



Mille Lacs Band of Ojibwe Personnel Policy and Procedures

TABLE OF CONTENTS

<u>WELCOME AND INTRODUCTION</u>	4
<u>Welcome New Employee!</u>	4
<u>Introductory Statement</u>	5
<u>Mission Statement</u>	6
<u>Organization Description</u>	7
<u>Employee Acknowledgement Form</u>	8
<u>EQUAL EMPLOYMENT OPPORTUNITY</u>	9
<u>Equal Employment Opportunity</u>	9
<u>American Indian Preference</u>	10
<u>Disability Accommodation</u>	11
<u>Immigration Law Compliance</u>	12
<u>EMPLOYMENT CLASSIFICATIONS</u>	13
<u>BUSINESS ETHICS</u>	15
<u>Business Ethics and Conduct</u>	15
<u>Hiring of Relatives</u>	16
<u>Conflicts of Interest</u>	17
<u>Outside Employment</u>	18
<u>Official Employee Address and Legal Notice</u>	19
<u>Truthfulness in Employment Application</u>	20
<u>Business Travel Expenses</u>	21
<u>Use of Phone, Cell Phones and Mail Systems</u>	23
<u>Computer and E-mail Usage</u>	24
<u>Internet Usage</u>	25
<u>Workplace Monitoring</u>	26
<u>Automobile Usage and Maintenance</u>	27
<u>Employee Conduct and Work Rules</u>	29
<u>Recycling</u>	30
<u>Unauthorized Solicitation</u>	31
<u>NONDISCLOSURE OF CONFIDENTIAL INFORMATION</u>	32
<u>ATTENDANCE AND PUNCTUALITY</u>	33
<u>PROFESSIONAL APPEARANCE AND CONDUCT</u>	34
<u>Personal Appearance and Dress</u>	34
<u>Smoking</u>	36
<u>EMPLOYEE BENEFITS</u>	37

Employee Benefits	37
Benefits Continuation (COBRA)	38
Health Insurance	39
Life Insurance	40
Short-Term Disability	41
Long-Term Disability	42
401(k) Retirement Savings Plan	43
ABSENCE AND LEAVE	44
Annual Leave	44
Time with Child and Illness of Child	46
Holidays	47
Sick Leave	48
Time Off to Vote	50
Funeral Leave	51
Jury Duty	52
Medical Leave	53
Family Leave	55
Personal Leave	57
Educational Leave	58
Military Leave	59
Leave for Military Families	60
Anishinaabe Leave	61
Community Affairs Leave and Participation	63
PAY POLICIES	64
Paydays	64
Rest Breaks	65
Meal Breaks	66
Timekeeping	67
Overtime	68
HARRASSMENT AND DISCRIMINATION	69
PERFORMANCE MANAGEMENT	70
Performance Evaluation	70
Progressive Discipline (Opportunity to Correct Job Performance)	71
GRIEVANCE PROCEDURE	73
1. Generally	73
2. Grievance and Appeal of Disciplinary Action	74
TERMINATION	76
Employment Termination	76

<u>Summary Dismissal</u>	77
<u>Termination for Just Cause</u>	79
<u>Access to Personnel Files</u>	80
<u>PROMOTION ADVANCEMENT</u>	81
<u>Posted Positions</u>	81
<u>DRUGS AND ALCOHOL</u>	84
<u>EMPLOYEE ASSISTANCE PROGRAM</u>	95
<u>WORKERS' COMPENSATION</u>	96
<u>Workers' Compensation Insurance</u>	96
<u>Safety</u>	97
<u>WORKPLACE VIOLENCE</u>	98
<u>EMERGENCY CLOSINGS</u>	99
<u>RETURN OF PROPERTY</u>	100
<u>RESIGNATION</u>	101
<u>REEMPLOYMENT</u>	102
<u>REFERENCES</u>	103

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,

Introductory Statement

Section 1. This policy and procedures manual or handbook is designed to acquaint you with the Mille Lacs Band of Ojibwe and provide you with information about working conditions, employee benefits and some of the policies affecting your employment. You should read, understand and comply with all provisions of the handbook. It describes many of your responsibilities as an employee or supervisor and outlines the programs developed by the Mille Lacs Band to benefit employees. One of our objectives is to provide a work environment that is conducive to both personal and professional growth. No policy and procedures handbook can anticipate every circumstance or question about policy. As the Mille Lacs Band continues to grow, the Mille Lacs Band of Ojibwe reserves the right to revise, supplement or rescind any policies or portion of this handbook as it deems appropriate, in compliance with 6 MLBSA § 1. Employees will be notified of such changes to the handbook as soon as it is feasible.

Section 2. The Mille Lacs Band of Ojibwe Personnel Policy and Procedures Manual applies to all Mille Lacs Band employees except the following are specifically exempt:

- (1) Chief Executive;
- (2) Secretary-Treasurer/Speaker of the Assembly;
- (3) District Representatives;
- (4) Elected members of the Nay Ah Shing School Board when acting in their official capacity;
- (5) Employees of the Corporate Commission and its subsidiaries;
- (6) Employees of the Gaming Regulatory Authority;
- (7) Employees of the MLBO Police Department, except the administrative staff working within this department are not exempt;
- (8) Department of Natural Resources (DNR) enforcement staff when he/she is assisting the MLBO Police Department; and
- (9) Employees hired under contract for a particular purpose.

Section 3. 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.

Section 4. 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.

Effective date: March 6, 2014

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.

Organization Description

Organizational Structure: As a sovereign nation, the Mille Lacs Band of Ojibwe has the authority and responsibility to govern its people and land. To ensure it makes the best possible decisions, the Mille Lacs Band of Ojibwe has developed a tribal government based on a separation of powers composed of the Executive, Legislative and Judicial Branches.

The *Executive Branch* is under the authority of the Chief Executive of the Band. The Chief Executive has the authority to exercise the executive powers of Band government. 3 MLBSA § 6. There are also executive officers who assist the Chief Executive who are delegated with certain authority in a specific subject area. The executive officers are the Commissioner of Administration, Assistant Commissioner of Administration, Commissioner of Natural Resources, Commissioner of Education, Commissioner of Corporate Affairs, the Commissioner of Health & Human Services, and the Commissioner of Community Development.

One of the most important duties of the Executive Branch of government is the running of the program services available to Mille Lacs Band of Ojibwe members. This branch of government is also responsible for executing the laws of the Band.

The Office of the Solicitor General, Tribal Police Department and Band Member Legal Aid are located within the Department of Justice (“DOJ”). The DOJ is located within the Executive Branch of government. 24 MLBSA § 1051.

The *Legislative Branch* is composed of the Secretary-Treasurer and three District Representatives. These four elected officials form the body known as the Band Assembly, with the Secretary-Treasurer serving as the Speaker of the Assembly. Besides the elected officials, the Legislative Branch includes a Parliamentarian who also acts as Clerk of the Band Assembly; a Legislative attorney and Legislative staff. This branch also includes the Office of Management and Budget, headed by the Commissioner of Finance. This branch of government is responsible for creating the laws and maintaining the financial integrity of the Band.

The *Judicial Branch* is composed of one District Court Judge who is nominated by the Chief Executive and confirmed by the Band Assembly. The Court of Appeals is composed of one Chief Justice and two Associate Justices; these three judges each represent one of the Band districts. All judges serve a term of six years. The justices are assisted by a Court Administrator, Court Clerk, Bailiff, staff attorney and other judicial staff.

The History of Mille Lacs Band of Ojibwe Indians

The Mille Lacs Band of Ojibwe is a sovereign Indian nation and has been recognized as such by the United States in treaties, statutes, agreements and executive and judicial actions since at least 1825. The Mille Lacs Band of Ojibwe community remains strong in its culture, language and tribal traditions.

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 Adoption and Amendment of the Mille Lacs Band Personnel Policy and Procedures Manual is codified in Mille Lacs Band Statutes Annotated (MLBSA) at Title 6 §1. The Mille Lacs Band of Ojibwe has the statutory duty to amend the policies in this manual as needed. Such amendments are approved upon enactment by Band Assembly prior to implementation. The enactment may specify an effective date of any or all such amendments.

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: _____

EQUAL EMPLOYMENT OPPORTUNITY

Equal Employment Opportunity

In order to provide equal employment and advancement opportunities to all individuals, employment decisions at the Mille Lacs Band of Ojibwe will be based on merit, qualifications and abilities. The Mille Lacs Band does not discriminate in employment opportunities or practices on the basis of race, color, religion, sex, national origin, age, disability, sexual orientation or any other characteristic protected by federal or state law, although the Band does provide American Indian preference, as described in the next section of this Manual. The Mille Lacs Band's non-discrimination policies govern all aspects of employment including: selection; job assignment; compensation; discipline; termination; and access to benefits and training.

Any employees with questions or concerns about any type of discrimination in the workplace should bring these issues to the attention of their immediate supervisor. If reporting discrimination to the immediate supervisor is not an option, the employee should bring the concern or complaint to the attention of the Human Resources Director immediately. Employees can raise concerns and make reports without fear of retaliation. Anyone found to be engaging in any type of unlawful discrimination or retaliation will be subject to disciplinary action, up to and including termination of employment.

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.

Disability Accommodation

The Mille Lacs Band of Ojibwe is committed to complying fully with the Americans with Disabilities Act (ADA) and ensuring equal opportunity in employment for qualified persons with disabilities. Reasonable accommodation is available for all qualified disabled employees if such reasonable accommodation would enable the employee to perform the essential functions of the position and not create an undue hardship for the Mille Lacs Band.

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.

EMPLOYMENT CLASSIFICATIONS

It is the intent of the Mille Lacs Band of Ojibwe (MLBO) to clarify the definitions of employment classifications so that employees understand their employment status and benefit eligibility. These classifications do not guarantee employment for any specified period of time.

Each employee is designated as either NONEXEMPT or EXEMPT from federal wage and hour laws. NONEXEMPT employees are entitled to overtime pay of one-and-one-half the employee's regular rate of pay for all hours worked over forty (40) hours within the work week. EXEMPT employees are excluded from specific provisions of federal wage and hour laws, including overtime pay. Please see Human Resources if you have questions about your exempt or nonexempt status.

In addition to the above categories, each employee will belong to one other employment category as follows:

REGULAR FULL-TIME employees are those who are not in a temporary or introductory (probationary) status and who are regularly scheduled to work the MLBO full-time schedule of forty (40) hours per week. However, employees working thirty-two (32) hours or more and having written consent by the department head are considered regular full-time employees and are eligible for the MLBO benefit package, subject to the terms, conditions and limitations of each benefit program.

PART-TIME employees are those who are not in a temporary or introductory (probationary) status and who are regularly scheduled to work less than thirty-two (32) hours per week. These employees receive all legally mandated benefits (e.g. Social Security, Workers' Compensation and Unemployment Insurance), but they are ineligible for all other MLBO benefit programs.

PROBATIONARY (or introductory) employees are those whose performance is being evaluated during the probationary period to determine whether further employment in a specific position or with the MLBO government is appropriate. The probationary period, during which time performance is being evaluated, is generally 90 calendar days. However, the probationary period can, at the Band's discretion and based on performance concerns, be extended up to one year. During the probationary period, either the probationary employee or the Mille Lacs Band may terminate the employment relationship at will, with or without cause and with or without advance notice. Accordingly, the sections in this Manual regarding just cause and termination procedures do not apply to a probationary employee. However, 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.

