



Little River Band of Ottawa Indians

375 River Street
Manistee, MI 49660
(231) 723-8288

Resolution # 05-0413-144

*Adoption of Amendments to Government Operations Personnel Manual Regarding the
Grievance Process*

WHEREAS, the status of the *Gaá Čhíng Zilbi Daáwaa Aníshinaábek* (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribe adopted amendments to the Constitution on April 26, 2004, which became effective upon approval by the Assistant Secretary-Indian Affairs on May 13, 2004; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, the Tribal Council has reviewed employee actions and the personnel manual over the past year, and as a result of the information received at the Public Hearing of March 19, 2005; and

WHEREAS, the Tribal Council has determined that the grievance process does not offer adequate independent review of disciplinary actions, and did not clearly identify the progressive discipline requirement; and

WHEREAS, the Tribal Council has determined that at-will employment is no longer an appropriate employment policy of the Tribe;

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby adopts the attached amendments to the *Government Operations Personnel Manual* and directs the immediate implementation of these new policies.

IT IS FURTHER RESOLVED THAT all employees with grievances for which the final determination has not been made, or where the final determination was issued within the last 30 days, shall be incorporated and authorized to utilize the new processes set forth in Chapter 7 and Chapter 8, provided that progressive discipline shall not be authorized to be appealed.

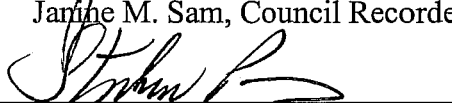
IT IS FURTHER RESOLVED THAT all employees shall be given a copy of these amendments within 30 days of their adoption.

IT IS FINALLY RESOLVED THAT notwithstanding any language to the contrary which may remain in the Government Operations Personnel Manual, the Tribe no longer adopts or authorizes the policy of at-will employment and approves and authorizes only for-cause terminations or lay-off from employment.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 9 FOR, 0 AGAINST, 0 ABSTAINING, and 0 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on April 13, 2005, at the Little River Band's Dome Room in Manistee, Michigan, with a quorum being present for such vote.


Janine M. Sam, Council Recorder


Stephen Parsons, Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Tribal Court

CHAPTER VII. SEPARATIONS FROM EMPLOYMENT & DISCIPLINARY ACTIONS

7.3 TERMINATIONS

The Tribe will strive to treat all employees fairly with regard to terminations. ~~In general, Employees will only be terminated for cause; however, the Tribe is an at-will employer and employees may be discharged as such without cause.~~

Employees who are terminated will be compensated for accrued annual leave at their current rate of pay.

Cause for termination includes, but is not limited to:

- a. Failure of an employee to carry out the duties and obligations imposed by this Personnel Manual, Tribal laws and regulations, and program rules and regulations.
- b. Intentional violation of work rules.
- c. Unsatisfactory job performance appraisal.
- d. Gross insubordination.
- e. Theft of Tribal funds or Tribal property.

7.4 PROCEDURE FOR DISMISSAL AND SUSPENSION

An employee's supervisor may recommend dismissal to the Ogema. When the Ogema considers it necessary to dismiss or suspend an employee, the reason for such action shall be clearly stated and the following procedures shall be observed:

- a. The employee shall be notified in writing by the supervisor and Human Resource Department giving specific reasons for the action, advising of the right to appeal and detailing the appeal procedure.
- b. ~~Prior or concurrent~~ The written notice shall *also* be ~~given to~~ *signed by* the Ogema.
- c. When dismissal is deemed necessary, the grievance procedures must be observed and documented. The grievance procedure does not apply to probationary employees, except in cases of alleged discrimination.

7.5 DISCIPLINARY ACTION

Causes – Employees who violate the work rules, these policies, Tribal laws or regulations, or other directives regarding employment, listed in these policies are subject to disciplinary action. Discipline shall be in a progressive fashion as identified in the Types of Disciplinary Action steps set forth below. Provided that, the Ogema may authorize actions outside of the progressive discipline steps for egregious actions.

Notice: In every case of suspension, demotion or dismissal the employee shall be notified in writing. A copy of this notification, which shall include the disciplinary action, the reason for it and its duration, shall be filed in the employee's personnel records for an appropriate length of time.

Application: The seriousness of the infraction, nature of misconduct, employee motivation and awareness of rules will be considered in disciplinary actions.

Types of Disciplinary Action

First Notice. a. ~~Oral Reprimand~~ Written Warning. This is an action taken by a supervisor in which the supervisor tells an employee about an action or behavior of the employee which is objectionable or should be corrected.

Second Notice. b. Written Reprimand.

1. A written reprimand is a form of discipline in which the employee's supervisor describes in detail the behavior to be corrected, and will give direct and concrete orders for the future and will point out the consequences of repeating the actions which brought about a written

reprimand.

2. The written reprimand must be presented to the employee.

Third Notice. c. Disciplinary Suspension.

1. This is a disciplinary action taken by the supervisor and Human Resource Department with approval of the Ogema, which removes an employee from employment in their department for a definite period of time. *Disciplinary suspensions cannot exceed 5 working days.*

2. This action does not require the employee's consent to place the employee on leave without pay during a disciplinary suspension.

3. ~~In most cases,~~ The employee does not accrue salary; annual leave credit; or personal leave credit during the time the employee is suspended.

