciting or receiving from any employer any right or privilege for employees.

(b) "Employer" means any person, firm, association, corporation and other business entity lawfully operating within the jurisdiction of the Ho-Chunk Nation.

(c) "Labor organization" means any organization of employees organized for the purpose of dealing with employers concerning hours of employment, rates of pay, working conditions, or grievances of any kind relating to employment and desiring to operate within the jurisdiction of the Ho-Chunk Nation.

(d) "Legislature" means the Ho-Chunk Nation Legislature, the governing body of the Nation.

(e) "Nation" means Ho-Chunk Nation, a federally recognized Indian tribe.

g. Whistleblower Protection. All employees have a duty to report to the Office of the Attorney General information which the employee reasonably believes is a violation of any law, rule, policy or regulation that pertains to fraud, waste, abuse and unnecessary expenditures. Employees who make such disclosures serve the Nation's interests by assisting in the elimination of possible fraud, waste, abuse, and unnecessary expenditures. Employees making such disclosure(s) shall be protected from reprisals and shall not suffer adverse consequences as a result of prohibited personnel practices. Upon receipt of such an employee report or disclosure, the Office of the Attorney General (i.e., Department of Justice) shall issue a written acknowledgment of receipt to the complaining party. Once a review or investigation of the report is completed, to the point of final conclusion, the Office of the Attorney General will notify the complaining party and any other person(s) deemed necessary.

Employees who request Whistleblower Protection for providing information or testimony in any Ho-Chunk Nation Judicial or Legislative proceeding, in order to safeguard the interests of the Nation and assist with enforcement of the Nation's laws, shall be protected from retaliation and reprisals for providing such information or participating in such a proceeding.

h. Protections Related to General Council Meetings.

(1) No person shall harass, threaten, intimidate, suspend, or terminate, without Due Process, any employee who is an enrolled member of the Ho-Chunk Nation, for attending an Annual general Council Meeting of the Ho-Chunk Nation or Special Meeting of the Ho-Chunk Nation General Council.

(2) No person shall harass, threaten, intimidate, suspend, or terminate, without Due Process, any employee for providing administrative support to an Annual General Council Meeting of the Ho-Chunk Nation or Special Meeting of the Ho-Chunk Nation General Council.

The Executive Director of Personnel will enforce violations of the above tribal member rights under Section 6.h.

## **CHAPTER II**

### **DEFINITIONS**

**8. Definitions.** Whenever the following terms are used in this Act, they shall have the meanings indicated.

- a. Abandonment. Absent without notifying their supervisor (no call/no show) for two (2) consecutive work days.
- b. Additional Duties. Standard language in job descriptions to ensure consistency of role expectations, as well as to eliminate confusion and confirm the primary functions of a particular job description of not more than 5% of an employees work hours for additional temporary minor tasks without additional compensation.
- c. Agency. Any external organization or unit engaged in business, providing services, information, or goods within the jurisdiction of the Ho-Chunk Nation.

d. Appointments.

(1) Acting Appointment. The temporary assignment of a person to a vacant position in the absence of the employee who normally fills such position. Persons appointed to acting assignments must possess the minimum qualifications for that position. Such persons shall have limited responsibilities and authority of the position unless directed otherwise by the appointing authority.

(2) Appointed Official: The naming or designation of a person for a job to fill a non-elected public office.

(3) Interim Appointment. Interim appointments apply to Department Executive Directors. See *Confirmation Process of Executive Directors of the Ho-Chunk Nation Act* (2 HCC § 9).

e. Board Member. A member of a Ho-Chunk Nation Board pursuant to the Board's Establishment Act or other organizing document.

f. Bridge Service Credit. The linking or connecting of a recalled or rehired employee where regular status was held for purposes of considering seniority, pay, and PTO accrual rate. Dates must be provided for accurate Bridge Service Credits to be restored. Bridge Service Credit does not cover insurance, back pay, or reinstatement into a comparable position.

g. Business Day. The weekdays, Monday through Friday.

h. Calendar Day. A twenty-four (24) hour period beginning at midnight and ending at midnight including weekends.

i. Class. A group of positions sufficiently similar in respects to the duties and responsibilities may be used with clarity to designate each position allocation to the class; common requirements such as to education, experience, knowledge, ability and other qualifications exist for all incumbents; common tests of fitness may be used to choose qualified employees; and the same schedule of compensation can be made to apply with equity under the same or substantially the same employment conditions.

j. Classification Plan. A listing of job titles and descriptions in regular service including elected and appointed officials.

k. Cohabit or Cohabitant. Two individuals living together, who are financially and intimately associated in a committed relationship, but not legally married.

l. Commissioner. A member of a Ho-Chunk Nation Commission pursuant to the Commission's Establishment Act or other organizing document.

m. Comparable Position. A position with similar job duties, authority and qualifications.



- n. Comparable Wage. A wage that is within fifteen percent (15%) of the current wage, exclusive of tips. An employee placed into a position with a Comparable Wage must meet the qualifications for the position.
- o. Compensation. The payment made to employees in consideration of the number of hours worked in accordance with payment schedules or a contract, including pay for overtime and other forms of payment in connection with the performance of job assignments. Total compensation refers to that amount of pay plus employment related benefits received by employees, including contributions to the employee's medical and dental programs, retirement, PTO, bonuses, incentives and other benefits paid to the employee by the Ho-Chunk Nation.
- p. Complaint. A formal written accusation or charge.
- q. Complainant. An employee who has reasonable grounds to believe that an offense has been committed against them.
- r. Continuous Employment. Employment without interruption, without regard to authorized PTO, military leave, or other paid leaves, unpaid Family Medical Leave, and maternity leave of absence.
- s. Cost of Living Adjustment (COLA). The adjustment to an employees pay based on Section 16.c. of this Act.
- t. Dates.
  - i. Annual Review Date. The date one (1) year from the Original Date of Hire and each subsequent year of continuous employment. The Annual Review Date is subject to change based on a change of employment status.
  - ii. Original Date of Hire. The initial date of hire to a regular, appointed, and elected positions.
- u. Demotion. A change in employment status resulting in movement from one position to another that has a lower pay grade.
- v. Dual Position. An additional position assigned to an employee on an as needed basis.
- w. Due Process. An employee shall be afforded the meaningful opportunity to provide an explanation prior to a suspension or termination.
- x. Emergency. Emergencies, as defined in the Occupational Safety and Health Program Act Emergency Preparedness and Disaster Planning (6 HCC § 8-9), include fire, medical/public health, severe weather, explosion, bomb threat, utility outage, hazardous material release, natural disaster, and terrorism.

- y. Emergency Declaration. When called by the Legislature or President, provides an exigent circumstance and allows for the flexibility of policies and application for continued operations of the Nation. Declaring a State of Emergency allows the Nation to coordinate and implement plans aimed at protecting people and property during an emergency/ disaster.
- z. Employee. Any individual employed by the Ho-Chunk Nation, regardless of the source of the funds by which the employee is paid. The term “employee” shall include any person elected or appointed. The Nation further classifies its employees as follows:
- (1) At-Will Employee. An employee who is subject to termination with or without cause or notice. The employee also has the right to leave at any time for any or no reason or notice. The At-Will Employee classification will be noted on the employee’s job description.
  - (2) Appointed Employee. An employee who is subject to employment at their supervisor’s will.
  - (3) Contract Employee. An employee who has entered into a contractual employment agreement with the Ho-Chunk Nation. All such contracts shall conform with all Resolutions and/or laws passed by the Legislature with respect to the contracting process.
  - (4) Department of Labor Program Employee. An employee who is a Native American and is assigned a trainee position to gain experience.
  - (5) Elder Community Worker Program Employee. A Ho-Chunk Nation enrolled member employee who is age 62 or older who is hired to work at a maximum of twenty (20) hours a week as a regular employee.
  - (6) Elected Official. An employee who obtains and maintains employment by virtue of an election pursuant to the Ho-Chunk Nation Constitution.
  - (7) Exempt Employee. An employee classified by the Nation as exempt is salaried. Such employees are those occupying executive, administrative, professional positions, appointed, and elected officials. Weekly salary is computed using the position’s annual fixed salary. Such employees may be required to maintain a contract for employment with the Ho-Chunk Nation, if required by a legislative enactment.
  - (8) Full-time Employee. An employee who regularly works a minimum of thirty (30) hours per.
  - (9) Limited Term Employee (LTE). An employee holding a job of limited or specified duration. Limited Term Employees are not regular employees. Limitation of LTE status is four hundred and eighty (480) hours per fiscal year, unless a one-time one hundred and sixty (160) hour extension is approved by the Executive Director and the Director, Department of Personnel or his or her designee.

- (10) Nonexempt Employee. An hourly employee covered by overtime. (See Chapter III, paragraph 16ig, for restrictions on payment of overtime.)
  - (11) Part-time Employee. An employee who regularly works at least twenty (20) but less than thirty (30) hours per week. Part-time employees shall not hold supervisory positions.
  - (12) Quarter-time Employee. An employee who regularly works less than twenty (20) hours per week. Quarter-time employees shall not hold supervisory positions.
  - (13) Regular Employee. An employee hired through the interview process.
  - (14) Seasonal Employee. An employee whose work is normally less than one (1) year, and who is expected to return on an annual basis.
  - (15) Staff Employee. An employee who is hired by the President of the Nation, a Legislator of the Nation, or a Judge of the Nation's Judiciary, but excludes Executive Directors.
  - (16) Youth Employee. A Ho-Chunk Nation enrolled member employee who is under 18 years of age regardless of how many hours they work or their employment status.
- aa. Employer. Employer as used in this Act means the Ho-Chunk Nation.
  - bb. Enterprise. Entities of the Ho-Chunk Nation that provide for-profit goods and services.
  - cc. Executive Director. The appointee of a specific Department of the Executive Branch.
  - dd. Fit for Duty. The process of measuring and evaluating the relative ability and fitness of employees by job-related testing procedures, which may include a medical examination performed by a qualified health care provider designated by and at the expense of the Nation.
  - ee. Flex Classification. A job description that allows a new hired or transferred employee to receive a higher rate of pay, not to exceed thirty percent (30%) of the base rate.
  - ff. Immediate Family. A group of persons connected by blood, affinity or by law:
    - i. An employee's children, siblings, and grandchildren
    - ii. An employee's parents, parent's siblings, their children and their parent's siblings, children's children
    - iii. Foster relationship
    - iv. Cohabitant or Domestic partner
    - v. Spouse
    - vi. Adoption
    - vii. Legal Guardianship
  - gg. In-laws. Individuals who are related by means of a marriage, to include: the biological parent of one's spouse, the biological siblings of one's spouse, the biological spouse of one's sibling, or domestic partner in-laws.

hh. Indian Tribe. Any Native American Indian tribe, which is federally recognized by the United States Government.

ii. Lateral Transfer. A change in employee status from one position to another position having the same or substantially similar duties and pay range.

jj. Leave Without Pay. Voluntary request by an employee for leave not exceeding forty (40) consecutive hours without pay.

kk. Merit Increase. Advancement of eligible employee's current pay from one salary step to a higher salary step within the same salary range based on satisfactory demonstration of individual efficiency and performance.

ll. Minimum Wage. Minimum wage means the prevailing minimum wage as determined from time to time by the Ho-Chunk Legislature or the federal government.

mm. Misconduct. A deliberate and substantial disregard of the employer's interests or violation of the law or established standards of behavior.

nn. Modified Duty Assignment. An employee who has been injured on or off the job and requires medical restrictions for a designated period of time.

oo. Native American or Indian. An enrolled member of the Ho-Chunk Nation or an enrolled Indian of a federally recognized Indian tribe.

pp. Negligence. An employee's failure to exercise safe and ordinary care in carrying out, applying, or complying with this Employment Relations Act or other laws of the Nation.

qq. Nepotism. Acts of favoritism by a supervisor directed to, or over, relatives in employment or other services.

rr. Non-Enterprise. Administrative entities of the Ho-Chunk Nation providing goods and services without a goal to make a profit.

ss. Non-Birthing Parent. A non-birthing parent shall include any parent of a child that does not give birth to the child. This shall include parents, regardless of whether married to or residing with the birthing parent, adoptive parents and same-sex partners.

tt. Paraprofessionals. Occupations which usually require less formal training and/or experience, and which may require certification and continuing education.

uu. Wage Grades.

(1) Base Wage. The grade level stated on the job description.

(2) Pay Range. Each job description has a designated pay range based on the legislatively approved Compensation and Classification Plan listed grade levels which has minimum and maximum wage rates.

(3) Prorate. The proportional calculation of equivalency to the whole or full amount based on full time, half-time and quarter-time hours of work; an equivalent level of benefit credits over a given period.

vv. Performance Evaluation. A formal system to evaluate performance factors related to an employee's job duties, responsibilities and related employment characteristics on a regular and systematic basis by supervisory personnel.

ww. Person. A natural person, Indian or non-Indian, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

xx. Probationary Period.

(1) Initial Hire Probationary Period. A period of ninety (90) days in which a new hire or a rehired employee serves under close supervision and a performance evaluation is completed, assessing the skills and abilities of the employee.

(2) Performance Probationary Period. A period of ninety (90) days in which an employee, who is promoted, demoted, laterally transferred, recalled to a different position, or a rehired employee with Bridge Service Credit, serves under close supervision and a performance evaluation is completed, assessing the skills and abilities of the employee.

yy. Professionals. Occupations which require specialized knowledge and licensing, which is usually acquired through college training or through work, experience and other training which provides comparable knowledge. A current list of positions classified as such will be maintained and regularly updated by the Executive Director of Personnel.

zz. Promotion. A change in employment status from one position to another position that requires higher minimum qualifications, is assigned more complex duties and responsibilities, and is assigned a higher wage grade.

aaa. Reclassification. Job performance changes due to actual functional differences between the existing job description and the actual job duties required to perform functions of a position.

bbb. Recruitment. The process of finding and hiring the best-qualified candidate, from within or outside the Ho-Chunk Nation for vacant employment positions.

ccc. Retaliation. The act of seeking revenge upon another or making threats.

ddd. Second Job. The simultaneous holding of two (2) part-time jobs within the Nation.

eee. Seniority. The length of continuous service to the Nation, applicable only to Bridge Service Credit.

fff. Separation.