TEMPORARY employees are those who are hired to temporarily supplement the work force or to assist in the completion of a specific project. Temporary employees retain said status until notified of a change. While temporary employees receive all legally mandated benefits (e.g. Social Security, Workers' Compensation and 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 four (4) 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.

Temporary/On-Call and Labor Pool employees are subject to the Mille Lacs Band of Ojibwe pre-employment Alcohol & Drug testing policy and background check requirements.

BUSINESS ETHICS

Business Ethics and Conduct

The Mille Lacs Band's reputation for integrity and excellence requires careful observance of the spirit and letter of all applicable laws and regulations, as well as a scrupulous regard for the highest standards of conduct and personal integrity.

All employees owe a duty to the Mille Lacs Band, Band members and other employees to act in a way that will merit the continued trust and confidence of the public.

The Mille Lacs Band will comply with all applicable laws and regulations and expects its Commissioners, Directors, Officers and employees to conduct business in accordance with the letter, spirit and intent of all relevant laws and to refrain from any illegal, dishonest or unethical conduct.

In general, use of good judgment, based on high ethical principles, will guide you in regard to lines of acceptable conduct. If a situation arises where it is difficult to determine the proper course of action, the matter should be discussed openly with your immediate supervisor and, if necessary, with Human Resources for advice, consultation and/or mediation.

Compliance with this policy of business ethics and conduct is the responsibility of every Mille Lacs Band employee. Disregarding or failing to comply with this standard of business ethics and conduct could lead to disciplinary action, up to and including termination of employment.

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.

Conflicts of Interest

Employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest or the appearance of a conflict. An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative as a result of Mille Lacs Band's business dealings. For the purposes of this policy, a relative or family member is defined as the employee's spouse, biological or adopted child, members of the same household, or the mother, father, sister, or brother of the employee.

Transactions with outside firms must be conducted according to the Band's Procurement Law. See 7 MLBSA §§ 1-36. Personal gain may result not only in cases where an employee or relative has a significant ownership in a firm that the Mille Lacs Band does business with, but also when an employee or relative receives any kickback, bribe, gift or special consideration as a result of any transaction or business dealings involving the Mille Lacs Band.

Any questions about possible conflicts of interest should be immediately directed to Human Resources or to the Office of the Solicitor General.

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.

Official Employee Address and Legal Notice

All employees are solely responsible for maintaining their current mailing address with Human Resources upon approved forms. An employee must update his or her mailing address within five (5) calendar days of any permanent change. The Band shall adopt a version of the traditional mailbox rule. The Band shall presume receipt of official documents sent by regular mail to an employee's recorded mailing address.

The calculation of all timeframes within this manual that permit the mailing of a written notice shall begin one (1) calendar day after mailing, which shall presumptively correspond with the date of the most recent signature appearing on the notice. An employee may only rebut this presumption by presenting the envelope that contained the actual notice, clearly bearing a different postmark. In the latter instance, the calculation of the timeframe shall begin one (1) calendar day after the date of the postmark.

If the employer provides written notice by personal delivery, then the calculation of the associated timeframe shall begin on the day of receipt of personal service.

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.

Business Travel Expenses

The Mille Lacs Band will reimburse employees for reasonable business travel expenses incurred while on assignments away from the normal work location. All business travel must be approved in advance by the immediate supervisor and the department head.

Employees whose travel plans have been approved should make all travel arrangements through the Mille Lacs Band's Travel Clerk, or through the individual within their respective department designated to handle this responsibility.

When approved, the actual costs of travel, including non-discriminatory state taxes, meals, lodging and other expenses directly related to accomplishing business travel objectives will be reimbursed by the Mille Lacs Band according to the Federal regulations for reimbursement provided that the employee submits travel reports and accompanying receipts within seven (7) business days. Employees are expected to limit expenses to reasonable amounts.

Expenses that generally will be reimbursed include the following:

- Airfare or train fare for travel in coach or economy class or the lowest available fare, including the cost of one checked bag per flight weighing under 50 lbs.
- Car rental fees, only for compact or mid-sized cars when necessary.
- Fares for shuttle, airport bus service, taxi fares, where available; cost of public transportation for other ground travel.
- Mileage costs for use of personal cars, only when less expensive transportation is not available subject to pre-approval by Department Commissioner. All drivers must have a valid driver's license. Further, any driver whose license privilege is suspended or revoked is not eligible for reimbursement of mileage from the date of suspension or revocation.
- If employees are carpooling to the same training, only one employee may submit for mileage cost reimbursement.
- Cost of standard accommodations in low to mid-priced hotels, motels, or similar lodgings based on the federal per diem rate, unless otherwise approved.
- Cost of meals, according to the federal per diem rate.
- Tips not exceeding 18% of the total cost of a meal or 10% of a taxi fare.

Employees who are involved in an accident while traveling on business must promptly report the incident to their immediate supervisor. Vehicles owned, leased or rented by the Mille Lacs Band may not be used for personal use without prior approval.

Per diem advances are issued to cover reasonable anticipated expenses after travel has been approved and proper forms are completed.

With prior approval, employees on business travel may be accompanied by a family member or friend, when the presence of a companion will not interfere with successful completion of business objectives. The cost of travel and related expenses for a travel companion shall not be paid for by the Mille Lacs Band. Generally, employees are also

permitted to combine personal travel with business travel, as long as time away 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.

Use of Phone and Mail Systems

Personal use of office telephones for outgoing long distance calls is not permitted except for emergency purposes. Employees may be required to reimburse the Mille Lacs Band for any charges resulting from their personal use of the office telephone.

The use of Mille Lacs Band stationery and paid postage for personal correspondence is not permitted.

CELL PHONE SAFETY

Cell phones may not be used for personal or business use while driving a Band owned vehicle. This ban on use while driving includes receiving or placing calls, text messaging, surfing the internet, receiving or responding to email, checking for receipt of messages or any other unsafe use of cell phones while driving.

If you are driving a Band owned vehicle on company business, you are required to stop in a safe location before proceeding to use any cell phone.

This ban on the unsafe use of cell phones includes any personal cell phone while driving a Band owned vehicle and any government supplied cell phone while on company business and driving your personal vehicle.

Employees who violate this policy against unsafe cell phone use will be subject to disciplinary action.

The Band's DNR Conservation Officers are exempt from this cell phone safety rule if they are using a cell phone for work related to his or her duties as a conservation officer.

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 and employees should have no expectation of privacy.

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.

Internet Usage

Internet access is provided by the Mille Lacs Band of Ojibwe to assist employees in obtaining work-related data and technology. The following guidelines have been established to help ensure responsible and productive internet usage. While internet usage is intended for job-related activities, limited personal use may be permitted with prior authorization.

All internet data that is composed, transmitted or received via our computer communications systems is considered to be part of the official records of the Mille Lacs Band and, as such, is subject to disclosure to law enforcement or other third parties. Consequently, employees should always ensure that the business information contained in internet e-mail messages and other transmissions is accurate, appropriate, ethical, lawful, and in the best interests of the Mille Lacs Band.

The equipment, services and technology provided to access the internet remain at all times the property of the Mille Lacs Band. As such, the Mille Lacs Band reserves the right to monitor internet traffic and retrieve and read any data composed, sent or received through the online connections and stored in computer systems.

Data that is composed, transmitted, accessed or received via the internet must not contain content that could be considered terroristic, discriminatory, offensive, obscene, threatening, harassing, intimidating or disruptive to any employee or other person. Examples of unacceptable content may include, but are not limited to, sexual comments or images, racial slurs, gender-specific comments or any other comments or images that could reasonably offend someone on the basis of race, age, sex, religious or political beliefs, national origin, disability, sexual orientation or any other characteristic protected by law.

The unauthorized use, installation, copying, or distribution of copyrighted, trademarked or patented material on the internet is expressly prohibited. As a general rule, if an employee did not create material, does not own the rights to it or has not gotten authorization for its use, it should not be put on the internet. Employees are also responsible for ensuring that the person sending any material over the internet has the appropriate distribution rights.

Internet users should take the necessary anti-virus precautions before downloading or copying any file from the internet. All downloaded files are to be checked for viruses; all compressed files are to be checked before and after decompression.

Abuse of the internet access provided by the Mille Lacs Band in violation of law or the Mille Lacs Band policies will result in 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.

Automobile Usage and Maintenance

Vehicles which are essential in accomplishing job duties are expensive and may be difficult to replace. When using Band vehicles, employees are expected to exercise care, and follow all operating instructions, safety standards and guidelines. In addition, employees will normally use their own car for Band business in accordance with the guidelines below.

Every employee who drives a personal or Band vehicle on Band business must possess a valid Minnesota driver's license and, where applicable, maintain the minimum amount of insurance required by law. Each employee is personally responsible for any fine incurred as a result of driving or parking violations. In addition, no employee is permitted under any circumstance to operate a Band vehicle or a personal vehicle for Band business when a physical or mental impairment causes the employee to be unable to drive safely. The prohibition includes, but is not limited to, circumstances in which the employee is temporarily unable to operate a vehicle safely or legally because of illness, medication or intoxication.

Employees are not permitted to use Band vehicles for non-business purposes.

Time spent by an employee in driving a Band or personal automobile on Band business during normal working hours is to be considered hours worked for pay purposes.

Employees who drive a vehicle while on Band business are required to use a seat belt and shoulder harness. This also applies to passengers riding in the same vehicles. It is the employee's responsibility to ensure that seat belts and shoulder harnesses are utilized.

Smoking is not permitted in any Band owned vehicle.

Personal Vehicle Use:

Employees who use their personal car for Band purposes will receive a mileage allowance, as prescribed in the Office of Management and Budget (OMB) travel policies, for such usage. This allowance covers the cost of gasoline, oil, depreciation and insurance.

Employees must receive prior approval from Department Supervisor to use their personal vehicle for Band Business. Damages occurring as a result of an accident are the responsibility of the employee and must be submitted to the owner's auto insurance.

Claims for mileage allowance and reimbursement must be approved by the employee's department head and submitted to the Office of Management and Budget for payment. Mileage reimbursement is subject to the policies of the Office of Management and Budget.

Maintenance:

Employees using Band vehicles are responsible for proper maintenance and must report any malfunctions or maintenance requirements to the supervisor.

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 or injuries must be reported to your supervisor as soon as possible, but no later than the next business day after the incident. Unreported accidents, injuries or leaving the scene of an accident will not be tolerated and may result in disciplinary action.

Employee Conduct and Work Rules

To ensure orderly operations and provide the best possible work environment, the Mille Lacs Band expects employees to follow rules of conduct that will protect the interests and safety of all employees and the organization.

All employees are expected to conduct themselves and behave in a manner which is conducive to the efficient operation of the Band and to comply with all Band policies.

It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. Examples of infractions of rules of conduct that may result in disciplinary action include, but are not limited to, the following:

- * Theft or inappropriate removal or possession of property;
- * Falsification of timekeeping records;
- * Working under the influence of alcohol or illegal drugs;
- * Possession, distribution, sale, transfer or use of alcohol or illegal drugs in the work place, while on duty or while operating employer-owned vehicles or equipment;
- * Fighting, intimidating or threatening violence in the workplace aimed at Band officials, supervisors, employees, clients or visitors;
- * Boisterous or disruptive activity in the workplace;
- * Negligence or improper conduct leading to damage of employer-owned or employee-owned property;
- * Insubordination or other disrespectful conduct;
- * Violation of safety or health rules;
- * Smoking in prohibited areas;
- * Sexual or other unlawful or unwelcome harassment;
- * Possession of dangerous or unauthorized materials, such as explosives or firearms, in the workplace;
- * Excessive absenteeism or any absence without notice;
- * Unauthorized absence from work station during the workday;
- * Unauthorized use of telephones, mail system, or other employer-owned equipment;
- * Unauthorized disclosure of business “secrets” or confidential financial information;
- * Violation of personnel policies; or
- * Unsatisfactory performance or conduct.

