

**FOND DU LAC BAND OF LAKE SUPERIOR
CHIPPEWA**

EMPLOYMENT HANDBOOK



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Fond du Lac Ordinance #01/23

Adopted pursuant to Resolution #1040/23 of the Fond du Lac Reservation Business Committee on February 8, 2023.

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INTRODUCTION

The Fond du Lac Band of Lake Superior Chippewa (the “Band”) is a federally recognized Indian tribe which occupies the Fond du Lac Reservation pursuant to the Treaty of LaPointe of September 30, 1854. The Band has approximately 4000 members. Under the laws of the United States, the Band retains its original sovereignty in matters of internal self-government, which includes most aspects of employment.

The Band is governed by the Fond du Lac Reservation Business Committee, which is the elected legislative body. The operations of the Band are controlled either by the Reservation Business Committee, or through one of the Band’s tribally-chartered corporations: Fond du Lac Management, Inc., the Fond du Lac Development Corporation, the Fond du Lac Sand and Gravel Company, and the Fond du Lac Tribal College.

All of the Band’s operations, property and income are collectively owned by the membership of the Band. All employment with the Band is, directly or indirectly, in the service of that membership.

This Employment Handbook establishes Band law governing the employment relationship between the Reservation Business Committee or the Band’s tribally-chartered corporations and employees of those entities. The Employment Handbook further establishes Band law about how the operations of those entities are to be conducted.

CHAPTER 1

GENERAL CONDITIONS

- 1.01 **Authority.** This Ordinance is enacted pursuant to the authority of the Fond du Lac Reservation Business Committee, as the governing body of the Fond du Lac Band of Lake Superior Chippewa, as such authority is granted by Article VI of the Revised Minnesota Chippewa Tribe Constitution, and as recognized under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476.
- 1.02 **General Purpose.** The purpose of this Handbook is to establish Band law governing the employment relationship between the Band and its employees. The Employment Handbook further establishes Band law about how the operations of those entities are to be conducted and standards for all employees of the Band to follow. In addition to establishing Band law, this Handbook is intended to serve as a reference to both the supervisor and the employee in defining standards of administration and operations, and to describe the benefits that are provided to the employee.
- 1.03 **Scope.** The Band law contained in this Employment Handbook is established by the Fond du Lac Reservation Business Committee (RBC), as the governing body of the Fond du Lac Band of Lake Superior Chippewa, and applies to all employees of the Fond du Lac Band, including employees of tribally-chartered corporations.
- 1.04 **Prior Policies and Handbooks.** This Ordinance and the policies and procedures contained herein supersedes any and all prior inconsistent policies or practices, verbal and written representations, or statements regarding the terms and conditions of employment with the Fond du Lac Band. This Ordinance provides and updates, in the form of Band law, the prior Fond du Lac Employment Handbook, which was adopted pursuant to Resolution #1164/11 of the Fond du Lac Reservation Business Committee on May 17, 2011; and was subsequently amended by Resolution #1066/15 on March 18, 2015; by Resolution #1089/16 on May 4, 2016; by Resolution #1261/16 on August 3, 2016; by Resolution #1103/18 on April 24, 2018, by Resolution #1095/20 on March 10, 2020; and by Resolution #1441/20 on October 7, 2020.

That prior Fond du Lac Employment Handbook, as well as all other prior handbooks, including employment handbooks specific to tribally-chartered corporations, are hereby revoked.

- 1.05 **Method for Amendment.** This Handbook is subject to change or amendment by resolution of the Reservation Business Committee at any time, and such changes or amendments will be communicated to employees.
- 1.06 **Reservation of Rights.** Nothing in this Ordinance, nor any action hereunder, shall operate or be construed as a waiver of the sovereign immunity of the Fond du Lac Band or as a consent to jurisdiction by any forum not expressly authorized to exercise jurisdiction under this Ordinance.
- 1.07 **Distribution of the Handbook.** Each employee will receive a copy of the Handbook, and will be required to sign a statement certifying that the employee has received it and is responsible for knowing and adhering to the provisions of the Handbook. This signed statement will be placed in each employee's personnel file. If an employee seeks clarification of any provisions in this Handbook, the employee should consult his or her supervisor or the Human Resources Department. Failure to comply with the provisions of this Handbook may result in disciplinary action.
- 1.08 **Chain of Command.** The relationship between the Fond du Lac Reservation Business Committee or Band Corporate Board, the Executive Director for Tribal Programs, the Executive Director for Tribal Enterprises, the Division Directors and other staff members is as follows:
1. Each employee is responsible to his or her immediate supervisor.
 2. The supervisor is responsible to the Division Director or Enterprise Manager to whom they are assigned.
 3. The Division Director or Enterprise Manager is responsible to either the Executive Director for Tribal Programs or the Executive Director for Tribal Enterprises.
 4. The Executive Director is responsible to the Fond du Lac Reservation Business Committee or Band corporate board, which is comprised of the elected representatives of the Fond du Lac Band of Lake Superior Chippewa.
 5. Employees not assigned to a Division Director or Enterprise Manager will be responsible to the Executive Director or to a supervisor as assigned.

- 1.09 **Problem Solving Through the Chain of Command.** Requests for solutions of problems must flow up and down the chain of command without omitting a level. If an employee has an issue that the employee believes requires some action, the employee must first take it to his or her immediate supervisor. In the event that the employee is not satisfied with the supervisor's response, the employee may bring the concern to the next level in the chain of command. If the concern rises to the level of a complaint, the employee may pursue the grievance process outlined in Chapter 11 of this Handbook. Failure to follow the chain of command may result in disciplinary action.
- 1.10 **Employee Management and Relations.** The Fond du Lac Band strives to maintain an atmosphere of trust, participation and respect in which the employee and the management have freedom in expressing work-related concerns. This atmosphere shall be maintained through the following:
1. Communications. Memoranda, newsletters, staff meetings, bulletin board notices, etc., will be used to inform the employee of developments of importance within his or her department.
 2. Suggestions. Suggestions may be submitted in writing by any employee following the chain of command.

CHAPTER 2
EMPLOYEE RECRUITMENT & SELECTION

2.01 **Staffing Responsibility.** Selection of staff (full-time, part time, temporary, and seasonal) will be performed by the Division Directors or Enterprise Managers in accordance with established procedures with the assistance of the Executive Director and the Director of Human Resources. All new hires must be presented to and approved by the Fond du Lac Reservation Business Committee or Band Corporate Board of Directors.

1. Each Division Director or Enterprise Manager shall be responsible for:
 - A. Managing the staffing of their respective division or enterprise within applicable budgetary limitations;
 - B. Complying with the recruitment and selection procedures set forth in this Handbook; and
 - C. Developing job descriptions for each position within the division or enterprise which accurately and clearly defines the essential functions and qualifications of the position. Job descriptions must be approved by the Reservation Business Committee or Band Corporate Board of Directors prior to posting the position.

2. The Human Resources Department shall be responsible for:
 - A. Facilitating efficient and effective recruitment and selection practices;
 - B. Assisting divisions and enterprises in defining job-related position requirements;
 - C. Advertising vacant positions;
 - D. Establishing screening and selection procedures;
 - E. Conducting qualification assessments;

- F. Advising supervisors on personnel policies and procedures, interpretation of requirements, and professional standards for selection methods;
- G. Consulting with supervisors on the availability and qualifications of applicants for specific positions, reviewing, monitoring and evaluating the effectiveness of selection processes; and
- H. Ensuring that hiring practices comply with the Fond du Lac Tribal Employment Rights Ordinance (TERO), which gives preference in employment to qualified members of the Band and members of other federally-recognized Indian tribes.

2.02 **Vacancies.** A requisition must be completed and approved by the Division Director or Enterprise Manager and submitted to the Human Resources Department to begin the recruitment process. The requisition must identify the specifics of the vacant position, such as title, full- or part-time status, department, whether the position is new or is replacing someone, and proposed rate (or range) of pay.

2.03 **Posting of Vacant Positions.** Vacant positions shall be posted as follows:

1. Job site position announcement in accordance with Chapter 3;
2. Use of current applications on file; and/or
3. Use of the local media, job service, and other designated posting locations. The Fond du Lac Tribal Employment Rights Ordinance, FDL Ord. #12/94, requires that vacant positions be posted sufficiently to enable interested Band members to apply for the position. This, at minimum, requires that a position be posted for at least one week on the Fond du Lac website and on the service board in the Human Resources Department.

2.04 **The Application Process.** Applicants for non-management positions are required to complete and submit an application for consideration on or before the specified closing date. A resume may be included with the application. Applicants for management positions are required to provide a resume along with their application on or before the specified closing date. Applications will be maintained for a period of six months.

2.05 **Employment Applications.** The Fond du Lac Band relies upon the accuracy of information contained in employment applications, as well as the accuracy of other data presented throughout the hiring process and during employment. Any misrepresentations, falsifications, or material omissions of any of this information or data may result in exclusion of the individual from further consideration for employment, or if the person has been hired, discharge from employment. Employment applications for those not hired will be retained on file for six (6) months, after which time they will be properly disposed. Applications of those who are hired become part of the personnel file of the employee.

2.06 **Pre-Interview Background Screening and Testing of Applicants.** Applicants for positions subject to background investigation requirements in accordance with federal law or Band policy will be subject to pre-interview screening. The purpose of the pre-interview screening is to ensure that interviewed applicants are eligible for the position and to give applicants a chance to promptly remedy background issues. If the pre-interview screening indicates that an applicant is ineligible for employment in accordance with applicable background check policies, the applicant will be denied an interview.

Positions requiring specific, measurable job skills may require the applicant to successfully complete testing of those skills. The Division Director or Department Manager should work directly with the Human Resources Department to establish testing procedures prior to selecting candidates for interviewing.