(1) Furlough or Layoff. Separation in good standing from employment for non-disciplinary reasons including, but not limited to, lack of funds or work, abolishment of position, reorganization, or the reduction or elimination of services.

(a) Furlough. A separation in good standing from employment for non-disciplinary reasons, where the facts and circumstances allow for the employee to be provided a specific recall date.

(b) Temporary Layoff. A separation in good standing from employment for non-disciplinary reasons, where the facts and circumstances indicate that the employee will return to their position within six (6) months or return to their position within twelve (12) months during a state of emergency, A temporary layoff can begin as a furlough, but turn into a temporary layoff when the facts and circumstances change to where the employer no longer believes they will be able to bring the employee back on their specific recall date.

(c) Permanent Layoff. A separation in good standing from employment for non-disciplinary reasons, where the facts and circumstances do not allow for a furlough or temporary layoff. A permanent layoff can begin as a furlough or temporary layoff, but turn into a permanent layoff when the facts and circumstances change to where the employer no longer believes they would be able to recall the employee to their position within six (6) months, recall the employee within twelve (12) months during a state of emergency, or be able to bring the employee back to their specific recall date.

(2) Resignation. Voluntary separation from employment.

(a) Good Standing. Two weeks written notice with signature and date.  
Written notice shall be handwritten or electronic signature.

(b) Cell phone text messages, other social media messages, and verbal resignations will not be accepted as in good standing.

(3) Termination. Involuntary separation from employment.

ggg. Sexual/Gender Harassment. Sexual/Gender harassment is described as either a “hostile environment” or “quid pro quo.” Sexual/Gender harassment which creates a hostile environment consists of words, signs, jokes, pranks, intimidation or physical conduct, which are of a sexual nature, or which are directed at an individual because of that individual’s sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks made by someone in the workplace, which are offensive or objectionable to the recipient or an observer, which cause the recipient discomfort or humiliation, or which interfere with the employee’s job performance.

Quid pro quo sexual harassment is another form of sexual harassment which occurs when an employee makes sexual demands or request for sexual favors in exchange for job benefits, continued employment, or as a basis for making any other employment decision. An employee in authority for this purpose is someone who can affect or impact an employee's terms, conditions, or privileges of employment because he/she can take or impact action such as hiring, firing, promoting, demoting, disciplining, scheduling, training, evaluating or determining performance reviews to compensate that employee. A single incident of inappropriate sexual behavior may or may not be enough to rise to the level of sexual harassment. However, such conduct may still violate other expectations for appropriate/professional employee conduct and, accordingly, may result in discipline as determined appropriate by the employer.

hhh. Special Needs Child. A special needs child is a child with a chronic and terminal illnesses, physical impairments, or cognitive or psychiatric issues which result in physical or mental disabilities that require attention above and beyond what other children require.

iii. Spouse. One's husband or wife by lawful marriage including same-sex marriages.

jjj. Status Change Form. The mandatory form used to record any change in employment status.

kkk. Suspension. The temporary removal of an employee from employment, without pay, for disciplinary or investigative reasons and for a specified period of time not to exceed ten (10) regularly scheduled workdays.

lll. Temporary Reassignment. A short term placement in a different position of employment not to exceed ninety (90) calendar days.

mmm. Transfer. A change in position that may be a demotion, lateral, promotion or discretionary. With the exception of a lateral transfer, an employee will be given a new annual review date based on the effective date of the transfer. All employee's transferring will be placed on a ninety (90) day performance probation.

nnn. Unpaid Leave of Absence. Voluntary request for leave without pay, which exceeds forty (40) consecutive hours.

### **CHAPTER III**

### **EMPLOYMENT POLICIES**

#### **9. Position Classification and Allocation.**

a. Position Classification. The Nation shall maintain a job description on each separate class of employment.

b. Vacancies.

(1) Position vacancies will be filled based on job description standards after notification of the vacancy to the Personnel Department.

(2) The Ho-Chunk Nation makes it a policy that:

(a) Positions shall be posted upon being alerted of a vacancy within five (5) business days, unless the position is filled from the Recall List or through a transfer.

(b) Applicant Pool. Continuous postings are for high turnover employee positions whose applications are maintained in a pool. Applications for these positions will be reviewed with a letter to the applicant that their name has been included in a pool of applicants for future consideration. Applications will be reviewed every three (3) months with notification to the applicant of their status. One year from the application date, the applicant must complete a new application.

(c) All interview panels for Nation positions shall consist of at least two (2) employees, with at least one (1) employee on the panel being a Ho-Chunk Nation member employee.

(d) All applications shall be screened by the hiring supervisor and returned to the Department of Personnel within ten (10) business days.

**10. Discretionary Transfer.** Management reserves the right to implement a discretionary transfer based on operational need or extenuating circumstances. The Department of Personnel Executive Director must approve all Discretionary Transfers through a written justification by the supervisor and Ho-Chunk Preference shall be applied in all discretionary transfers. All initial probationary employees are not eligible for this transfer nor employees who have received a disciplinary action within one (1) year of requested transfer.

### **11. Position Reclassification.**

a. Reclassification requests may be initiated by supervisory personnel. All such requests must be justified in writing with such specific detail given to those performance-based functions being performed continuously for six (6) months that are different in scope and authority from those contained in their current job position.

### **12. Probationary Period.**

a. Initial Probationary Period. New hire and rehired employees without Bridge Service Credit shall serve an Initial Probationary Period of ninety (90) days. During an Initial Probationary Period, an employee is not eligible for leave.

(1) The only exception to this restriction is the allowance of Hoocak Woošga Leave and Funeral Leave by eligible employees.

(2) Initial and Performance Probationary employees may not grieve, except in matters pertaining to prohibited discrimination or harassment.



b. Performance Probationary Period. Employees promoted, demoted, laterally, or discretionary transferred into a different position, must serve a Performance Probationary Period of ninety (90) days; provided, however, that Ho-Chunk Nation employees who are recalled after a lay off, initiated pursuant to an Emergency Declaration under Chapter IX of this Act, shall be exempted from serving a Performance Probationary Period.

(1) Performance Probationary employees are allowed to use leave and other benefits earned or paid for by the Nation.

c. Probationary employees shall not be promoted, demoted, transferred, placed into a dual position, or temporarily reassigned during a probationary period.

d. Employee Performance Evaluation. At the completion of an Initial or Performance Probationary Period, an employee shall receive an Employee Performance Evaluation without a merit pay increase.

e. New employees who have completed the ninety (90) day Initial Probationary Period are eligible for all benefits enjoyed as a regular employee, unless prohibited by law.

### **13. Employee Separation Policy.**

a. Termination. An employee's dismissal from employment, which ends the employment relationship between the employer and employee.

b. Resignation. An employee voluntarily choosing to leave employment with the Ho-Chunk Nation in good standing must file a written, signed resignation.

c. Layoff.

(1) An employee may be subject to layoff for reasons including, but not limited to: lack of funds or work, elimination of position, or reorganization.

(2) Whenever it becomes necessary to reduce the work force through layoffs, the Nation will endeavor to provide affected employees with at least ten (10) working days. Failure to provide layoff notice will result in two (2) weeks' severance pay.

(3) Employees shall be afforded the opportunity to apply for a voluntary layoff, when a layoff plan is being instituted.

(4) When a layoff is to be implemented, the supervisor will prepare a layoff plan, consistent with forms used by the Personnel Department. The plan will identify the number of positions by classification and identify incumbents to be laid off through the consideration of:

- (a) Ho-Chunk Preference,
- (b) Organizational need,
- (c) Voluntary layoff, and
- (d) Budgetary constraints

(5) A written justification shall be submitted with the layoff plan explaining which positions within the department are affected by a layoff and how this is in the best interest of the Nation.

(6) The Department Director shall notify the Executive Director of Personnel of the layoff intended action at least fifteen (15) calendar days before the effective date.

(7) Should a layoff affect fifty (50) or more employees, the Department Director shall notify the Executive Director of Personnel of the layoff at least forty-five (45) calendar days before the effective date and present it to the Legislature.

#### **14. Recall Policy for Layoff.**

a. The names of employees who are laid off will be placed on a Recall List. The Recall List will be maintained for a period of six (6) months from the effective date of the layoff. This period may be extended for tribal member employees, when a state of emergency is declared until the emergency declaration has been rescinded, and for a period of twelve (12) months beyond the rescinding of the emergency declaration. In the event that Ho-Chunk Nation tribal member employee layoffs occur pursuant to an Emergency Declaration under Chapter IX of the Employment Relations Act, all Ho-Chunk Nation tribal member employees who have been laid off shall be recalled, based upon a timeline determined by the Executive Director of Personnel and consistent with operational need, which shall be presented to the Legislature.

b. An individual on the Recall List may gain re-employment with the Nation by two (2) means:

(1) An individual shall be recalled to the position held at the time of the layoff if the position is to be filled while they are on the Recall List. Supervisors must recall said individuals before posting the position, even if they have taken another position pursuant to section b(2) below.

(2) An individual on the Recall List may apply for a posted position. All individuals on the Recall List that apply for a position shall be presented to the hiring supervisor, who shall select one applicant who meets the minimum qualifications. If only one applicant on the Recall List applies and meets the minimum qualifications, that individual shall be hired. Ho-Chunk Preference shall apply in utilizing the Recall List, meaning that if two applicants on the Recall List are presented and both meet the minimum qualifications, the position shall be provided to the Ho-Chunk member. The Department of Personnel is empowered to ensure that supervisors are hiring qualified individuals on the Recall List, and may overrule a hiring supervisor if they refuse to hire an applicant who meets minimum qualifications. If no employee on the Recall List applies for a position, it shall be filled as normal and consistent with all other applicable rules and laws.

c. An employee shall be removed from the recall list if they decline an offer to be recalled to the same position or to a position that they have applied for.

d. An employee on the recall list that becomes employed with the Nation will be eligible for Bridge Service Credit benefits, carry their merits from their prior position with them to the new position and shall be assigned a new Annual Review Date.

e. Notwithstanding any provision of the Nation's Insurance Plan, employees that were on the Recall List from layoff implemented during a state of emergency and have been recalled to their position or accepted another position will be provided up to twelve (12) months to pay any necessary employment insurance premiums that may have been deferred during layoff. Such employees may also elect to utilize their accrued PTO to pay any necessary employment insurance premiums that may have been deferred during layoff.

## **15. Rehire Policy for Resignation.**

### a. Resignation in Good Standing.

(1) Former employees who are rehired into a position within six (6) months will be eligible for Bridge Service Credit, with the exception that they will be assigned a pay rate in the same manner as a new hire. A new Annual Review Date shall be established and the employee must complete a ninety (90) day Initial Probationary Period without a merit increase.

(2) For the purposes of this section, elected or appointed employees who resign or whose term ends, and are rehired within six (6) months will be eligible for Bridge Service Credit. A new Annual Review Date shall be established and the employee must complete a ninety (90) day Initial Probationary Period without a merit increase.

(3) Employees of organizations established by the Ho-Chunk Nation Legislature and/or who receive employee benefits through the Nation by virtue of their employment with the organization, and who subsequently begin full-time employment with the Nation without a break in service between the two organizations shall also be eligible for Bridge Service Credit.

b. Separation Without Good Standing. Terminated employees or employees who resign without good standing shall be treated as a new hire and shall not be eligible for Bridge Service Credit.

## **16. Compensation and Payroll Practices.**

a. Minimum Wages. No employee shall be paid less than the federal or Ho-Chunk Nation minimum wage.

b. Salary/Wage.

(1) Nonexempt employees will be paid at an hourly rate, for purposes of payroll accounting.

(2) Exempt employees shall be paid a fixed salary and must follow the Department of Personnel leave policy for exempt employees.

(3) Elected officials shall be paid a fixed salary.

c. Cost of Living Adjustment. All employees shall receive an annual cost of living adjustment at the beginning of each fiscal year, July 1<sup>st</sup>. The cost of living adjustment will follow that of the U.S. Social Security Administration Cost of Living Adjustment.

i. If an employee is to receive a cost of living adjustment through a grant or other funds outside of the Nation, the employee shall only receive the grant or other outside funding source cost of living adjustment, not the Nation's cost of living adjustment, with the exception, that if the cost of living adjustment through the grant or other outside funding source is less than the Nation's cost of living adjustment, then the Nation shall supplement the cost of living adjustment up to the amount of the Nation's cost of living adjustment.

ii. If an employee is eligible to apply for a cost of living adjustment through a grant or outside funding source, they shall apply. If the employee does not apply for the grant or outside funding source, then the cost of living adjustment that they receive through the Ho-Chunk Nation shall be reduced by the amount they would have received under the grant or outside funding source.

d. No Compensation for Unauthorized Leave. Unauthorized leave or unexcused absence will be considered leave without pay and will not be compensated in any form.

e. Salary and Wage Merit Adjustments. Hourly and salary wage rates shall be compatible with the approved Ho-Chunk Nation Wage Grade levels and with the locational Living Wage Guide. The Nation may periodically revise pay rates or ranges resulting from studies of prevailing wages and other influential considerations.

f. The Executive Director, Department of Personnel shall promulgate a standardized schedule to determine benchmarks for merit wage increases.

(1) To be eligible for merit increases, employees must not have any categorical rating of "unacceptable" on their Annual Performance Evaluation.