The grounds for termination as well as the termination procedure and review process are set forth in these personnel policies.

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.

Unauthorized Solicitation

In an effort to ensure a productive and harmonious work environment, persons not employed by the Mille Lacs Band may not solicit or distribute literature in the workplace at any time unless prior authorization from the Chief Executive and/or Commissioner of Administration is received.

In addition, employees may not use the internet or the Band's intranet to promote, solicit or distribute information without the express written consent of his or her supervisor or the Information System Director.

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.

ATTENDANCE AND PUNCTUALITY

To maintain a safe and productive work environment, the Mille Lacs Band expects employees to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on other employees and on the Mille Lacs Band.

In the rare instances when employees cannot avoid being late to work or are unable to work as scheduled, the employee must notify his/her supervisor as soon as possible and in advance of the anticipated tardiness or absence. If possible, such notification should include a reason for the absence or tardiness and an indication of when the employee can be expected to report for work. If the supervisor is unavailable, the employee should contact another supervisor and should also contact his/her supervisor's administrative assistant. Failure to notify the supervisor of any absence or delay may lead to disciplinary action.

Employees who are absent from work for three consecutive days without giving proper notice to their supervisor will be considered to have voluntarily resigned their position. The employer is not required to provide notice to an employee of an impending separation of employment due to his/her prolonged absence 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.

Poor attendance and excessive tardiness are disruptive and may lead to disciplinary action, up to and including termination of employment.

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

tops with bare shoulders unless worn under a blouse or jacket
visible undergarments
slippers or flip-flops

For some, traditional business attire may simply remain a more favored option on casual days. The choice will be at the discretion of the supervisor.

Smoking

In keeping with the Mille Lacs Band's intent to provide a safe and healthful work environment, smoking tobacco products or an electronic equivalent 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, or during designated culturally-appropriate events, and in other designated areas as assigned at other Band government buildings.

Smoking is not permitted in any Band owned vehicle. Failure to comply with this policy will result in disciplinary action.

EMPLOYEE BENEFITS

Employee Benefits

Eligible employees of the Mille Lacs Band of Ojibwe are provided a wide range of benefits. A number of the programs (e.g. Social Security, Worker's Compensation, and Unemployment Insurance) cover all employees in the manner prescribed by law.

Benefits eligibility is dependent upon a variety of factors, including employee status as a regular, full-time employee.

The following benefit programs (discussed more fully below), are available to eligible employees:

- * Time With Child (3 hours per child per month);
- * Community Service (40 hours per year with pay);
- * 401(k) Savings Plan; (21 years of age or older including Part-Time Regular employees)
- * Auto Mileage (according to federal guidelines);
- * Bereavement Leave (3 days for the death of each family member as defined further in the Funeral Leave section, page 52);
- * Anishinaabe Leave;
- * Dental Insurance;
- * Educational Leave (4 hours per week);
- * Employee Assistance Program (EAP);
- * Family Leave (FMLA);
- * Health Insurance;
- * Holidays;
- * Jury Duty Leave;
- * Life Insurance;
- * Long-Term Disability;
- * Medical Leave;
- * Military Leave;
- * Military Family Leave
- * Personal Leave;
- * Short-Term Disability;
- * Sick Leave;
- * Supplemental Life Insurance;
- * Vacation Benefits;
- * Voting Time Off;
- * Any other benefit or leave required by state or federal law.

Some benefit programs require contributions from the employee, but most are fully paid by the Mille Lacs Band. Questions regarding any employee benefit should be directed to Human Resources.

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.

Health Insurance

The Mille Lacs Band's health insurance plan provides employees and their dependents access to medical insurance benefits. Regular full-time employees are eligible to participate in the health insurance plan.

A change in employment classification that would result in loss of eligibility to participate in the health insurance plan may qualify an employee for benefits continuation under the Consolidated Omnibus Budget Reconciliation Act (COBRA). Refer to the Benefits Continuation (COBRA) policy for more information.

Details of the health insurance plan are described in the Summary Plan Description (SPD). An SPD and information on cost of coverage will be provided in advance of enrollment to eligible employees. Contact the Benefits Administrator for more information about health insurance benefits.

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 Administrator 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.

Short-Term Disability

The Mille Lacs Band provides a short-term disability benefits plan to eligible employees who are unable to work because of a qualifying disability due to an injury or illness. Regular full-time employees are eligible to participate in the short-term disability plan subject to all terms and conditions of the agreement between the Mille Lacs Band and the insurance carrier.

Disabilities arising from pregnancy or pregnancy-related illness are treated the same as any other illness that prevents an employee from working. Disabilities covered by Workers' Compensation are excluded from short-term disability coverage.

Details of the short-term disability benefits plan including benefit amounts (when they are payable), and limitations, restrictions and other exclusions are described in the Summary Plan Description provided to eligible employees. Contact the Benefits Administrator in Human Resources for more information about short-term disability benefits.

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

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 Administrator 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.

401(k) Retirement Savings Plan

The Mille Lacs Band of Ojibwe has established a 401(k) retirement savings plan to provide employees the opportunity to plan for their future financial security.

If you elect to participate in the 401(k) retirement savings plan, you must be a Full-Time Regular Employee with 12 months of service and be 21 years of age or older or a Part-Time Regular Employee with 1,000 hours of service within the first 12 months of service, or within the plan year after the initial evaluation period and be 21 years of age or older. You may join the plan only during quarterly open-enrollment periods. Eligible employees may participate in the 401(k) retirement savings plan subject to all terms and conditions of the plan.

The 401(k) retirement savings plan allows you to elect how much salary you want to contribute and direct the investment of your plan account, so you can tailor your own retirement package to meet your individual needs. The Mille Lacs Band also contributes an additional matching amount to each employee's 401(k) contribution.

Because your contribution to a 401(k) retirement savings plan is automatically deducted from your pay before any applicable federal and state tax withholdings are calculated, you reduce your taxable income.

Complete details of the 401(k) retirement savings plan are described in the Summary Plan Description provided to eligible employees. Contact the Benefit Administrator in Human Resources for more information about the plan.

ABSENCE AND LEAVE

Annual Leave

Annual Leave with pay is available to regular full-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 fiscal year. Any accrued annual leave beyond 80 hours will be paid out to the employee only at the end of the fiscal 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.

Employees may not go into a deficit on annual leave. If an employee has exhausted all accrued annual leave, the employee has the option to make a request for unpaid leave and request approval of their supervisor.

NOTE: Elected and appointed officials, and Senior Executive Staff (SES) employees, as defined in 6 MLBSA § 1102(h), are not included in this policy for annual leave calculations and use.

Time with Child and Illness of Child

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

* **TIME WITH CHILD:** If an employee's child or grandchild is participating in a school activity, school sponsored event or cultural event, through the completion of high school he/she may be permitted to spend time with their child or grandchild during such event. Employees are allowed three hours per month, per child, for school events that cannot be scheduled outside of the employee's regular work hours. If multiple children participate in the same school activity or school sponsored event scheduled at the same time, no more than three hours is allowed. This time off will be monitored by and must be approved at least seven (7) days 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.)

* Legal Guardians/Foster Parents are included in this policy.

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

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

Holidays

The Mille Lacs Band grants holiday time to regular full-time employees for designated Band holidays.

Regular full-time employees calculated holiday pay is based on the employee's straight-time pay rate (as of the date of the holiday) multiplied by the number of hours the employee would otherwise have worked on that day. To be eligible for holiday pay, an employee must work the last scheduled day immediately preceding and the first scheduled day immediately following the holiday, unless otherwise previously approved by their supervisor. If the employee is on pre-approved leave the day before, after or combination of, (such as vacation, pre-approved sick leave, funeral leave, Time With Child or leave without pay) the employee will receive holiday pay.

A recognized holiday that falls on a Saturday will be observed on the preceding Friday. A recognized holiday that falls on a Sunday will be observed on the following Monday.

If a recognized holiday falls during an eligible employee's pre-approved absence (such as vacation, sick leave, funeral leave or leave without pay), the employee will receive holiday pay and will not be required to use the accrued paid time off benefit that would otherwise have applied.

If an eligible non-exempt employee is required to work on a Band holiday, the employee will receive the holiday pay plus holiday wages which are calculated at time and one-half of the employee's regular pay. Time worked during Holidays should be submitted to payroll as Holiday+ on department spreadsheets.

Paid time off for holidays will not be counted as hours worked for the purposes of determining overtime.

NOTE: Appointed officials and Senior Executive Staff (SES) employees, as defined in 6 MLBSA § 1102(h), are exempt from the requirement to work the day before and day after a holiday.

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 up to 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 Executive Staff (SES) employee, as defined in 6 MLBSA § 1102(h), may donate his/her sick leave

hours to another employee. Other employees may also donate his/her sick leave hours to another employee who is eligible to use sick leave (with approval of both the Commissioners of donor employee and the employee receiving the donated time). Donating employees must maintain a balance of 80 sick leave hours. Employees receiving donated hours must first utilize all accrued hours, and must not receive payments from outside sources such as Short Term Disability, Workmen's Compensation, SSI Disability, and receive approval of his or her Commissioner.

The accrued balance of the employee receiving donated hours shall not exceed forty (40) hours per pay period.

Sick leave benefits are solely intended to provide income protection in the event of illness or injury and may not be used for any other absence. Unused sick leave benefits will not be paid to employees while they are employed or upon termination of employment.

NOTE: Elected and appointed officials and Senior Executive Staff (SES) employees, as defined in 6 MLBSA § 1102(h), are not included in this policy for sick leave calculations and use.

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 no more than two hours' 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.

Funeral Leave

Employees who wish to take time off due to the death of a family member should notify their supervisor immediately.

For purposes of this policy, the Mille Lacs Band defines “family” as the employee’s spouse, parents, children, siblings, step-children, grandparents, grandchildren, aunts, uncles, nieces, nephews, first-cousins and spouse’s parents and siblings.

One to three days of paid funeral leave will be provided to regular full-time employees.

Funeral pay is calculated based on the base pay rate at the time of absence.

Employees may request to use any available annual or up to three (3) days of sick leave without a doctor’s note for additional time off as necessary. If an employee requests additional time, they must request the supervisor’s approval.

For community funerals, the District Community Centers will be closed the afternoon of the wake and the day of the funeral according to the guidelines as to usage. Therefore, supervisors of employees whose office is located within the community centers shall make arrangements to find space or means for these employees to fulfill their employment work day obligation.

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.

Medical Leave

The Mille Lacs Band provides medical leaves of absence without pay to eligible employees who are temporarily unable to work due to a serious health condition or disability. For purposes of this policy, serious health conditions or disabilities include inpatient care in a hospital, hospice, or residential medical care facility; continuing treatment by a health care provider; and temporary disabilities associated with pregnancy, childbirth, and related medical conditions.

Regular full-time employees who have completed one consecutive year of service are eligible to request medical leave as described in this policy. Exceptions to the service requirement will be considered to accommodate disabilities.