2.07 **The Interview Process.**

1. The Division Director, Department Manager or designee and at least one other individual (supervisory level or higher) shall meet with a Human Resources Department representative to review all applicant submissions. In order to ensure fair and consistent consideration, no member of the selection team shall be a close relative to any of the candidates under consideration.
2. Candidates meeting or exceeding the job requirements of the position shall be invited to interview with the selection team. In the event of a large candidate pool meeting the minimum requirements of the job, Fond du Lac Band members will be given first opportunity for an interview. Top-ranking non-Band members will be invited to interview as necessary to ensure an adequate interview pool. Proper notification of pending interviews will be given to each candidate to ensure their availability.

3. Prior to the interview, the assigned Human Resources staff will develop a position-specific set of interview questions to be reviewed and approved by the Division Director, Department Manager or designee. The approved list of interview questions will be used as the main source of gathering information from the candidates. Responses to the questions will be documented by each member of the selection team, and submitted to the Human Resources staff representative for final selection and record keeping purposes.
4. Telephone or videoconference interviews may be determined to be an appropriate screening or hiring tool under certain circumstances. The Human Resources Director, in conjunction with the Division Director or Department Manager, will determine the appropriateness of using a telephone interview.

2.08 **Interviewing Expenses.** Generally, candidates will be responsible for any interviewing expenses. However, an applicant interviewed for a key position may be reimbursed for interview expenses at the discretion of the Reservation Business Committee. For the purposes of this policy, a key position is a professional or highly technical position that requires specialized training, experience, licensure or certification. Reimbursement of interview expenses will be limited to one round trip to and from the interview at current travel expense rates and actual reasonable expenses, including commercial fare, car rental, personal vehicle mileage, meals, lodging and other incidental costs.

2.09 **Selection Process.** Based on the interview results, the selection team will recommend the hire of a candidate(s) who is best suitable to the needs of the department. In the event that the selection team disagrees about which candidate to hire, the Division Director or Enterprise Manager will select the proposed candidate or, if the Division Director or Enterprise Manager is not present, the proposed candidate will be selected by majority vote of the selection team. The interview notes will be used to generate a proposal for hire.

When deemed appropriate, a contingency list of candidates considered suitable for hire will be drafted and submitted with the proposed hire letter. The contingency list, once approved, can then be used should the approved hire decline the position, or if a position with the same job title becomes available. Contingency lists are valid for a maximum period of three (3) months from time of approval. For purposes of this Section, a position with the same job title becomes available if an employee submits a resignation during that three-month period, even if the resignation will

become effective and the employee's last day will be after the end of that three-month period.

For positions that report directly to the Reservation Business Committee, the candidate proposed for hire and all contingencies must be approved by the Reservation Business Committee. For all other positions, the candidate proposed for hire and all contingencies must be approved by the Human Resources Director.

2.10 **Post-Acceptance and Ongoing Background Investigations and Licensure.**

Applicants proposed for hire, employees, consultants, interns, volunteers, and independent contractors may be subject to background investigation and any licensure requirements of the position as required by applicable law and/or otherwise determined to be necessary and appropriate to their position. The failure of an applicant or employee to meet such background or licensure standards shall constitute grounds for non-hire or discharge.

The investigation may include the verification of past employment, reference checks, criminal history, educational requirements, credit history, driver's license verification and proof of insurability. Most positions will require actual fingerprinting, which is then used to verify criminal history, or lack thereof. Fingerprinting is conducted by the Employee Compliance unit located in the Human Resources Department at the Tribal Center.

An employee serving in a position subject to a background check is also required to notify his or her supervisor of any criminal charges, excluding minor traffic offenses, in order to assure that the employee is properly qualified for employment. Continued employment in those positions is subject to periodic background check. Failure to disclose may result in disciplinary action or discharge.

2.11 **Offers of Employment.** All offers of employment are contingent upon successful completion of the background investigation and drug testing. Upon formal approval of a proposed hire, the Division or Human Resources Department may tender a verbal offer to the approved candidate(s).

The Human Resources Department will then formalize all offers of employment by drafting such offers in writing. The written offer will contain all pertinent information including job title, rate of pay, start date, date of orientation, and any other necessary information.

A candidate accepting a position may start employment before the investigation is completed if so approved by the Reservation Business Committee. However, should the employee's background information indicate that the employee is not suitable for the position, the job offer will be rescinded and the employee's employment will be immediately discharged.

- 2.12 **Pre-Employment Drug Test.** Upon acceptance of an offer of employment, all candidates must submit to and pass a pre-employment drug test as a condition of employment. Such testing will be arranged by the Human Resources Department. Under no circumstances will an employee commence employment until the employee has submitted to a drug test and the test result is negative. Please see the Fond du Lac Employee Drug and Alcohol Policy for further information on drug and alcohol testing.
- 2.13 **Moving Expenses.** Key positions may be eligible for a moving expense allowance, only if it is negotiated and documented upon hire. A key position is a professional or highly technical position that requires specialized training, experience, licensure or certification. Payment of moving expenses must be processed by the Payroll Services Department.
- 2.14 **Interdepartmental Employment.** Working for more than one department at any given time is not permitted.
- 2.15 **Age Requirements and Employment of Minors.** Applicants seeking employment with either casino must be at least eighteen (18) years of age. Some positions, such as beverage servers, have an age requirement of twenty-one (21). Please see job descriptions or program requirements (Youth Employment Program, etc.) for any further age restrictions.
- 2.16 **Employment of Relatives.** In order to promote consistency and equality in the treatment of all employees, to prevent breaches in confidentiality, to prevent improper influences in employment and to prevent the perception of favoritism, the Fond du Lac Band will not employ, in any position, the immediate relatives of employees if one is the direct and immediate supervisor of the other, except when the application of this policy would result in a violation of the Tribal Employment Rights Ordinance, Fond du Lac #12/94, as amended..

For purposes of this Section, the term "immediate relative" is defined as an individual whom is related by blood or marriage to the employee, and includes husband, wife, parents, children, brother, sisters, (including step, foster, or in-law).

For purposes of this Section, the “direct and immediate supervisor” of a position is the supervisor listed in the position’s job description.

This rule against nepotism, however, must be balanced against the Band’s Tribal Employment Rights Ordinance, which provides an absolute preference to qualified Indian candidates. Therefore, a qualified Indian candidate may be hired for a position, even if the hire results in supervision by an immediate relative, if no other qualified Indian candidate is available.

If employees become related after employment and a conflict of such as described in the above paragraph is created; or, if reorganization creates a conflict, 90 calendar days will be allowed to resolve the matter voluntarily or by transfer of one of the employees. If that is not possible, the employee with the most recent date of continuous employment will be released.

- 2.17 **Temporary Employees.** A temporary employee is one who is employed in a position for up to 90 days as either full- or part-time.
- 2.18 **Interns; Volunteers.** The selection of interns or use of volunteers is subject to review and approval similar to that of other vacancies, as stipulated below.

All intern and volunteer candidates must complete an application, all applicable background checks, and drug testing.

Please contact the Human Resources Department for guidance.

- 2.19 **Licensure, Certifications, and Education.** Candidates hired into positions requiring specific licensure, certifications and/or education will be required to provide acceptable verification of such prior to their effective start date.
- 2.20 **Employment Verifications and/or Employment References.** A third party seeking to verify employment or requesting a reference for any of our employees must submit a signed release by the employee before the verification will occur. Responses to such inquiries will be limited to factual information that can be substantiated by written records.

CHAPTER 3 EMPLOYMENT

3.01 Employment Categories.

1. Regular Full-Time Status: Employees who work a minimum of 32 hours per week and whose employment is limited only by duration of any respective grant funding their position are entitled to all the employee benefits offered for their respective work location.
2. Regular Part-Time Status: Employees who work less than 32 hours per week. Part-time employees will receive mandated benefits (such as workers compensation, unemployment and social security), and may be eligible for some benefits such as retirement (based on actual number of hours worked), but are ineligible for other benefits such as health or dental insurance.
3. Part-Time Status with Medical Benefits: Employees who have worked an average of 30 hours or more during the annual look back period. Part-time employees will receive benefits until such time as they work an average of less than 30 hours per week during the next annual look back period.
4. Temporary Employees: Temporary employees are those who are hired as interim replacements or to supplement the work force, or to assist in the completion of a specific project. Temporary appointments may be made to any position for a period not to exceed 90 calendar days. Such appointments are subject to approval by the Reservation Business Committee. Employees assigned to a temporary position will receive mandated benefits (such as workers compensation, unemployment and social security), but are ineligible for other benefits such as paid time off and dental insurance. Temporary employees may qualify for health insurance. Temporary employees are eligible to receive retirement benefits if they are already enrolled in the employee retirement plan from prior employment with the Band.
5. Seasonal Positions: Seasonal positions are those positions that last up to 6 months and are limited in duration based on availability of work in any given season of the year. Examples include some construction and golf course positions.

