

Ordinance 33-12

An Ordinance amending Title 6 of the Mille Lacs Band Statutes Annotated entitled Government Employees to do the following: (1) exempt the MLBO Police Department from the government personnel policies; (2) remove the Nay-Ah-Shing School employees from the exemption list; (3) clarify that the Nay-Ah-Shing School Board is subject to removal according to Band law; and (4) adopt the amended MLBO Personnel Policy and Procedures.

The District III Representative introduced the following Bill on the 22nd day of February, 2012.

Preamble

The Band Assembly of the Mille Lacs Band of Ojibwe believes that the establishment of a fair and uniform system of policies for employees working within the three branch government is in the best interest of the Band. It is the intent of the Band Assembly to provide a fair set of standards for government employees and to exempt those employees whose duties fall outside of the customary and usual activities of Band business. These exempt employees shall follow the set of standards and policies duly established and adopted for such individual departments.

I.

1. The amendments to Title 6 are as follows:

Section 2 entitled **Exempt Personnel** is repealed in its entirety and the following is hereby adopted:

§ 2. Exempt Personnel

(a) The following positions shall not be subject to the provisions of the MLBO Personnel Policy and Procedures Manual:

- (1) The Chief Executive;
- (2) Secretary-Treasurer/Speaker of the Assembly and three (3) District Representatives;
- (3) Employees of the Corporate Commission and its subsidiaries;
- (4) Employees of the Gaming Regulatory Authority;
- (5) Employees of the MLBO Police Department; and
- (6) Employees hired under contract for a particular purpose.

- (b) Appointed officials of the Band are subject to all provisions in the MLBO Personnel Policy and Procedures Manual except to the extent those provisions conflict with other applicable provisions of Band law.
 - (c) According to 9 MLBSA sec. 6, elected Nay-Ah-Shing School Board members are subject to removal from office as determined by 3 MLBSA sec. 25.
2. The Mille Lacs Band of Ojibwe (MLBO) Personnel Policies and Procedures, as amended and approved on February 22, 2012, are hereby adopted. A copy of said Personnel Policies and Procedures Manual is attached hereto as **Exhibit A**.

Ordinance 33-12
(Band Assembly Bill 14-04-33-12)

Introduced to the Band Assembly on this
Twenty-second day of February in the year
Two-Thousand twelve.

Passed by the Band Assembly on this
Twenty-second day of February in the year
Two-Thousand twelve.



Curt Kalk, Speaker of the Assembly

APPROVED:

Date: 3-2-12_____



Marge Anderson, Chief Executive

OFFICIAL SEAL OF THE BAND



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WELCOME AND INTRODUCTION

Welcome New Employee!

On behalf of the Mille Lacs Band of Ojibwe, I welcome you as a new employee and wish you every success during your employment with us. The Mille Lacs Band believes that each employee contributes directly to the Band's growth and success, and we hope you will take pride in being a member of our team.

This policy and procedures manual describes the expectations of a Mille Lacs Band employee and outlines the policies, programs and benefits available to eligible employees. Employees should familiarize themselves with the contents of the policy and procedures manual as soon as possible, for it will answer many questions about employment with the Mille Lacs Band of Ojibwe.

We hope that your experience here will be challenging, enjoyable and rewarding. Again, welcome!

Sincerely,

Mission Statement

We, the Mille Lacs Band of Ojibwe, shall safe-guard the future and security of our children, respect the traditional teachings and cultural values of our elders, promote the spiritual, physical, social and mental well-being of our Communities, and protect, develop and enhance our natural resources and educational and economic opportunities by exercising and protecting our inherent sovereign and treaty-guaranteed rights as a unified, self-sufficient, self-governing nation.

Employee Acknowledgement Form

The MLBO Personnel Policy and Procedures manual describes important information about employment with the Mille Lacs Band of Ojibwe. I understand that I should consult the Human Resources Department regarding any questions not answered in the manual. I have entered into my employment relationship with the Mille Lacs Band voluntarily and acknowledge that I have not been guaranteed or promised a specified length of employment.

Since the information, policies and benefits described herein are necessarily subject to change, I acknowledge that revisions to the manual may occur. I understand that revisions may supersede, modify or eliminate existing policies. The Mille Lacs Band of Ojibwe has the ability to adopt any revisions to the policies in this manual it chooses.

Furthermore, I acknowledge that this manual is not a contract. I have received the manual, and I understand that it is my responsibility to read and comply with the policies contained in this manual and any revisions made to it. I understand that each manual is the property of the Mille Lacs Band of Ojibwe and I agree to return the manual upon the conclusion of my employment.

EMPLOYEE'S NAME (printed): _____

EMPLOYEE'S SIGNATURE: _____

DATE: _____

American Indian Preference

The Mille Lac Band of Ojibwe recognizes American Indian preference, but gives its highest preference to Mille Lacs Band Members. This preference applies to employment recruitment, hiring, promotions, training and development.

Assuming that applicants meet the minimum job requirements, American Indian Preference will be given in the following order:

- (1) Band members, defined as enrolled members of the Mille Lacs Band of Ojibwe Indians;
- (2) Other Indians, defined as enrolled members of any other federally recognized tribe; and
- (3) All others.

Immigration Law Compliance

The Mille Lacs Band of Ojibwe is committed to the employment of United States citizens and aliens who are authorized to work in the United States. The Mille Lacs Band does not unlawfully discriminate on the basis of citizenship or national origin.

In compliance with the Federal Immigration law, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form (I-9) and present documentation establishing identity and employment eligibility. Former employees who are rehired must also complete the form if they have not completed an I-9 with the Mille Lacs Band within the past three (3) years or if their previous I-9 is no longer retained or valid.

Unemployment Insurance), they are ineligible for all other MLBO benefit programs. It is not the intention of this policy to allow the temporary hire of an individual for more than six (6) months.

ON-CALL or LABOR POOL employees are those who have established an employment relationship with the MLBO, but who are assigned to work on an intermittent or irregular basis. While they are able to earn credit for Social Security, they are ineligible for Unemployment Insurance and other MLBO benefit programs.

Hiring of Relatives

Because the employment of family members in the same area of an organization could lead to conflicts in the workplace, family members of persons currently employed by the Mille Lacs Band may be hired only if:

They will not be working directly for or supervising a family member; and

They will not be working directly above the family member's immediate superior or directly for the family member's immediate subordinate.

Mille Lacs Band employees should not be transferred into a direct reporting relationship with family members absent special circumstances. If the family relationship between direct reports is established after employment, the individuals concerned will mutually recommend, subject to Band approval, which person is to be transferred. If the parties cannot agree upon the transfer, or the Band cannot accommodate the parties' decision for any reason, the Band will have the authority to make any personnel decisions to avoid the direct reporting relationship of family members. If it is not possible to transfer either party to an available position, the Band has the right to terminate one of the parties without following the progressive discipline policy in this Manual. For the purposes of this paragraph, "Band" shall be defined as the Commissioner or Elected Official responsible for oversight of the conflicted employees.

In other cases where a conflict or the potential for conflict arises, even if there is no supervisory relationship involved, either party may be separated by reassignment.

See 6 MLBSA § 1157(g).

For the purposes of this policy, family member means a spouse, biological or adopted child, members of the same household, or the mother, father, sister, or brother of the employee.

Outside Employment

Employees may hold outside jobs as long as the employees meet the scheduling demands and performance standards of their job with the Mille Lacs Band and the outside employment does not create a potential or actual conflict of interest. However, an employee may not hold two (2) full-time jobs with the Mille Lacs Band, including any entity of the Mille Lacs Band. Part-time employment or service on a Board while employed full-time with the Mille Lacs Band government is permissible.

If the Mille Lacs Band determines that an employee's outside work interferes with the ability to meet the requirements of the position with the Mille Lacs Band, the employee may be asked to terminate the outside employment if he or she wishes to remain employed with the Mille Lacs Band.