Eligible employees should make requests for medical leave to their supervisors at least 30 days in advance of foreseeable events and as soon as possible for unforeseeable events.

A health care provider's statement must be submitted verifying the need for medical leave and its beginning and expected ending dates, if known. Any changes in this information should be promptly reported to the Mille Lacs Band. Employees returning from medical leave must submit a health care provider's verification of their fitness to return to work.

Eligible employees are normally granted leave for the period of the serious health condition, up to a maximum of 12 weeks within any 12 month period. Leave may be taken all together or intermittently. Employees will be required to first use any accrued paid leave time before taking unpaid medical leave. The period of paid leave shall be considered part of the 12 weeks of leave entitlement. Any combination of medical leave and family leave, as described in the next section of this Manual, may not exceed this maximum limit within a 12-month period. If this initial period of absence proves insufficient, consideration will be given to a request for an extension of one additional month.

Employees who sustain work-related injuries are eligible for a medical leave of absence for the period of disability in accordance with the Band's Workers' Compensation plan policy.

Subject to the terms, conditions and limitations of the applicable plans, the Mille Lacs Band will continue to provide health insurance benefits for the full period of the approved medical leave. However, the employee will be responsible for the employee's contribution portion of the premium.

Benefit accruals, such as vacation, sick leave or holiday benefits, will be suspended during the unpaid portion of the leave and will resume upon return to active employment.

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.

Family Leave

The Mille Lacs Band of Ojibwe provides family leaves of absence without pay to eligible employees who wish to take time off from work duties to fulfill family obligations relating directly to childbirth, adoption, or placement of a foster child; or to care for a child, spouse, or parent with a serious health condition. A serious health condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health care provider.

Regular full-time employees who have completed one consecutive year of service are eligible to request family leave as described in this policy.

Eligible employees should make requests for family leave to their supervisors at least 30 days in advance of foreseeable events and as soon as possible for unforeseeable events.

Employees requesting family leave related to the serious health condition of a child, spouse, or parent may be required to submit a health care provider's statement verifying the need for a family leave to provide care, its beginning and expected ending dates and the estimated time required, if known.

Eligible employees may request up to a maximum of 12 weeks of family leave within any 12 month period. Employees will be required to first use any accrued paid leave time before taking unpaid family leave. The period of paid leave shall be considered part of the 12 weeks of leave entitlement. Any combination of family leave and medical leave may not exceed this maximum limit. If this initial period of absence proves insufficient, consideration will be given to a written request for a single extension of no more than 30 calendar days. Married employee couples may be restricted to a combined total of 12 weeks leave within any 12 month period for childbirth, adoption or placement of a foster child, or to care for a parent or family member with a serious health condition.

Subject to the terms, conditions, and limitations of the applicable plans, the Mille Lacs Band will continue to provide health and dental insurance benefits for the full period of the approved family leave. However, the employee will be responsible for the employee's contribution portion of the premium.

Benefit accruals, such as vacation, sick leave or holiday benefits, will be suspended during the unpaid portion of the leave and will resume upon return to active employment.

An employee who returns from a family leave in a timely manner may 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.

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.

Personal Leave

The Mille Lacs Band provides leaves of absence without pay to eligible employees who wish to take time off from work duties to fulfill personal obligations. Regular full-time employees who have completed one consecutive year of service are eligible to request personal leave as described in this policy. As soon as eligible employees become aware of the need for a personal leave of absence, they should request a leave from their supervisor. The supervisor of an employee taking personal leave may hire a temporary replacement for no more than ninety (90) calendar days to maintain the smooth work flow of the office.

Unpaid personal leave may be granted for a period of up to 30 calendar days per year. The employee should exhaust his/her accrued vacation leave prior to taking unpaid personal leave.

Requests for personal leave will be evaluated based on a number of factors, including anticipated work load requirements and staffing considerations during the proposed period of absence.

Subject to the terms, conditions and limitations of the applicable plans, health insurance benefits will be provided by the Mille Lacs Band until the end of the month in which the approved personal leave begins. At that time, the employee will become responsible for the full costs of these benefits if the employee wishes coverage to continue. When the employee returns from personal leave, benefits will resume according to the applicable plans.

Benefits such as vacation, sick leave or holiday benefits will not accrue during the leave and will resume upon return to active employment.

When a personal leave ends, every reasonable effort will be made to return the employee to the same position, if it is available, 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. However, the Mille Lacs Band cannot guarantee reinstatement in the same or an equivalent position, or in any position, in all cases.

If an employee fails to report to work promptly at the expiration of the approved leave period, the Mille Lacs Band will consider the employee to have voluntarily 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. 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 and will be approved/denied based on a number of factors, including anticipated work load requirements and staffing considerations during the proposed period of absence. A course syllabus/class schedule should be submitted to the employee's Supervisor prior to the start of each semester.

Military Leave

A military leave of absence will be granted to employees who are absent from work because of service in the United States uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA). Advance notice of military service is required, unless military necessity prevents such notice or it is otherwise impossible or unreasonable.

Employees will receive partial pay for two-week training assignments and shorter absences. Upon presentation of satisfactory military pay verification data, employees will be paid the difference between their normal base compensation and the pay (excluding expense pay) received while on military duty.

The portion of any military leave of absence in excess of two weeks will be unpaid. However, employees may use any available paid time off for the absence.

Continuation of health insurance benefits is available as required by USERRA based on the length of the leave and subject to the terms, conditions and limitations of the applicable plans for which the employee is otherwise eligible.

Benefits, such as vacation, sick leave or holiday benefits, will not accrue during the unpaid portion of the leave and will resume upon the employee's return to active employment.

Employees on military leave for up to 30 days are required to return to work for the first regularly scheduled shift after the end of service, allowing reasonable travel time. Employees on longer military leave must apply for reinstatement in accordance with USERRA and all other applicable laws.

Employees returning from military leave will be placed in the position they held prior to deployment or an equivalent position with equivalent benefits and pay for which the employee is qualified, depending on the length of military service in accordance with USERRA. They will be treated as though they were continuously employed for purposes of determining benefits based on length of service. 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.

Contact Human Resources for more information or questions about military leave.

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.

Anishinaabe Leave

Tribal Members who are “Regular Full-time Employees” may use "Anishinaabe Leave" as described in this policy. Anishinaabe Leave, for purposes of this policy, is defined as "Regular Hours" to participate in Midewiwin ceremonies, prepare for Ceremonial Drum and aid/participate in other Tribal ceremonies. Employees who are contracted to provide services for the ceremonies listed above may not use Anishinaabe Leave. Eligible employees may take Anishinaabe Leave after giving their superiors requisite prior notice. Approval may depend on workload and the needs of the program.

Midewiwin Ceremonies- Eligible employees are provided a maximum eighty (80) hours of paid Anishinaabe Leave per year for aiding Midewiwin as “Nayaadamaaged” and for any person seeking aid from a Mide Lodge as a “Waa-mide’od”.

Anishinaabe Leave for Midewiwin ceremonies may be granted only while an active Midewiwin Ceremony is taking place. Typically held in the summer months of June, July and August.

Big Drum- If an employee is required to make special preparations for attendance at a Big Drum Ceremony that they are a member of as “Debendaagozid”; eight (8) hours of Anishinaabe Leave may be used the day that the ceremonies are held.

Funeral Helpers- Eligible employees may use a maximum of eight (8) hours of leave to assist as “helpers” at traditional funerals or four (4) hours of leave to assist as "helpers" at other traditional ceremonies.

Other- Other Tribal Members can participate in their own Tribal ceremonies utilizing this leave.

Notice- Written NOTICE to the supervisor will be given at the earliest possible convenience for less than 2 days leave; 1 week in advance for 3-5 days leave, and/or 2 weeks in advance for 6+ days of Anishinaabe Leave.

Additional hours of Anishinaabe Leave will be at the discretion of the Commissioners (Executive Branch), the Chief Executive (CEO employees) the Secretary-Treasurer or District Representative, if he/she directly supervises the legislative employee, or the Chief Justice (Judicial Branch).

NOTE: Benefits such as annual and sick leave will not accrue during the leave and will resume upon return.

Abuse of this leave will result in immediate termination.

Definitions:

Nayaadamaaged- Someone that helps at a Midewiwin Ceremony.

Waa-mide'od- Someone intending to go through a Mide Lodge (seeking help).

Debendaagozid- Someone that belongs to a certain Drum.

Notices need to be submitted along with weekly payroll spreadsheet

Community Affairs Leave and Participation

The Mille Lacs Band encourages employees to participate, when appropriate and practical, in community service affairs for any charitable, religious, fraternal or civic purposes. 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 calendar year with pay for participation in community affairs. The supervisor will monitor the hours taken for community service activities.

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

Time spent in community affairs at the Band government's request will be considered hours worked for pay purposes.

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.

PAY POLICIES

Paydays

All employees are paid every Friday. Each paycheck will include earnings for all work performed through the end of the previous payroll period.

The law requires that the Mille Lacs Band make certain deductions from every employee's compensation. Among these are applicable federal, state and local income taxes. The Mille Lacs Band must also deduct Social Security taxes on each employee's earnings up to a specified limit that is called the Social Security "wage base." The Mille Lacs Band matches the amount of Social Security taxes paid by each employee.

If you have questions concerning why deductions were made from your pay check or how they were calculated, contact the Payroll Specialist or Commissioner of Finance.

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.

Meal Breaks

Employees who work eight hours are provided with one meal period of 60 minutes in length each workday. Supervisors will schedule meal periods to accommodate operating requirements. Employees will be relieved of all active responsibilities and restrictions during meal periods and will not be compensated for that time. Employees using a time clock must clock-in and out during meal periods.

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.

Overtime For Non-Exempt Employees

A supervisor may determine and require an employee to work more than eight (8) hours per day. The number of additional hours of work should be determined by the supervisor. Employees will be informed of any changes to the schedule as far in advance as possible. However, lack of notice will not be a valid reason for an employee refusing to work.

Nonexempt employees are not permitted to work overtime without the prior approval of their supervisor or department head and may be subject to disciplinary action up to and including termination.

Overtime pay is based on actual hours worked. Time off on sick leave, annual leave, any leave of absence or holidays will not be considered hours worked for purposes of performing overtime calculations.

Employees who obtain prior approval will receive overtime compensation, at the rate of one and one-half times the employee's regular rate of pay, for all hours worked beyond forty (40) hours in a work week.

For employees who work in any additional position(s) to their primary job or position (identified by separate Personnel Payroll Action Notice's (PPANS), time worked in each position is calculated separately and only hours worked in excess of 40 hours per week for each position is paid at the overtime rate.

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 or conduct will be subject to disciplinary action, up to and including Summary Dismissal, see Page 78.

PERFORMANCE MANAGEMENT

Performance Evaluation

Supervisors and employees are strongly encouraged to discuss job performance and goals regularly on an informal basis. Formal performance evaluations should be conducted at or about the end of an employee's probationary period in any new position, and thereafter following the performance evaluation schedule below. Performance evaluations provide employers and employees the opportunity to discuss job tasks, identify and correct deficiencies, encourage and recognize strengths, and discuss positive approaches for meeting the expectations of the position.

Performance Evaluation Schedule

90 day evaluation – Completed at the end of the employee's 90 day probationary period in any new position.

One year evaluation – Completed at the end of the employee's first full year of employment in their current position.

Annual Fiscal Year evaluation – To bring an employee to the Fiscal year cycle, see example below. The initial evaluation to bring the employee to the Fiscal year cycle is prorated. Each evaluation period thereafter will be October 1 to September 30 of each year unless the employee changes positions.