(2) The percentage of a merit increase will be determined in accordance with the Nation's wage grade scale and the availability of funding.

(3) An employee who has not received a scheduled Annual Performance Evaluation may be eligible to receive a merit increase. See paragraph 16 b (2).

g. Compensation upon Position Reclassification. If a position is reclassified to a class having the same pay rate as the previous class, and if the employee meets the requirements of the reclassified position, the employee's pay rate and Annual Review Date shall not change and shall not be subject to the initial or performance probationary periods, otherwise:

(1) If the position is reclassified to a class with a higher pay rate than the previous class and if employee meets the requirements of the reclassified position, then the employee's pay rate shall change to equal the base rate of the new position. If his or her current rate of pay is higher than the reclassified position's rate of pay then his or her rate will remain the same. The employee's Annual Review Date will not change.

(2) If the position is reclassified to a lower pay rate class, and if the employee is retained to occupy the reclassified position, the employee's pay rate and Annual Review Date shall be unchanged. If the employee's pay rate in the former position is greater than the maximum rate established for the lower position, the employee's pay rate will be frozen until such time as the rate or range of the reclassified position reaches the employee's frozen rate.

h. Transfer of Benefits. Employees upon transfer or reclassification shall carry over their annual and sick leave, unless prohibited by law or federal/state program guidelines.

i. Overtime Compensation. A nonexempt employee is eligible for overtime. Such employees are entitled to overtime pay for work required to be performed in excess of forty (40) hours per work week. See Definitions, paragraph 7 r (9) for employees eligible for overtime compensation.

(1) All overtime must be pre-approved by the supervisor. Overtime may be paid only within appropriated funding levels consistent with the *Budget and Appropriations Process Act* (2 HCC § 4).

(2) Employees will not be paid overtime compensation for a given pay period if the employee has any paid leave (not including holiday leave pay) or unpaid leave during that pay period. This section shall be administered pursuant to Definitions, paragraph 7 r.

j. Employer Required Educational/Meeting Activities. Employee attendance at seminars, lectures, conferences, business-related meetings, and training programs at the direction of a supervisor will be considered hours worked and compensable.

k. Travel Time. Travel time in connection with approved travel will be considered compensable hours worked for non-exempt employees.

(1) Travel during the work day will be compensated as hours worked within the scheduled work shift, excluding the employee's usual meal period and normal travel time to and from the employee's residence.

(2) For overnight travel out of town, a nonexempt employee will be paid a minimum of eight (8) hours for each twenty-four (24) hour period the employee is in travel status. Any work, including travel, that an employee is required to perform while traveling, other than on a normally scheduled workday, will be counted as hours worked.

(3) Violations of this section will result in disciplinary action up to termination.

l. Employee Service on Ho-Chunk Boards/Commissions/Committees. Employees may serve on boards, commissions, and committees. Dual compensation is prohibited.

(1) An employee may elect to receive his or her regular pay while serving on the board, commission, or committee during normally scheduled work hours; or

(2) The employee may elect to receive a stipend. The employee then must be on PTO or unpaid leave status.

m. Compensation upon Employment Separation. Final compensation shall be inclusive, up to the final separation of hours worked. Unused accrued leave is compensable, except as in (3) below during a layoff that is intended to be temporary in nature. The Ho-Chunk Nation has jurisdiction to and shall make deductions against final compensation for any court ordered, voluntary Ho-Chunk Nation deductions, or debt(s) owed to the Ho-Chunk Nation.

(1) Separated employees will receive their final hours worked paychecks—on the day paychecks are normally distributed. Employees will receive their final accrual payout as a separate check.

(2) Any property issued to the employee by the Nation must be returned before or at the time the final employee paycheck is distributed.

(a) In the event of a furlough or layoff that is meant to be temporary in nature, the employee may retain property issued to the employee at the discretion of their supervisor.

(3) Accrued leave shall not be paid out during the pendency of a furlough or temporary layoff. If and/or when a layoff becomes permanent, accrued leave shall be paid out to the employee.

(4) Leave shall not accrue during the pendency of a furlough or temporary layoff. If and/or when an employee is recalled to their position within six (6) months, recalled within twelve (12) months during a state of emergency, or brought back on their specific recall date, the employee's leave will resume at the accrual rate at the time the furlough or layoff began.

n. Severance Pay.

(1) The Nation may approve a two (2) week severance pay. A supervisor may request to provide two (2) week severance pay, in lieu of retaining the services of an employee for the two (2) week period upon receipt of advance notice of resignation or the Nation may provide two (2) week's severance pay in lieu of a two (2) week dismissal notice, provided that:

(a) The employee is not on probation,

(b) The employee leaves in good standing,

(c) The employee has not been terminated as a result of a violation of law or policy.

(d) The supervisor will determine that it is in the best interest of the Nation for the separation of employment to take place immediately.

(e) The Executive Director of Personnel authorizes the Treasury Department to disburse the payment.

(2) Limitation on Severance Pay. Employees who are terminated as a result of a violation of the law or policy are not eligible to receive severance pay.

### **17. Employee Performance Evaluations.**

a. Performance Evaluations ensure regular performance reports are made as to the competency, efficiency, adaptation, conduct, merit, and other job related performance conditions of the Nation's employees.

(1) An employee on Maternity Leave, Family Medical Leave, Unpaid Leave of Absence or those recalled to their prior position will have their performance evaluation extended by the number of days the employee was on leave.

(2) This Section shall not apply to elected officials pursuant to the Ho-Chunk Nation Constitution.

(3) This section is optional and not required for appointed employees and thus any merit raises for such employees shall not be granted automatically.

#### **b. Annual Performance Evaluation.**

(1) Supervisors shall be responsible for the completion of an annual evaluation up to ten (10) days prior to the employee's Annual Review Date and may grant the employee a merit pay increase in a range of 0% to 4%, not to surpass the maximum rate of his or her pay range, and to be retroactive to the date that annual evaluation is due.

(2) All non-appointed and non-elected employees who have not received an annual evaluation after thirty (30) days of his or her scheduled Annual Review Date shall receive a 4% merit pay increase retroactive to the date the annual evaluation is due, not to surpass the maximum rate of his or her pay range.

c. Failure to Complete Performance Evaluations. Any supervisor who fails to prepare and provide the employee with an evaluation within thirty (30) calendar days after the scheduled annual review date shall be subject to progressive disciplinary action through his/her immediate supervisor, and will be denied a merit increase at the supervisor's next evaluation for failure to complete required job tasks.

**18. Other Workplace Policies.**

a. Second Job.

(1) Employees may hold a second part-time job within the Nation, provided that the total hours worked by the employee does not exceed the permissible forty (40) hours per week or the equivalent of a full-time position. The second job must not adversely affect the employee's primary part-time job performance and responsibilities.

(2) An employee who holds two (2) or more part/quarter-time positions for the Nation, for which the combined total of both positions is at least thirty (30) hours per week, shall be considered a full-time employee of the Nation. In this event, the Department of Personnel will duly note the employee's employment record to indicate full-time employment status.

b. Dual Position. Employees are allowed to hold dual positions within the Nation.

c. Confidential Information.

(1) Confidential information obtained as a result of employment shall not be used by an employee for any private interest, or personal gain.

(2) Employment-related records and information are confidential and proprietary documents of the Nation.

(3) No confidential document or information shall be divulged to any person who does not possess the legal or operational right to know.

(4) All employees, including elected and appointed officials, shall be required to sign a Confidentiality Agreement as a condition of employment.

(5) Use or disclosure of confidential information may result in civil or criminal penalties, or employee discipline, up to and including termination.

d. Reliable Transportation and Valid Driver's License. Job positions may require employees to have reliable transportation and to hold a valid driver's license.

(1) Failure to produce or maintain reliable transportation or valid driver's license may bar the potential employee from employment.

(2) An employee who is required to meet conditions of Section 17.d(1) and lose his or her driver's license or reliable transportation may be terminated for failure to meet the condition of employment.

e. Publicity/News Release. No employee shall use his or her position to present himself or herself as a representative of the Nation, or communicate with the media regarding the Nation, on behalf of the Ho-Chunk Nation, unless authorized or directed in writing by the Ho-Chunk Nation Office of the President or the Legislature, regardless of whether in performance of their job duties or not, or while working for the Nation or on their personal time.



Violations of this Section may result in disciplinary action including termination.

f. Unlawful Conduct in Labor Controversies. It shall be unlawful for anyone to picket, or induce others to picket on any and/or all Ho-Chunk Nation properties, employees, supply or delivery vehicles, or customers of anyone engaged in business with the Ho-Chunk Nation or to interfere with the person's business, or interfere with any person or persons desiring to transact or transacting business with the person when a labor dispute exists.

g. Employment of Relatives. Nepotism is strictly prohibited.

(1) No employee may hold a job over which a member of his/her immediate family or an in-law exercises direct supervisory authority.

(2) Any report of a violation of the nepotism provision mandates that the supervisor and Executive Director of the Department of Personnel must cure the violation within seven (7) days.

h. No Solicitation, No Distribution Policy. The following policy shall be posted at the Nation's Class II and Class III Enterprises:

The solicitation of memberships or pledges, collection of funds, circulation of petitions, distribution of any printed materials, trespass, and any other similar types of activities by non-employees, on behalf of any organization, group, society, or individual, is not permitted on the Nation's property, facilities, or lands where Class II or Class III gaming is conducted, unless a written permit is given by the appropriate official of the Ho-Chunk Nation.

i. Fit for Duty. A supervisor who personally observes or receives documented information that an employee may be unfit for duty will validate the information or observations.

(1) Actions that may trigger the need to evaluate an employee's fitness for duty include, but are not limited to, problems with dexterity, coordination, memory, alertness, vision, speech, inappropriate interactions with co-workers, supervisors, customers, or vendors, inappropriate reactions to criticism, ~~or~~ suicidal, or threatening statements.

(2) The supervisor will present the information or observations to the employee at the earliest possible time in order to validate them; and will allow the employee to explain his/her actions, or to correct any mistakes of fact contained in the description of those actions. The supervisor will then determine whether the employee should leave the workplace immediately for safety reasons.

(3) The supervisor may determine that the employee should undergo a fit for duty evaluation at the department's expense.

(4) If the supervisor determines after review of the evaluation that the employee is unfit for duty, the supervisor shall take appropriate action.

(a) When a state of emergency has been declared, the Executive Director shall exercise discretion in implementing the fit for duty process to maintain continuity of operation.

j. Chain of Command. The chain of command is the line of authority and responsibility along which instructions are passed within the employee's branch of government and between different departments (as set forth in the organizational chart).

(1) Performance-based job positions have designated supervisors within each governmental branch of the Ho-Chunk Nation which further communicates authority and responsibility. Each department/supervisor is responsible for identifying a written chain of command to its employees. This shall be done in written policy form to the employees or posted in a common area.

k. Personal Appearance. Employees are expected to be dressed in a clean, modest manner consistent with the nature of work performed. It is also an expectation that employees observe good habits of grooming and personal hygiene at all times. Supervisors are responsible to ensure that attire is proper for job duties and within the workplace.

l. Breastfeeding. The Ho-Chunk Nation provides a supportive environment to enable employees to breastfeed or express their milk during work hours.

#### **CHAPTER IV**

#### **EMPLOYEE BENEFITS**

**19. General.** The Nation reserves the right to determine any discretionary benefits based upon the Nation's capacity to fund benefits.

a. Mandatory Benefits. The mandatory benefits offered by the Nation will apply to regular employees, whether exempt or nonexempt status, unless otherwise provided in a particular benefit plan or employment agreement/contract.

(1) Social Security. Social Security benefits are automatically deducted from an employee's payroll check.

(2) Worker's Compensation. See Chapter VIII Worker's Compensation Plan of the Employment Relations Act of 2004.

(3) Unemployment Insurance. Employees may be eligible for unemployment benefits upon separation of employment with the Nation.

b. Discretionary Benefits.

(1) Benefit Plans.

(a) Group Health-Care Plans. The Nation makes available health-care plans for eligible employees and their dependents. Benefits consist of routine medical care, hospitalization, medical prescriptions, vision, and dental plans.

(b) Short-term and long-term disability insurance plans.

(c) Life insurance plans.

(d) A 401(k) Plan for retirement benefits (approved by the Legislature).

(e) A Worker's Compensation Plan (approved by the Legislature).

(2) Enrollment.

(a) Employees shall complete enrollment forms at the time of new hire orientation.

(b) Open enrollment will occur each January at which time employees can make changes to or enroll for benefits.

(c) Enrollment becomes effective under the rules of the Nation's service provider plan document.

(d) Health-care benefit coverage under the plan of the Nation terminates at midnight on the last day of employment unless the employee has opted to continue coverage under COBRA.

c. Proration and Cost Sharing of Benefits.

(1) Leave benefits for part-time employees shall be earned at fifty percent (50%) of the benefits of full-time employees.

(2) Leave benefits for quarter-time employees shall be earned at twenty five percent (25%) of benefits of full-time employees.

(3) The Nation has a salary reduction plan for payment of health benefits which is separately described in the health benefits handbook available from the Department of Personnel.

d. Contract Employee. Benefits for a contract employee shall be as specified in the contract between the employee and the Ho-Chunk Nation.

e. Limited Term Employee (LTE) and Labor Program Workers. A LTE and Labor Program Worker is not eligible for PTO and other benefits paid for or sponsored by the Nation, with the exception of Funeral Leave, Hoocak Wooşga and holidays.

f. Restitution. If the existence of fraud by any person resulting in benefits to which he/she was not entitled, has been found by any court of competent jurisdiction, such person shall be liable to repay such amount to the Ho-Chunk Nation or to have such sum deducted from any future benefits payable to him or her under said laws.

**20. Ho-Chunk Nation Holidays.**

a. All employees are eligible to observe the following recognized holidays.