Truthfulness in Employment Application

The Mille Lacs Band of Ojibwe relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process and employment. Any misrepresentations, falsifications or material omissions in any of this information or data may result in the exclusion of the individual from further consideration for employment or if the person has been hired, termination of employment.

from work is approved. Additional expenses arising from such non-business travel are the responsibility of the employee.

Abuse of this business travel expense policy, including falsifying expense reports to reflect costs not incurred by the employee or not proper for reimbursement, is grounds for disciplinary action, up to and including termination of employment. Expenses owed to the Band must be immediately repaid by the employee.

Computer and E-mail Usage

Computers, computer files, the e-mail system, and software furnished to employees are Mille Lacs Band property intended for business use. Employees should not use a password, access a file or retrieve any stored communication without authorization. To ensure compliance with this policy, computer and e-mail usage may be monitored.

The Mille Lacs Band strives to maintain a workplace free of harassment and one that is sensitive to the diversity of its employees. Therefore, the Mille Lacs Band prohibits the use of computers and the e-mail system in ways that are disruptive, offensive to others or harmful to morale. For example, the display or transmission of sexually explicit images, messages and cartoons is not allowed. Other such misuse includes, but is not limited to, ethnic slurs, racial comments, distasteful jokes or anything that could be construed as harassment or showing disrespect for others.

E-mail may not be used to solicit others for commercial ventures, chain letters, religious or political causes, outside organizations, terroristic threats or other non-business matters.

The Mille Lacs Band purchases and licenses the use of various computer software for business purposes and does not own the copyright to this software or its related documentation. Unless authorized by the software developer, the Mille Lacs Band does not have the right to reproduce such software for use on more than one computer. The Mille Lacs Band prohibits the duplication of software and its related documentation. The unauthorized installation of software on the computers and laptops owned by the Mille Lacs Band is also prohibited.

Employees should notify their immediate supervisor, Information Systems, Human Resources or any member of management of violations of this policy. Employees who violate this policy will be subject to disciplinary action, up to and including termination of employment.

Workplace Monitoring

Workplace monitoring, including video surveillance, may be conducted by the Mille Lacs Band to identify safety concerns, maintain quality control, detect theft and misconduct and discourage or prevent acts of harassment and workplace violence.

A supervisor can request access to information gathered through workplace monitoring only in situations where it is necessary to make a factual determination in an employment action and there is a dispute about the facts that might be resolved by reviewing the workplace monitoring. Access will be granted unless there is an ongoing investigation or another legitimate business reason to protect confidentiality.

Every effort will be made to guarantee that workplace monitoring is done in an ethical and respectful manner.

Accident Reporting – General Rule:

Employees must report to their supervisor any accidents, regardless of the extent of damage or lack of injuries, involving Band vehicles or a personal vehicle used on Band business. Such reports must be made as soon as possible, but no later than the next business day after the accident. The employee's supervisor must report such incident on the next business day to Human Resources and to the Commissioner of Finance, if a Band vehicle is involved.

Accident reporting and investigating are key components to the safety and health of the Mille Lacs Band employees. Accidents, injuries or near-misses must be reported to your supervisor as soon as possible, but no later than the next business day after the incident. Unreported accidents, injuries and near-misses will not be tolerated and may result in disciplinary action.

Recycling

The Mille Lacs Band of Ojibwe supports environmental awareness by encouraging recycling and waste management in its business practices and operating procedures. This support includes a commitment to the purchase, use and disposal of products and materials in a manner that will best utilize natural resources and minimize any negative impact on the earth's environment.

Special recycling receptacles have been set up to promote the separation and collection of the following recyclable materials at the Mille Lacs Band offices:

- * computer paper
- * white high grade or bond paper
- * ledger paper
- * mixed or colored paper
- * newspaper
- * corrugated cardboard
- * brown paper bags
- * aluminum cans
- * plastic bottles

Employees are encouraged to make a commitment to recycle and to be a part of this solution.

NONDISCLOSURE OF CONFIDENTIAL INFORMATION

The protection of confidential business information and trade secrets is vital to the interests and the success of the Mille Lacs Band of Ojibwe. During your employment with the Mille Lacs Band, you may periodically learn sensitive information regarding the tribal government or regarding its employees. It is imperative that all non-public information be kept confidential not only for the health of the Mille Lacs Band, but also for the well-being of employees who depend on the Band for their livelihood. Such confidential information includes, but is not limited to, the following examples:

- * confidential Executive, Legislative and Judicial data and information, including but not limited to privileged attorney-client communications;
- * personnel information and data;
- * compensation data;
- * computer processes;
- * computer programs and codes;
- * confidential financial information;
- * labor relations strategies;
- * marketing strategies;
- * pending projects and proposals;
- * research and development strategies;
- * confidential scientific data;
- * confidential technological data;
- * enrollments and blood quantum information; and
- * medical or patient data otherwise protected by HIPAA or other applicable data privacy laws.

All employees shall sign a confidentiality or non-disclosure agreement as a condition of employment. Employees who improperly use or disclose trade secrets or confidential government information will be subject to disciplinary action, up to and including termination of employment and possible legal action.

After you leave employment with the Mille Lacs Band, you are still legally prohibited from disclosing sensitive, proprietary, confidential, or trade secret information. If you disclose such information, the Mille Lacs Band of Ojibwe may seek legal remedies.

PROFESSIONAL APPEARANCE AND CONDUCT

Personal Appearance and Dress

Dress, grooming and personal cleanliness standards contribute to the morale of all employees and affect the business image that the Mille Lacs Band presents to visitors.

During business hours, employees are expected to present a clean and neat appearance and to dress according to the status of their positions. Employees who appear for work inappropriately dressed will be sent home and directed to return to work in proper attire. Under such circumstances, employees will not be compensated for the time away from work.

Casual dress offers a welcome alternative to the formality of typical business attire. However, not all casual clothing is appropriate for the office. Casual business wear means clean, neat, and professional clothing. It is never appropriate to wear stained, wrinkled, frayed or revealing clothing to the workplace.

Some examples of appropriate casual business wear include the following:

- slacks
- jeans
- dress shorts
- casual dresses and skirts
- casual shirts and blouses
- golf shirts
- turtlenecks
- sweaters
- sweatshirts
- loafers
- deck shoes
- boots
- athletic shoes
- flats
- dress sandals

Examples of inappropriate clothing items that should not be worn include, but are not limited to, the following:

- jeans that are excessively worn or faded
- sweat pants or jogging suits and pants
- short shorts
- spandex or other form-fitting pants
- miniskirts
- spaghetti-strap dresses unless worn under a jacket or sweater
- T-shirts or sweatshirts with offensive messages or images
- halter tops or tank tops

Smoking

In keeping with the Mille Lacs Band's intent to provide a safe and healthful work environment, smoking in the workplace is prohibited except in those locations that are specifically designated as smoking areas.

To portray a professional atmosphere, employees are prohibited from smoking at or near public entrances to all government buildings. Employees are allowed to smoke in designated smoking areas including outside the rear entrance of the government center mailroom, at or during designated culturally-appropriate events, and in other designated areas as assigned at other Band government buildings.

Failure to comply with this policy will result in disciplinary action.

Benefits Continuation (COBRA)

The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and their qualified beneficiaries the opportunity to continue health and dental insurance coverage under the Mille Lacs Band's health plan when a "qualifying event" would normally result in the loss of eligibility. Some common qualifying events are resignation, termination of employment, or death of an employee; a reduction in an employee's hours or a leave of absence; an employee's divorce or legal separation; and a dependent child no longer meeting eligibility requirements.