Example:

Employee date of hire is 5/21/16, a 90 day evaluation would be completed at 8/21/16.

A One year evaluation would be completed for the period of 5/21/16 to 5/21/17.

The Annual Fiscal Year evaluation would be completed for the period of 5/22/17 (day after employee one year anniversary) to 9/30/17 (last day of fiscal year) and will be yearly after that with the new October 1 to September 30 dates)

Note: the employee evaluation schedule will start over with a change of positions.

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. 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. 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. 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. 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 terminate the employee rather than suspend.

Termination of an employee shall be determined taking into consideration the nature and severity of the behavior or performance problem. The supervisor shall notify the employee in writing by mailing or personal delivery that his or her employment is being terminated. The termination notice shall concisely state the specific reason(s) for the termination and the effective date of the termination.

Prior to processing any suspension or termination, a supervisor must first conduct an informal meeting with the employee to provide a general summary of the allegations supporting the contemplated disciplinary action, and to provide the employee a meaningful opportunity to rebut the allegations. The length of the informal meeting shall depend upon the circumstances, and the supervisor does not need to adhere to any prescribed procedure.

If a decision is made to suspend or terminate the employee, the supervisor shall immediately notify the Human Resources Director and the Office of Management & Budget of the effective dates of the suspension or termination. In addition, the supervisor shall provide written documentation to the Human Resources Director outlining the following (to the extent applicable):

- a. The specific behavior or performance that resulted in the suspension and/or termination, including the dates on which such behavior or performance occurred (including but not limited to the date of the most recent incident) and any provisions of the Personnel Policy that were violated; and
- b. The previous disciplinary actions taken and any assistance offered to the employee to correct the behavior or performance that resulted in the suspension and/or termination, including but not limited to:
 - (i) the time and date of the verbal warning meeting;
 - (ii) the time and date of the written warning;
 - (iii) the time and date of the Notice of Suspension and the date(s) of the suspension; and
 - (iv) the time and date of the notice of termination and the effective date of termination.

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.

2. Grievance and Appeal of Disciplinary Action.

Each and every employee is afforded the opportunity to grieve or appeal a disciplinary action against them if he/she believes it is in their best interest to do so. In order to provide an impartial and fair process, the Mille Lacs Band hereby adopts the following procedure:

Level One: An employee who has received a written warning concerning a behavioral or performance problem from his/her immediate supervisor and who wishes to grieve/appeal the same must do the following: (1) Contact the supervisor of his/her immediate supervisor within five (5) business days of the employee's receipt of the written warning to request a meeting. The higher level supervisor must listen to the employee's grievance/appeal in a fair and impartial manner. (2) Within five (5) business days of the meeting, the higher level supervisor must prepare a written statement of the meeting and outline the steps taken to resolve the matter. (3) A copy of the written statement must be mailed or personally delivered to the employee on the same day a copy is provided to Human Resources to be placed in the employee's file. There is no further appeal to the Grievance Committee of a written warning.

Likewise, an employee who is suspended and who wishes to grieve/appeal the same must do the following: (1) Contact the supervisor of his/her immediate supervisor within five (5) business days of the employee's suspension to request a meeting. The higher level supervisor must listen to the employee's grievance/appeal in a fair and impartial manner. (2) Within five (5) business days of the meeting, the higher level supervisor must prepare a written statement of the meeting. (3) A copy of the written statement must be mailed or personally delivered to the employee on the same day a copy is provided to Human Resources to be placed in the employee's file. There is no further appeal to the Grievance Committee of a suspension.

Level Two: An employee who is terminated and who wishes to grieve/appeal the same must do the following: (1) Within ten (10) business days of the date of mailing or personal delivery of the termination letter or notice, he/she must file a written request with the Human Resources Director to request a hearing before the Grievance Committee outlining the basis for challenging the termination decision. (2) Within twenty-one (21) business days of the filing of the request for hearing, the Grievance Committee must hold a hearing on the employee's complaint. (3) Within ten (10) business days of the hearing, the Grievance Committee must provide a written decision to the employee by mail or personal delivery recommending either that the employee be re-instated or upholding the termination.² A copy of this decision will be kept in the employee's file.

Level Three: If the employee believes that his/her grievance of a termination decision has not been adequately resolved by the Grievance Committee, he/she may appeal to the Court

² In reviewing a termination decision, the Grievance Committee shall limit its review to the grounds for termination set forth in the notice of termination and the written documentation provided by the supervisor to the Human Resources Director in accordance with the Progressive Discipline Policy. The grounds for termination as set forth in those documents cannot be supplemented during the pendency of the grievance process.

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.

TERMINATION

Employment Termination

During the probationary period, or the first 90 days of employment, the Mille Lacs Band of Ojibwe has the right to terminate employment at will, which means with or without cause or for any reason. However, 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. Following the probationary period, an employee may be terminated only for “just cause.” The definition of just cause and the procedure for termination are set forth in this Personnel Policy Manual.

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.
 - (F) Behavior as defined in Harassment and Discrimination policy.
- (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

Summary Dismissal (continued)

(N) Falsely reporting a crime.

(b) An employee subject to summary dismissal may appeal the termination decision pursuant to the Grievance Procedure described above.

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 (Work hours do not include unpaid meal breaks).
- (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.
 - (4) Subsequent failure to satisfy an essential job requirement as explicitly stated on an Administration Policy Board (APB) approved job description.

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

Access to Personnel Files

A personnel file is maintained for each employee. The personnel file includes such information as the employee's job application, resume, records of training, documentation of performance appraisals and salary increases, and other employment records.

While each employee has the right to view and copy his/her personnel file, personnel files are the property of the Mille Lacs Band and access to the information is restricted. Generally, only supervisors and management personnel having a legitimate reason to review information within a file are allowed to do so.

Employees who wish to review his/her file should inform Human Resources in writing. Within seven working days of receipt of the written request, an employee will be permitted to review his/her personnel file in the presence of Human Resources staff and within the Human Resources office. **No one is permitted to remove his/her personnel file from the office.**

Requests to review personnel files more than once every six months may be denied at the discretion of the Human Resources Director. No documents may be removed from the personnel file by anyone other than the individual appointed by the employer to maintain the files. If the employee would like a copy of any document in his/her personnel file, they must ask the Human Resources staff for such copy. The employee requesting the copy may be asked to reimburse the Mille Lacs Band for the cost at 25 cents per page.

If an employee disputes any information contained in his/her personnel file, the employee should first ask the Human Resources Director to revise or remove the disputed information. If the employee and employer cannot reach an agreement on revision or removal, the employee may submit a written position statement, no more than five pages, to be included along with the disputed information in the employee's personnel record.

Any employee who discloses confidential personnel information of any other employee to another shall be immediately terminated upon proof of same, according to the process outlined 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 or not to reschedule interviews for applicants unable to make the original scheduled day and time.

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

Effective April 1, 2014, the Band government will accept an individual's time worked as a Mille Lacs Corporate Ventures (MLCV) non-gaming employee, Grand Casino Mille Lacs (GCML) or Grand Casino Hinckley (GCH) regular full-time or part-time employee when the individual resigns from the MLCV, GCML or GCH and accepts employment with the Band government as long as the transfer is within two (2) weeks from when the offer of employment is made and there is no break in employment.

The transferred individual must have been in his or her MLCV, GCML or GCH job at least six (6) months. The individuals time worked will count toward a subsequent probationary period with the new employment position.

DRUGS AND ALCOHOL

A. General Application

The Mille Lacs Band of Ojibwe is committed to providing a work environment free from the effects of alcohol and illegal drugs and to provide employees who abuse alcohol or use illegal drugs the opportunity for rehabilitation. Consistent with this philosophy, the Mille Lacs Band hereby implements this Drug and Alcohol Testing Policy for all applicants for employment and for all employees. The Mille Lacs Band has also elected to incorporate by reference the Federal Highway Administration's Controlled Substance and Alcohol Use and Testing Act's regulations (49 C.F.R. Part 382 *et seq.*), the Commercial Driver's License Standards (49 C.F.R. Part 383 *et seq.*), and the Office of the Secretary of Transportation Procedures for Transportation Workplace Drug Testing Programs (49 C.F.R. Part 40 *et seq.*), and MCL 333.7101 to 333.7545. Where sections of this policy conflict with these federal and state regulations, this policy controls.

Any individual who receives an offer of employment may be required to submit to a drug and alcohol test as a condition of obtaining employment. Testing must be in accordance with the rules and regulations of the Mille Lacs Band.

Violations of this policy will lead to disciplinary action, up to and including immediate termination of employment and/or required participation in a substance abuse rehabilitation or treatment program. Such violations may also have legal consequences. Any employee responsible for implementing the Mille Lacs Band Drug and Alcohol policy will be expected to conform to the confidentiality standards as well as perform all actions without bias towards any employee.

To inform employees about important provisions of this policy, the Mille Lacs Band has established a drug-free awareness program. The program provides information on the dangers and effects of substance abuse in the workplace, resources available to employees and consequences for violations of this policy.

Employees with questions or concerns about substance dependency or abuse are encouraged to use the resources of the Employee Assistance Program (EAP). They may also wish to discuss these matters with their supervisor or the HR Labor - Employee Relations Specialist to receive assistance or referrals to appropriate resources in the community.

Employees with drug or alcohol problems that have not resulted in and are not the immediate subject of disciplinary actions, may request approval to take unpaid time off to participate in a rehabilitation or treatment program through the Mille Lacs Band's health insurance benefit coverage. Leave may be granted if the employee agrees to abstain from use of all problem substances, abide by all Mille Lacs Band policies, rules and prohibitions relating to conduct in the workplace and is contingent on whether or not the leave will cause the Mille Lacs Band any undue hardship.

Under the Drug-Free Workplace Act, an employee who performs work for a government contract or grant must notify the Mille Lacs Band of a criminal conviction 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 HR Labor-Employee Relations Specialist 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.

D. Drug and/or Alcohol Testing

The Mille Lacs Band has adopted the Drug Free Workplace law and is committed to providing a safe, efficient and productive work environment for all employees. Using or being under the influence of drugs (or alcohol) on the job may pose serious safety and health risks. To help ensure a safe and healthful working environment, employees may be asked to provide random body substance samples (including, but not limited to urine, hair sample and/or blood through the use of swab or other type of test) to determine the presence of illicit or illegal use of drugs (and alcohol). Employees have the right to refuse testing, however, refusal to submit to drug and/or alcohol testing may result in disciplinary action, up to and including termination of employment.

The Employee Assistance Program (EAP) provides confidential counseling and referral services to eligible employees for assistance with drug (and/or alcohol) abuse or addiction problems. It is the employee's responsibility to seek assistance from the EAP prior to reaching a point where his/her judgment, performance or behavior has led to imminent disciplinary action. Participation in the EAP after the disciplinary process has begun may not preclude disciplinary action, up to and including termination of employment.

Copies of the drug testing policy are provided to all employees. Employees will be asked to sign an acknowledgement form indicating that they have received a copy of the drug testing policy. Questions concerning this policy or its administration should be directed to the HR Labor-Employee Relations Specialist.