6. Second Positions (Screens): Employees may be approved for a second position within their department. The purpose of the second position is to allow for staffing flexibility when there are staffing shortages.
7. Volunteers: Volunteers are individuals who offer and provide unpaid assistance or services to the Fond du Lac Band for a specified time period. Volunteers who provide child-related services are subject to prior background investigations in accordance with the Indian Child Protection and Family Violence Prevention Act, 25 U.S.C. § 3207, and Fond du Lac Ordinance #13/94.
8. Interns: Interns may be placed in positions on a temporary basis as part of the educational learning process. Internships may be paid or unpaid. Interns who provide child-related services are subject to prior background investigations in accordance with the Indian Child Protection and Family Violence Prevention Act and Fond du Lac Ordinance #13/94.
9. Consultants: Consultants are persons who serve with or without pay who provide expertise in a particular field. A consultant is an independent contractor and not an employee of the Fond du Lac Band, and is not entitled to any employee benefits. Consultant contracts requested by the Division Director must be reviewed by the Fond du Lac Legal Department and submitted to the Fond du Lac Reservation Business Committee or Band Corporate Board of Directors for its approval or disapproval pursuant to the Fond du Lac Budget and Expenditure Ordinance, FDL Ord. #07/95.
10. Exempt and Non-exempt employees: All positions will be classified as either exempt (“salaried”) or non-exempt (“hourly”) to determine eligibility for overtime compensation.
 - A. Exempt (“Salaried”): managerial, professional, and administrative positions. Employees assigned to exempt (“salaried”) positions are not eligible for overtime compensation.
 - B. Non-Exempt (“Hourly”): non-supervisory or office staff positions. Employees assigned to non-exempt (“hourly”) positions are eligible for overtime compensation. The Human Resources Department is responsible for determining the exempt (“salaried”) or non-exempt (“hourly”) status of each position.

3.02 **Position Classification System.** It is the policy of the Fond du Lac Band to establish and maintain a classification system which consists of assigning all positions an appropriate job title and maintaining a description of the duties and responsibilities of the position. The Human Resources Department is responsible for maintaining the position classification system and working with management to ensure job descriptions are accurate and up-to-date through periodic review and approval. A position must be officially classified before a supervisor can take any personnel action with respect to hiring, transfer, promotion, demotion, or salary.

1. **Job Descriptions.** Each position shall be described in a job description, which will be provided to each employee at the time of employment or position change by the employee's supervisor. The job description will contain the following information: Job title, exempt ("salaried") or non-exempt ("hourly") status, immediate supervisor, department, location, description of responsibilities and duties (essential functions), job qualifications and physical requirements. Each position will identify the minimum level of requirements for education and experience needed for that position. No one will be hired with a level of education and experience below this level.
2. **Position Reclassification.** A position can be reclassified whenever a material and permanent change in the duties and responsibilities of the position is planned. Such changes must be reported to the Human Resources Department. A revised job description will be developed and submitted to the Reservation Business Committee for review and approval. Reclassification shall not be used as a means to resolve performance-related problems, grievance issues, or to take the place of disciplinary action.

Position descriptions should be reviewed and updated every 2-3 years.

3.03 **Maintenance of Employee Personnel File.** The Fond du Lac Band maintains a personnel file on each employee. This 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. These files are the property of the Band. Generally, only supervisors and management personnel who have a legitimate reason to review information in a file are allowed to do so.

Employees who wish to review their personnel file should contact the Human Resources Department. With reasonable advance notice, employees may view their

own personnel files in the Human Resources Department and in the presence of a Human Resources staff person.

- 3.04 **Immigration Law Compliance.** The Immigration Reform and Control Act of 1986 requires employers to hire only those individuals who are authorized to work in the United States. As a result, all individuals who are offered employment will be required to submit documentation proving their identity and employment authorization. Employees will also be required to complete and sign the Immigration and Naturalization Service Form I-9. The I-9 form requires employees to attest that they are authorized to work in the United States and that the documents they have submitted are genuine.

The employee must complete Section 1 of the form and employers must complete Section 2 by examining evidence of identity and employment eligibility within three (3) calendar days of the date employment begins. If employees are authorized to work, but are unable to present the required document(s) within three calendar days, they must present a receipt for the application of the document(s) within three calendar days and the actual document(s) within 90 days. Employees failing to provide such documentation will be suspended for 72 hours, to allow for time to obtain and submit approved documentation. Failure to produce such documentation after 72 hours will result in immediate discharge from employment.

- 3.05 **New Employee Orientation.** New employees are required to attend an employee orientation within 15 calendar days of employment date. Exceptions may be granted by the HR Director. All supervisors shall allow new employees time to attend new employee orientation as scheduled.

New employee orientation shall include an overview of general operating policies and procedures, employee benefits, and an overview of the organizational structure and reporting relationships.

All employees are required to read and confirm in writing that they are familiar with the Fond du Lac Band of Lake Superior Chippewa Employment Handbook.

Supervisors are required to provide a departmental orientation to newly hired and transferred employees. This orientation shall include department-specific topics, such as goals and objectives, department and workstation requirements, and job and performance expectations. Supervisors are to provide new hires with a copy of their job description at time of hire.

3.06 Probationary Period.

1. Purpose of the Probationary Period. Newly hired employees are given a probationary (introductory) period which is designed as an opportunity to learn their new jobs and related duties and responsibilities, to demonstrate the ability to achieve satisfactory performance levels on the job, and to determine if the position meets personal expectations. The Fond du Lac Band uses this period to assess an employee's capabilities, work habits, and overall performance. During probation, management may discharge the employee with just cause, and with or without advance notice, at management's sole discretion.
2. Length of the Probationary Period. The probationary period for non-management staff is 90 calendar days for full-time employees and 120 calendar days for part-time employees. Management staff will have a probationary period of six (6) months. Any significant absence will extend the probationary period for the length of absence. A significant absence is determined to be an absence of more than five (5) scheduled work days.
3. Benefits During Probation. Newly hired employees eligible for paid time off will accrue such time but may not use it for the first 90 days of their probationary period. If an employee is discharged during probation, the employee shall receive accrued vacation or paid time off (excluding sick leave).
4. New Hires. Employees who have not previously worked for the Fond du Lac Band and employees who have had a break in service since previous employment with the Band are considered new hires. New hires will be considered probationary employees as stated above.
5. Transfers. Employees who are hired into one position from another position with the Band, with no break in service, are considered transfers. Transfers will have a probationary period specific to the new position but the transfer will not affect the continuation of any health and welfare benefits or the employee's years of service for leave accrual and other purposes. Any previously accrued leave time may be transferred at the sole discretion of the Division Director/General Manager, and may be dependent upon whether the employee's new division has funding to assume the costs of such leave. See also Section 7.08.

6. Completion of Probation. Upon completion of the probationary period, an official performance review will be conducted and the written evaluation will become part of the employee's personnel file. Successful completion of the probationary period may result in a pay adjustment, based on the pay structure of the entity employing the individual, and eligibility for benefits.

3.07 **Performance Evaluations.** Employee performance evaluations will be conducted one year after the successful completion of the probationary period, and annually thereafter and will become part of the employee's personnel file. Based on overall performance, a pay increase may be granted.

Division Directors/Department Managers are responsible for ensuring evaluations are conducted in a timely manner.

3.08 **Driver's License (standard and commercial) and Insurability.** The requirement for a driver's license and insurability are based on the job description for each position. In general, anyone that may occasionally use their own vehicle or a Fond du Lac vehicle for business purposes will be required to have a valid Class D (standard) driver's license.

For positions that require the transporting of children or clients, or the use of a Fond du Lac vehicle for 12 or more hours per week, proof of insurability through the Band's insurance carrier is required. NOTE: The employee is also required to comply with the vehicle insurance requirements under applicable state or tribal law for his/her own vehicle.

Employees who are required to have a Commercial Driver's License as part of their duties are subject to drug and alcohol testing, as required by the United States Department of Transportation and the Federal Transit Authority.

Employees required to have a valid driver's license are required to report any and all traffic and moving violations, including DWIs or DUIs, which have the potential to affect insurability or the retention of a driver's license. Such violations are to be reported to the department manager or the Human Resources Department so that such violations can be verified and the impact assessed.

Failure to report such violations will result in the immediate discharge from employment.

CHAPTER 4 EMPLOYMENT RESPONSIBILITIES

- 4.01 **Other Employment.** Employees may work at other employment outside of the Fond du Lac organization as long as such employment does not interfere with the ability to perform his or her duties or negatively impact the ability to schedule work hours based on approved operational needs.
- 4.02 **Attendance.** Employees are expected to be at their workstation and ready to work at the start of each scheduled work shift. If you are late, it disrupts work schedules and causes undue hardships for other employees and the customer. If you cannot avoid being late, follow the call-in procedures for your department/work site. Persistent failure to arrive on time will result in disciplinary action.
- 4.03 **Absence; Procedure.** If you must be absent, notify the appropriate individual in advance and in accordance with the procedures outlined by your department manager or division director. In the absence of departmental procedures for call-ins, all such notice must occur prior to the start of the shift and must be reported directly to the immediate supervisor.
- 4.04 **Personal Appearance.** As an employee, you create an impression of and represent the entire Fond du Lac organization regardless of the amount of contact with the public. It is important that everyone present a well-groomed appearance at all times and use good judgment in dressing appropriately.

Some departments and worksites have specific requirements for personal appearance, including the use of uniforms. Please discuss dress code requirements with your department manager.

All employees should adhere to the following general guidelines: Avoid any clothing with any reference to violence, sex, drugs, alcohol, concert T-shirts, jokes or other inappropriate subject matter. Garments exposing the mid-section of the body, are excessively short or low cut are considered inappropriate. Clothing should be clean and neatly pressed.

- 4.05 **Professional Attitude.** Attitude is one of the most important facets of an employee's overall performance. As such, personal problems and feelings must be kept out of the workplace. Everyone is expected to be courteous, tactful, and pleasant at all times; treating everyone respectfully.

4.06 **Confidentiality**. In the course of your job duties, you will have access to information about the operations of the Fond du Lac Band, its employees, customers and clients. This information is legally, medically or personally privileged and/or confidential. It is every employee's responsibility to protect against the unauthorized disclosure of confidential information. Confidential information, materials and records include, but are not limited to the following:

- Payroll records and information regarding salaries
- Social security numbers
- Personnel records
- Computer system passwords and security codes
- Complaints and investigations of complaints
- Customer information of a personal or medical nature
- Personal information about employees

Discretion and the maintenance of confidentiality are expected of all employees.