Under COBRA, the employee or beneficiary pays the full cost of coverage at the Mille Lacs Band's group rates plus an administration fee. The Mille Lacs Band provides each eligible employee with a written notice describing rights granted under COBRA when the employee becomes eligible for coverage under the Mille Lacs Band's health and dental insurance plan. The notice contains important information about the employee's rights and obligations.

Life Insurance

Life insurance offers you and your family important financial protection. The Mille Lacs Band provides a basic life insurance plan for regular full-time employees. Additional supplemental life insurance coverage may also be purchased.

Eligible employees may participate in the life insurance plan subject to all terms and conditions of the agreement between the Mille Lacs Band and the insurance carrier. Details of the basic life insurance plan, including benefit amounts, are described in the Summary Plan Description provided to eligible employees. Contact the Benefits Coordinator in Human Resources for more information about life insurance benefits.

Accidental Death and Dismemberment (AD&D) insurance provides protection in cases of serious injury or death resulting from an accident. AD&D insurance coverage is provided as part of the basic life insurance plan.

Long-Term Disability

The Mille Lacs Band provides a long-term disability (LTD) benefits plan to help eligible employees cope with an illness or injury that results in a long-term absence from employment. LTD is designed to ensure a continuing income for employees who are disabled and unable to work.

Regular full-time employees are eligible to participate in the LTD plan subject to all terms and conditions of the agreement between the Mille Lacs Band and the insurance carrier. Eligible employees may begin LTD coverage only after completing 13 weeks of short term disability.

LTD benefits are offset with amounts received under Social Security or workers' compensation for the same time period.

Details of the LTD benefits plan, including benefit amounts and limitations and restrictions are described in the Summary Plan Description provided to eligible employees. Contact the Benefit Coordinator for more information about LTD benefits.

Employees are responsible for the employees' portion of premium contributions for health, dental and supplemental life while on leave.

If an employee is on long-term disability status and does not return to work on the agreed upon date, he/she will be deemed to have voluntarily resigned the position, unless an extension is authorized at the discretion of the Commissioner (if employed in the Executive Branch), Secretary-Treasurer (if employed in the Legislative Branch) or Chief Justice (if employed in the Judicial Branch). The employer is not required to provide notice to an employee of an impending separation of employment due to the failure to timely return to work or to follow any other aspect of the progressive discipline policy. In such an instance, the employee shall be deemed to have forfeited any property interest in employment he or she may have had.

ABSENCE AND LEAVE

Annual Leave

Annual Leave with pay is available to regular full-time and regular part-time employees.

The amount of paid annual leave that employees receive each year increases with the length of continuous employment as shown in the following schedule:

<u>Years of Service</u>	<u>Rate Per Hour Worked</u>
1 – 3	.05
4 – 6	.0625
7 – 9	.075
10 – 12	.0875
13 +	.1

Annual leave is calculated on a weekly basis.

Employees will not accrue annual leave while they are on paid annual, sick or other leave.

During the probationary period, employees accrue annual leave, but may not take any annual leave until they have successfully completed the probationary period unless special permission is granted by the Commissioner (if the employee is employed in the Executive Branch), the Secretary-Treasurer or District Representative (if the employee is employed in the Legislative Branch), or the Chief Justice (if the employee is employed in the Judicial Branch). Once employees enter the eligible employment classification, employees can use earned annual leave including that which accrued during the probationary period. An employee who terminated employment for any reason during the probationary period is not eligible to receive annual leave payout.

Paid annual leave can be used in minimum increments of one-half hour. To take annual leave, employees must make a request two days in advance, if possible, and receive approval from their supervisor. Requests will be reviewed based on various factors, including business needs and staffing requirements. Emergency situations will be considered by the supervisor when an employee makes his/her request for leave.

In the event that accrued annual leave is not used by the end of the benefit year, employees may carry 80 hours of unused time forward to the next benefit year. Any accrued annual leave beyond 80 hours will be paid out to the employee at the end of the benefit year and not carried over.

Upon termination of employment, employees will be paid for unused annual leave that has accrued through the last day of work.

Time with Child and Illness of Child

The Mille Lacs Band provides the following child care assistance, when feasible and within the discretion of the Band, to regular full-time employees as a benefit of employment:

* **TIME WITH CHILD:** Employees may be permitted to spend time with their child or grandchild during school activities or school sponsored events. Employees are allowed three hours per month, per child, for school events that cannot be scheduled outside of the employee's regular work hours. This time off will be monitored by and must be approved in advance by the immediate supervisor. An employee must complete and submit a signed Time With Child form to his/her supervisor upon return to work. (See Appendix B for example.)

* **SICK LEAVE:** Employees may use their own accrued sick leave in the event of the illness of a child.

Sick Leave

The Mille Lacs Band provides paid sick leave to all regular full-time employees for periods of temporary absence due to illnesses or injuries. Sick leave is a benefit and not an entitlement. Sick leave is not to be used in lieu of annual leave. Eligible employees will accrue sick leave benefits shown in the following schedule:

<u>Hours worked per pay period</u>	<u>Sick leave earned</u>
40 hours	2.00 hours
30 hours	1.50 hours
20 hours	1.00 hours

Sick leave is calculated on a yearly basis that begins when the employee starts to earn sick leave benefits.

Employees will accrue sick leave from the commencement of employment. Paid sick leave can be used in minimum increments of one-half hour. Eligible employees may use sick leave for an absence due to their own illness or injury or that of their child, spouse or parent.

Employees who are unable to report to work due to illness or injury must notify their direct supervisor before the scheduled start of their workday if possible. The direct supervisor must also be contacted on each additional day of absence. If an employee is absent for three or more consecutive days due to illness or injury, a physician's statement must be provided upon return to work verifying the illness or injury and its beginning and expected ending dates, if possible. Such verification may be requested for other sick leave absences within the supervisor's discretion, and may be required as a condition to receiving sick leave benefits. Before returning to work from a sick leave absence of 5 business days or more, an employee must provide a physician's verification that he or she is fit to return to work. The supervisor may refuse to allow the employee to return to work without such verification of fitness to return.

Sick leave benefits will be calculated based on the employee's base pay rate at the time of absence and will not include any special forms of compensation such as incentives, commissions, bonuses, or shift differentials. Sick leave benefits will be used to supplement any payments that an employee is eligible to receive from the Mille Lacs Band disability insurance programs. The combination of any such disability payments and sick leave benefits cannot exceed the employee's normal weekly earnings.

In the event an employee has no accrued sick leave at the time of illness or injury, the employer's supervisor, within his or her discretion, may allow the employee to take unpaid sick leave.

In the event that available sick leave is not used by the end of the benefit year, employees may carry **160** hours of unused time forward to the next benefit year. Any unused sick leave beyond **160** hours will be lost with no compensation. A Senior

Time Off to Vote

The Mille Lacs Band of Ojibwe encourages employees to fulfill their civic responsibilities by participating in elections. Generally, employees are able to find time to vote either before or after their regular work schedule. In the event that an employee cannot vote outside of working hours, the Mille Lacs Band will grant employees a reasonable time to vote during election day.

Employees should request time off to vote from their supervisor at least two (2) working days prior to the Election Day. Advance notice is required so that the necessary time off can be scheduled at the beginning or end of the work shift, whichever provides the least disruption to the normal work schedule.

Jury Duty

The Mille Lacs Band encourages employees to fulfill their civic responsibilities by serving on jury duty when required.

Employees must show the jury duty summons to their supervisor as soon as possible so that the supervisor may make arrangements to accommodate their absence. Of course, employees are expected to report for work whenever the court schedule permits.

Regular Full Time Employees (FTE) will be paid at their regular rate of pay when required to serve on jury duty, but must seek prior supervisory permission and must show proof of such service.