4. At the end of the suspension, the employee shall be returned to the payroll in the same department, classification and salary as when he was suspended.

5. Suspensions without pay must be written and must be presented to the employee.

6. Extreme circumstances may warrant immediate dismissal.

Fourth Notice. d. Demotion.

1. This is an action ~~taken~~ *authorized* by the Ogema upon the recommendation of the employee's supervisor, which reduces an employee's classification to a classification with a lower maximum salary. *A demotion shall not be utilized on a temporary basis, and a vacant position must exist to be demoted to under this disciplinary action.*

2. The employee's duties and responsibilities must be reduced to those of the lower classification.

3. The reasons for the demotion must be given.

4. Demotions must be in writing and must be presented to the employee.

Fourth or Fifth Notice. Termination.

1. *This is an action authorized by the Ogema upon the recommendation of the employee's supervisor.*

2. *This action may be taken in lieu of demotion where a lesser position does not exist, where the employee is at an entry level position, or where the supervisor identifies that demotion is not an appropriate action.*

3. *Terminations must be in writing and presented to the employee.*

7.6 PERSONNEL RECORDS AND TRANSACTIONS

Transaction: Records will be maintained in the Human Resource Department of all official personnel transactions including hiring, promotion, ~~suspensions, dismissals~~ *disciplinary actions*, and resignations of all employees. *Personnel records, to be valid, shall be maintained by the Human Resource Department.*

Responsibility: Supervisors shall maintain and verify time and attendance. Employee payroll records shall be maintained and kept on file for all employees in the Accounting Department.

Confidentiality: Employee personnel files and payroll records are confidential and remain under the control of the Human Resource Department and Accounting Department respectfully. Employees may at any time submit a written request to the Human Resource Department for a copy of their personnel file, which will then be provided within a reasonable period of time.

CHAPTER VIII. GRIEVANCE PROCEDURE

8.1 STATEMENT OF PURPOSE

The Tribe will do its utmost to insure that working conditions are as pleasant as possible and that each employee receives equal, courteous and fair treatment.

The Tribe seeks to secure, at the earliest level possible, fair and timely solutions to complaints or grievances of its employees.

This procedure shall be kept as informal and confidential as may be appropriate.

8.2 GRIEVANCE DEFINED

A grievance is a dispute, claim or complaint arising under the terms of this policy and filed by an employee. Grievances are limited to matters of violation, interpretation or unfair applications of this policy. The employee filing a grievance must show how the grievance directly affects him/her. To maintain an effective and orderly procedure it is necessary to follow the grievance procedure as stated below. Failure to do so will forfeit the grievance.

8.3 GRIEVANCE PROCEDURE – STEPS

- a. The employee shall, within ten working days of the date of the grievance, or within ten working days of the date the employee could reasonably be expected to have knowledge of the grievance, present the grievance in written form to the supervisor of the person who the grievance is against, with a copy filed concurrently with the Ogema and Human Resources Director. The person to whom the grievance was presented shall reply in writing to the employee within ten working days with an answer or a remedy, with a copy filed concurrently with the Ogema and Human Resources Director.
- b. Should the answer or remedy granted be unacceptable to the aggrieved employee, the employee may choose to continue the grievance process step by step through higher levels of supervision, up to the Ogema. In each step, the approached party shall be allowed ten days to reply in writing with a remedy or an answer.

8.5 FREEDOM FROM REPRISAL

Employees shall be free to use this procedure without restraint, interference, coercion, discrimination or reprisal. An employee, whether acting in an official capacity for the Tribe or on any other basis, shall not interfere with or attempt to interfere with another employee's exercise of his/her rights under this procedure.

8.6 SETTLEMENT OF GRIEVANCE

Any and all grievances resolved at any step of the grievance procedure as contained in this policy will not be final and binding on the Tribe, the employee and any and all employees involved in the particular grievance until agreed to by the aggrieved party or decided finally by the Ogema.

8.7 PROCESSING GRIEVANCES

Grievances shall be processed from one step to the next within the time limit prescribed in each of the steps. Any grievance upon which a disposition is not made by the supervisor within the time limits prescribed, or any extension which may be agreed to, may be referred to the next step in the grievance procedure, the time limit to run from the date when time of disposition expired. Any grievance not carried to the next step by the employee within the prescribed time limits or such extension which may be agreed to, shall be automatically closed upon the basis of the last disposition. A grievance, once submitted, shall not be altered. An employee may withdraw his grievance at any time without prejudice.

8.8 APPEAL OF FINAL DECISION

An employee who has received a final decision in regards to a grievance, as identified in section 8.3(b), may appeal the decision to the Tribal Court.

- a. *Such appeal must be filed within 10 calendar days of receipt of the final decision.*
- b. *The employee shall be required to file the written final decision, a request for a copy of the employee file from the Human Resources Department, and a request for a hearing.*
- c. *Employees may be represented by legal counsel or lay advocates at their own expense.*

- d. An appeal under this section shall be titled "Employee Name v. LRBOI, Supervisor Name" and shall be considered a claim against the Tribe.*
- e. Appeals under this section shall be reviewed in light of clearly erroneous factual determinations or misinterpretation of misapplication of law or policy. Appeals are not reviewed de novo.*
- f. Awards under this section shall consist only of reinstatement and/or removal of disciplinary action from employee's file.*