4.07 **Safety**. Work-related employee injuries may mean a financial loss to the employee. Using common sense and observing standard safety rules will help you avoid costly injuries. If there are safety hazards in the work area, please advise your supervisor.

If a job-related or on-duty accident or injury occurs, please follow these procedures:

1. Immediately report the injury or accident to your supervisor.
2. Complete the Accident/Injury report and forward to your supervisor, who will then finalize the report and forward to the Benefits Department for processing.

4.08 **Chain of Command**. Employees are expected to follow the specified chain of command when bringing forward issues and concerns (other than issues with harassment, etc).

Chain of command begins with the immediate supervisor and travels up to the Division Director/Department Manager and ultimately ends up with the Executive Director.

All employees are expected to become familiar with the specific chain of command for their work site. See Section 1.08.

4.09 **Drug and Alcohol Free Workplace.** The unauthorized and/or unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or alcohol is strictly prohibited in all facilities and on all property of Fond du Lac Band, including Fond du Lac Band-owned vehicles and at any Fond du Lac Band sponsored activities. The unauthorized or excessive use of prescribed medications that have the potential to affect the workplace is also prohibited. As a condition of employment, all employees shall abide by this prohibition and notify management of any criminal drug or alcohol usage on property.

4.10 **Drug and Alcohol Testing Policy.** As part of the employment process, candidates accepting an offer of employment are required to successfully comply with the Fond du Lac Employee Drug and Alcohol Policy.

Employees required to maintain any form of commercial driver's license will be required to submit to periodic drug and alcohol testing, including random testing, as a condition of employment.

Employees may be required to submit to a drug and/or alcohol test if reasonable suspicion is determined to be appropriate.

At any time, failure to submit to a required drug/alcohol test will result in immediate discharge.

4.11 **Tobacco/Smoking Policy.** Employees must comply with the Smoke Free Government Facilities Policy. See Appendix 9. Smoking and the use of tobacco is limited to designated smoking areas. Employees are required to adhere to all smoking requirements as a condition of employment.

4.12 **Prohibition of Weapons and Dangerous Objects or Substances in the Workplace.**

1. Employees are not permitted to possess weapons or other objects of violence in the Fond du Lac workplace. Examples of such items include, but are not limited to, firearms, explosives, chemicals, biological substances, hatchets, knives, or other objects or materials capable of causing death or serious injury.

2. Possession or use of a weapon while engaged in official business, attending Band-sponsored activities, or at any time while in a Band facility or on Band property is prohibited.
3. Possession of a license to carry a concealed handgun does not exempt an employee from this policy.
4. Employees who carry mace or pepper spray for personal protection, while coming to and going from work, may bring them onto the Fond du Lac worksite. NOTE: An employee who carries mace or pepper spray for his or her personal protection while coming to and going from work may be held personally liable for the cost of property damage, clean up, or injury to others should the canister discharge.
5. Reporting. Employees and volunteers are required to report any prohibited action listed above. Employees and volunteers are required to report not only what they have directly observed or been subjected but that which they have heard about or has been rumored. Reporting is required without regard to the relationship between the individual who initiated the prohibited behavior and the individual against whom it is directed. Retaliation against any individual for reporting is prohibited. Employees are to follow any internal procedures for reporting of incidents involving customers or other visitors.
6. Consequences. Employees who violate this policy will be subject to a personnel review that could lead to discipline up to and including dismissal. Volunteers may have their service terminated. A referral may be made to law enforcement authority, which may result in criminal charges. When a visitor brings a weapon into a Fond du Lac worksite, law enforcement shall be notified, even if the visitor indicates that they have a permit to carry a concealed handgun. The Band site manager shall respond appropriately to the possession of weapons on a Band worksite by individuals other than employees. Appropriate actions may include notification of law enforcement.

4.13 **Violence in the Workplace.**

1. Policy. The Fond du Lac Band is committed to providing a safe, violence-free environment to its employees and patrons. As a result, no type of violence will be tolerated in any place where employees or patrons are engaged in Band-related activities.

2. Types of Violent Conduct. The conduct described below constitutes actions that are expressly prohibited on Band property or in conjunction with Band-sponsored activities. The list of prohibited activities is designed to provide examples and is not exclusive of other conduct that may constitute a violation of this policy:
 - Causing or threatening to cause physical injury to another person
 - Making threatening, abusive or harassing remarks
 - Disorderly, aggressive or hostile behavior that creates a reasonable fear in another of injury or subjects another person to emotional distress, such conduct may include shouting, throwing or pushing objects, punching walls or slamming doors
 - Intentionally causing damage to Band property, or to the property of an employee or visitor
 - Possession of a weapon or dangerous instrument or engaging in any other conduct in violation of the Prohibition of Weapons in the Workplace Policy
 - Committing violent or hostile acts motivated by, or related to race, age, color, national origin, sexual orientation, sex, disability, marital status, sexual harassment or domestic relationships

3. Personal Situations of Employees. Employees and volunteers are *encouraged* to inform their supervisor or the Human Resources Department if they are involved in a non-work related (including domestic matters) situation that may pose a risk to the workplace. Management will work with the employee to develop a plan for the employee's and coworkers' safety. When an employee or volunteer who is the victim of a domestic situation, or any other Band employee, has knowledge that an individual intends, or has made threats to carry out an act of violence at a Fond du Lac worksite, then an employee/volunteer is required to immediately notify their Supervisor or Site Manager. Employees and volunteers who have listed a Fond du Lac worksite in restraining, stalking, or other protective orders are required to immediately notify their Supervisor or Site Manager.

4. Reporting. Employees and volunteers are required to report any prohibited action listed above. Employees and volunteers are required to report not only what they have directly observed or been subjected to, but also that which they have heard about or has been rumored. Reporting is required without regard to the relationship between the individual who initiated the prohibited behavior and the individual against whom it is directed.
 5. Protection from Retaliation. Retaliation against any individual for reporting is prohibited.
 6. Incidents Involving Customers or Visitors. Employees are to follow any internal procedure for reporting of incidents involving customers or other visitors.
 7. Consequences for Policy Violations. Employees who violate this policy will be subject to a personnel review that could lead to discipline up to and including dismissal. Volunteers may have their service terminated. Also, a referral may be made to law enforcement authority, which may result in criminal charges.
 8. Response to Violence By Others. The Supervisor or Site Manager shall respond appropriately to a report of violence on Band worksites by individuals other than employees. Appropriate actions may include notification of law enforcement.
- 4.14 **Nondiscrimination/Harassment/Bullying Prohibition**. The Fond du Lac Band is committed to providing a workplace free of tensions involving matters that do not relate to the Band’s business. An atmosphere of tension that is created by the use of intimidation, threats, coercion or discrimination will not be tolerated. See Chapter 5 (“Employment Rights”).
- 4.15 **Gifts, Favors, and/or Gratuities**. Employees of the Fond du Lac Band shall not solicit or accept gratuities, gifts, favors or anything of monetary value for their own use or that of a family member – with the exception of those positions that are identified as belonging to a bona fide tip pool (such as beverage servers, wait staff and valet attendants). Employees are not to benefit from contractors or vendors doing business with the Band. Monetary gifts or favors exceeding \$25.00 in retail value must immediately be brought to the attention of the Division Director or Department Manager.

- 4.16 **Use of Cell Phones, Pagers, and Other Personal Communication Devices.** The use of cell phones (for verbal or text messaging), pagers and other personal communication devices should not be allowed to interfere with workplace activity. While some departments and work locations will allow limited use of such devices, some work sites, such as the casinos, have prohibitory policies on such usage in the workplace. Please discuss such usage with your immediate supervisor, department manager or division director for department or work location-specific policies.
- 4.17. **IT Policies.** Employees who use computers and other IT equipment as part of their employment with the Band are responsible for obtaining, reviewing, understanding, and complying with all applicable IT policies. Current policies can be obtained from the IT Department. The IT Department is available to provide training on and to answer questions on IT policies.
- 4.18 **Use of Employer Equipment and Supplies.** Band equipment and supplies are for use on work-related assignments only and should not be used for personal business. Use of Band equipment and supplies for any other use requires approval of the Executive Director. Any expenses incurred due to the unauthorized use of Band equipment or supplies will be charged back to the employee.
- 4.19 **Performance Management.** It is the policy of the Fond du Lac Band to encourage and promote optimal employee performance using program management objectives. Every employee must receive a performance appraisal at least once a year.
1. **Purpose of the Performance Appraisal.** The purpose of the Employee Appraisal is to evaluate past job performance and set standards for future performance. Supervisors shall be responsible for evaluating past performance pursuant to procedures issued by the Human Resources Department. At the beginning of each review period, supervisors will be responsible for establishing specific objectives and performance standards consistent with program objectives and current job description.
 2. **Human Resources Department Role.** The Human Resources Department shall issue procedures regarding performance appraisals and establish review periods and timelines for submission of appraisals and shall monitor the completion of employee performance appraisals.
 3. **Supervisor's Role.** Supervisors are responsible for ensuring that performance appraisals are submitted for all employees by the established deadline date.

Failure of supervisors to submit appraisals by the established deadline date will result in corrective action, and may be reflected in the supervisor's own performance evaluation.

4. Unsatisfactory Performance. An employee whose job performance is unsatisfactory is subject to corrective action as set forth by the Division Director or Department Manager.
- 4.20 **Data Changes**. Each employee is responsible for promptly notifying the Payroll Services or Human Resources Department of any changes in personal data. Personal mailing addresses, telephone numbers, names and telephone numbers of dependents, individuals to be contacted in case of an emergency, educational accomplishments, and other such information should be accurate and current at all times.