An employee who returns from a medical leave in a timely manner will be reinstated to the same position that the employee held at the commencement of the leave, or to an equivalent position with equivalent benefits and pay for which the employee is qualified. An equivalent rate of pay is defined as falling within a range of ten percent (10%) of the employee's rate of pay upon taking leave. The Band retains the right to transfer the employee requesting such leave to a different position and work schedule with equivalent pay and benefits in order to best serve the Band's operational concerns during the leave. In the alternative, the Band may restructure the employee's existing position but maintain the employee's existing pay and benefits or restructure a position that can be performed with the employee's medical condition, if one still exists.

In the event that an employee fails to return to work on the agreed upon return date, the employee will be considered to have resigned from employment. The employer is not required to provide notice to an employee of an impending separation of employment due to the failure to timely return to work or to comply with other aspects of the progressive discipline policy. In such an instance, the employee shall be deemed to have forfeited any property interest in employment he or she may have had.

An employee on medical leave may apply for short term and long term disability benefits.

transfer the employee requesting such leave to a different position and work schedule with equivalent pay and benefits in order to best serve the Band's operational concerns during the leave. In the alternative, the Band may restructure the employee's existing position but maintain the employee's existing pay and benefits.

If an employee fails to return to work on the agreed upon return date, the Mille Lacs Band will consider that the employee has resigned from employment. The employer is not required to provide notice to an employee of an impending separation of employment due to the failure to timely return to work or to comply with any other aspect of the progressive discipline policy. In such an instance, the employee shall be deemed to have forfeited any property interest in employment he or she may have had.

Educational Leave

The Mille Lacs Band provides educational leave not to exceed four (4) hours a week with pay to eligible employees who wish to take time off from work duties to pursue course work that directly relates to their job duties with the Mille Lacs Band. Regular full-time employees who have completed 90-calendar days of service are eligible to request educational leave as described in this policy.

Requests should be made to the supervisor and will be evaluated based on a number of factors, including anticipated work load requirements and staffing considerations during the proposed period of absence.

Leave for Military Families

In addition to standard FMLA leave, an employee may take unpaid leave in a twelve-month period to care for an injured or ill service member. An employee may take no more than twenty-six weeks during a twelve-month period of combined FMLA and military leave.

In addition, eligible employees are entitled to up to 12 weeks of leave because of any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. A qualifying exigency might include:

- short-notice deployment;
- military events and related activities;
- childcare and school activities;
- financial and legal arrangements;
- counseling;
- rest and recuperation;
- post-deployment activities; and
- additional activities when the employer and employee agree to the leave.

Employees may take up to ten (10) days leave of absence without pay when an immediate family member is injured or killed while engaged in active service as a member of the United States armed forces. The employee must provide notice prior to taking leave.

In addition, an employee may take up to one (1) day leave of absence without pay when an immediate family member has been ordered into active service in support of a war or other national emergency for the purposes of attending a send-off or homecoming ceremony. The employee must provide notice prior to taking leave.

For the purposes of the military leave policy only, immediate family includes the employee's parent, spouse, child, sibling, grandparent, grandchild, spouse's parent, spouse's child, spouse's grandparent, spouse's grandchild, brother, sister, step-parent, step-child, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

Community Affairs Leave and Participation

The Mille Lacs Band encourages employees to participate, when appropriate and practical, in community service affairs of charitable, religious, fraternal or civic nature. However, employee participation in such community activities must not adversely affect the employee's job performance, be detrimental to the Band's interest or create a conflict of interest.

Time spent working on community affairs normally should be outside of the employee's working hours and, in such circumstance, will not be considered hours worked for pay purposes. In the event it is necessary, and the employee receives approval in advance from the supervisor, employees may use up to 40 hours per year with pay for participation in community affairs. The supervisor will monitor the hours taken for community service activities.

Time spent in community affairs at the Band government's request will be considered hours worked for pay purposes. Also, in these particular circumstances, the Band will reimburse employees for any reasonable expenses that are approved in advance.

Community service leave may also be used for attendance at Anishinaabe traditional ceremonies as defined under the section entitled "Anishinaabe Leave."

A. Employees Filing for Political Office

Employees planning to campaign for, seek, or accept appointment to a public office must give prior notice of their intention to their supervisor prior to public announcement or prior to filing for public office. Their supervisor will review with the employee any requirements to avoid a conflict of interest and to maintain satisfactory attendance, effort and performance standards. Employees engaging in political activities must do so as individuals on their own time and not as representatives of the Band government or make any representation otherwise.

Rest Breaks

Employees who work eight hours are provided with two (2) rest periods of 15 minutes in length. Employees who work four hours are provided with one (1) rest period of 15 minutes in length. To the extent possible, rest periods will be provided in the middle of work periods. Since this time is counted and paid as time worked, employees must not be absent from their work stations beyond the allotted rest period time.

Employees on rest breaks are not permitted to interfere with fellow employees who are continuing to work.

Timekeeping

Accurately recording time worked is the responsibility of every employee. Federal laws require the Mille Lacs Band to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is the actual time spent on the job performing assigned duties.

All employees should accurately record the time they begin and end their work, as well as the beginning and ending time of each meal period. They should also record the beginning and ending time of any split shift or departure from work for personal reasons. Nonexempt employees should report to work no more than 15 minutes prior to their scheduled starting time nor stay more than 15 minutes after their scheduled stop time without express, prior authorization from their supervisor.

Altering, falsifying, or tampering with time records, or recording time on another employee's time record may result in disciplinary action, up to and including termination of employment.

The normal work schedule for all regular employees is eight (8) hours a day, five (5) days a week. The normal workweek is Sunday through Saturday, beginning and ending at midnight on Saturday, and consisting of 40 hours. Supervisors will advise employees of the times their schedules will normally begin and end. Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week.

Attendance at lectures, meetings and training programs are considered time worked unless it is outside the regular working hours or not approved in advance by the supervisor.

HARASSMENT AND DISCRIMINATION

The Mille Lacs Band is committed to providing a work environment that is free of discrimination and unlawful harassment. Actions, words, jokes or comments based on an individual's sex, race, ethnicity, age, religion, sexual orientation, disability, class or any other legally protected characteristic will not be tolerated. As an example, sexual harassment (both overt and subtle) is a form of employee misconduct that is demeaning to another person, undermines the integrity of the employment relationship and is strictly prohibited.

Any employee who engages in harassment on the basis of race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, disability or age, or who permits employees under his/her supervision to engage in such harassment, or retaliates or permits retaliation against an employee who reports such harassment, shall be subject to disciplinary action, up to and including termination of employment.

Any employee who wants to report an incident of sexual harassment or other prohibited act of discrimination should promptly report the matter in writing to his or her supervisor. If the supervisor is unavailable or the employee believes it would be inappropriate to contact that person, the employee should immediately contact the Human Resources Director. Employees can raise concerns and make reports without fear of reprisal.

Any supervisor or manager who becomes aware of possible sexual or other unlawful harassment should promptly advise the Human Resources Director who will handle the matter in a timely and confidential manner.

Sexual harassment is prohibited and includes any unwelcome sexual advance, request for sexual favors and verbal or physical conduct of a sexual nature when:

Such conduct is used as a factor in any employment decision affecting any individual, or such conduct has the purpose or effect of unreasonably interfering with any employee's work performance or creating any intimidating, hostile or offensive working environment.

The Band government prohibits all employees from engaging in any conduct of a sexual nature or in conduct amounting to harassment based on any protected category in the work setting.

The Mille Lacs Band will investigate and attempt to resolve all employee complaints promptly. If for any reason, an employee believes the situation has not been satisfactorily resolved in a reasonable period of time, the employee may refer the problem to the Human Resources Director and the Grievance Committee.

Anyone engaging in sexual or other unlawful harassment will be subject to disciplinary action, up to and including termination of employment.