<u>Holiday</u>	<u>Date Observed</u>
New Year's Day	January 1
Ho-Chunk Nation Founders Day	March 19 (1963)
Good Friday	Varies each year
Easter	Varies each year
Memorial Day	Last Monday in May
Corporal Mitchell Red Cloud Jr. Day	July 4
Labor Day	First Monday in September
Indigenous Peoples' Day	Second Monday in October
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Hooçak Day	Day after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

b. Weekend Holidays. For employees who regularly work Monday-Friday, if a holiday falls on a Saturday, the holiday will be observed on the Friday before the Saturday. If the holiday falls on a Sunday, the holiday will be observed the following Monday. If the Christmas Holiday falls on a Friday and Saturday, the holiday shall be observed with a full day on Thursday and Friday. Should the Christmas Holiday fall on a Sunday and Monday, the holiday shall be observed with full day on Monday and Tuesday.

c. Holiday Pay.

(1) Nonexempt employees will be paid double pay on the holidays for hours worked. If a person does not work, he or she will receive holiday pay at his or her regular rate.

(2) Exempt employees will be paid their regular salary on the holidays whether or not they work.

(3) For an employee whose normal schedule is to have the holiday off, the employee must work the regularly scheduled workday preceding and the regularly scheduled workday following the holiday, unless the absence is approved by the supervisor or the employee is on a paid time off status. Employees who call in during this period of time may be required to provide documentation from a medical provider in order to receive holiday pay.

## 21. Paid Time Off.

a. Paid Time Off (PTO). Eligible employees accrue PTO for each week of service in which the employee is actively employed and in a paid status. Actively employed and paid status shall exclude employees on FMLA, short-term disability and unpaid leave of absence. PTO shall be used for sick days, vacation days and personal days. No PTO may be taken in advance of being earned.

(1) Full-time employees will accrue paid PTO credits as follows:

<u>Service Length</u>	<u>Weekly Credit Hours</u>	<u>Approximate PTO Accrued</u>
New Employee - End of 3 <sup>rd</sup> year	2.1	109
Start of 4 <sup>th</sup> year - End of 8 <sup>th</sup> year	3.02	157
Start of 9 <sup>th</sup> year - End of 14 <sup>th</sup> year	3.94	205
Start of 15 <sup>th</sup> year - End of 19 <sup>th</sup> year	4.87	253
Start of 20 <sup>th</sup> year - End of 24 <sup>th</sup> year	5.79	301
Start of 25 <sup>th</sup> year -	6.71	349

(2) Any hours over one-hundred sixty (160) will be paid to the employee at the end of the fiscal year provided that the employees have used eighty (80) hours of PTO during that fiscal year. If eighty (80) hours of PTO is not used within the fiscal year, any accrued PTO above one-hundred sixty (160) hours will be lost.

(3) Selection of leave dates is subject to approval by the employee's supervisor. Leave requests shall be submitted in advance as much as possible. PTO shall be approved on a first come basis unless it is due to illness. Seniority shall not be a factor when approving PTO requests. A supervisor shall not require a doctor's note for an employee to take PTO. Department policies on seniority are not applicable for this Section.

(4) Should an employee receive disability insurance payments, the employee may only use that number of PTO leave that, together with such insurance payments, would not represent more than normal pay for hours worked.

(5) Employees will not be compensated in excess of a total of forty (40) hours per week in addition to taking leave hours.

(6) Accrued leave shall not be paid out during the pendency of a furlough or temporary layoff. If and/or when a layoff becomes permanent, accrued leave shall be paid out to the employee.

b. Absence Without Pay. Regular employees may be absent without pay if approved by their supervisor. Regular employees must use available accrued PTO leave prior to using absence without pay.

c. Transfer of Leave Hours. Employees may transfer leave hours to another employee who is eligible to use accrued leave hours. The hours transferred will be calculated at the hourly rate of the employee donating the hours and converted into leave hours based on the wage of the employee receiving. Transfer of leave hours is strictly voluntary and no employee shall be required to transfer accrued leave hours.

(1) To be eligible to receive these hours an employee must meet the following criteria:

(a) An employee who has given notice of resignation or an employee being separated because of lay-off or termination may not receive transferred leave hours.

(b) Have forty (40) or less hours of accrued leave hours.

(c) Not receiving any other type of pay (i.e., Short Term Disability, Worker's Compensation, etc.).

(2) To be eligible to transfer hours, the donating employee must meet the following criteria:

(a) Execute a voluntary option of consent with signature and a specific amount of hours donated/transferred.

(b) Maintain a minimum balance of twenty-four (24) hours in his or her respective donating leave account.

(3) In the event that an employee decides to transfer his/her accrued leave time, such leave time shall not be recovered and the employee will be eligible to utilize only hours that he/she has remaining and thereafter accumulates.

(4) Any leave transferred that violates this policy shall result in the transferred leave being revoked from the receiving employee.

d. Emergency Declaration: Transfer of Leave Time. In the event a state of emergency has been declared, employees may transfer leave hours to another employee who is eligible to use accrued leave hours. The hours transferred will be calculated at the hourly rate of the employee donating the hours and converted into leave hours based on the wage of the employee receiving.

(1) To be eligible to receive these hours an employee must meet the following criteria:

(a) An employee who has given notice of resignation or an employee being separated because of lay-off or termination may not receive transferred leave hours.

(b) Have forty (40) or less hours of accrued leave hours.

(c) Not receiving any other type of pay (i.e., Short Term Disability, Worker's Compensation, etc.).

(2) To be eligible to transfer hours, the donating employee must meet the following criteria:

(a) Execute a voluntary option of consent with signature and a specific amount of hours donated/transferred. An email will be accepted in place of a physical signature.

(b) Maintain a minimum balance of twenty-four (24) hours in his or her respective donating leave account.

(3) In the event that an employee decides to transfer his/her accrued leave time, such leave time shall not be recovered and the employee will be eligible to utilize only hours that he/she has remaining and thereafter accumulates.

(4) Any leave transferred that violates this policy shall result in the transferred leave being revoked from the receiving employee.

e. Ho-Chunk General Council Meeting Leave.

(1) General. Ho-Chunk General Council Leave is provided as a benefit to perpetuate our Ho-Chunk form of government.

(2) Eligibility. Ho-Chunk member employees shall be allowed to utilize PTO or Absence Without Pay, to attend any Annual or Special General Council Meeting. Ho-Chunk General Council Leave may be taken by Ho-Chunk member employees during their Initial Probationary Period.

(3) Ho-Chunk General Council Leave shall not be denied by a supervisor.

**22. Funeral Leave.**

a. All employees, regardless of employment status, are eligible for funeral leave.

b. Funeral leave will be granted to employees for leave with pay for a maximum not to exceed five (5) regularly scheduled workdays (40 hours) following the death in the immediate family, which for the purposes of Funeral leave includes: individuals who are related as a biological, foster, adopted or step parent, grandparent, sibling, child, spouse, cohabitant, in-law, grandchildren and great grandchildren.

c. Funeral leave with pay will be granted to employees following the death of an extended family member, including aunts, uncles, nieces, nephews, and first cousins in the following manner:

(1) a maximum not to exceed five (5) regularly scheduled days (total 40 hours) for Ho-Chunk employees; and

(2) a maximum not to exceed two (2) regularly scheduled days (total 16 hours) for non-Ho-Chunk employees.

d. For attendance at funerals of community members, an employee may use PTO if requested and approved by the employee's immediate supervisor.

e. The employee shall advise his or her supervisor of the duration of his or her absence.

f. The employee shall advise his or her supervisor if he or she intend on using accrued PTO or absence without pay in addition to the paid Funeral Leave.

### **23. Hoocak Woošga Leave Policy.**

a. General. The Hoocak Woošga Leave Policy is provided as a benefit to perpetuate our Ho-Chunk traditions through our ceremonial practices.

b. Woošga Leave shall not be denied by a supervisor.

c. Clan/ceremonial leaders shall utilize Woošga but when officiating a funeral, it shall not count towards their hours for Woošga.

d. Limitations.

(1) The maximum amount of paid Hoocak Woošga Leave is 7.69% of the employee's total hours during each fiscal year period, which is one-hundred and sixty (160) hours for full-time employees and is prorated for  $\frac{3}{4}$ -time part-time, quarter-time and LTE.

(a) For the first year of employment, Woošga leave hours shall be prorated on their start date for the remainder of the fiscal year.

(b) Once the Woošga hours have been depleted, employees may continue to take Woošga but it will be unpaid.

(2) The Hoocak Woošga Policy shall not include paid Woošga leave for enrolled Ho-Chunk member employees to attend cultural events.

e. Eligibility. The following will be eligible:

(1) Ho-Chunk members are eligible for paid Hoocak Woošga Leave hours either as a host, sponsor, or worker. Hoocak Woošga Leave may be taken by Ho-Chunk employees during their Initial Probationary Period.

(2) Spouses. Non-Ho-Chunk spouses of enrolled Ho-Chunk members shall be eligible if they are a worker.

(a) Widow/widower. Non-enrolled Ho-Chunk spouse of deceased enrolled member shall continue to be eligible.

(3) Non-Enrolled children and grandchildren of enrolled Ho-Chunk members.



f. Leave. An employee who has attended a ceremony shall claim leave only for the days that the ceremony actually occurs during scheduled work hours. Eligible employees may choose to use full days of Woošga or may choose to use partial hours depending on ceremonial type. Hoocak Woošga hours are replenished at the start of each fiscal year. There are no carryovers from one year to the next and no transfer of hours. The hours are not earned, they are supplied as a benefit to perpetuate our Hoocak traditions through our ceremonial practices.

g. Process. In order to receive paid Hoocak Woošga Leave, eligible employees shall:

(1) Upon notice of a ceremony, a completed Hoocak Woosga notification (paper) form shall be submitted 24 hours in advance to their supervisor. The notification will include the reason for taking Hoocak Woošga Leave and the duration of the absence.

(2) Employees using Hoocak Woošga Leave must sign-in on the Hoocak Woosga Sign-in sheet, which then must be initialed by the clan/ceremonial leader or designee, to be eligible for paid leave. The Hoocak Woošga sign-in sheet will be provided to the Personnel Department for the calculation of hours when time and attendance are due. Daily Sign-in sheets must correspond to the date(s) and hour(s) the ceremony is taking place according to first, second, or third shift of the employee's scheduled hours.

(3) The Clan Leaders or Ceremonial Leaders or designee will be consulted to verify all sign-in participants, if necessary.

(4) Should an employee sign in who did not actually work or participate in the ceremony, the pay for that day will be deducted from the employee's wages the following week.

(5) When an employee who submits a notification to attend a ceremony abuses and violates this policy by not attending the ceremony, then the employee shall not be eligible to request Hoocak Woošga Leave for a period of ninety (90) days. A second infraction of this policy shall result in the employee not being eligible to request Hoocak Woošga Leave for a period of one hundred and eighty (180) days.

#### **24. Ho-Chunk Funeral Woosga Leave.**

a. The Traditional and Native American Church Funerals customarily require five (5) days of leave.

b. The Ho-Chunk people honor their warriors. Paid funeral leave will be granted to Ho-Chunk legion and auxiliary members who are asked to honor Ho-Chunk veterans with military rites.

#### **25. Jury Duty and Witness Leave.**

a. Jury Duty. Employees are to notify their supervisors promptly upon receipt of a jury summons and subsequent notice of selection to serve as a juror.

An employee selected to provide this community service will receive his or her regular rate of pay for normal hours worked, up to a maximum of ten (10) workdays, provided the employee submits evidence of the summons and selection notice. Employees will be allowed to retain any mileage and other compensation paid by the court.

b. Witness Duty. Employees will be paid their regular hours for the time required to provide testimony in work related litigation or court proceedings. Employees are to notify their supervisor and the Attorney General (or the Department of Justice in the Attorney General's absence) immediately upon receipt of a job related subpoena.

## **26. Military Leave.**

a. An employee who enters active duty in a branch of the U.S. Armed Forces or is a member of the Reserve Components of the U.S. Armed Forces who attends annual training, active duty for training, or is called to active duty will be granted military leave.

b. To be entitled to military leave an employee must present official orders requiring attendance for a period of training or other active duty as a member of the Armed Forces.

c. An employee may opt not to use military and, instead, use accrued PTO leave.

d. Military leave is further classified as paid supplemental military leave, unpaid military leave, or unpaid military leave of absence.

### (1) Paid Supplemental Military Leave.

(a) Paid supplemental military leave is that amount of pay necessary, when added to the military base pay received for that day, to bring the employee to his or her full wage/salary level for that day. The supplemental leave paid to the employee shall be the difference between the base rate of military pay to the employee for that day (exclusive of other allowances paid by the military) and the employee's full wage/salary level for that day.

(b) Fifteen (15) days of paid supplemental military leave will be granted annually to an employee who is member of a Reserve Component or who enlists for active service.

(c) For Reserve Component members this leave may be used for Annual Training, Active Duty for Training and other active duty (called to active duty or mobilized) verified by published military orders. Inactive Duty Training (i.e., weekend training) as a member of the National Guard or Reserve does not qualify for paid supplemental military leave.

(d) A day of paid supplemental military may only be used for a regular scheduled work day. The use of the fifteen (15) days is not limited to a single period, but may be used incrementally as long as the employee presents official military orders.

(2) Unpaid Military Leave. Unpaid military leave applies only to those employees who are eligible for paid supplemental military and decline to take either PTO leave or paid supplemental military leave. It may only be used for fifteen (15) days or less. (As an example, this leave would apply to an employee who's military pay exceeds his or her wage/salary.)

(3) Unpaid Military Leave of Absence. Unpaid military leave of absence will be granted to an employee for extended periods (beyond 15 days) of active duty supported by published official military orders. The following periods of active duty qualify for unpaid military leave of absence:

(a) An employee who is inducted into or enlists in an Active Component of the Armed Forces of the United States.