CHAPTER 5
EMPLOYMENT RIGHTS

5.01 **General Policy of Non-Discrimination.** It is the policy of the Fond du Lac Band to maintain a work environment that is free from discrimination and from offensive or personally degrading remarks or conduct. It is also the policy of Fond du Lac Band to promote efficient, productive service to the Band through hiring and promotion decisions based upon qualifications and performance rather than upon personal characteristics which are unrelated to the requirements of a position such as race, color, creed, religion, national origin, gender, pregnancy, age, disability, public assistance status, marital status or sexual orientation.

5.02 **Definition of Discrimination.** It is discriminatory for any employee of Fond du Lac Band, or applicant for such employment, to be denied an employment opportunity because of that employee's race, color, creed, religion, national origin, gender, gender identity, pregnancy, age, disability, marital status, public assistance status or sexual orientation. Age or sex may be considered when it is a bona fide occupational qualification. Tribal membership status is also considered, in addition to an applicant's qualifications, pursuant to the Indian preference policies described in sections 5.10-5.13 below.

5.03 **Prohibitions.** No employee of Fond du Lac Band shall discriminate against, engage in inappropriate conduct, or make demeaning remarks towards another employee or person regarding personal characteristics of the employee or person such as:

- | | | |
|------------|-------------------------|----------------------|
| * Race | * National Origin | * Disability |
| * Color | * Gender | * Marital Status |
| * Creed | * Gender Identity | * Public Assistance |
| * Religion | * Pregnancy | * Sexual Orientation |
| * Age | * Political Affiliation | |

Discriminatory and offensive behavior prohibited by this policy also includes requests to engage in illegal, immoral or unethical conduct, and retaliation against an employee for complaining about discriminatory or offensive behavior by another employee.

5.04 **Sexual Harassment.** Sexual harassment is a form of gender discrimination, and includes a wide range of unwanted and unwelcome sexually oriented behavior. All employees have a right to work in an environment free of sexual harassment. Sexual

harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

1. Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual; or
3. Such conduct has the purpose or result of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Sexual harassment may include, but is not limited to, the following:

- Unnecessary touching, patting, hugging or brushing against a person's body
- Staring, ogling, whistling, or inappropriate personal attention
- Sexually explicit statements, veiled suggestions of sexual activity, comments, questions, jokes, innuendos, stories, or images
- Graphic comments about a person's clothing or body
- Sexually suggestive objects or pictures in the workplace
- Harassing use of electronic mail or telephone communication systems
- Other physical or verbal conduct of a sexual nature

Whether conduct constitutes sexual harassment depends upon the particular circumstances. Sexual harassment is not limited to physical acts and includes all acts of harassment based upon a person's gender. Sexual harassment may involve individuals of the same or different gender.

5.05 **Other Types of Harassment or Offensive Behavior.** Harassment may include bullying, slurs, offensive remarks, jokes, graphic material or other verbal, written or

physical conduct that creates an intimidating, offensive, threatening, or hostile environment.

- 5.06 **Reporting Procedures for Discrimination, Sexual Harassment or Offensive Behavior.** Any person who feels he or she is being subjected to discriminatory or offensive behavior by another employee or by another person should report the behavior to his or her supervisor, or to any supervisor, or to the Division Director, or to the Director of Human Resources, except where any of those persons are a party to the discriminatory or offensive behavior. Any supervisor who receives a complaint about discriminatory or offensive behavior or who has probable cause to believe that discriminatory or offensive behavior is occurring shall report these concerns to the Division Director and to the Director of Human Resources.
- 5.07 **Investigation Procedure.** The Director of Human Resources will investigate complaints of discrimination or offensive behavior promptly, fairly and completely. Each situation will be handled as discreetly as possible, with sensitivity to the particular circumstances.
- 5.08 **Consequences of Discriminatory or Offensive Behavior.** Remedies of complaints about discriminatory or offensive behavior may include, but are not necessarily limited to, an apology, direction to stop the offensive behavior, counseling or training, verbal or written warning, suspension, transfer or discharge. In the event that the discriminatory or offensive behavior reoccurs, it should immediately be reported as prescribed above.
- 5.09 **Reprisal.** No retaliation or intimidation directed towards anyone who makes a complaint or against any person who testifies, assists or participates in an investigation, proceeding or hearing relating to a complaint of discrimination or offensive behavior will be tolerated. Individuals who engage in retaliation will be subject to disciplinary action, including discharge.
- 5.10 **Indian Preference Policy.** It is the policy of Fond du Lac Band, pursuant to the Fond du Lac Tribal Employment Rights Ordinance, FDL Ord. #12/94, to give preference in hiring, promotion and training to qualified members of federally-recognized Indian tribes in all employment. Priority shall be given to members of the Fond du Lac Band of Lake Superior Chippewa.
- 5.11 **Time Period for Indian Preference.** Indian preference shall only be observed during the period that a position is vacant. Once a position is filled, Indian preference shall not operate to remove an employee who has already been hired.

5.12 **Qualifications.** The Fond du Lac Reservation Business Committee or Band Corporate Board of Directors is responsible for ensuring competent and efficient operations. Therefore, all candidates for a position must be qualified in order to be eligible for that position. Indian preference shall only be decisive where an Indian candidate is similarly qualified for a position to a non-Indian candidate.

CHAPTER 6
WAGE AND SALARY ADMINISTRATION

- 6.01 **General Policy.** It is the policy of the Fond du Lac Band to pay wages and salaries that are commensurate with the type of work, the level of responsibility and the qualifications required for each job and that are comparable, subject to budgetary constraints, to rates being paid for similar work within the Fond du Lac organization and in other comparable organizations, and to provide for salary adjustments for employees that are equitable and competitive.

Each position shall be reviewed by the Human Resources Department, classified, and assigned to a grade within the pay structure that reflects an equitable value relative to other classifications, subject to approval by the Reservation Business Committee.

The Human Resources Department will regularly review and submit recommendations to the Reservation Business Committee for any revisions to existing salary structures necessary to ensure internal and external equity based on the current market average.

Certain occupations may command special pay ranges based on prevailing market pay levels.

- 6.02 **Minimum Wage.** Employees shall be paid at a rate no lower than the prevailing Band or federal minimum wage.
- 6.03 **Rates of Pay and Salary Grades.** A compensation structure, with pay ranges for each classification of jobs will be maintained by the Human Resources Department.

Hire Rates of Pay. Some work sites, such as the casinos, have an approved compensation structure that establishes exact rates of pay for newly hired employees, as well as for those individuals successfully passing probation. It is the Human Resources Department's responsibility to ensure everyone hired into these positions is paid at the rate established by the approved pay structure. For those positions that do not have a pre-determined rate of pay, the Human Resources Department is responsible for recommending, in conjunction with the hiring department, hire rates of pay based on the qualifications of the applicant compared to the established minimum qualifications of the position. Applicants with

qualifications greater than those required at entry level may be hired at a rate not to exceed the midpoint of the pay range assigned.

6.04 **Work Week and Work Hours.** The basic workweek begins Sunday at 12:01 am and ends Saturday at 12:00 am. The normal work week for full-time employees is 32–40 hours. As several of our business entities are 24-hour a day operations, actual work hours will vary by position and based on operational needs.

6.05 **Timekeeping Records.** The recording of hours worked is managed through the use of time clocks or the completion of a time sheet.

Each employee is responsible for completing his/her own time sheet or for punching in/out as directed by management. When an employee works more than one position (2nd screens), the employee is responsible for accurately recording the time in each position during each pay period. Supervisors are responsible for ensuring accurate timekeeping occurs for all employees.

Timekeeping discrepancies need to be discussed with the employee prior to modification. Changes should be signed by the supervisor and a copy given to the affected employee.

The Fond du Lac Payroll Services Department is responsible for maintaining all timekeeping records as required by law.

6.06 **Pay Period Definition and Payment of Wages.** Most employees are paid on a bi-weekly basis. The pay period for the casinos alternates weeks with the hotel and all other entities. Generally, employees are paid the Friday following the end of the pay period.

6.07 **Exempt vs. Non-Exempt Status.** All positions will be classified as either exempt (“salaried”) or non-exempt (“hourly”) to determine eligibility for overtime compensation. The Human Resources Department is responsible for determining the exempt (“salaried”) or non-exempt (“hourly”) status of each position. The determination is made based on the nature of the position’s duties, whether the position is paid on a salaried basis, and the amount the position is paid. Exempt (“salaried”) positions are typically managerial or professional positions. Employees assigned to exempt positions are not eligible for overtime compensation. Employees assigned to non-exempt (“hourly”) positions are eligible for overtime compensation.

6.08 **Overtime.** Overtime is time **worked** in excess of 40 hours within a work week (see work week definition above). Paid time off such as vacation or holidays is not considered time worked for overtime computations. Hours worked in excess of 40 hours per week by non-exempt (“hourly”) employees will be compensated accordingly. Exempt (“salaried”) employees are not eligible for overtime pay for hours worked in excess of 40 per week.

1. Authority to Approve Overtime. All overtime worked must have prior authorization of the Division Director or Department Manager consistent with these policies. Failure to obtain approval prior to working overtime will result in disciplinary action. It is the policy of the Fond du Lac Band to authorize overtime when necessary to meet essential operating needs of Band subject to existing funding and contract requirements. Manipulation of staff scheduling for the purpose of obtaining overtime compensation is considered a misappropriation of Band resources.
2. Compensation for Overtime Work. Non-exempt (“hourly”) employees shall be paid for overtime at the rate of one and one-half times their regular rate for hours worked which exceed forty hours of actual work in a workweek. Payment for the overtime must be processed within the next pay period. Non-exempt (“hourly”) employees shall be paid at their regular rate pay when the actual hours worked is equal to or less than 40 hours in a workweek. If an employee works overtime as his or her second screen, the overtime shall be calculated at that rate of pay.
3. Mandatory Overtime. When overtime is required, the employee(s) shall be notified in advance that overtime is necessary and the employee is expected to work. In assigning overtime, the supervisor will take into account employee preference for overtime assignments. To the extent feasible, overtime shall be distributed equally among full-time employees of the same classification.
4. Reporting of Overtime. All authorized and earned overtime must be recorded by punching in or documenting on the official time sheet. Only hours reported via the time clock or on the time sheet will be accepted and approved for payment.