Progressive Discipline (Opportunity to Correct Job Performance)

The Mille Lacs Band believes that its employees deserve fair treatment in any actions taken to resolve behavioral or performance problems. In this regard, the Band strives to ensure that its employees receive prompt, uniform and impartial treatment regarding any disciplinary issue. The major purpose of any disciplinary action is to correct the problem and to prevent recurrence of the issue.

The Mille Lacs Band will follow the steps set forth below with respect to most disciplinary problems. However, certain types of employee problems are serious enough to justify either a suspension or immediate termination of employment, without going through the progressive discipline steps. See Summary Dismissal section in this Manual. Therefore, any and all of the following steps may be bypassed, within the discretion of the supervisor and the Human Resources Director, if they deem the conduct serious enough or if circumstances exist which make the following steps impracticable.

- (a) **Verbal Reprimand/Level One**. The supervisor should orally explain the behavioral or performance problem to the employee. The supervisor should suggest solutions to the employee in order to remedy the behavioral or performance problem. At the conclusion of this meeting, the employee and his/her supervisor should sign a form noting the date, time and the substance of this meeting. This form will be maintained by the supervisor for a period of six (6) months and will not be maintained in the employee's personnel file.
- (b) **Written Warning/Level Two**. If the behavior or performance that was the focus of the first level meeting recurs, a written summary of the behavioral or performance problem shall be delivered to the employee. The written warning must state the supervisor's expectations for improvement and provide steps to be taken by the employee. Upon mailing or personal delivery of the written warning, the employee should acknowledge his/her receipt of the same on a form noting the date of receipt. The written warning will be maintained in the employee's personnel file.
- (c) **Suspension Notice/Level Three Option**. If no improvement is shown or the conduct recurs following the above steps, the supervisor, after consultation with the Human Resources Director, shall have the option to suspend the employee. The supervisor shall notify the employee in writing by mailing or personal delivery that he or she is being suspended without pay for a period of one (1) to five (5) days. The length of the suspension shall be determined taking into consideration the nature and severity of the behavior or performance problem. A written suspension notice, which shall be mailed or personally delivered to the employee, should concisely state the specific reason(s) for the suspension and the dates of the suspension.
- (d) **Termination Notice/ Alternative Level Three Option**. If no improvement is shown or the conduct recurs following the above steps, the supervisor, after

GRIEVANCE PROCEDURE

(Employee's Right to Grieve)

1. Generally.

Each and every employee is encouraged to deal openly and directly with supervisors in order to provide a more positive work environment. Therefore, employees are encouraged to discuss any concerns directly with their supervisor at the onset of the concern. If those concerns are not resolved at that level, after discussion with the direct supervisor, or if the employee's direct supervisor is the subject of the problem or is directly involved, the employee should bring any concerns forward as outlined below:

If the employee believes his/her direct supervisor is not open to discussing the complaint, or if the direct supervisor is the subject of the complaint, the employee must contact the higher level supervisor to try to resolve the issue. If the employee's supervisor is a commissioner or elected official, the employee should contact the Human Resources Director to arrange this meeting. The higher level supervisor shall investigate the claims of the employee within ten (10) business days of the initial contact by the employee and attempt to resolve the issue. The higher level supervisor may also contact the Human Resources Director to assist in resolving the issue.

If the employee believes that the higher level supervisor has not resolved the issue to his/her satisfaction, he/she may contact the Human Resources Director within five (5) business days of the higher level supervisor's written response to request that the complaint be addressed before the Grievance Committee.¹ If the higher level supervisor fails to respond within the designated timeframe, the higher level supervisor may be subject to a disciplinary action.

The Grievance Committee shall meet to resolve the complaint within twenty-one (21) business days of the employee's request. The decision of the Grievance Committee is final.

¹ The Grievance Committee shall be a body of five (5) individuals made up of a representative of the Human Resources Department, the Executive Branch, the Legislative Branch, the Judicial Branch, and one elder who shall also be a government employee. It shall be the responsibility of the committee members to select the elder employee. The committee members of each branch of government shall be selected by the elected officials and, in regard to Judicial, the Chief Justice. If a conflict exists between a committee member and the employee, the committee member must remove himself/herself from the hearing proceedings.

Court of Central Jurisdiction within ten (10) business days of the date of mailing or personal delivery of the written decision of the Grievance Committee. See the policy on Official Employee Address and Legal Notice in this Manual for purposes of calculating the ten-day period. The employee bears the burden of proof on appeal. **The rules and procedures governing the appeal are set forth in Appendix A attached hereto.** The decision of the District Court of the Court of Central Jurisdiction may be appealed to the Court of Appeals of the Court of Central jurisdiction in accordance with the rules and procedures set forth in Appendix A, but the decision of the Court of Appeals of the Court of Central Jurisdiction shall be final and unappealable.

Summary Dismissal

(a) Under certain circumstances, an employee is subject to an immediate Summary Dismissal, and is not entitled to progressive discipline. These special circumstances exist when a supervisor has proof or credible information that the employee has committed or been convicted of one of the following acts, or other acts of a similarly serious nature, while employed by the Band:

- (1) An offense against another person, including:
 - (A) Assault;
 - (B) Battery;
 - (C) Sexual assault;
 - (D) Acts or threats of violence of any kind; or
 - (E) Endangerment of a child or vulnerable adult.
- (2) An offense against property, including:
 - (A) Theft (including embezzlement);
 - (B) Robbery;
 - (C) Unauthorized use of a work vehicle, including driving without insurance;
 - (D) Burglary;
 - (E) Arson;
 - (F) Receiving stolen property; or
 - (G) Vandalism.
- (3) Alcohol related offenses include:
 - (A) Obtaining or providing alcohol to persons under the age of 21.
- (4) Controlled substances offenses, including:
 - (A) Possession of controlled substances; or
 - (B) Sale of controlled substance.
- (5) Miscellaneous other offenses, including:
 - (A) Forgery;
 - (B) Obtaining a signature by deception;
 - (C) Bribery;
 - (D) Criminal impersonation;
 - (E) Improper influence of official;
 - (F) Obstruction of Band administration;
 - (G) Obstruction of justice;
 - (H) Tampering with a public record;
 - (I) Falsification of documents;
 - (J) Participating in political activities during business hours;
 - (K) Using Band government property for political purposes during business hours;
 - (L) Using Band government staff/employees for political purposes during business hours;
 - (M) Disclosing confidential information to another without prior authorization; and

Termination for Just Cause

The reasons for “just cause” termination may include the following:

- (a) All infractions listed in the Summary Dismissal section.
- (b) Misconduct, including:
 - (1) Unexcused absence from work;
 - (2) Repeated and unexcused tardiness;
 - (3) Abuse of the Band’s attendance or leave policies;
 - (4) Insubordination e.g. not following chain of command;
 - (5) Failure to carry liability insurance for a vehicle used for Band business;
 - (6) Operating a Band vehicle without a Minnesota driver’s license;
 - (7) Engaging in conduct in violation of the Band’s personnel policies (including but not limited to discrimination, harassment or retaliation);
 - (8) Disruptive behavior in the workplace;
 - (9) Any other intentional, negligent or indifferent conduct on or off the job that demonstrates a violation of the standards of behavior the Band reasonably expects from its employees.
 - (10) Gambling/Gaming during work hours.
- (c) Performance Problems, including, but not limited to:
 - (1) Failure to follow orders or directions of a supervisor;
 - (2) Failure to perform work in an efficient, timely and accurate manner;
 - (3) Failure to perform satisfactorily on a consistent basis;
 - (4) Failure to comply with the terms of a grant or contract;
 - (5) Failure to satisfactorily complete a performance improvement plan or comply with the terms of a written warning from a supervisor.
- (d) Miscellaneous Problems, including:
 - (1) Disrupting other Band programs;
 - (2) Conduct unbecoming an employee of the Band.
 - (3) Any civil or criminal conviction that reduces the employee’s eligibility to perform his/her job.