(b) An employee who is a member of the Reserve Components attending any of the following duty:

1 Initial Entry Training (i.e., basic training).

2 Active Duty for Training (i.e., military schooling).

3 Called to federal active duty by the President of the United States during a national emergency (i.e., mobilized).

4 Called to state active duty by the Governor during a state emergency.

e. Employees returning to work are entitled to the same or comparable position with the same seniority, status, and pay they would have received had they not entered military service. Employees returning from military service may not be terminated from re-employment except for cause during their first year of re-employment.

## **27. Educational Leave.**

a. Employees may request leave with pay to attend educational courses/classes. Employees will receive one (1) hour of leave per week for every credit they are enrolled in, with a maximum of thirty-two (32) hours per month.

b. Requests for educational leave shall be made in writing at least thirty (30) days before the class/course starting date, and include a list of classes/courses, number of credits and class schedule if classes/courses meet on a regular basis.

c. Educational Agreement. If an employee who is not a Ho-Chunk member submits a request that is expected to comprise a total of forty (40) hours of educational leave with pay, or submits a request for leave in a calendar year when they have already utilized forty (40) hours or more of educational leave with pay, this request shall not be granted unless the employee signs a written agreement to continue working for the Ho-Chunk Nation for a period of one (1) year subsequent to the date of the agreement.

(1) If an employee submits a request that is expected to comprise a total of one hundred sixty (160) hours of educational leave with pay, or submits a request for leave in a calendar year when they have already utilized one hundred sixty (160) hours or more of educational leave with pay, the Executive Director of the department for which the employee works shall have the power to modify the applicable Educational Agreement to increase the time for continued employment with the Ho-Chunk Nation beyond one (1) year.

(2) If the employee violates an Educational Agreement by resigning before the period specified within, or by being terminated within that time, they shall remit to the Ho-Chunk Nation an amount equal to the total wages paid to the employee under the paid educational leave that was authorized by said Educational Agreement. If the former employee declines to remit this payment, the Ho-Chunk Nation shall have a cause of action within the Ho-Chunk Nation courts to seek compensatory damages.

(a) These remittances and damages shall be considered debts to the Nation.

(b) If necessary, the Department of Justice may seek enforcement of judgements related to these agreements from foreign jurisdictions.

(c) An employee who is laid off shall not be considered to have violated an educational agreement.

d. Ho-Chunk Nation sponsored trainings, conferences/retreats, seminars, and language classes do not require a thirty (30) day notice; however, a leave form must be submitted to their immediate supervisor.

e. Professional Continuing Education Credits. All professional staff are responsible to meet mandated Professional Continuing Education Credits.

f. Enrolled Ho-Chunk member employees shall be allowed to attend Hoocak language classes for up to two (2) hours per work day. Sign-in sheets are required for each employee attending language classes. Sign-in sheets should be submitted to the employee's immediate supervisor for purposes of ensuring accurate time and attendance records.

g. Supervisors shall not deny Educational Leave to enrolled Ho-Chunk members who follow the procedures for requesting such leave.

**28. Administrative Leave.** Administrative leave status or normal work curtailment may be granted to employees by the Office of the President, Vice President, or Chief Justice or Chief Judge. Administrative Leave includes but is not limited to: inclement weather conditions, hazardous working conditions, voting purposes, blood drives and other exceptional circumstances, including declaration of a state of emergency. Administrative Leave is considered unpaid leave and employees shall be allowed to use PTO to receive pay in these situations, with the exception of Administrative Leave due to inclement weather conditions and voting purposes, which shall be considered paid Administrative Leave. The Legislature may authorize paid Administrative Leave when approved by Resolution.

## **29. Medical Leave.**

a. Maternity/Paternity Leave. The Ho-Chunk Nation will provide maternity/paternity leave for regular employees when the employee has completed his or her ninety (90) day Initial Probationary Period, as the Nation deems he or she as a regular employee and specific conditions are met.

(1) Maternal Birthing Parents may claim up to one hundred and twenty (120) consecutive hours of paid Maternity Leave.

(2) Maternal Birthing Parents may claim additional unpaid Maternity Leave under certain conditions.

(a) If the pregnancy pre-exists employment with the Nation, the employee may receive up to one hundred and twenty (120) consecutive hours of leave without pay.

(b) If the pregnancy occurred during the employee's employment with the Nation, the employee may use Family Medical Leave if the employee is otherwise entitled to such leave.

(3) Non-Birthing Parents may claim up to one hundred and twenty (120) consecutive hours of paid Non-Birthing Parental Leave.

(4) Non-Birthing Parents may claim additional unpaid Non-Birthing Parental Leave under certain circumstances.

(a) If the pregnancy pre-exists employment with the Nation a Non-Birthing Parent can receive up to forty (40) consecutive hours of leave without pay.

(b) If the pregnancy occurred during the employee's employment with the Nation the employee may use Family Medical Leave if the employee is otherwise entitled to such leave.

b. Adoptive Parental Leave. The Ho-Chunk Nation will provide new adoptive parents leave for regular employees when the employee has completed his or her ninety (90) day Initial Probationary Period, as the Nation deems he or she as a regular employee and specific conditions are met.

(1) Adoptive Parents may claim up to one hundred and twenty (120) consecutive hours of paid Adoptive Parental Leave for the adoption of a child.

(2) Adoptive Parents may claim additional unpaid Adoptive Parental Leave under certain circumstances.

(a) If the adoption pre-exists his or her employment with the Nation the Adoptive Parent can receive up to forty (40) consecutive hours of leave without pay.

(b) If the adoption occurred during the employee's employment with the Nation the employee may use Family Medical Leave if the employee is otherwise entitled to such leave.

c. Family Medical Leave. The Ho-Chunk Nation will provide up to twelve (12) weeks of unpaid, job-protected leave referred to as Family Medical Leave (FML) for "eligible" employees to attend to certain family medical matters. New parents, whether by birth, adoption or foster placement, of a special needs child will be provided an additional twelve (12) weeks of FML. All FML requests must be approved by the Department of Personnel.

(1) To be eligible for FML, the employee must have worked for the Nation for at least twelve (12) months and have worked at least one thousand two hundred and fifty (1,250) hours during that twelve (12) month period unless the employee is a United States Veteran, then the employee must have worked at least six (6) months and six hundred and twenty-five (625) hours during that six (6) month period.

(2) When an employee does not meet the eligibility criteria noted above, the FML pending window can close sooner than the usual fifteen (15) day pending period.

(a) When Family Medical Leave is denied, the employee will be double-deducted for health premiums for the weeks the employee did not receive a check while off work. The Ho-Chunk Nation Attendance Policy will apply to any hours/days missed.

(b) It is the sole responsibility of the employee to ensure all Family Medical Leave forms are returned to the Human Resources/Personnel office by the due date.

(3) Employee and/or supervisor must notify the Department of Personnel/HR in the event medical leave may be necessary beyond three (3) days.

(4) Leave Schedule.

(a) FML permits the employee to schedule full-time leave or intermittent leave. Requests for FML or IFML must be specified otherwise the employee's file will be recorded as using full-time FML

(b) An employee may change his or her FML schedule when medical improvements occur; provided that the Department of Personnel is notified prior to the schedule change.

(c) An Intermittent/Reduced Schedule is permitted when such schedule does not unduly disrupt the Nation's operations and when either of the following circumstances occur.

1 When medically necessary to care for a seriously ill family member with a foreseeable medical treatment schedule is established for the employee.

2 When an employee with a serious medical condition is medically released by the supervising health care provider to work a reduced schedule. In such cases, the Nation may transfer the employee temporarily to an alternative job with equivalent pay and benefits that better accommodate the employee's recurring periods of leave.

3 To care for a newborn or newly placed adopted or foster care child.

(5) An employee who fails to keep the Department of Personnel and their supervisor current on their medical status while on FML may be denied possible extensions of any leave time.

(6) Upon return to work from a serious health condition, an employee must submit an attending physician's return to work certification prior to returning to work.

(7) An employee who fails to report promptly for work at the expiration of FML with the exception of an employee with a Worker's Compensation claim, the following will apply:

(a) If unable to return, an employee has the option to submit a written resignation. Should the employee do so, they will be considered to have left the Nation in good standing.

(b) If an employee is unable to return for work at the expiration of FML and does not submit a written resignation, it shall be considered an involuntary resignation and paperwork will be processed reflecting such.

(8) The FML shall run concurrent with Short Term Disability, PTO, Maternity/Paternity Leave, Worker's Compensation and/or an unpaid Leave of Absence.

(9) Leave Entitlements.

(a) Such leave entitlements shall not include ailments that do not constitute "serious health conditions" as described in paragraph (e), below. This includes, but is not limited to, general work related stress, common colds, earaches, the flu, headaches other than migraines, upset stomach, minor ulcers, routine dental, orthodontic or periodontal problems.

(b) Leave entitlements do include the following reasons: the birth of a child, and to care for the newborn child; placement of a child for adoption or foster care, and care for the newly placed child; care for an immediate family member (spouse, child, or parent-but not a parent-in-law) with a serious health condition; and when the employee is unable to work because of a serious health condition.

(c) Eligible employees with a spouse, son, daughter, or parent on active duty or called to active duty status in the National Guard or Reserves in support of a contingency operation may use their twelve (12) week leave entitlement to address certain qualifying emergencies. Qualifying emergencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

(d) Eligible employees are eligible to take up to twenty-six (26) weeks of leave to care for a covered service member during a single twelve (12) month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retire list.

(e) Serious Health Conditions.

1 Serious health condition means an illness, injury, impairment, or physical or mental condition and involves: any period of incapacity or treatment connected with inpatient care (i.e., overnight stay) in a hospital, hospice, or residential medical care facility; a period of incapacity requiring absence of more than three (3) 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; any period of incapacity due to pregnancy, or for prenatal care; any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy); a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases); or any absences to receive multiple treatments (including any period of recovery) by, or on the referral of, 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).

2 A regimen of continuing treatment under this provision that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for the purpose of Family Medical Leave.

(10) Maintenance of Health Benefits. The Nation shall maintain group health insurance coverage, including family coverage while an employee is on FML. The maintenance of the health benefits stops when an employee fails to return to work at the end of the leave period.



**30. Unpaid Leave of Absence.** An employee with more than twelve (12) months of continuous full time service (or ninety (90) days, in the event an Emergency Declaration has been executed) may be eligible for an Unpaid Leave of Absence for a period not to exceed three (3) months. All requests must be submitted in writing to the supervisor. The supervisor shall provide a written recommendation to the Department of Personnel for a final determination.

a. An Unpaid Leave of Absence may be granted for the following reasons:

(1) During an Unpaid Leave of Absence for medical reasons, maternal/paternal leave, or adoptive parental leave, health benefits may continue for up to ninety (90) days.

(2) Employees will be responsible for maintaining or discontinuing any employment related discretionary insurance benefits with the Nation.

b. Upon expiration of the Unpaid Leave of Absence, the employee shall be reinstated in the position held at the time this leave was granted. An employee who fails to promptly report to work at the expiration of such leave will be considered to have involuntarily resigned.

c. Upon return to work for a medical reason, an employee must submit an attending physician's return to work certification prior to returning to work.

d. Under no circumstances will Departments be allowed to fill the vacancy on a permanent basis.

**31. Employee Assistance Program (EAP).** The Employee Assistance Program is a service to assist employees with personal problems and supervisors in need of assistance in dealing with employee personal issues. The EAP is available to all Ho-Chunk Nation employees of the Ho-Chunk Nation and their family members.

## **CHAPTER V WORK RULES AND EMPLOYEE CONDUCT, DISCIPLINE, AND ADMINISTRATIVE REVIEW**

**32. General Hours of Work and Attendance.**

a. Due to the varying nature of Tribal business and service needs, no single work schedule can be established for all employees. Operational hours will be established upon functional needs.

b. Work schedules will be established for each employee by supervisory personnel who may change schedules based on the needs and requirements of the department. Supervisory personnel may also require an employee to work an unscheduled day which shall be treated as modified work schedule.

c. Attendance.

(1) Employees are required to report to their designated work locations at the prescribed time and manner work is to commence. Tardiness, unexcused absence or failure to report as required may result in disciplinary action.

(2) In the event an employee cannot report to work as scheduled, the employee must follow their chain-of command with notification at least one (1) hour prior for enterprise/gaming employees. Government employees must their chain-of-command with notification within fifteen (15) minutes prior to work schedule. .

(3) The employee shall provide the immediate supervisor with a valid reason for the absence or tardiness and, if applicable, the duration of the absence.

d. Unauthorized Leave of Employment. An employee who is absent from an assigned work location without authorized/approved leave for two (2) consecutive work days or three (3) work days in a six (6) month period shall be subject to progressive disciplinary action, including termination, unless the employee can provide their supervisor with acceptable and verifiable evidence justifying the absence(s). During an Emergency Declaration, supervisors are encouraged to be flexible and lenient with the application of this section.

e. Abandonment of Employment. An employee who is absent from work without notifying their supervisor (no call/no show) for two (2) consecutive days shall be considered as having abandoned employment. The employee shall be terminated, without regard to progressive discipline, unless the employee can provide their supervisor with acceptable and verifiable evidence justifying the absence(s).