6.09 **Holiday Pay.** Eligible, full-time employees will receive eight (8) hours of holiday leave at their regular rate of pay whether they work the holiday or not. Full-time

employees must work or be on paid, pre-approved leave both the workday before and after the holiday to be eligible to receive holiday pay.

At 24-hour facilities, holidays will be observed on the actual holiday, including on weekends. At other facilities, holidays falling on a Saturday will be observed on the previous Friday and holidays falling on a Sunday will be observed on the following Monday.

If an employee works a flexible schedule, the maximum number of holiday hours that the employee can receive on a holiday is 8 hours. So, if the employee typically works a 10-hour day, the employee would code 8 Holiday and 2 Vacation or PTO. If a full-time, non-exempt (“hourly”) employee normally works a reduced schedule (32 to 39 hours per week), the amount of Holiday Pay will be reduced accordingly.

Only holiday hours actually worked will be included in the computation of overtime pay.

If a full-time, non-exempt (“hourly”) employee works a 40-hour work week during a week with a holiday, the employee will receive an additional 8 hours of Holiday Pay at the employee’s regular rate. Exempt (“salaried”) employees who work on the holiday must schedule another day off during the two weeks before or after a holiday.

Non-exempt (“hourly”) employees may receive both holiday pay and overtime pay in the same pay period, but holiday pay will always be at the employee’s regular rate of pay. Overtime is calculated based on hours actually worked and holiday hours are only included in the overtime calculation if the employee worked on the holiday.

- 6.10 **Shift Differential, On-Call & Additional Duty Pay.** Some divisions may have separate policies approved by the Reservation Business Committee governing shift differentials, on-call or additional duty pay.
- 6.11 **Compensatory Time.** In lieu of cash payment, a non-exempt (“hourly”) employee may be eligible to earn compensatory time. For non-exempt (“hourly”) employees, compensatory time shall be calculated in the same manner as cash payment above. Compensatory time off shall be arranged by the employee and the supervisor. Compensatory time must be used before any annual leave is used. An employee must be permitted to use compensatory time on the date requested unless doing so would unduly disrupt the operations of the department. Compensatory time earned

and taken by employees must be submitted to and tracked by the Payroll Services Department. An employee may not accrue more than 120 hours of compensatory time. Any overtime hours worked in excess of these limits must be compensated in cash payment until the number of accrued hours of compensatory time falls below the limit.

- 6.12 **Travel Time.** While on travel, employees shall be paid at their normal rate of pay. Under no circumstances shall an employee receive overtime or compensatory pay for travel. See also Fond du Lac Employee Travel Policy at Appendix 1.
- 6.13 **Meal Periods and Breaks.** Based on the operational needs of the department, employees are entitled to breaks and meal periods as outlined below and as scheduled/approved by their supervisor. Breaks are not cumulative – employees may not “bank” unused breaks to take later or in combination with other breaks, lunch periods, or paid/unpaid time off.

An employee may take one paid meal period per eight (8) hour work day of at least 30 minutes. Division Directors and Enterprise Managers may grant a meal period for work days less than eight (8) hours, if the employee works at least six (6) hours. Meal schedules may vary by department and can be adjusted to meet departmental needs. Because of the limited food options at tribal program facilities, employees in the Fond du Lac Reservation Business Committee employment group are entitled to an additional 30 minutes of unpaid meal time when working six or more hours. This unpaid period will be in addition to any paid meal period. Employees are responsible for the provision of their own meals. Band resources can only be used to pay for a meal when (1) such expenditures are specifically authorized under an approved budget, (2) the meal is for a permissible business purpose, and (3) the Division Director or Enterprise Manager has given prior approval. When traveling on Band business, meals are part of the per diem. See also Fond du Lac Employee Travel Policy at Appendix 1.

An employee may take two paid 15 minute breaks per day when working six or more hours, with one break during the first half of the workday and one during the second half of the workday.

6.14 **Payroll Deductions.**

1. **Standard Deductions.** The Payroll Services Department withholds the following taxes from the wages of each employee:

- A. Federal Income Tax
 - B. FICA (Social Security)
 - C. FICA (Medicare)
 - D. State Income Tax (if applicable) Members of the Fond du Lac Band of Lake Superior Chippewa and other members of the Minnesota Chippewa Tribe who both reside and work on the Fond du Lac Reservation are exempt from state income tax, provided that the employee files a statement of non-taxable status with the Payroll Services Department.
2. Special Deductions. Deductions (e.g. to satisfy court garnishments, IRS liens, child support, military duty, etc.) may be made from an employee's paycheck pursuant to the Fond du Lac Garnishment Ordinance, FDL #02/99.
- 6.15 **Treaty Pay.** Members of the Fond du Lac Band and other Ojibwe bands which retain fishing rights under the 1837, 1842, and 1854 treaties who are in positions involving the regulation of those fishing rights are exempt from federal income tax and FICA under 26 U.S.C. § 7873 at the percentage of the position's time which is utilized in fishing-regulatory activity, as determined by the Reservation Business Committee.
- 6.16 **Payment of Wages (Pay Day).** Payday is biweekly for the majority of employees. An exception to this is the Day Labor Program, whose employees are paid weekly.
- 6.17 **Paycheck Review.** It is the responsibility of each employee to review the details of his or her paycheck and to notify the Payroll Services Department of any errors within two weeks of receiving the paycheck.
- 6.18 **Commissions.** If an employee is paid by commission for sales, commissions will be calculated by accounting based on the approved rate and approved by an Executive Director. Commissions will be paid on a monthly basis. Approved paperwork must be received by the Payroll Division prior to the 10th of the month for payment.

CHAPTER 7 LEAVE POLICIES

- 7.01 **Introduction.** The Fond du Lac Band provides a variety of leave programs for eligible employees, with eligibility for any given leave based on the specific employment group, as indicated below, and full or part-time status. **Leave time may be either paid or unpaid.** Such leave programs may include general paid time off (PTO) or specific types of paid leave such as vacation, sick, as well as holidays, time for jury duty, voting, etc. *Employees may not use any form of paid time off during their first 90 days of employment.*

Temporary employment with the Fond du Lac Band (e.g. Day Labor Program, substitute teachers, etc.) does not qualify for any types of leave under this Chapter.

- 7.02 **Employment Groups.**

Fond du Lac Enterprises Employment Group. The Enterprises Employment Group is comprised of employees at the Black Bear Casino Resort, Fond-du-Luth Casino, and Fond du Lac Gas & Grocery. The Enterprises Employment Group offers paid time off and paid holidays to regular, full-time employees.

Fond du Lac Reservation Business Committee Employment Group. All other employees working for the Fond du Lac Band fall under this category for leave and benefit purposes. Paid time off is available to regular full-time employees and regular part-time employees in the form of vacation and sick leave. Paid holidays are also available.

- 7.03 **Enterprises Employment Group Leave.** Employees in the Enterprises Employment Group are eligible for paid time-off (PTO) and holiday leave.

1. **PTO.** PTO is paid time off for eligible full-time employees, which can be used to cover scheduled absences such as time off for vacationing or for personal reasons such as doctor appointments or to attend a funeral. PTO may also be used for unscheduled absences due to illness, providing such time is utilized within specified parameters and is approved by the department manager. Please see applicable policies below.

PTO is accrued each pay period based on the approved schedule that incorporates years of service and actual hours worked.

2. **Reward Time.** Non-exempt (“hourly”) employees in the Enterprise Employment Group are eligible for up to four (4) hours of reward time per month. Reward time is used and scheduled in the same manner as PTO. Employees are not eligible to receive payment for accrued reward time upon separation from employment.
3. **Enterprises Employment Group Holidays.** Employees in the Enterprise Employment Group are eligible for holiday pay for the following holidays:
 - New Year’s Day,
 - Memorial Day,
 - 4th of July,
 - Labor Day,
 - Thanksgiving Day, and
 - Christmas Day.

Holiday pay will be made pursuant to Section 6.09.

7.04 **Reservation Business Committee Employment Group Leave.** Employees in the Fond du Lac Reservation Business Committee Employment Group are eligible for vacation, sick, and holiday leave.

1. **Vacation Leave.** A minimum of 48 hours notice should be given to the employee’s manager before using vacation leave. Full-time and regular part-time employees, with the exception of teachers, eligible for vacation leave will accrue time each pay period, based on the approved schedule, based on years of service and annual rate of pay.
2. **Sick Leave.** Full-time eligible employees and regular part-time employees will earn a specified number of sick leave hours each pay period. Unused sick leave may be accumulated without limit as long as the employee is continuously employed. However, under no circumstances is accumulated sick leave paid out at time of separation or for any other reason.

Sick leave is accrued at a rate of .05 hours per hour worked, up to a maximum of 4 hours per pay period.

The use of sick leave is subject to approval and may be used for absences resulting from an eligible employee's illness or injury, for medical, dental or personal counseling appointments, or to make arrangements for the care of the employee's immediate family. An employee will be allowed to use his or her sick leave in order to attend to the illness of a minor child in the home.

In the absence of any division/department policy stipulating notice requirements, employees must report to their immediate supervisor before the start of their shift if they cannot report to work.