An employee has the right to appeal the termination decision as described in this Personnel Policy Manual.

PROMOTION ADVANCEMENT

Posted Positions

In general, notices of all regular, full-time, part-time, and grant job openings are posted. However, the Mille Lacs Band reserves its discretionary right not to post a particular opening.

Job openings will be posted on the employee bulletin board and in the e-mail system. Each job posting notice will include the dates of the posting period, job title, department, location, grade level, essential duties and qualifications (required skills and abilities).

Employees who have a written warning on file within 90 days prior to application or are on suspension are not eligible to apply for posted jobs.

To apply for an open position, employees should complete an employment application and submit a cover letter and resume to Human Resources, listing job-related skills and accomplishments. It should also describe how their current experience with the Mille Lacs Band and prior work experience and/or education qualifies them for the position.

A. Employee Transfers

If a regular full-time employee, who has successfully completed a 90-day probationary period and who has not received a written warning or suspension within 90 days prior to applying for a posted position, is hired for a posted position, the employee must serve a 90-day probationary period in the posted position for the purpose of performance evaluation, but will retain and be able to use employee benefits such as any accrued sick and annual leave and, if a Band Member employee, retain eligibility for all Band benefit/program services. A regular full-time employee who accepts a transfer, promotion or non-disciplinary demotion cannot be terminated at-will during a subsequent probationary period associated with the new employment position.

The position vacated as a result of an employee transfer will be posted by the respective Department at the discretion of the Commissioner (if the position is in the Executive Branch), the Secretary-Treasurer (if the position is in the Legislative Branch), or the Chief Justice (if the position is in the Judicial Branch).

Band for a period of three (3) years after completion of his/her studies and agrees to repay the Mille Lacs Band the full amount of tuition assistance if he/she resigns or is summarily dismissed or dismissed for cause prior to completion of the three-year obligation.

The completion of study assignments shall be accomplished outside of the employee's regular working hours. Time spent in class shall not be considered as time worked for pay purposes unless approved by the employee's supervisor.

While tuition assistance is expected to enhance employees' performance and professional abilities, the Mille Lacs Band cannot guarantee that participation in formal education will entitle the employee to automatic advancement, a different job assignment or pay increases.

Employees should contact Human Resources for more information or questions about tuition assistance.

for drug-related activity occurring in the workplace. The report must be made within five business days of the conviction.

Employees with questions about this policy or issues related to drug or alcohol use in the workplace should voice their concerns to their supervisor or the Employee Relations Coordinator without fear of reprisal.

B. Work Rule on Drugs

The possession, use, sale, or transfer of controlled substances or the improper use of other drugs during working hours or on Band property or job sites is prohibited. An employee is not permitted to report to work or operate vehicles, machinery, or equipment while under the influence of any drug or controlled substance that could adversely affect performance. Employees who violate this work rule are subject to disciplinary action up to and including termination.

Employees who are under a physician's care, and who are taking prescribed controlled substances that could affect performance, should report this treatment to their supervisor. Medications that contain alcohol or other mood altering chemicals are not permitted during working hours or any time within 8 hours prior to the start of a shift. This information is important to the Band to ensure that safety and efficiency are maintained.

Employees failing to report and whose performance, in the opinion of their supervisor, is adversely affected by his/her taking prescribed controlled substances are subject to disciplinary action up to and including termination.

C. Work Rule on Alcohol

Consumption of alcohol that interferes with work place performance will not be tolerated. The possession, use, sale, distribution, or transfer of alcoholic beverages on Band property or job sites is prohibited. Also, an employee is not permitted to report to work or operate vehicles, machinery, or equipment while under the influence of alcohol. An employee will be considered to be under the influence when consumption of alcohol has impaired or is likely to impair the employee's job performance and it is the judgment of his/her supervisor using a reasonable suspicion standard that an employee is impaired. Band policy requires disciplinary action up to and including termination for any employee who uses alcohol while at work. However, this policy does not prohibit an employee from seeking medical care or rehabilitation because of alcohol abuse.

Any person who is offered employment will be scheduled for a pre-employment test. These tests are conducted as follows:

1. A Human Resources designee must schedule the individual for pre-employment testing at the appropriate testing agency or may conduct swab testing on-site. A second and final testing time may be scheduled at the discretion of the Human Resources Director if the individual fails to appear or calls to reschedule.

F. Other Employment Testing

1. Additionally, the Mille Lacs Band reserves the right to administer a single annual drug and alcohol test to existing employees within the defined scope of this policy.
2. Employees engaged in safety-sensitive positions (for example, operators of machinery, equipment and Band owned vehicles; employees working with children, people with disabilities and elders) are subject to random testing. Twenty percent of employees covered by this subdivision are subject to drug tests each year. The tests must be conducted periodically over a one (1) year calendar period. Individuals failing to appear for scheduled testing under this section are subject to discipline. Employees in safety-sensitive positions who test positive for alcohol or any controlled substance, including prescription medication for which the employee does not have a prescription, will be terminated immediately.
3. An employee will be required to undergo a drug and alcohol test when, in the opinion of their immediate supervisor, there is reasonable suspicion that the employee is under the influence of drugs and/or alcohol, or that the employee has used, possessed, sold or transferred drugs and/or alcohol while on Band property or while operating vehicles or machinery as part of his/her job. The employee's supervisor must suspend the employee without pay and make arrangements to transport the employee to and from the testing facility designated by the Mille Lacs Band for a "reasonable suspicion" drug test.
4. The other circumstances under which an employee is required to undergo a drug and alcohol test are as follows:
 - a. The employee has caused a work-related accident, or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.
 - b. The employee has sustained a personal injury as defined under Minnesota's Worker's Compensation Statutes or has caused another employee to sustain a personal injury.

The employee or job applicant will be informed of their test results and their right to obtain a copy of the results in writing, from the department collecting the results, within three (3) working days after the receipt of the written determination from the testing laboratory. The employee or job applicant has the right to request and receive a copy of the test result report on any drug and alcohol test. The employee or job applicant may, at their expense, obtain a confirmatory retest, by a qualified laboratory of the individual's choice, OF THE ORIGINAL SAMPLE used in producing a positive confirmatory test result, provided that the individual notifies Human Resources of his/her intention to do so within five (5) working days after his/her receipt of the positive confirmatory test result by Human Resources.

In the event of a confirmatory test, the testing laboratory may contact the tested individual for information as to a possible innocent explanation of the positive test. All employees or job applicants who receive a positive test result will be given written notice of their right to explain the positive results and right to obtain a confirmatory re-test.

Where a positive confirmatory test result is the first positive test result while employed for the Mille Lacs Band, and the employee offers no reasonable explanation or proof of legitimate use, an existing employee will be afforded an opportunity to participate in an appropriate drug and/or alcohol counseling and/or rehabilitation program at the employee's expense. Such opportunity may only be provided if a certified chemical use counselor, or a physician trained in the diagnosis and treatment of chemical dependency, believes that the counseling/rehabilitation is an appropriate course of action.

If an employee refuses to participate in the counseling or rehabilitation program, fails to successfully complete a program as evidenced by withdrawal from a program before its completion, or has a positive test result after the program, the employee may be disciplined up to and including termination.

I. Refusal of Job Applicant or Employee to Submit to Testing

Before requesting an employee or job applicant to undergo drug/alcohol testing, the Mille Lacs Band will ask the employee or job applicant to complete a form acknowledging that he/she has seen the Drug and Alcohol Testing Policy, and understands it.

Any employee or job applicant may refuse to submit to a drug/alcohol screening that the Band has requested but, upon such refusal, the Band may withdraw its offer of employment to a job applicant, or subject an existing employee to disciplinary action up to and including discharge.

If an employee or job applicant is found to have adulterated a test sample, or in any way to have tampered with the testing process, the Mille Lacs Band may terminate an existing employee, or may not offer employment to a job applicant.