### **33. Employee Conduct.**

a. Employees are responsible and accountable for adhering to all laws, policies, rules, directives, and procedures enacted and established by the Nation or appropriate Executive Staff. Failure to comply will result in disciplinary action.

b. Employees who engage in, or are associated with illegal, or inimical conduct, the nature which adversely affects the Ho-Chunk Nation, or their ability to carry out their employment responsibilities, will be subject to disciplinary action, including termination.

c. Information about the Ho-Chunk Nation, its customers, clients, suppliers, or employees shall not be disclosed or divulged to anyone other than persons who have a right to know, or are authorized to receive such information.

d. The Nation reserves the right to deny services and entry onto the Nation's property to members of the public, visitors, and employees who are physically and/or verbally abusive or disruptive of services and operations. The Nation additionally reserves the right to deny entry onto Ho-Chunk Nation properties or access to services to all employees and/or members of the public who may be under the influence of alcohol, controlled substances, and/or illegal drugs. During an Emergency Declaration, the Nation may reserve the right to deny entry onto Tribal properties or access to services to all employees and/or members of the public in the interest of safety.

e. Unacceptable Conduct. The following employee acts, activities, or behavior that are unacceptable conduct.

(1) Discourteous treatment of the public, employees, vendors and suppliers in the form of harassment, coercion, threats, or intimidation (see Workplace Violence Prevention Act, 6 HCC § 8-17).

- (2) Improper or unauthorized use of paid or unpaid leave.
- (3) Being absent without authorized leave or repeated unauthorized late arrival or early departure from work.
- (4) Willful or negligent violation of this Act, Ho-Chunk law, unit operating rules, or related directives.
- (5) Refusal to accept reasonable and proper assignments or failure to carry out a direct order from a superior is insubordination, except where the order is illegal or the employee's safety may reasonably be jeopardized by the order.
- (6) Soliciting or accepting gifts or compensation in exchange for influence, contracts, access to information, people or facilities.
- (7) Engaging in a conflict of interest activity.
- (8) Conduct that discredits the employee or the Nation, or willful misrepresentation of the Nation. An employee may not present themselves as a representative of the Nation, or communicate with the news media on behalf of the Ho-Chunk Nation unless authorized or directed in writing by its delegated representative(s).
- (9) Conviction of a crime, including convictions based on a plea of *nolo contendere* or of a misdemeanor involving moral turpitude, the nature of which reflects the possibility of serious consequences related to the continued assignment or employment of the employee.
- (10) Knowingly falsifying, removing, or the destruction of information related to employment, payroll, work-related records and/or reports.
- (11) Soliciting outside work for personal gain during business hours; engaging in off-duty employment for any business under contract with the Ho-Chunk Nation; participating in any off-duty employment that adversely affects the employee's performance of work for the Nation; and engaging in unauthorized off-duty employment.
- (12) Conduct that interferes with the management of Tribal operations.
- (13) Violation of or neglecting safety rules, or contributing to hazardous conditions.
- (14) Unauthorized removal, negligent, or improper use of any Tribal property, equipment, or funds or that of its clients, customers, or agents. This includes the private use, use that creates an unreasonable risk of damage to property, and embezzlement or conversion of property for personal use of Tribal funds or property.
- (15) Physical or verbal altercations or creating a disturbance among fellow employees that would result in an adverse effect on morale, productivity, and/or the maintenance of proper discipline, i.e. yelling, shouting, foul language, wrestling, rough housing, and horse play.

(16) Participating in a strike, work stoppage, slowdown, sickout, or other job action.

(17) Making false, malicious, or unfounded verbal, written, or electronic statements, social media posts or press statements against co-workers, supervisors, subordinates, government officials, or the Ho-Chunk Nation, which tend to damage the reputation or undermine the authority of the Ho-Chunk Nation

(18) Conducting personal business during work time.

(19) Inefficiency, incompetency, or negligence in the performance of duties, including failure to perform assigned tasks or training, or failure to discharge duties in a prompt, competent, and reasonable manner.

(20) Refusal or inability to improve job performance in accordance with written or verbal direction after a reasonable period, which is specified in writing.

(21) Employees may not engage in coercion, nor be subject to coercive tactics that constitute a deprivation of legally protected rights.

(22) Offering or accepting political gifts as consideration for the political support of any party or candidate for public or Ho-Chunk Nation public office. Upon proof of such gift, disciplinary action will be taken, which may result in termination or removal.

(23) The possession, sale, purchase, distribution or being under the influence of illegal drugs or controlled substances, or being under the influence of alcohol on the Nation's premises during work hours or in the conduct of related work off-site is prohibited.

(24) Driving under the influence of alcohol or drugs while on duty or the suspension of driver's license where the job description requires driving.

(25) Bringing infants or other dependents to work for the purposes of providing them care and supervision, except in the following circumstances:

(a) To accommodate a mother's right to breast-feed.

(b) To accommodate an employee who works at any of the Nation's facilities where day care, recreation, or other supervision is provided for infants or dependent children.

(c) In all cases, an employee must request approval of their supervisor in order to bring a child to their workplace.

(26) Misuse of office phones and work cellphones for personal use.

- (27) Participating in, planning, or assisting in any illegal or unlawful activity, which negatively impacts the day-to-day operations of the Ho-Chunk Nation.
- (28) Unauthorized release of confidential information or official records.
- (29) Misuse of authority or position for personal gain.
- (30) Any other actions considered inappropriate, or detrimental to employee working environment.
- (31) Taking employee personnel matters to any public forum or social media posts.
- (32) Use of social media outlets, platforms and applications, including blogs, social networking sites, video sites, and online chat rooms and forums during regularly scheduled work hours is prohibited for non-work related matters.
- (33) Failure to comply with an investigation or investigations from the Department of Personnel or the Department of Justice.

### **34. Employee Discipline.**

a. Depending on the nature of the violation, discipline will be progressive to address the violation(s). Based on the severity of the employee conduct, which may include, but it not limited to, theft, physical/verbal altercations, sexual/gender harassment, unauthorized altercation and/or falsification of records or reports, safety negligence and any unlawful activities, progressive discipline may not be applicable. Supervisors imposing discipline shall afford Due Process to the employee prior to suspending or terminating any employee, except in the case of sexual harassment where supervisors may afford Due Process (see Chapter I, Section 6.e.(4)(a)). Types of discipline include:

b. Progressive discipline may include a Due Process, written warning(s), for a suspension, or termination. Depending on the nature of the circumstances and the severity of the violation(s), supervisory management shall proceed to a higher level of discipline. Any discipline will be noted within the employee's personnel file.

#### (1) Suspension and Termination.

(a) Under no circumstances will a suspension exceed ten (10) working days.

(b) It may be necessary to restrict an employee immediately from performing duties at the work site. These circumstances usually involve potential danger to the employee, co-workers or the public, or the employee's inability to discharge assigned duties satisfactorily. In these situations, the following procedure is to be followed:

1 Once the employee is suspended, the supervisor taking the action to suspend an employee will immediately notify the department Executive Director/Manager and prepare a written statement of action taken and the reasons for such action.

If an Executive Manager suspends an employee, the notification pursuant to this Section shall be provided to the Executive Director of Business.

2 The division supervisor of the department in which the employee is employed will prepare the statement of charges and document any supporting evidence. The completed documentation shall be submitted up the chain-of-command for signature(s).

3 As soon as possible after the initial action, the Executive will prepare written notification to the affected employee.

(c) Suspensions shall include holidays. If an employee applied for PTO, the PTO may be rescheduled upon the employee's return to work.

(d) All suspensions shall be unpaid. No employee may be disciplined by issuance of a suspension with pay.

(e) The supervisor shall notify the Department of Personnel of all disciplinary actions.

(f) A suspended employee who has been vindicated of any wrongdoing shall be compensated for lost wages and benefits.

(2) Termination. An employee released from employment due to a violation of the Employment Relations Act of 2004.

**35. Alternative Dispute Resolution.** In an effort to provide employees with a method to resolve conflict within the workplace, the Ho-Chunk Nation has elected to implement alternative dispute resolution prior to and, in some cases, in lieu of the grievance process. It is the policy of the Ho-Chunk Nation to afford all eligible employees who have been subject to discrimination and/or harassment, a means of having the circumstances of such action reviewed by an impartial and objective mediator. The Department of Personnel will take all reasonable steps to investigate all complaints. The Department will conduct mediations by facilitating discussions between parties requesting the assistance of the Department of Personnel in resolving their disputes in accordance with the Personnel Department's rules and procedures for mediation.

### **36. Employment Conflict Review Process Generally.**

a. Employees may seek administrative and judicial review pursuant to the provisions of the Employment Conflict Review Process and Judicial Review sections (below) only for alleged discrimination, harassment, suspension, or termination. Initial Probationary or Limited Term Employees may not seek review on any matters, except alleged discrimination or harassment. Performance Evaluations may not be reviewed under the Employment Conflict Review Process or judicially.

b. Effective July 23, 2019, review of employment conflicts will be governed by the provisions of Sections 36 and 37 herein, which includes a complaint process for employees, followed by an option for Judicial Review.

c. Candidates for employment may file a hiring practice complaint with the Department of Personnel regarding the interview and selection process and may elect to file a complaint directly with the Personnel Department within fifteen (15) calendar days of the receipt of notice that the interview has been denied or that they were not selected for the position. The Executive Director of Personnel will investigate the matter and respond within fifteen (15) calendar days.

(1) During an Emergency Declaration, the Department of Personnel will allow for an electronic complaint submission and procedure, in lieu of in person meetings.

### **37. Employment Conflict Review Process (Effective July 23, 2019)**

a. Policy. Employees who are eligible to file a complaint, pursuant to Section 35a, will have their complaint processed under the Employment Conflict Review Process.

b. The burden of proof for reviewable actions shall be:

(1) Discrimination and Harassment. The burden of proof shall be on the complainant to prove that the discrimination and/or harassment occurred. Further, the complainant must prove that enduring the offensive conduct becomes a condition of continued employment; or the conduct is so severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive, for which the supervisor has taken no action to remedy. For example, petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of being unlawful.

(2) Sexual Harassment. The burden of proof shall be on the complainant to prove that the sexual harassment occurred. Further, the complainant must prove that it results in an adverse employment decision for the complainant (meaning the victim is suspended, terminated, or demoted); or that it is so frequent or severe that it creates a hostile or offensive work environment, for which the supervisor has taken no action to remedy. For example, simple teasing, off-hand comments, or isolated incidents that are not very serious will not rise to the level of being unlawful.

(3) Suspension and Termination. The burden of proof shall be that the conduct the employee was terminated or suspended for was not a violation of the Employment Relations Act; that there was a mistake, in fact, that the disciplining supervisor knew or should have known; or that the disciplining supervisor did not provide adequate pre-deprivation Due Process.

c. Method of Proof. The complainant may seek to prove the employment action was unlawful through a variety of means, including, but not limited to: documentation, witness statements, recordings taken lawfully, and pictures.

d. Employment Conflict Complaint.

(1) Deadline. The complainant must file a written complaint with the Department of Personnel within five (5) calendar days of the disputed action.

(a) If a complainant who seeks to file a complaint does not meet their deadline, it shall serve as the basis for a denial of any additional complaint of that matter. Also, if a deadline falls on a weekend, the party who is seeking to file a document shall have the next weekday on which to file.

(2) Form. The Department of Personnel shall provide a complaint form, but other documentation may be used by the complainant. The complaint shall include, at a minimum, the name of complainant, name of supervisor, date of employment action being reviewed, a description of the employment action being reviewed, an explanation of why such employment action was unlawful, and an explicit request for relief.

e. Investigation.

(1) The Executive Director of Personnel, or authorized designee, may choose to have the complaint investigated.

(a) The Department of Personnel shall take all reasonable steps to investigate any incident which involved or resulted in discrimination, harassment, suspension, or termination.

(b) The Executive Director of Personnel, or authorized designee, may use the results of any investigation in deciding if settlement is appropriate.

(c) The Executive Director of Personnel, or authorized designee, may use the results of an investigation as evidence in an Employment Conflict Resolution Meeting, but they must provide a copy of the investigation to the complainant and the supervisor in advance.

f. Response to Complaint. The Executive Director of Personnel, or authorized designee, has fourteen (14) calendar days to respond to the complaint.

(1) In the event the complainant's direct supervisor is the Executive Director of Personnel, an authorized designee shall be utilized.

(a) Any intimidation, harassment, or retaliation directed at the authorized designee, for their role of administrative reviewer, when the Executive Director of Personnel's actions are being reviewed, shall be prohibited. Such actions are subject to Section 36j.

(2) The response may include a number of options:



(a) Informing the complainant that the Department of Personnel is investigating the matter further and will follow up after the investigation with a reversal of the supervisor's decision or with proceeding with Section 36f(2)(b) or 36f(2)(c) below;

(b) Offer to settle the matter through mutual agreement; or

(c) Set the matter for an Employment Conflict Resolution Meeting.

g. Notice for Employment Conflict Resolution Meeting.

(1) Notice of Employment Conflict Resolution Meeting. Notice shall include the date, time, and location of the Employment Conflict Resolution Meeting. The notice should set forth that the Meeting's purpose is for the Executive Director of Personnel, or authorized designee, to hear from the complainant and supervisor, be presented with methods of proof, and hear from witnesses.

(2) The notice must be served via certified mail, return receipt delivered. The complainant shall be provided ten (10) day notice of the Employment Conflict Resolution Meeting, unless the complainant waives timelines and/or certified mail notice in writing.

h. Employment Conflict Resolution Meeting.

(1) The Executive Director of Personnel, or authorized designee, presides over the meeting.

(a) The Executive Director of Personnel, or the authorized designee, shall be impartial.

(b) Another impartial designee shall be authorized in the event of a conflict of interest.

(2) Scheduling. If the complainant cannot meet at the designated date and time, the Executive Director of Personnel, or authorized designee, will make reasonable efforts to reschedule the meeting within an additional ten (10) days from the date provided in the original notice.

(3) Refusal to Meet. If the complainant refuses to meet with the Executive Director of Personnel, or authorized designee, that refusal shall serve as grounds for denial of the complaint, and as the basis for denying the refiling of such complaint.

(a) The denial decision shall be made in writing and be mailed to the complainant's last known address certified mail, return receipt requested.