Employees who voluntarily seek help for their chemical dependency will be permitted to do so in a confidential manner. (See Treatment)

If an employee is concerned about the drug (or alcohol) use or abuse by a fellow employee or of drug trafficking, or of safety or job performance as it relates to another employee's drug or alcohol use or abuse (including Supervisors, Managers, Directors or Commissioners), they should report these concerns confidentially to the Human Resources Director and to the employee's supervisor. There shall be no repercussions to any employee who reports such concerns about a fellow employee.

E. Pre-Employment

Applicants selected for hire will be required to submit to a drug and alcohol test. The offer to hire is conditional upon passing the drug and alcohol test. The applicants must consent to the test by signing a release. The applicant may refuse to submit to the test, however, such refusal will result in the conditional job offer being withdrawn. If the applicant fails the test, they will not be hired for the position.

An applicant who fails the pre-employment drug and alcohol test will not be eligible for employment (short-term, permanent or on-call) with the Mille Lacs Band until cleared through the Human Resources office. Applicants cannot apply for posted positions for 30 days after a confirmed failed pre-employment drug and alcohol test. Both employees and

job applicants offered employment have the right to explain positive test results on a confirmatory test and to request and pay for a confirmatory re-test.

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 if the individual fails to appear or calls to reschedule.
2. If an employee does not start immediately or has a lapse in service longer than thirty (30) days they will need to be retested.

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.
- c. An employee who previously has been required to undergo a chemical dependency treatment program may be tested, without prior notice, during the evaluation or treatment period and for up to twelve (12) months as stated in Section O. below.

G. Portable Breathalyzer Test

Under this policy, employees may be required to take a portable breathalyzer test (PBT) when requested to do so by Band management.³ If an employee is suspected to be under the influence of alcohol, he/she will be asked to take the PBT. Band management, or its designee, may administer the PBT under the following guidelines, and the Breath Alcohol Testing form must be used and forwarded to the Human Resources Director.

- 1. Alcohol testing must be conducted in a location that affords visual and aural privacy to the individual being tested, sufficient to prevent unauthorized persons from seeing or hearing the results. All necessary equipment, personnel, and materials for breath testing must be provided at the location where testing is conducted.
- 2. The Band may use a mobile collection facility that meets the requirements of paragraph 1 of this section.
- 3. No unauthorized persons may be permitted access to the testing location when the PBT remains unsecured or, in order to prevent such persons from seeing or hearing a testing result, or at any time when testing is being conducted.
- 4. The PBT testing administrator may supervise only one employee’s use of the PBT at a time.
- 5. If the employee admits to being under the influence of alcohol, or refuses the PBT, he/she will be suspended for three (3) days. The employee may be terminated upon a second incident involving either an admission of being under the influence or a refusal to take the PBT.

H. Consequences of Test Results

The initial test will provide data concerning any presence of general classes of drugs, alcohol, or their metabolites. If such an initial screening test shows a positive result, the sample will be given a second confirmatory test. An offer of employment made

³ Band management is defined as supervisors, directors, commissioners, elected officials or Human Resources Director.

contingent upon passing a drug and alcohol test will not be withdrawn based on the positive results of an initial screening which has NOT been verified by a confirmatory test.

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.

If an applicant or employee test is too diluted to confirm a true result due to various reasons, including recent exercise or excessive intake of liquid, the applicant or employee will be asked to return within 24 hours for re-testing if the Lab reports that it cannot confirm a true test. After second dilute, a job offer could be rescinded or the individual's job could be terminated.

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.

J. Reasonable Suspicion

An employee who exhibits behavior which creates a reasonable suspicion of being under the influence of alcohol or other drugs at work will be asked to submit to a test to confirm or refute such suspicions. The employee may be suspended without pay pending the outcome of a confirmatory test or a confirmatory re-test elected by the employee. The employee will not be permitted to return to work until a negative test result has been received, with the following exception for monitoring of THC levels as stated below.

Any employee who has been suspended solely on the basis of suspected drug and/or alcohol use where the Band has chosen to test the employee for drug/alcohol use will be reinstated with back pay if the outcome of the initial or confirmatory test or any requested confirmatory re-test is negative.

Employees suspended for the use of alcohol or other drugs whose initial and confirmatory test, and any confirmatory re-test, is positive, will be permitted to return to work when they can provide evidence of completion of an assessment and completion of treatment, if recommended, and a negative drug test. The negative drug test must be received within 30 days of the initial positive test or the last day of treatment, whichever is later, or it will assumed that the employee has voluntarily resigned their position, with the following exception: Individuals whose drug screens report excessively high THC levels will be given up to 3 months rather than 30 days to produce a negative drug screen. Additional monitoring of these individuals will be performed by conducting drug screens twice per month. The drug screen results must support a steadily declining THC level. If the THC level increases, this will be considered a positive test and the employee will be terminated.

Any employee who notices another employee demonstrating unusual behavior patterns which appear to be drug or alcohol related must report the observed behavior to the supervisor, HR Labor-Employee Relations Specialist or Human Resources Director.

K. Reasonable Suspicion for Possession

The Mille Lacs Band of Ojibwe reserves the right to utilize the assistance of law enforcement personnel in the cases of trafficking, possessing or using of illegal substance on Band property.

L. General information about Drug and Alcohol Testing

Drug and alcohol testing will be conducted only under circumstances described in this policy.

The Mille Lacs Band of Ojibwe will pay the cost of the initial screening and confirmatory test.

No employee or job applicant will be tested for alcohol or other drugs under this policy without their consent. An employee or job applicant has the right to refuse to 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 of three (3) hours 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 to provide attendance reports to the Human Resource Director. Failure to sign a release when requested will be considered a violation of the drug and alcohol policy and will result in termination.

Failure to comply with the requirements and regulations of the treatment program will result in termination. An employee who voluntarily leaves a program, or who is asked to leave a treatment program before completion, will be terminated.

Treatment will be provided to an employee through the company-approved health plan. Benefit levels will be as described in the health plan. Benefit plan procedures (pre-certification, network providers, etc.) must be followed in order to receive the maximum level of benefits. Treatment beyond that covered by the health insurance plan will be at the employee's expense.

O. Reinstatement Following Treatment

Verification of the completion of treatment and a negative drug test will enable the employee to return to work with no loss of benefits and no loss of seniority if on medical leave during treatment period.

Once an employee has completed treatment and returned to work they will be subject to periodic, unannounced, follow-up drug and alcohol testing for the next *twelve (12)* months of employment, measured from the date of their return to work. Follow up testing will be arranged by the Human Resource Director.

An employee who has returned to work following an admission of drug or alcohol use, or who had a positive test, who then fails any subsequent drug testing, will be terminated. Eligibility for re-hire will be consistent with the Mille Lacs Band Personnel Policy and Procedures Manual.

Any employee who was terminated for violating the drug and alcohol policy, refused to submit to testing, failed to complete treatment or has been ineligible for hire because of a previous positive test, may be rehired if he meets the following requirements:

1. Provide proof of mandatory assessment and completion of recommendations as noted by the assessor;
2. Successfully pass a drug and alcohol test; and
3. Agree to mandatory, unannounced testing for a period of *twelve (12)* months following re-hire.

P. Confidentiality

All information regarding the results of an employee's drug test or drug and/or alcohol treatment will be kept in files separate from personnel files and will be held in the strictest confidence. Any persons responsible for the unauthorized release of this 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.

Drug or Alcohol

Initial Screening .02%

Confirmatory Test.02%

Amphetamine	1000 ng/ml	500 ng/ml
Barbiturates	300 ng/ml	200 ng/ml
Cocaine	300 ng/ml	150 ng/ml
THC	50 ng/ml	15 ng/ml
Ethanol	20 mg/dl	20 mg/dl
Opiates	2000 ng/ml	2000 ng/ml
PCP	25 ng/ml	25 ng/ml

Reasonable Suspicion: A basis for forming a reasonable belief based on specific facts and rational inferences drawn from those facts. This standard does not require that all supervisors or even a majority of supervisors would reach the same conclusion. It only requires that it is not unreasonable for a given supervisor to form the belief that they did.

Under the Influence: Having the presence of alcohol or other drugs at or above the level of a positive test result as defined above, under “Positive Test Result.”

Huffing: To inhale the vapors or fumes of a chemical (such as glue) in order to become intoxicated.

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's HR Labor-Employee Relations Specialist provides free and confidential referral 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.

WORKERS' COMPENSATION

Workers' Compensation Insurance

The Mille Lacs Band of Ojibwe provides a comprehensive workers' compensation insurance program at no cost to employees. This program covers any injury sustained in the course of employment that requires medical, surgical or hospital treatment. Subject to applicable legal requirements, workers' compensation insurance provides benefits after a short waiting period or, if the employee is hospitalized, immediately.

Employees who sustain work-related injuries or illnesses must inform their supervisor immediately. No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. This will enable an eligible employee to qualify for coverage as quickly as possible. Employees must submit to a post accident drug and alcohol test immediately after notifying their supervisor. In the event of a positive drug and alcohol test, the workers' compensation claim will be denied. In the event that an employee does not inform the supervisor immediately, the claim may be denied and disciplinary action may be taken.

Neither the Mille Lacs Band nor the insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's voluntary participation in any off-duty recreational, social or athletic activity sponsored by the Mille Lacs Band of Ojibwe.

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.

WORKPLACE VIOLENCE

The Mille Lacs Band of Ojibwe is committed to the prevention of workplace violence and to maintaining a safe work environment. All employees, including supervisors and temporary employees, should be treated with courtesy and respect at all times. Employees are expected to refrain from fighting, “horseplay,” practical jokes or other conduct that may be dangerous to others. Firearms, weapons and other dangerous or hazardous devices or substances are strictly prohibited on Mille Lacs Band property without proper authorization.

Conduct that threatens, intimidates or coerces another employee, a customer or a member of the public at any time, including off-duty periods, will not be tolerated. This prohibition includes all acts of harassment, including harassment that is based on an individual’s sex, race, age, sexual orientation, religion, ethnic background, disability or any other characteristic protected by federal or state law.

Direct or indirect threats of violence or acts of violence must be reported immediately to your immediate supervisor or any other member of management. This includes threats by employees, as well as threats by customers, vendors, solicitors or other members of the public. When reporting a threat of violence, you should be as specific and detailed as possible.

All suspicious individuals or activities should also be reported immediately to a supervisor. The Mille Lacs Band will promptly and thoroughly investigate all reports of threats or acts of violence and of suspicious individuals or activities. Anyone deemed to be responsible for violent acts or threats or other conduct that is in violation of these guidelines will be subject to prompt disciplinary action, up to and including termination of employment.

The Mille Lacs Band encourages employees to bring their disputes or differences with other employees to the attention of their supervisors. If the situation cannot be resolved at that level, employees should bring their disputes or differences to the department Commissioner (if the employee is in the Executive Branch), the Secretary-Treasurer or District Representative (if the employee is in the Legislative Branch), the Chief Justice (if the employee is in the Judicial Branch) or Human Resource Director before the situation escalates into potential violence. The Mille Lacs Band is eager to assist in the resolution of employee disputes and will not discipline employees for raising such concerns.

EMERGENCY OR ADMINISTRATIVE CLOSINGS

Emergency/Weather Closing

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.

Administrative Closing

There may be times the Commissioner of Administration exercises his/her discretion to close Band operations whether advance notice or effective upon such notice. In these instances employees will not be required to utilize annual or sick 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.

Employees that are on previously approved Annual or Sick leave on the day of or at the time of the Administrative/Emergency closing will be required to utilize that time and will not be paid regular hours.