3. **Reservation Business Committee Employment Group Holidays.** Employees in the Reservation Business Committee Employment Group, with the exception of school employees, are eligible for holiday pay for the following holidays:

- New Year's Day,
- Martin Luther King Jr. Day,
- President's Day,
- Good Friday,
- Fond du Lac Memorial Day,
- Memorial Day,
- Juneteenth,
- 4th of July,
- Labor Day,
- Indigenous Peoples' Day,
- Veteran's Day,
- Thanksgiving Day,
- Day after Thanksgiving,
- Day before Christmas, and
- Christmas Day.

School employees who do not receive these holidays will receive school breaks (i.e., Spring Break) instead.

Holiday pay will be made pursuant to Section 6.09.

- 7.05 **Floating Holiday Leave.** Each full-time and regular part-time employee shall be entitled to eight (8) hours of floating holiday leave. The use and scheduling of floating holiday leave is subject to supervisory approval. Floating holiday leave

must be used before the last pay period of the year. Floating holiday leave does not carry over to the next year and is not paid out upon separation from employment.

7.06 **Family Medical Leave.** Employees of the Fond du Lac Band who have worked at least 1,250 hours during the previous 12 months are eligible for up to 12 weeks of paid or unpaid family medical leave under the Fond du Lac Family Medical Leave Policy, incorporated as Appendix 2 to this Handbook. The purpose of the Family Medical Leave Policy is to protect the employee's job and benefits during a qualifying illness.

7.07 **Leave Requests and Scheduling.** Leave requests are subject to approval. Employees should schedule the use of PTO and vacation time so it will not interfere with the department's operational needs.

To request PTO, vacation or sick leave, employees must complete the appropriate form in accordance with outlined procedures of either departmental policy or this manual. All requests are subject to approval by the division director or department manager (or designee). Directors/managers have the right to deny requests for time off if such requests were submitted in untimely manner or if the time off will negatively affect the department's ability to function appropriately.

7.08 **Transfer Between Programs.** When an employee transfers from one funding source or division to another, the Division Director may allow the employee to transfer some or all accrued paid time off hours. If the Division Director determines the new funding source cannot accept responsibility for the accrued benefits, the employee will be paid for the accrued leave, where applicable.

7.09 **Notice of Absence.** In the absence of any division/ department policy stipulating notice requirements, employees must report to their immediate supervisor before the start of their shift if they cannot report to work or are going to be late.

7.10 **Five-Day Sick Rule.** Any employee calling in sick for five consecutively scheduled work days/shifts must provide acceptable supporting medical documentation within 24 hours of return to work. Failure to provide such documentation will result in the determination of unexcused absence. See also Fond du Lac Family Medical Leave Policy at Appendix 2.

7.11 **Extended Sick Leave.** All requests for long-term or extended sick leave must be approved by the Division Director and Executive Director, in conjunction with the

HR Director. Each case will be handled on an individual basis. See also Fond du Lac Family Medical Leave Policy at Appendix 2.

- 7.12 **Converting Vacation Leave to Sick Leave.** If an employee gets sick while on vacation leave, their leave will be converted to sick leave at time of sickness, if requested by the employee. A doctor's note will be required to verify the illness.
- 7.13 **Supervisor Requested Sick (or PTO) Leave.** An employee may be requested to return home and/or see a healthcare provider if unable to perform his/her duties because of apparent illness, contagious infections, or physical/ mental condition.
- 7.14 **Excessive Absences.** Employees cannot go into the negative on accrued leave. Hours used in excess of accrued hours are unpaid. When an employee is absent from work during the employee's scheduled work hours, the employee must either (1) have accrued PTO, vacation, sick, or floating holiday leave available or (2) be on approved FML leave, have the absence as an approved disability accommodation, or otherwise have approved leave without pay. All other absences are considered excessive and may be subject to disciplinary action, up to and including discharge.
- 7.15 **Carry Over of PTO or Vacation Leave.** Employees are encouraged to utilize accrued PTO or vacation leave annually. The Reservation Business Committee or Band corporate board may limit the amount of leave that can be carried over in any particular year.
- 7.16 **Payment upon Separation.** When an employee is separated from employment, the employee shall receive payment for unused, accrued vacation leave or PTO, provided that no employee shall receive more than 150 hours of vacation leave or 240 hours of PTO.
- 7.17 **[Reserved].**
- 7.18 **Jury Duty.** When an employee serves on a jury, they shall be entitled to leave with pay for such duty subject to approval based on appropriate documentation. Employees receiving leave with pay for jury duty must turn over any compensation from serving on a jury over to accounting upon receipt. Written notice of jury duty must be given to the employee's immediate supervisor immediately upon receipt of such notification. Part-time employees of Fond du Lac Management, Inc. are not eligible for paid jury duty.

7.19 **Civil Leave.** When an employee appears in an official or non-official capacity as a witness for the federal or state government or a political subdivision thereof, in obedience to a subpoena or direction by proper authority, they shall be granted paid civil leave for such duty during the required absence. Written notice of civil leave must be given to the employee's immediate supervisor immediately upon receipt of such notification. Part-time employees of Fond du Lac Management, Inc. are not eligible for paid civil leave.

7.20 **Military Leave and Return to Employment.** The Fond du Lac Band supports military service and values its military members and veterans. No Fond du Lac employee shall be discriminated against or retaliated against due to their military service and shall enjoy the following protections:

1. **Military Leave.** Any employee who is a member of the National Guard or Reserve component of some branch of the United States Armed Forces, and by virtue of such membership is required to engage in any period of active military service, be it voluntary or involuntary, shall be entitled to paid military leave for no more than 14 days during a 12-month period. Military leave pay shall be only the difference between military compensation received during the 14-day period and the employee's normal base salary with the intent that no employee suffers financial penalty for military service. Active military service beyond the 14-day period is authorized but must be in either PTO, annual leave, or leave without pay status. The Fond du Lac Band does not recognize a five-year cumulative military service cap during any period of Fond du Lac employment.
2. **Return to Employment.** Any employee that takes leave from employment to perform military service shall be entitled to return to their job or reemployment in its equivalent upon completion of such service when:
 - a. The employee provides the Fond du Lac Band written or verbal warning of the military service as far in advance as is reasonable unless giving notice is impossible, unreasonable, or precluded by military necessity;
 - b. The employee returns to work or applies for reemployment in a timely manner upon conclusion of military service; and

- c. The employee was not separated from the period of service with a discharge characterized as other than honorable, bad conduct, or dishonorable.
 - 3. Benefit Reinstatement. Any employee that takes leave from employment to perform military service shall be entitled to either continued coverage or reinstatement in Band benefits and pension plans consistent with the respective plan documents. See plan documents for more detail.
- 7.21 **[Reserved]**.
- 7.22 **Treaty Harvest Activity**. Employees who are enrolled members of the Fond du Lac Band or other Ojibwe band which exercises treaty-reserved harvest rights may request a leave of absence without interruption or loss of employment status to participate in treaty-reserved hunting, fishing, and gathering activities. Upon receiving such request, the Division Director or Department Manager shall make a reasonable effort to accommodate the request, provided that such accommodation does not unduly impede the operation of the Division or Department.

CHAPTER 8
SUMMARY OF HEALTH AND WELFARE BENEFITS

- 8.01 **Summary of Health and Welfare Benefits.** The Band provides employees with access to medical, dental, life, short-term disability, and long-term disability insurance, as well as a flexible benefits plan. Family coverage may also be available at additional cost.

In general, coverage for medical, dental, and life insurance begins on the employee's 91st day of employment. The current costs and eligibility rules for each insurance plan and the flexible benefits plan are available at the Employee Benefits Department site at <http://www.fdlrez.com/staff/documents.htm>.

- 8.02 **Social Security.** All employees of the Fond du Lac Band are covered by Social Security.

- 8.03 **Employee Assistance Program (EAP).** The Fond du Lac Employee Assistance Program is available to all employees with regularly scheduled work hours.

- 8.04 **Employee Retirement Plan.** All employees who have been employed for at least one year and have worked at least 1000 hours are eligible for benefits under the Fond du Lac Employee Retirement Plan. The Band contributes 3 percent of gross wages for each employee into individual retirement accounts. In addition, the Band will match up to 2 percent of an employee's contribution into that same plan. Details about the retirement plan are available at the Employee Benefits Department site at <http://www.fdlrez.com/staff/retirement.htm>.

- 8.05 **Workers' Compensation.** All eligible employees (full-time, part-time or temporary) receive workers compensation coverage through the Fond du Lac Self-Insured Workers' Compensation Program, the Minnesota Workers' Compensation Program, or private policy coverage. Rates for employees covered by the Fond du Lac Self-Insured Workers' Compensation Program are determined by the Fond du Lac Insurance Company, a tribally-chartered corporation operated by and on behalf of the employees of the Fond du Lac Band.

- 8.06 **Unemployment Insurance.** All employees are covered under the State of Minnesota's Unemployment Compensation Insurance Program, with the Fond du Lac Band paying all applicable insurance premiums.

CHAPTER 9 SEPARATION FROM EMPLOYMENT

9.01 **General.** Separation from employment is an inevitable fact of life and can be initiated by either the employer or the employee. The supervisor is responsible for ensuring that the separating employee has full knowledge of the steps in the process, including final pay arrangements. It is also the supervisor's responsibility to collect all Band property from the employee before his or her last day. To assist in this process, a separation checklist has been developed by the Human Resources Department to be used by the supervisor whenever an employee is separating. The form must be completed, signed by the supervisor/manager and the separating employee and returned to the Human Resources Department in a timely manner.