(b) A copy of any and all correspondence will be provided to the Department of Personnel.

(4) Meeting. The Employment Conflict Resolution Meeting is an opportunity for the Executive Director of Personnel, or authorized designee, to hear from the complainant and supervisor, review the presented evidence, elicit testimony, and ask questions in an effort to resolve the conflict.

i. Decision.

(1) The Employment Conflict Resolution Meeting Decision must be in writing and clearly titled as such.

(a) It must include a statement that the decision is deemed final for the purposes of judicial appeal under section 37. As such, the decision shall provide language regarding the judicial appeal process.

(2) The Executive Director of Personnel, or authorized designee, shall consider all that he/she heard, read, and viewed to make a determination on whether the complainant met his/her burden of proof and be awarded relief.

(3) Any relief awarded shall comply with the Nation's APPROPRIATIONS AND BUDGET PROCESS ACT, and shall not be greater than that authorized by the Legislature's Limited Waiver of Sovereign Immunity allowing Judicial Review of employee complaint under section 37.

(4) If the Executive Director of Personnel, or authorized designee, finds merit to a complaint, the final written decision will be forwarded to the proper supervisors and/or Executive Directors to take under advisement for requiring discipline or further training, as may be appropriate.

(5) The Employee Complaint Meeting decision shall be sent by certified mail, return receipt requested, within ten (10) days of the Employment Conflict Resolution Meeting.

j. The use of the Nation's complaint process for harassment, intimidation, or to make false claims is strictly prohibited.

(1) Penalty. Any person who violates this provision shall be subject to a civil penalty of up to \$100.00 per occurrence. The Court shall assess the penalty after petition, notice, opportunity for hearing, and a determination that a violation has occurred. In addition, if the violation is committed by an employee of the Nation, the person shall be subject to appropriate disciplinary action as allowed in the Nation's employment laws.

### **38. Judicial Review**

a. Waiver of Sovereign Immunity. Pursuant to Article XII of the Constitution of the Ho-Chunk Nation, the Ho-Chunk Nation Legislature expressly waives the sovereign immunity of the Ho-Chunk Nation in the limited manner described in Section 37. This waiver shall be strictly construed its terms adhered to.

b. There is no judicial review of employee evaluations or disciplinary actions that do not immediately result in suspension or termination.

c. Judicial review of employment conflict complaints involving suspension, termination, alleged discrimination or harassment can proceed to the Ho-Chunk Nation Trial Court under this limited waiver of sovereign immunity only after the applicable Employment Conflict Review Process, under Section 36, has been fully exhausted. Such review will be initiated by filing a written *Complaint*. An employee may file a written *Complaint* with the Trial Court within thirty (30) calendar days from when the Employment Conflict Review Meeting Decision is issued.

d. Relief.

(1) This limited waiver of sovereign immunity allows the Trial Court to award monetary damages for actual wages established by the employee in an amount not to exceed \$10,000.00, subject to applicable taxation.

(2) The Trial Court may grant equitable relief mandating that the Ho-Chunk Nation prospectively follow its own law, and as necessary to directly remedy past violations of the Nation's laws. Other equitable remedies shall only include:

(a) An order of the Court to the Executive Director of the Department of Personnel to reassign or reinstate the employee;

(b) The removal of negative references from the employee's personnel file;

(c) The award of bridge service credit; and

(d) The restoration of the employee's seniority.

(3) Notwithstanding the remedial powers noted above, the Court shall not grant any remedies that are inconsistent with the laws of the Ho-Chunk Nation. Nothing in this limited waiver or within this Act shall be construed to grant a party any legal remedies other than those included in this section.

e. Under this limited waiver of sovereign immunity, the Complainant must prove, by clear and convincing evidence one of the following:

(1) For Wrongful Suspension, that the conduct the employee was suspended for was not a violation of the Employment Relations Act; or that there was a mistake, in fact, that the disciplining supervisor knew or should have known.

(2) For Wrongful Termination, that the conduct the employee was terminated for was not a violation of the Employment Relations Act; that there was a mistake, in fact, that the disciplining supervisor knew or should have known; that the disciplining supervisor did not provide adequate pre-deprivation Due Process.

(3) For Discrimination and Harassment, that the discrimination and/or harassment occurred. Further, the complainant must prove that enduring the offensive conduct becomes a condition of continued employment; or the conduct is so severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive, for which the supervisor has taken no action to remedy. For example, petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of being unlawful.

(4) For Sexual Harassment, that the sexual harassment occurred. Further, the complainant must prove that the sexual harassment results in an adverse employment decision for the complainant (meaning the victim being suspended, terminated, or demoted); or that the sexual harassment is so frequent or severe that it creates a hostile or offensive work environment, for which the supervisor has taken no action to remedy. For example, simple teasing, off-hand comments, or isolated incidents that are not very serious will not rise to the level of being unlawful.

### **39. Employee Rights.**

a. During Judicial Review, employees have the right to be represented by legal counsel or advocate at their own expense. During the Administrative Review Process, employees entitled to Due Process have the right to hear the charges, evidence and witnesses against him or her, and the right to answer such charges.

b. It is a violation of this Act for any employee or member of the Ho-Chunk Nation to interfere with, threaten, coerce, restrain, discharge or otherwise take action against any employee or other person because he or she has filed a complaint, gave or will give testimony, or otherwise appeared before a court of the Ho-Chunk Nation, the Legislature, or any Ho-Chunk commission, committee, agency, or board in connection with a grievance or an appeal.

c. Retaliation or punishment of an employee seeking resolution of an employment grievance by using established or prescribed procedures is strictly prohibited.

## **CHAPTER VI** **EMERGENCY DECLARATION**

**40. Emergency Policy.** In an emergency situation, it may become necessary to temporarily change an employee's job duties, work assignments, the location in which the duties are performed, or it may become necessary to temporarily close worksites. The various departments and governmental branches will use their discretion, using reasonably prudent decision-making, to determine what work each employee will perform during the emergency period.

**41. Essential Duties/Services.** Departments or governmental branches may suspend services and work duties that are not deemed essential with approval or at the direction of the President, Vice President, Office of the General Council, or Judiciary.

a. **Reassignment of Position.** Employees may be temporarily reassigned to other positions as needed to ensure the continuation of essential duties/services.

b. Reassignment of Job Duties. Employees may be temporarily reassigned work duties that are not normally performed by them or described by their job descriptions to ensure the continuation of essential duties/services.

c. While there is a declared State of Emergency, employees may be recalled from layoff to fill needed positions different than their position before layoff. This temporary recall/assignment may last until the end of the State of Emergency. During this time, if the position they were laid off from needs to be filled, it shall only be filled on a Limited Term Employee basis until the employee's need for the temporary recall/assignment has ended or the end of the State of Emergency, whichever comes first. Once the State of Emergency has ended or the need for the temporary recall has ended, the employee shall be transferred back to the position they were laid off from.

**42. Alternative Work Arrangements.** Alternative work arrangements may be created in order to maintain governmental and business operations during a declared State of Emergency. Departments and governmental branches should use reasonable discretion during the consideration and determination as to whether flexible work schedules or telecommuting/teleworking are appropriate.

a. Teleworking.

(1) Teleworking is a work arrangement that allows a Nation employee to conduct all or some work away from the official worksite during all or a portion of the Nation's establishment work hours on a regular basis.

(a) Potential teleworkers should be identified by the departments to make the necessary technological arrangements.

(b) The departments should consider a broader use of "teleworking" during states of emergency than they would under normal operations or other types of emergencies.

(c) The departments should determine the essential functions that may be accomplished remotely and whether the person performing these functions needs access to all systems and applications or only email and/or voice communications.

(d) Departments should identify employees in positions that provide essential functions and determine their ability to telework and their current technical capacities (i.e. whether they already have remote access). As part of their Continuity of Operations Plan, departments and governmental branches should provide remote access before a potential emergency to employees who perform essential functions and require access to systems and applications.

(e) Flexible work schedules are another consideration for those authorized to telework. These schedules may reduce peak demands on information technology systems.

(f) Departments may consider having a laptop computer pre-loaded with remote access. Employees who do not already have the necessary equipment to telework may check out laptops on an emergency basis. Equipment is limited and employees should not expect to be provided a laptop.

- (2) When feasible, employees will initiate a telework arrangement by submitting a written Telework Agreement form to their immediate supervisor. In other instances, telework arrangements may be requested, communicated, assigned and/or processed via email or telephone.
- (3) The Department of Personnel shall establish further policies and procedures to guide the use of alternative work arrangements.

b. Flexible work schedules.

- (1) Flexible work schedules would be schedules that deviate from the employee's workday.
- (2) Departments should review their normal business hours and work schedules to determine if they can be modified in a manner that best promotes social distancing, business continuity, or other emergency response goals during an emergency.
- (3) Agencies will identify essential functions and non-essential functions that may be staffed with personnel on flexible work schedules.
- (4) If feasible, supervisors should first ask for employees to volunteer to work hours other than their normal schedule. If certain work schedules cannot be staffed in this manner, supervisors may direct staff to work the schedules necessary.
- (5) Supervisors may change regular work schedules subject to a 24-hour notice, when possible, upon the proclamation of an emergency. If less than a 24-hour notice is necessary, supervisors may make such changes.

**43. Continuity of Supervisory Coverage.**

a. During a period in which a State of Emergency has been declared, it is conceivable that supervisory staff may not be able to fulfill the duties of their positions.

- (1) It is imperative that departmental and governmental branch Continuity of Operation Plans (COOP) include designated persons to assume certain decision-making responsibilities in the absence of employees in supervisory roles.
- (2) In order to adequately prepare for the potential absence of supervisors, departments and governmental branches should designate a multiple number of employees who could fill in.

- (3) These employees would have to be properly cross-trained to effectively assume the additional responsibilities of a supervisory role.

#### **44. Reporting to Work.**

a. Each COOP must include expectations for reporting to work when a State of Emergency has been declared. When emergency conditions exist that impact operations, including but not limited to inclement weather, every effort will be made to keep impacted Nation offices or buildings open and operating as normal.

- (1) Employees may be required to report to work in their regular department or governmental branch or be reassigned to perform work in other areas based on the needs of the Nation and in accordance with the departmental or governmental branch COOPs.
- (2) Employees unable to report to work as scheduled will be required to utilize appropriate leave.
- (3) Employees may be required to not report to work.
  - (a) Where the health and safety of citizens would be placed at risk, or conditions or events prevent the normal operation or services of the Nation, it may become necessary to close offices and buildings.
  - (b) During a declared state of emergency, the President, Vice President, Chief Judge, or Office of General Council Advocate may order some or all of the offices and other work stations closed for specified periods of time or may order such other deviations in office hours or the standard basis of employment as may be necessitated by weather conditions, energy shortages or emergency situations. The declaration of a state of emergency or order may specify how any time off or other deviation occasioned by the declaration or order may be covered for Nation employees.

#### **45. Reporting Absence from Work.**

a. Employees who are unable to report to work as scheduled are responsible for notifying the department or governmental branch of the absence.

- (1) It is possible that traditional methods of communication may not be readily available due to interruption of services.
- (2) Departments and governmental branches should consider and implement alternative methods (e.g. text messaging, email) for employees to provide notification of absences.
- (3) In preparation for an emergency response event, employees should receive advance communication of modifications made to call-in procedure, with such included in the department or governmental branch's COOP.

**46. Treatment of Absences Due to Closing of Nation Offices and Emergency Situations.**

- a. Unless directed otherwise by the President or Legislature in the form of a declaration or order, absences of employees will be treated as follows:
- (1) Employee Requests to be Excused.
    - (a) Employees may request or be allowed to be excused from work when they believe that weather conditions or emergency situations make it unsafe to get to or remain at work.
    - (b) The supervisor or Executive Director may charge any such approved absence to the appropriate paid leave type designated by the employee or require the employee to make up the lost time. The employee may be given the additional option of taking leave without pay at the discretion of the supervisor or Executive Director.
  - (2) When Employees are Ordered to Leave or Not Report
    - (a) Employees may be ordered to leave or not report to work because the President, Legislature, Office of General Council, or Judiciary has determined that conditions exist which are detrimental to the health and safety of employees.
    - (b) When employees are ordered to leave or not report, they will have the following options, subject to the restrictions contained in the ERA:
      - 1 Using accrued PTO;
      - 2 Taking leave without pay; or
      - 3 Making up the lost time at a time to be scheduled by the supervisor or Executive Director.

**47. Short Falls in Tribal Revenue.** Shortfalls in tribal revenue may result in funding deficits that make it necessary for a program area to temporarily reduce the regular hours of employment or temporarily place employees on leave without pay. All affected positions shall be identified and appropriate reductions in pay shall be implemented for all affected employees. Departments and governmental branches shall coordinate with the Department of Personnel, as necessary. The declaration of a state of emergency may designate the Department of Personnel to administer the implementation of such furloughs.