RETURN OF PROPERTY

Employees are responsible for all Mille Lacs Band property, materials or written information issued to them or in their possession or control. All Mille Lacs Band property must be returned by employees on or before their last day of work. The Mille Lacs Band may withhold from the employee's checks or final paycheck to defray the cost of any items that are not returned.

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.

The Band reserves the right to accept the immediate resignation of employees at any time after the employee has given such notice.

REEMPLOYMENT

Former employees who left the Band in good standing may be considered for re-employment. Former employees who resigned without written notice or who were dismissed for cause may not be considered for re-employment until after a 90-day period. A former employee who is re-employed will be considered a new employee from the date of re-employment unless the break in service is less than thirty days, in which case the employee will retain accumulated seniority.

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.

APPENDIX A

RULES AND PROCEDURES GOVERNING APPEALS TO THE COURT OF CENTRAL JURISDICTION FROM GRIEVANCE COMMITTEE DECISIONS IN CASES INVOLVING GRIEVANCES OF TERMINATION DECISIONS

The policy on grievance and appeal of disciplinary action provides that, if an employee believes his or her grievance of a termination decision has not been adequately resolved by the Grievance Committee, he or she may appeal to the Court of Central Jurisdiction within ten (10) business days of his/her receipt of the written decision of the Grievance Committee. This appendix sets forth the rules and procedures governing such appeals.

1. Filing – The employee shall file a Notice of Appeal with the Clerk of the District Court of the Court of Central Jurisdiction and serve the Notice of Appeal on the Band, by and through the Office of Solicitor General and the Human Resources Director, within ten (10) business days of the date of mailing or personal delivery of the Grievance Committee’s decision.

2. Content of the Notice of Appeal – The employee’s Notice of Appeal shall:
 - a. State the employee’s name, his or her dates of employment with the Band, the position from which he or she was terminated, and the date of termination;
 - b. State the name and title of the supervisor who made the termination decision;
 - c. Attach a copy of the termination letter or notice;
 - d. State the date on which the employee made a written request for a hearing before the Grievance Committee and attach a copy of the request;
 - e. State the date and substance of the Grievance Committee’s decision and attach a copy of the decision;
 - f. Request a transcript of the proceedings before the Grievance Committee if the employee desires to include the transcript in the record on appeal (see paragraph 6 below);
 - g. State whether the employee seeks to supplement the record on appeal and, if so, identify the evidence the employee seeks to add to the record and the grounds for doing so (see paragraph 7 below);
 - h. State the reason(s) why the Grievance Committee’s decision is not consistent with the Band’s Personnel Policy; and
 - i. State the relief being sought.

3. Filing Fee – The employee shall pay a filing fee of \$25 to the Clerk of the District Court, provided that, if the employee cannot afford the filing fee, the employee may file a petition with the Court to proceed *in forma pauperis* and the District Court may waive the filing fee requirement.

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.

8. Briefing and Argument on the Merits – Within five (5) business days of the filing of the Answer, the District Court shall establish a schedule for submission of written briefs on the appeal. The District Court may, in its discretion, decide the appeal with or without oral argument. If the District Court decides to

hear oral argument, it may combine the oral argument with an evidentiary hearing held under paragraph 7 above. Except as otherwise agreed by the parties or in unusual circumstances, the District Court shall issue its written decision on the appeal within thirty (30) business days of the filing of the employee's Notice of Appeal.

9. Scope of Review and Relief – The Court shall review and consider the record on appeal and the briefs and argument (if any) of the parties. The Court shall give considerable due deference to the decision of the Grievance Committee. If the Court overturns the Grievance Committee's decision, it may order the following relief to the extent such relief is consistent with the Band's Personnel Policy:

- a. Reinstatement of the employee to his/her last-held position. If the Court orders the reinstatement of the employee, it shall serve its order on the Commissioner of the appropriate Department within the Executive Branch if the employee was employed in the Executive Branch, on the Secretary-Treasurer if the employee was employed in the Legislative Branch, and on the Chief Justice if the employee was employed in the Judicial Branch, as well as on the Office of Solicitor General and the Director of Human Resources.
- b. Back pay for the period from the date of the employee's termination until the date of his/her reinstatement. In no event shall back pay exceed twelve (12) weeks of the employee's salary.

10. Appeal of District Court's Decision – Either party may appeal the District Court's decision to the Court of Appeals of the Court of Central Jurisdiction, in accordance with the generally applicable rules governing appeals from decisions of the District Court. The decision of the Court of Appeals shall be final.

11. Confidentiality and Public Access – Because of the sensitivity of employment matters, all papers filed and served in the District Court or in the Court of Appeals in a case subject to these rules shall be considered confidential and shall not be subject to public disclosure unless court ordered. All court hearings in the case shall be closed to the public, and all parties to the case shall take reasonable steps to prevent the disclosure of confidential information unless court ordered.

APPENDIX B

Example of Time With Child Form:

TIME WITH CHILD CARD*

(PRINT)

_____ was here to spend time with his/her

Child: _____ for _____ (activity)

Arrival Time: _____ Departure Time: _____

School Name: _____

On this _____ day of _____

Verified by: _____

(School Official)

*This information will be used to determine final eligibility for Time With Child hours.

History of Amendments:

1. 2-3-10 Revision – p. 35 (Smoking), added “or Community Center” to end of sentence in second paragraph.
2. 2-3-10 Revision – p. 35 (Employee Benefits), added “3 days for the death of each family member as defined further in the Funeral Leave section, page 50” after Bereavement Leave.
3. 2-3-10 Revision – p. 41 (Long Term Disability), replaced last word “supervisor” to read “department head or Commissioner.”
4. 2-3-10 Revision – p. 43 (Annual Leave), last paragraph, deleted everything after “Employees may not go into a deficit on annual leave.” Added “If an employee has exhausted all accrued annual leave, the employee has the option to make a request for unpaid leave and request approval of their supervisor.”
5. 2-3-10 Revision – p. 47 (Sick Leave), deleted sentence before last paragraph in section and added “An employee with SES status may donate his/her sick leave hours to another employee.”
6. 2-3-10 Revision – p. 50 (Funeral Leave), deleted “in-laws” in second paragraph and added “spouse’s parents and siblings.”
7. 2-3-10 Revision – p. 77 (Posted Positions), changed last sentence in third paragraph to read “Employees who have a written warning on file within 90 days prior to application or are on probation or suspension are not eligible to apply for posted jobs.”
8. 2-3-10 Revision – p. 80 (Drugs and Alcohol), changed first sentence in second paragraph to read “Any individual who receives an offer of employment or will receive a payroll check are required to submit to a drug and alcohol test as a condition of obtaining employment.”
9. 3-19-10 Revision – p. 80 (Drugs and Alcohol), deleted “or will receive a payroll check” in second paragraph.
10. 10-3-11 Revision – p. 5 (Introductory Statement), deleted Nay-Ah-Shing school staff and added MLBO Policy Department as exempt. Added Section 4.
11. 10-3-11 Revision – p. 7 (Organization Description), amended wording in Legislative Branch section.
12. 10-3-11 Revision – p. 8 (Employee Acknowledgement Form), replaced “handbook” with “manual.” Amended wording in sentence.
13. 10-3-11 Revision – p. 9 (Equal Employment Opportunity), added phrase regarding Indian preference.
14. 10-3-11 Revision – p. 10 (American Indian Preference), added phrase beginning second paragraph, “Assuming that applicants meet the minimum job requirements.”
15. 10-3-11 Revision - p. 13 (Employment Classification), amended example of benefits in Part-Time section; added sentence in Probationary section; and amended last sentence in On-Call and Labor Pool section.
16. 10-3-11 Revision – p. 16 (Hiring of Relatives), replaced “relatives” with “family members” throughout; added last sentence in fourth paragraph.
17. 10-3-11 Revision – p. 17 (Conflicts of Interest), deleted “partner.”
18. 10-3-11 Revision – p. 18 (Outside Employment), added language to prohibit employees from working two full-time jobs with the MLBO, including an entity of the Band.
19. 10-3-11 Amendment – p. 19 (Official Employee Address and Legal Notice), new policy added.
20. 10-3-11 Revision – p. 21 (Business Travel Expenses), added “including non-discriminatory state taxes” in third paragraph; clarified some of the reimbursement of expense language.
21. 10-3-11 Revision – p. 26 (Workplace Monitoring), revised sentence in second paragraph.
22. 10-3-11 Revision – p. 27 (Automobile Usage and Maintenance), deleted “perform required maintenance” in first paragraph. Moved Accident Reporting section here (p. 28).

23. 10-3-11 Revision – p. 29 (Employee Conduct and Work Rules), amended sentence “Examples of infractions of rules of conduct that may result in disciplinary action include, but are not limited to, the following:”
24. 10-3-11 Revision – p. 31 (Unauthorized Solicitation), added “unless prior authorization from the Chief Executive and/or Commissioner of Administration is received.”
25. 10-3-11 Revision – p. 32 (Nondisclosure of Confidential Information), added “non-public” in first paragraph, added the word “confidential” and “medical or patient data otherwise protected by HIPAA or other applicable data privacy laws.”
26. 10-3-11 Revision – p. 33 (Attendance and Punctuality), added “must” notify in second paragraph; added last two sentence in third paragraph.
27. 10-3-11 Revision – p. 34 (Professional Appearance and Conduct), added “the following” before examples of casual business wear; added “but are not limited to, the following” before examples of inappropriate clothing.
28. 10-3-11 Revision – p. 36 (Smoking), changed second paragraph.
29. 10-3-11 Revision – p. 37 (Employee Benefits), replaced “cultural leave” with “Anishinaabe Leave;” added “(4 hours per week)” after Education Leave.
30. 10-3-11 Revision – p. 43 (401(k) Retirement Savings Plan), added “any applicable” before federal and state tax withholdings in fourth paragraph.
31. 10-3-11 Revision – p. 44 (Absence and Leave), added phrase beginning “Commissioner (if the employee is employed in the Executive Branch) and ending with “in the Judicial Branch” in the fifth paragraph. Added “as defined in 6 MLBSA § 1102(h)” in the Note.
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.