All adulterated tests must be treated as a refusal of testing.

submit to a drug or alcohol test. However, a refusal will be considered to be a positive test result.

An employee or job applicant who adulterates or attempts to adulterate a specimen will be considered to have a positive test result and will be subject to the consequences of a positive test.

An employee or job applicant who does not produce a viable sample within the allowed waiting period will be considered to have a positive test result and will be subject to the consequences of a positive test.

When specific gravity and creatinine levels are below accepted levels, the employee or candidate must re-test. The Mille Lacs Band will pay for this mandatory re-test.

M. Medical Review Officer

All positive test results will be reviewed by a Medical Review Officer (MRO). An employee whose initial test is positive has the option of being interviewed by the MRO, who will determine whether the positive test may have resulted from legally prescribed medications. The MRO will review all medical records made available by the employee to rule out legitimate, prescribed drug use or other extenuating or explainable circumstances.

N. Treatment

An employee who voluntarily seeks treatment of a chemical dependency problem before they are subject to the drug and alcohol-testing program will be placed on a medical leave of absence. If they do not qualify for a medical leave of absence, they must resign and then they will be eligible for rehire following successful treatment. Before that employee can return to work they must provide evidence of a negative drug test, with the exception for excessively high THC levels as stated above in Section J.

An employee enrolled in an outpatient treatment program may continue to work if their primary counselor provides to the Human Resource Director a written notice that the employee is permitted to resume duties. A release of information form signed by the employee permitting the release of treatment records and information must be on file in the Human Resources Office. Any restrictions and/or medications must be documented by the primary counselor in writing and the Human Resource Director, in consultation with the MRO, the employee's immediate supervisor and the primary counselor will decide if the employee will be permitted to return to work.

The Mille Lacs Band will make a reasonable effort to accommodate the schedule, work restrictions and other conditions of the outpatient treatment program, but makes no guarantee that all accommodations can be made.

An employee who is referred by the Mille Lacs Band to an inpatient or outpatient treatment program must sign a release of information form allowing the treatment center

information relating to an employee's drug or alcohol use, testing results, discipline or any related matters will be subject to immediate termination for breach of confidentiality.

Q. Use of this Policy

Employees on medical leave of absence under this policy will have their medical/dental insurance continued as if they were an active employee.

DEFINITIONS:

Alcohol: Ethyl alcohol

Confirmatory Test: A test used to confirm the presence of a drug or alcohol in a specific urine or body substance. This is a second analytical procedure, which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test to ensure reliability and accuracy. The sample of the confirmatory test will be drawn from the same sample originally supplied by the employee.

Drug: A controlled substance as defined in Federal statutes, which is either not prescribed by a licensed health care provider or is used other than in the prescribed manner.

Drug and Alcohol Testing: Analysis of urine or a body substance specimen, for the purpose of measuring the presence or absence of drugs, alcohol or their metabolites in the sample tested.

Initial Test: An immunoassay screen test which eliminates urine or body substance specimens that are negative for the presence of drugs.

Medical Review Officer: A licensed physician responsible for receiving laboratory results generated by the Mille Lacs Band's drug and alcohol testing program, who has knowledge of substance disorders and has appropriate medical training to interpret and evaluate an individual's positive test result, together with their medical history and any other relevant biomedical information. The MRO also assists in deciding whether to permit an employee to return to duty after receiving a positive test result.

Positive Test Result: A urine or body substance specimen that has undergone an initial test and an evaluation by the MRO who has ruled out a legitimate reason for the use of alcohol or drugs. The test finding registers a presence of alcohol or drugs or their metabolites in levels at or above threshold detection levels. The presence of alcohol or drugs at or above the following levels shall be considered a positive test result.

EMPLOYEE ASSISTANCE PROGRAM

The Mille Lacs Band cares about the health and well-being of its employees and recognizes that a variety of personal problems can disrupt their personal and work lives. While many employees solve their problems either on their own or with the help of family and friends, sometimes employees need professional assistance and advice.

Through the Employee Assistance Program (EAP), the Mille Lacs Band provides free and confidential access to professional counseling services for help in addressing issues such as: personal problems, alcohol and other substance abuse, marital and family difficulties, financial or legal troubles, and emotional distress. The EAP is available to all eligible employees who are insured under the Band's health insurance program, and offers problem assessments, short-term counseling and referral to appropriate community and private services.

The EAP is strictly confidential and is designed to safeguard your privacy and rights. Information given to the EAP counselor may be released only if requested by you in writing. All counselors are guided by a professional code of ethics.

If further counseling is necessary, the EAP counselor will outline community and private services available. The counselor will also let employees know whether any costs associated with private services may be covered by their health insurance plan. Costs that are not covered are the responsibility of the employee.

Minor concerns can become major problems if you ignore them. No issue is too small or too large; a professional counselor is available to help you when you need it. Call the EAP to contact the Employee Relations Counselor.

Safety

The Mille Lacs Band has established a workplace safety policy to assist in providing a safe and healthy work environment for employees, customers and visitors. Human Resources is responsible for implementing, administering, monitoring and evaluating the safety policy. Its success depends on the alertness and personal commitment of all.

The Mille Lacs Band provides information to employees about workplace safety and health issues through workplace safety training and regular internal communication channels such as supervisor-employee meetings, bulletin board postings, memos or other written communications.

Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition to the appropriate supervisor. Employees who violate safety standards, cause hazardous or dangerous situations, or who fail to report or, where appropriate, remedy such situations, may be subject to disciplinary action, up to and including termination of employment.

Employees are expected to attend Human Resources safety training in their departments. Failure to attend such training may result in disciplinary action.

Accidents that result in injury, regardless of how insignificant the injury may appear, should immediately notify Human Resources and their immediate supervisor. Such reports are necessary to comply with laws and initiate insurance and workers' compensation benefits procedures.

EMERGENCY CLOSINGS

There may be times when emergencies such as severe weather, fires or power failures disrupt Band operations. In extreme cases, emergencies may require the closing of an office or work facility. In the event that such an emergency occurs during nonworking hours, you may call the government center at 800-709-6445 to find out whether the building is closed. Or, local radio and/or television stations may be asked to broadcast notification of the closing.

When operations are officially closed due to emergency conditions, the time off from scheduled work will be paid. When operations are not closed, employees who fail to report for work will not be paid for the time off. Employees may request available paid leave time such as annual leave.

Non-exempt employees in essential operations may be asked to work on a day when operations are officially closed. In these circumstances, non-exempt employees who work will receive regular pay for the hours when the operations are officially closed plus additional straight time pay for the hours worked. Exempt employees will not receive additional compensation for work performed when operations are closed.

RESIGNATION

Resignation is a voluntary act initiated by the employee to terminate employment with the Mille Lacs Band. Although advance notice is not required, the Mille Lacs Band requests at least two (2) weeks' written notice of resignation from nonexempt employees and four (4) weeks' notice from exempt employees.

Prior to an employee's departure, Human Resources shall schedule an exit interview with the employee to discuss the reasons for the resignation and the effect of the resignation on benefits.

If a supervisor chooses to accept a resignation effective immediately in lieu of the employee working two (2) weeks or four (4) weeks, severance must be paid to the employee equal to two (2) week's salary for a nonexempt employee and four (4) week's salary for an exempt employee.

REFERENCES

Upon receipt, Human Resources will provide a written response to those requests for employment references submitted in writing. Human Resources will typically respond to such inquiries to confirm dates of employment, wage rates and position(s) held. No other employment information will be released without a written authorization and release signed by the individual who is the subject of the inquiry.