---

**Legislative History:**

Employment Relations Act

- |          |  |
|----------|--|
| 10.16.01 | Chapter VI (Drug, Alcohol and Controlled Substance Policy) enacted by Legislative Resolution 10/16/01D.              |
| 10.23.02 | Chapter VI (Drug, Alcohol and Controlled Substance Policy) amended and restated by Legislative Resolution 10/23/02B. |
| 02.05.04 | Administration Committee refers draft Employment Relations Act to full Legislature.                                  |
| 02.17.04 | Legislature places Employment Relations Act out for 45-Day Public Review.  |
| 08.31.04 | Legislature and the Executive Director of the Department of Personnel review submitted comments at off-site meeting. |



**Ho-Chunk Nation Legislature**  
**Employment Relations Act**  
**Page 65 of 68**

- 11.02.04 Legislature tables Employment Relations Act for a final review at an off-site meeting.
- 11.15.04 Legislature and the Executive Director of the Department of Personnel review final draft at off-site meeting.
- 12.09.04 Legislature enacts the Employment Relations Act as 6 HCC § 5 by Legislative Resolution 9/9/04A.
- 05.04.05 Amended and Restated by Legislative Resolution 5/4/05A amending paragraphs 5b, 5c, and 8b.
- 06.10.05 Amended and Restated for technical correction. Legislative 5/4/05A did not amend paragraph 12b.
- 07.05.05 Amended and Restated by Legislative Resolution 7/5/05E amending paragraphs 9a, 20a, and 21 b(1). Allows employees to take Waksik Wosga Leave during the Initial Probationary Period and that Cultural Leave is leave without pay unless the employee requests annual leave.
- 06.07.06 Amended and Restated by Legislative Resolution amending paragraphs 34 b(1) and 34 b(2) changing the composition of the Grievance Review Board.
- 06.07.06 Amended and Restated by Legislative Resolution 6/7/06D deleting paragraph 6g(2) and incorporating paragraph 6g(1) into paragraph 6g.
- 04.18.07 Amended by Legislative Resolution 4/18/07 B & C.
- 10.02.07 Amended by Legislative Resolution 10/02/07A changing the definition of employee.
- 02.19.08 Amended by Legislative Resolution 2-19-08A addressing decision by Ho-Chunk Nation Supreme Court in *Janet Funmaker v. Executive Director(s) of Personnel (SU 07-05)* by placing limit on monetary awards that Grievance Review Board can provide to employees.
- 07.05.12 Legislature passes Resolution 07-05-12B placing proposed amendments out for forty-five comment.
- 08.20.13 Legislature adopts Resolution 08-20-13J adding Ho-Chunk Preference by Quick Passage.
- 04.22.14 Amendments showing proposed staff descriptions are placed out for forty-five day comment by Resolution 04-22-14I. Proposed amendments to the Right to Work Law are placed out for forty-five day comment by Resolution 04-22-14J.
- 04.21.15 Amendments regarding the Hoocak Woošga Leave Policy are adopted by Resolution 04-21-15P.
- 06.23.15 Proposed amendments regarding the Worker's Compensation Plan are placed out for forty-five day comment by Resolution 06-23-15GG.
- 06.21.16 Amendments adopted by Resolution 06-21-16EE, to Chapters I through V, and adding language regarding Kiišak Waiš'ak. A Legislative History of the amendments are included in an annotated Employment Relations Act on file with the Legislature and Tribal Records Department.
- 08.23.16 Legislature adopts Resolution 08-23-16I amending by Quick Passage Ch. IV Employee Benefits Sec. 20 Annual and Sick Leave clarifying accrual rate of annual and sick leave and Sec. 21 Funeral Benefits clarifying "immediate family".
- 01.03.17 Quick Passage Amendment regarding eligibility for Family Medical Leave for Veterans by Resolution 01-03-17G.
- 01.19.17 Legislature adopts Resolution 01-19-17B amending via Quick Passage Ch. V, Sections 35 through 39 to reflect the discontinuation of the Grievance Review Board.
- 03.24.17 Legislature places the ERA out for forty-five (45) day public comment via Legislative Resolution 03.21.17B to include proposed additional language regarding the penalties for sexual harassment.
- 05.23.17 Legislature amends the ERA via Legislative Resolution 05.23.17H incorporating language placed out for public comment on 03.24.17.
- 07.23.19 Legislature amends the ERA via Legislative Resolution 07.23.19I by adding a severability clause, removing the tiered Administrative Review Process, establishing a new Employment Conflict Review Process, and addressing the standard for judicial review of employment conflicts.

**Ho-Chunk Nation Legislature**  
**Employment Relations Act**  
**Page 66 of 68**

- 03.17.20 Legislature places amendments to the ERA out for 45-Day Public Comment by Resolution 03-17-20D.
- 03.17.20 Legislature amends the ERA adding language to address the Nation's employment processes and operations during a declared state of emergency by Resolution 03-17-20H.
- 04.07.20 Quick Passage Amendment regarding Ho-Chunk Preference by Resolution 04-07-20H.
- 04.15.20 Quick Passage Amendment regarding separation to include language on furlough, temporary and permanent layoff by Resolution 04-15-20B.
- 04.28.20 Quick Passage Amendment regarding recall during Emergency Declaration by Resolution 04-28-20A.
- 05.27.20 Quick Passage Amendment regarding payment for insurance premiums during layoff by Resolution 05-27-20B.
- 06.09.20 Quick Passage Amendment regarding Probationary Period during Emergency Declaration by Resolution 06-09-20C.
- 07.21.20 Quick Passage Amendment regarding recall from layoff to fill needed positions by Resolution 07-21-20B.
- 07.21.20 Quick Passage Amendment regarding annual leave to pay insurance premiums that were deferred during layoff by Resolution 07-21-20G.
- 09.08.20 Quick Passage Amendment regarding Background Checks for Staff Employees by Resolution 09-08-20H.
- 09.08.20 Quick Passage Amendment regarding Discretionary Transfers by Resolution 09-08-20I.
- 02.23.21 Quick Passage Amendment regarding Recall Policy by Resolution 02-23-21C.
- 02.23.21 Legislature adopts amendments to the ERA effective July 1, 2021 by Resolution 02-23-21E.
- 02.23.21 Quick Passage Amendment regarding Whistleblower Protection by Resolution 02-23-21H.
- 03.23.21 Quick Passage Amendment regarding Recall Policy by Resolution 03-23-21A.
- 05.18.21 Quick Passage Amendment regarding Recall Policy by Resolution 05-18-21C.
- 05.18.21 Quick Passage Amendment regarding Recall Policy and Bridge Service Credit by Resolution 05-18-21D.
- 06.22.21 Rescission and Restatement of Resolution 02-23-21E changing the effective date of the amendments July 4, 2021 by Resolution 06-22-21S.
- 08.24.21 Quick Passage Amendment regarding elimination of approval by the Executive Director of Personnel by Resolution 08-24-21B
- 09.02.21 Legislature adopts amendments by Quick Passage via Resolution 09.02.21A to amend Section 27. Administrative Leave.
- 09.17.21 Legislature adopts amendments by Quick Passage via Resolution 09.17.21F to amend Section 20.
- 09.21.21 Legislature adopts amendment by Quick Passage via Resolution 09.21.21I to amend Section 6.
- 03.15.22 Legislature adopts amendments via Resolution 03.15.22F to amend Section 13.
- 06.07.22 Legislature adopts amendments by Quick Passage via Resolution 06-07-22K to amend Section 15.
- 06.14.22 Legislature adopts amendments by Quick Passage via Resolution 06-14-22F to amend Section 22.
- 11.15.22 Legislature adopts resolution 11.15.22M amendments to the Employment Relations Act to be effective January 1, 2023 with the exception of the amendments to Chapter VII of the Employment Relations Act which shall be effective immediately.
- 12.28.22 Legislature adopts Quick Passage Resolution 12-28-22A amending Section 27. Administrative Leave.

Personnel Policies and Procedures Manual:

- 08.20.88 Garnishment of Employee Wages; Wisconsin Winnebago Business Committee Resolution 8/20/88B.
- 12.21.94 Responsibility for Employee Training; Legislative Resolution 12-21-94D.
- 12.21.94 Legislature Adopts Ho-Chunk Nation's Personnel Policies and Procedures Manual.
- 01.04.95 Legislature enacts Drug and Controlled Substance Policy and Procedures.
- 02.07.96 Weather Conditions; Education, Employment, (et al) Committee Approval.
- 02.13.96 Resignations and Reemployment; Legislative Resolution 2/13/96C.
- 03.26.96 Trial Court Review; Legislative Resolution 3/26/96A.
- 06.19.96 Approval of Job Descriptions; Legislative Resolution 6/19/96E.
- 02.25.97 Ho-Chunk Preference; Legislative Resolution 02/25/97A.
- 05.27.97 Wages Upon Transfer; Legislative Motion dated 5/27/97.
- 06.10.97 Ho-Chunk Preference; Legislative Motion dated 6/10/97.
- 02.17.98 Cultural Even Time Off; Legislative Resolution 02/17/98A.
- 02.10.98 Equivalent Annual Leave Credit; Legislative Resolution 02/10/98D.
- 02.10.98 Funeral Leave; Legislative Resolution 02/10/98E.
- 03.31.98 Layoffs; Legislative Resolution 3/31/98B.
- 04.28.98 Family Medical Leave; Legislative Resolution 4/28/98A.
- 06.09.98 Amendment to Chapter 12 (Employee Conduct, Discipline and Administrative Review) for the Administrative Review Process; Legislative Resolution 6-9-98A
- 06.10.98 Ho-Chunk Preference; Legislative Motion dated 6/10/98.
- 06.16.98 Funeral Leave; Legislative Resolution 6-16-98C.
- 06.16.98 Religious Leave; Legislative Resolution 6-16-98D.
- 10.28.98 Cap on 4% Merit Increase; Legislative Resolution 10/20/98C.
- 12.15.98 Compensation upon Promotion/Demotion and Transfer/Reclassification; Legislative Resolution 12/15/98A.
- 12.29.98 Unclassified/Appointed Employees; Legislative Resolution 12-29-98C.
- 01.26.99 Transfer of Annual/Sick Leave Policy; Legislative Resolution 1/26/99B.
- 03.17.99 Promotion, Demotion, and Transfer Policy; Legislative Resolution 3/17/99A.
- 03.23.99 Lateral Transfer Policy; Legislative Resolution 3/23/99G.
- 04.27.99 Right to Deny Services; Legislative Resolution 4/27/99E.
- 04.27.99 Conflicts with Internal Controls; Legislative Resolution 4/27/99D.
- 05.11.99 Training During Probationary Period; Legislative Resolution 5-11-99B.
- 08.10.99 Comparable Wage; Legislative Resolution 8-10-99C.
- 10.14.99 Use of Sick Leave for Family Medical Leave; Legislative Resolution 10/14/99C.
- 10.19.99 Cultural Leave; Legislative Resolution 10-19-99D.
- 11.30.99 Bridge Service Credit; Legislative Resolution 11/30/99A.
- 01.18.00 Forty Hour Maximum on Paid Leave or Holiday Pay; Legislative Resolution 1/18/00D.
- 04.04.00 Waksik Wosga Leave Policy; Legislative Resolution 4/04/00B rescinding Legislative Resolution 6-16-98D.
- 04.04.00 Defined Events; Legislative Resolution 4-4-00B.
- 02.13.01 40 Hour Maximum Policy; Resolution 2/13/01A.
- 02.27.01 Waksik Wosga Leave; Resolution 2/27/01A.
- 03.06.01 Automatic Merit Increase; Resolution 3/6/01G.
- 03.07.01 Automatic Merit Increase; Resolution 3/7/01O.
- 03.21.01 Supervision of Children; Resolution 3/21/01D.
- 05.22.01 Election Voting Leave; Resolution 5/22/01I.
- 06.05.01 Youth Leadership Conference; 6/5/01E.
- 06.26.01 Maternity Leave; Resolution 6/26/01A.
- 08.09.01 Two or More Part-time Positions equal Full-time Status; Resolution 8/9/01B.
- 09.18.01 Funeral Leave; Resolution 9/18/01E.
- 10.16.01 Military Leave; Resolution 10/16/01B.
- 06.05.02 Equal Employment Opportunity amendment; Resolution 6/5/02B.
- 09.04.02 Reporting Work Injuries, Chapter 8, amended by Legislative Resolution 9/04/02C.

Drug, Alcohol and Controlled Substances:

- 01.04.95 Legislature enacts Drug and Controlled Substance Policy.
- 10.16.01 Legislature amends Drug and Controlled Substance Policy by enacting the Drug, Alcohol and Controlled Substance Policy as Chapter VI to the draft Employment Relations Act (6 HCC § 5) by Legislative Resolution 10/16/01D.
- 10.11.02 Corrects the numbering of paragraph 15. Testing Procedures (renumbered from 17 to 15).
- 10.23.02 Amended and restated by Legislative Resolution 10/23/02B.
- 10.19.04 Restated with enactment of the Employment Relations Act (6 HCC § 5) by Legislative Resolution 12/9/04A.
- 03.03.09 Proposed Amendments to drug policy by Compliance Director, Joe Buse, presented to Administration Committee. Administration Committee passes motion to refer to the Legislature to place out for forty-five day public comment.
- 04.07.09 Legislature passes Resolution to place out for forty-five day public comment, which will end as of May 25, 2009.
- 06.01.09 Legislature holds off-site to review comments received during forty-five day public comment. Legislators recommend that the policy for the Nation should be that there should be a pre-employment drug test and if the test comes back positive it shall result in the potential employee not being offered employment with the Nation. In addition, any potential employee whose pre-employment testing comes back positive shall then be subject to Section 51 if he or she seeks employment with the Nation in the future.
- 09.09.09 Resolution 09-09-09 L passes adopting proposed amendments to Drug policy.
- 08.08.11 Legislature adopts Resolution 08-08-11 B to amend Ch. VI Drug, Alcohol and Controlled Substance Policy, deleting “Methaqualone” and adding “Oxycodone”.
- 03.18.14 Proposed amendments regarding the Nation’s Worker’s Compensation Policy are placed out for forty-five day comment by Resolution 03-18-14F. Amendments regarding the Drug, Alcohol and Controlled Substance Policy are also put out for forty-five day comment by Resolution 03-15-14G.
- 06.21.16 Amendments regarding the Nation’s Drug Policy, Workers Compensation Plan and the Hoocak Woosga Leave Policy are adopted by Resolution 06-21-16EE.
- 11.15.22 Legislature adopts resolution 11.15.22M amendments to the Employment Relations Act to be effective January 1, 2023 with the exception of the amendments to Chapter VII of the Employment Relations Act which shall be effective immediately.