55. 10-3-11 Revision – p. 97 (Workplace Violence), replaced “should be reported” with “shall be reported immediately.” Added wording regarding branches of government to last paragraph.
56. 10-3-11 Revision – p. 100 (Resignation), added second paragraph regarding exit interview. Added third paragraph.
57. 10-3-11 Amendment – p. 103 (Appendix A), new.
58. 10-3-11 Amendment – p. 106 (Appendix B), new.
59. 10-17-11 Amendment – p. 44, add “or District Representative.”
60. 10-17-11 Amendment – p. 57, delete “thirty (30)” and replace with “ninety (90).”
61. 10-17-11 Amendment – p. 61, delete “attend” and replace with “go through” and add “prepare for” before Ceremonial Drum. Delete “two weeks” and replace with “eighty (80) hours.” Add “District Representative, if he/she directly supervises the legislative employee.”
62. 10-17-11 Amendment – p. 76-, add “Endangerment of a child or vulnerable adult if employed in a position where he/she controls the environment.”
63. 10-17-11 Amendment – p. 78, add “(3) Any civil or criminal conviction that reduces employee’s eligibility to perform his/her job.”
64. 10-17-11 Amendment – p. 97, add “or District Representative.”
65. 02-07-12 Amendment – p. 7, amended Executive Branch section and moved ahead of other branches.
66. 02-07-12 Amendment – p. 10, added “assuming that applicants meet the minimum job requirements.”
67. 02-07-12 Amendment – p. 21, changed tip amount from “15%” to “18% of the total cost of a meal...”
68. 02-07-12 Amendment – p. 67, added number 40 after “forty.”
69. 02-07-12 Amendment – p. 68, added “in writing” in first sentence of third paragraph.
70. 02-07-12 Amendment – p. 70, deleted “for an indefinite period” at end of sentence in Level Two paragraph.
71. 02-07-12 Amendment – p. 70, amended to move suspension language as first Level Three Option before termination option.
72. 02-07-12 Amendment – p. 76, amended introductory paragraph to clarify that commission or conviction must occur while employed by the Band.
73. 02-07-12 Amendment, p. 76, amended (1)(E) to delete wording after “vulnerable adult.” Amended (1)(C) to add “work vehicle.” Deleted (3)(A) “Intoxication on the job” so as not to conflict with Drug and Alcohol Policy. Amended (3)(B) to become new (A) and changed to “obtaining or providing alcohol to persons under the age of 21.” Deleted (5)(M). Delete “personal” in (5)(N). Added new (5)(O) as “falsely reporting a crime.” Renumbered (5)(N) and (5)(O) as (5)(M) and (5)(N).
74. 02-07-12 Amendment – p. 78, amended (b)(4) to “insubordination e.g. not following chain of command; and added “but not limited to” on (c).
75. 02-07-12 Amendment – p. 81, amended so as to require “three (3) full years of service” rather than one year.
76. 02-07-12 Amendment – p. 84, amended second paragraph of B. Work Rule on Drugs merging second paragraph to become part of third paragraph for clarification purposes.
77. 02-07-12 Amendment – p. 85, amended second paragraph to add “eligible” before “employees for assistance...” Delete “within safety sensitive positions” in first line of E. Pre-Employment section. Changed to “will” from “may” on first line, continuing Section E. from previous page.
78. 02-07-12 Amendment – p. 94, added “eligible” in front of “employees” as well as “who are insured under the Band’s health insurance program” in last sentence of second paragraph.
79. 02-07-12 Amendment – p. 97, amended third paragraph changing to “must be reported” instead of “shall be reported.”

80. 02-07-12 Amendment – p. 101, added “until after a 90-day period” after “re-employment” in second sentence.
81. 02-07-12 Amendment – p. 105, added “considerable” in front of “due deference” in 9. Scope of Review and Relief.
82. 03-05-14 Amendment – p. 5, amended Section 2 to add elected Nay Ah Shing School Board, DNR enforcement staff when working with tribal police, and clarified that tribal police administrative staff are not exempt.
83. 03-05-14 Amendment – p. 23, clarified that office phones are not to be used for personal long distance calls; and added that DNR CO’s are exempt when using a cell phone for work related calls.
84. 03-05-14 Amendment – p. 46, allowed time with child for cultural events; added if multiple children participate in same event, no more than 3 hours are allowed.
85. 03-05-14 Amendment – p. 48, allowed increase of carryover of sick hours to 240 hours instead of 160 sick hours.
86. 03-05-14 Amendment – p. 61, deleted use of community service hours as permissible leave for Anishinaabe Leave.
87. 03-05-14 Amendment – p. 62, deleted use of community service hours for Anishinaabe Leave.
88. 03-05-14 Amendment – p. 80, added acknowledgement of time worked as CC, GCML or GCH employee when transferring to Band government effective April 1, 2014.
89. 03-05-14 Amendment – p. 88, added requirement for re-test on Lab’s finding of diluted urine test.
90. 03-05-14 Amendment – p. 94, clarified that Employee Relations Coordinator offers referral to professional counseling services.
91. 03-05-14 Amendment – p. 103, Appendix A, clarified that an employee has 10 business days “of the date of mailing or personal delivery of” the Grievance Committee’s Decision to file a Notice of Appeal
92. 07-01-15 Amendment – p. 37, added “tobacco products or an electronic equivalent” and deleting “including outside the rear entrance of the government center mailroom, at”.
93. 07-01-15 Amendment – p. 45, deleted “and regular part-time”
94. 07-01-15 Amendment – p. 49, changed 240 hours to 160 hours.
95. 07-01-15 Amendment – p. 50, allowed other employees to donate sick leave hours, outlining stipulations on the part of donating employees and employees receiving donated hours.
96. 07-01-15 Amendment – p. 79, added under (d) “(4) Subsequent failure to satisfy an essential job requirement as explicitly stated on an APB approved job description.”
97. 07-01-15 Amendment – p. 82, replaced “will provide” with “provides.”
98. 07-01-15 Amendment – p. 86, under E., second paragraph, added sentence, “Applicants cannot apply for posted positions for 30 days after a confirmed failed pre-employment drug and alcohol test.”
99. 07-01-15 Amendment – p. 94, aligned the correct information with the threshold detection levels.
100. 07-01-15 Amendment – p. 101, deleted last paragraph pertaining to severance.
101. 05-14-19 Amendment – p. 05, added “in compliance with 6 MLBSA § 1.
102. 05-14-19 Amendment – p. 07, deleted sentence “Solicitor General exercises day to day supervision over the Department of Justice.”
103. 05-14-19 Amendment – p. 08, clarified the Adoption and Amendment of the MLBO Personnel Policy and Procedures is codified in Band Statute and such amendments are approved upon enactment by Band Assembly prior to implementation and may specify an effective date of any or all amendments.

104. 05-14-19 Amendment – p. 14, clarified that Temporary, On-Call and Labor Pool employees are subject to the Mille Lacs Band Alcohol & Drug testing policy and background check requirements.
105. 05-14-19 Amendment – p. 21, clarified that mileage costs for use of personal vehicles is subject to pre-approval by Department Commissioner and added that if employees are carpooling to the same training, only one employee may submit for mileage cost reimbursement.
106. 05-14-19 Amendment – p. 24, added sentence “employees should have no expectation of privacy.”
107. 05-14-19 Amendment – p. 27-28 added sentence “smoking is not permitted in Band owned vehicles.” And that “employees must receive prior approval from Department Supervisor to use their personal vehicle for Band Business. Any damages occurring as a result of an accident are the responsibility of the employee and must be submitted to the owner’s auto insurance.” Deleted “or near misses” and added “or leaving the scene of an accident.”
108. 05-14-19 Amendment – p. 36, added “smoking is not permitted in any Band owned vehicle” for consistency.
109. 05-14-19 Amendment – p. 37, added beside 401(k) information, “(21 years of age or older including Part-Time Regular employees)” and deleted Educational Financial Assistance as that was discontinued by Band Assembly resolution 1-7-16.
110. 05-14-19 Amendment – p. 39-42, replaced “Coordinator” with “Administrator”
111. 05-14-19 Amendment – p. 43, clarified that Part-Time regular employees may participate in the 401(k) plan and the age and service requirements that would need to be met.
112. 05-14-19 Amendment – p. 44, changed “benefit year” to “Fiscal year.”
113. 05-14-19 Amendment – p. 46, deleted “child care assistance” and replaced with Benefit, added “through the completion of High School”, added “scheduled at the same time” and “requests for leave should be submitted at least seven (7) days in advance” and included Legal Guardians/Foster Parents and the following sentence “Requests for leave should be submitted to the supervisor and will be evaluated and approved/denied based on a number of factors, including anticipated work load requirements and staffing considerations during the proposed period of absence.”
114. 05-14-19 Amendment – p. 47, removed “paid” and replaced with “pre-approved” to clarify Holiday pay will be paid for pre-approved absences including Funeral leave, pre-approved Sick or leave without pay the day before after the holiday and included a sentence how time worked during Holidays should be submitted on department spreadsheets.
115. 05-14-19 Amendment – p. 49, changed “not receiving any other type of pay” to “and must not be receiving payments from outside sources such as Short Term Disability, Workmen’s Compensation or SSI Disability.” And “The balance of the employee receiving donated hours shall not exceed forty (40) hours per pay period.”
116. 05-14-19 Amendment – p. 50, changed “a reasonable” to “no more than two hours”
117. 05-14-19 Amendment – p. 51, - for consistency with the Sick Leave policy added “up to three (3) days without a doctor’s note.”
118. 05-14-19 Amendment – p. 58, deleted the sentence “that directly relates to their job duties with the Mille Lacs Band.” And included “A course syllabus/class schedule should be submitted to the employee Supervisor prior to the start of each semester.”
119. 05-14-19 Amendment – p. 61-62, - changed to regular hours instead of requiring the use of annual or sick leave, included any Tribal member to be able to utilize the leave for ceremonial purposes. Added definitions and included approval process.
120. 05-14-19 Amendment – p. 63, clarified the use of hours is per calendar year, added “requests for leave should be submitted to the supervisor and will be evaluated and approved/denied based on a number of factors, including anticipated work load requirements and staffing considerations during the proposed period of absence” and deleted “Also, in these particular

circumstances, the Band will reimburse employees for any reasonable expenses that are approved in advance.”

121. 05-14-19 Amendment – p. 68, deleted “will not be paid for overtime worked without prior approval” and replaced with “may be subject to disciplinary action up to and including termination.” Removed reference to Federal wage and hour restrictions and added a sentence regarding how the Band handles hours worked for separate positions employees may have.
122. 05-14-19 Amendment – p.69, added “or conduct” and “including Summary Dismissal” for violations of this policy.
123. 05-14-19 Amendment – p.70, deleted “on an annual basis calculated from the employee hire date” and changed to “following the performance evaluation schedule below.” And included the performance evaluation schedule and when an employee’s evaluation schedule will change.
124. 05-14-19 Amendment – p. 71-72, deleted the different levels, leaving just the specific name of the step in the disciplinary process.
125. 05-14-19 Amendment – p.77, added (F) Behavior as Defined in Harassment & Discrimination policy.
126. 05-14-19 Amendment – p. 79, clarified that work hours do not include unpaid meal breaks.
127. 05-14-19 Amendment – p. 81-82, added the Band reserves the right not to reschedule interviews for applicants unable to make the original scheduled day and time, included part-time regular employment with the casinos and time worked will count toward a subsequent probationary period with the new employment position.
128. 05-14-19 Amendment –Deleted Tuition Reimbursement & Assistance policy. This policy was discontinued by Band Assembly Resolution 1/7/16.
129. 05-14-19 Amendment – p.84-86, replaced reference to “Employment Coordinator” to HR Labor-Employee Relations Specialist.
130. 05-14-19 Amendment – p. 87, deleted “at the discretion of the Human Resources Director” and added a sentence that states “If an employee does not start immediately or has a lapse in service longer than thirty (30) days they will need to be retested.
131. 05-14-19 Amendment – p. 90, replaced reference to “Employment Coordinator” to “Employee-Labor Relations Specialist.”
132. 05-14-19 Amendment – p. 91, clarified the waiting period is three (3) hours for producing a sample.
133. 05-14-19 Amendment – p. 95, replaced reference to “Employment Coordinator” to HR Labor-Employee Relations Specialist.
134. 05-14-19 Amendment – p. 99, changed to “Emergency or Administrative closing” added Emergency/Weather closings and Administrative closings, defined when an employee will be required to utilize annual or sick leave when a closing is called.
135. 05-14-19 Amendment – p.101, added “the Band reserves the right to accept the immediate resignation of employees at anytime after the employee has given such notice.
136. 05-14-19 Amendment – p. 107, added sample of Time With Child Card that was missing.
137. 01-12-22 Amendment – p. 47, amended rate of holiday pay for non-exempt employees.