4. Answer - Within ten (10) business days of receiving the employee's Notice of Appeal, the Office of Solicitor General shall file with the Clerk of the District Court and serve on the employee and the Human Resources Director an Answer to the Notice of Appeal on behalf of the Band. The Answer shall:
- a. Respond to the Notice of Appeal with specificity;
 - b. Include a request for a transcript of the proceedings before the Grievance Committee if the Band desires to include the transcript in the record on appeal (see paragraph 6 below);
 - c. State whether the Band seeks to supplement the record on appeal and, if so, identify the evidence the Band seeks to add to the record and the grounds for doing so (see paragraph 7 below); and
 - d. Include any request for relief on behalf of the Band.
5. Preparation of Transcript – If either the employee (in the Notice of Appeal) or the Band (in the Answer) requests a transcript of the proceedings before the Grievance Committee, the Human Resources Director shall arrange for the preparation of the transcript and shall file it with the Clerk of the District Court and serve it on the parties within five (5) days of receipt of the Notice of Appeal or Answer.
6. Record on Appeal -- The record on appeal shall consist of: (a) the termination letter or notice; (b) the employee's written request for a hearing before the Grievance Committee; (c) all documents and exhibits submitted to the Grievance Committee; (d) if requested by either party, the transcript of the proceedings before the Grievance Committee; and (e) the written decision of the Grievance Committee. Except as provided in paragraph 7 below, the District Court shall not consider any evidence that was not presented at the hearing before the Grievance Committee.
7. Supplementation of Record on Appeal -- The District Court may supplement the record on appeal upon the request of the employee (in the Notice of Appeal) or the Band (in the Answer), but only if the requesting party demonstrates that: (a) it is likely that the evidence the party proposes to add to the record would have changed the Grievance Committee's decision and there was good cause for not submitting the evidence to the Grievance Committee; or (b) the evidence the party proposes to add to the record will show that it is likely that evidence submitted at the Grievance Committee hearing was false and that it is likely that the false evidence had an effect on the Grievance Committee's decision. Unless the District Court requests further briefing on the matter, it shall determine whether to supplement the record on appeal within five (5) business days after the filing of the Answer. If the District Court determines that the record on appeal may be supplemented with new evidence, and if it determines that a hearing is necessary for the presentation of such evidence, it shall hold a hearing at which the evidence may be presented within ten (10) business days of its determination to supplement the record.

APPENDIX B

Example of Time With Child Form:

32. 10-3-11 Revision – p. 46 (Time with Child and Illness of Child), added “grandchild;” added last sentence in Time with Child paragraph.
33. 10-3-11 Revision – p. 47 (Holidays), added “as defined in 6 MLBSA § 1102(h)” in the Note.
34. 10-3-11 Revision – p. 48-49 (Sick Leave, amended last sentence in seventh paragraph as “A Senior Executive Staff (SES) employee, as defined in 6 MLBSA § 1102(h), may donate his/her sick leave hours to another employee.”
35. 10-3-11 Revision – p. 51 (Funeral Leave), deleted “partner.”
36. 10-3-11 Revision – p. 53 (Medical Leave), added “as described in the next section of this Manual” in the fifth paragraph; amended last sentence in that paragraph. Defined equivalent rate of pay in ninth paragraph. Added last two sentences in tenth paragraph regarding notice.
37. 10-3-11 Revision – p. 55 (Family Leave), added “consecutive” before “year of service” in second paragraph. Defined equivalent rate of pay in eighth paragraph. Added last two sentences in last paragraph regarding notice.
38. 10-3-11 Revision – p. 57 (Personal Leave), added “consecutive” before “year of service in first paragraph. Add last sentence in first paragraph. Defined equivalent rate of pay in sixth paragraph; added “in the same or an equivalent position, or in any position” in same paragraph. Added last two sentences in last paragraph regarding notice.
39. 10-3-11 Revision – p. 59 (Military Leave), amended first sentence in seventh paragraph; defined equivalent rate of pay in same paragraph.
40. 10-3-11 Revision – p. 61 (Anishinaabe Leave), replaced “Cultural Leave” with “Anishinaabe Leave.” Amended types of leave that can be used, including community service leave. Added fifth paragraph regarding helping at traditional funerals.
41. 10-3-11 Revision – p. 62 (Community Affairs Leave and Participation), added usage of such leave for Anishinaabe Leave. Added “prior to public announcement or prior to filing for public office” in Employees Filing for Political Office section.
42. 10-3-11 Revision – p. 63 (Pay Policies), replaced “Finance Officer” with “Commissioner of Finance.”
43. 10-3-11 Revision – p. 68 (Harassment and Discrimination), replaced “submission to a rejection of such conduct” under sexual harassment with “such conduct.”
44. 10-3-11 Revision – p. 69 (Performance Management), amended sentence to require performance evaluations.
45. 10-3-11 Revision – p. 70 (Progressive Discipline), added “Opportunity to Correct Job Performance” under heading; added “See Summary Dismissal section in this Manual” in second paragraph; and added “and the Human Resources Director, if they deem...” in last sentence of paragraph. Changed retention of verbal warning from one year to six months; amended first sentence in Written Warning section; and amended requirement on page 71.
46. 10-3-11 Revision – p. 72 (Grievance Procedure), added “Employee’s Right to Grieve” under heading; added “If the employee’s supervisor is a commissioner or elected official, the employee should contact the Human Resources Director to arrange a meeting.” Added “business” before days.
47. 10-3-11 Revision – p. 73 (Grievance and Appeal to Disciplinary Action), added “business” before days; added “to the Grievance Committee” in last sentence of second paragraph; added third paragraph regarding suspended employee; added “of date of mailing or personal delivery” in Level Two and Level Three. Added “the employee bears the burden of proof on appeal” and other requirements to Level Three.
48. 10-3-11 Revision – p. 75 (Termination), added sentence beginning, “However, a regular full-time employee.....”
49. 10-3-11 Revision – p. 76 (Summary Dismissal), reworded first paragraph; added (N) to causes.
50. 10-3-11 Revision – p. 78 (Termination for Just Cause), reworded beginning sentence.
51. 10-3-11 Revision – p. 79 (Access to Personnel Files), added “according to the process outlined in this Personnel Policy Manual.”
52. 10-3-11 Revision – p. 80 (Promotion Advancement), added third paragraph; added last sentence of first paragraph under Employee Transfers; amended second paragraph of this section.
53. 10-3-11 Revision – p. 81 (Tuition Reimbursement & Assistance), added footnote.
54. 10-3-11 Revision – p. 83 (Drugs and Alcohol), replaced “will be required” with “may be required” in second paragraph. Replaced “for a government contract” with “pursuant to a government contract.” Page 84, deleted “with the exception of medications lawfully prescribed to the employee” under Work Rule on Drugs; deleted “employees failing to make such a report” and replaced with “employees failing to report.” Added word “to” after “up” under Work Rule on Alcohol. Page 85, added “including, but not limited to urine, hair sample and/or blood through the use of swab or other type of test) under Drugs and/or Alcohol Testing; amended first sentence4 under Pre-Employment as follows: “Applicants selected for hire within safety sensitive positions will be required to submit to a drug and alcohol test.” Page 86, amended first paragraph; added “or may conduct swab testing on-site” in number 1 of this section. Under Other Employment Testing, delete last sentence of section 1. Added last two sentences to number 2 of this section. Page 87, replaced two years with twelve months in c. at top of page. Replaced “will be terminated” in number 5 of Portable Breathalyzer Test with “may be terminated.” Page 88, amended wording in third paragraph on this page to “and the employee offers no reasonable explanation or proof of legitimate use....” Page 89, under Reasonable Suspicion, amended first sentence and reworded third paragraph. Replaced “that appear” with “which appear” in last paragraph of this section. Page 92, added “or body substance” under Confirmatory Test; added “or a body substance specimen” under Drug and Alcohol Testing; added “or body substance” under Initial Test; added “or body substance” under Positive Test Results; amended table.