Types of separation include:

1. Resignation
2. Retirement
3. Reduction of Workforce
4. Elimination of Position
5. Discharge
6. Disability
7. Death

9.02 **Resignation.** An employee may be voluntarily discharged from employment with the Fond du Lac Band by submitting a letter of resignation. Employees are asked to provide a minimum of a two (2) week notice of the intent to discharge their employment. Such written notice should be given to the immediate supervisor or department manager/division director. An employee who is absent for three or more consecutive workdays without calling in will also be considered to have resigned and a resignation will be processed.

Employees are required to return all materials, equipment, keys, telephones, etc. to the immediate supervisor or department manager/division director on or before their last day of employment to avoid any delay in receiving their final paycheck.

An employee who submits a written resignation may, with the supervisor's approval, withdraw the resignation and be restored to the vacated position provided the written request for withdrawal is submitted to the supervisor prior to the effective date of the resignation.

- 9.03 **Retirement.** Employees who retire are asked to submit their written retirement notice to the Department Manager/Division Director at least 30 days in advance of the actual retirement date.
- 9.04 **Reduction in Workforce; Layoffs.** An employee may be discharged or laid off due to lack of work, lack of funds or other operational reasons. Such reasons are beyond the employee's control and should not reflect discredit on the services of the employee.
1. **Workforce Reduction Assessment.** The Division Director or General Manager, in conjunction with the Executive Director, will determine the need for a workforce reduction, subject to the approval of the Reservation Business Committee or Band corporate board.
 2. **Notification.** Employees who are to be laid off shall be given at least 15-calendar days written notice, except that this requirement shall not apply if stoppage of work results from circumstances beyond the control of the Fond du Lac Band. In all cases, however, the employee must be given as much notice as possible. The Department Manager/Division Director shall also notify the Human Resources Director of the layoffs and provide the Human Resources Director with a list of affected employees.
 3. **Prioritization of Layoffs.** No regular status employee shall be laid off while there are temporary, seasonal, or new employees employed in the same, equal, or lower level positions for which the regular status employee is qualified. In determining the order of layoff of regular status employees, the Department Manager and/or Division Director shall consider such factors as seniority, performance appraisals, qualifications, work record, and the purposes of the Fond du Lac Tribal Employment Rights Ordinance, FDL Ord. #13/94.
 4. **Payment of Vacation or PTO.** Employees who are laid off shall be paid accrued vacation or PTO, up to applicable limits.
 5. **Recall from Layoff.** Recall from layoff will be based on a number of factors, including overall performance and seniority. Employees not recalled from layoff status within 12 months will be discharged. Such employees will be notified in writing of their change in status.

6. No “Bumping” Rights. Nothing in this section shall confer a right of a laid-off employee to “bump” another employee in another division or department.

9.05 **Position Elimination.** Whenever a position is determined to no longer benefit or fit in to the overall needs of the Fond du Lac Band, the position will be eliminated. Employees in that position will be notified of the elimination and discharged from employment.

The Division Director or General Manager, in conjunction with the Executive Director, will identify the position to be eliminated, subject to the approval of the Reservation Business Committee or Band corporate board. All affected employees will be given a minimum of 15 calendar days written notice whenever possible.

If an employee’s position is eliminated while he or she is on family medical leave, the employee shall be placed in accordance with the Fond du Lac Family Medical Leave Policy. See Appendix 2.

An eliminated position cannot be reactivated for a minimum of one year unless an immediate need arises and such activation is approved by the Executive Director.

9.06 **Discharge.** A new employee may be discharged at any time during the initial probationary period or the extended probationary period when, in the judgment of the department manager/division director (General Manager at the casinos), the quality and performance of his or her work does not merit continuation as a Band employee.

The Division Director or Department Manager (or General Manager at the casinos) shall notify the employee, in writing, of the discharge and the specific reasons for the discharge.

Discharge information pertaining to individual employees is treated confidentially. The Fond du Lac Band will take reasonable precautions to protect such information from inappropriate disclosure. Managers and other employees have a responsibility to respect and maintain the confidentiality of employee discharge information. Anyone inappropriately disclosing such information is subject to disciplinary action, up to and including discharge from employment.

No employee without managerial “need to know” is to discuss reasons for discharge. Personnel who engage in such discussions, or who share privileged information are hereby notified that they are liable for anything they say, and are violating Band

policy by doing so. If asked the status of such a person, the answer is: “[employee’s name] is no longer employed with the Fond du Lac Band.” Further inquiries are to be directed to the Human Resources Department. See also Fond du Lac Data Privacy & Record Management Policy, incorporated as Appendix 3.

- 9.07 **Disability or Incapacity.** An employee may be discharged when, due to physical ailment or injury, the employee is no longer capable of performing the duties of the position. Before discharge, the employee must have seen a medical practitioner who has found the employee to be partially or totally disabled, or to be mentally or physically limited in work performance.

The supervisor must determine that even with reasonable accommodation(s) for the employee’s physical condition, the employee is incapable of performing the duties required of the position. See also Fond du Lac Family Medical Leave Policy at Appendix 2.

If a supervisor believes that an employee is physically or mentally incapacitated but will not seek medical attention, the supervisor should contact the Human Resources Department immediately for assistance and guidance.

An employee discharged under this section must receive written notice explaining the reason for discharge.

- 9.08 **Subsequent Disqualification.** An employee subject to ongoing background checks as a condition of employment may be suspended or discharged in accordance with the policies governing the applicable background check.

If an employee, who was qualified for his or her position, subsequently becomes disqualified for the position due to loss of license, certification, or reclassification or the position due to a reorganization of the program or material changes in duties, or for any other reason, the employee shall be given a reasonable period to re-qualify. If after the period for re-qualification, the employee remains unqualified, he or she will be discharged and paid off.

- 9.09 **Discharge of Volunteers, Interns or Temporary Employees.** A supervisor may discharge a volunteer, intern or temporary employee at any time. The discharge must be in writing and include an explanation. A volunteer or temporary employee who is discharged is not entitled to grievance rights.

9.10 **Discharge During Probation.** A supervisor may discharge a new employee for just cause at any time during the introductory period. The discharge must be in writing and include an explanation. A new employee who is discharged is not entitled to re-employment, layoff, or grievance rights.

9.11 **Death.** If an employee dies while employed, the effective date of the separation shall be the date of death. Unless leave without pay was previously approved, an employee shall be compensated through the date of death.

The supervisor shall take reasonable steps to assure that arrangements are made to provide payment to the employee's estate of any salary, overtime, or accrued vacation or PTO payments due.

9.12 **Final Pay.** Upon receipt of all required documents, a final paycheck shall be issued to the discharged employee. The final paycheck will include payment for hours worked and accrued annual leave/PTO, subject to applicable limits.

All or part of an employee's final pay check and, or annual leave payment, may be withheld to satisfy any indebtedness to the Fond du Lac Band.

If an employee's separation paperwork is not processed because the employee has filed a grievance, then employee is eligible to receive up to 50% of the annual leave or PTO available for payout, subject to applicable limits on payout, while the grievance is pending. In order to receive this payout during the grievance period, the employee must fill out a form with the Payroll Services Department and the payment of eligible hours will be made beginning with the next payroll cycle. Payments will be made during each payroll cycle, for the amount of regularly scheduled hours, until the maximum payout is reached. Employees are not entitled to benefits when these payments are made. In the event that the employee remains separated from employment after the grievance process concludes, the employee will receive the remaining leave available for payout. In no event will the leave paid out during and after the grievance process exceed the applicable limits on payout of annual leave or PTO. In the event that the employee is reinstated, the employee's leave balances upon reinstatement will be reduced based on the paid out leave.

9.13 **Exit Interview.** Employees who leave employment with the Band are entitled to an exit interview with a Human Resources Department staff member. Exit interviews provide the Band with valuable information regarding employment and work life. The supervisor is responsible for informing employees of the exit interview process.

- 9.14 **Termination of Benefits.** Upon separation from employment, health and dental benefits will cease on the 15th day of the month, if separation date is the 1st to 15th day of the month, or the last day of the month, if separation is after the 15th of the month. An employee may extend medical and dental coverage for an 18-month period at his or her own expense pursuant to the COBRA statute, 29 U.S.C. § 1161 et al.
- 9.15 **Employment after Discharge.** A discharged employee shall be ineligible for future employment with the Band for a period of 30 days, starting from the date of discharge, unless a grievance is filed. If a grievance is filed, the discharged employee shall be ineligible for future employment with the Band for a period of 30 days or until the end of the grievance process, whichever is longer. During the ineligibility period, the employee is ineligible to apply for or be hired for positions with the Band.
- 9.16 **Employment after Withdrawing from Employee Retirement Plan.** A former employee who withdraws funds from the Employee Retirement Plan shall be disqualified from employment with the Band for a period of 30 days, unless the withdrawal was a permissible in service distribution or the employee was forced out of the Employee Retirement Plan because the employee's account balance was \$1,000 or less.

CHAPTER 10
EMPLOYEE CONDUCT AND DISCIPLINE

10.01 **Employee Conduct.** It is the policy of the Fond du Lac Band to establish and maintain standards of employee conduct and supervisory practices which will support and promote effective program operations. Such practices include the administration of consistent and constructive employee discipline.

The conduct of every employee plays an important part in maintaining the well-being of, and continuing respect for the Fond du Lac Band. Each employee is expected to act in a professional manner when dealing with his/her supervisor, co-workers, peers, the public and other personnel and to comply with all applicable laws and policies governing the Band and its operations. It is also important that employees present an appearance consistent with the nature of the work they are required to perform. Employees are expected to avoid all unnecessary risks to the safety and/or well-being of others and to exercise good judgment in caring for the property of the Fond du Lac Band.

10.02 **Specific Standards of Conduct.** Each employee of the Fond du Lac Band shall observe the following standards of conduct:

1. **Integrity.** Each employee is a representative of the Fond du Lac Band commensurate with his or her position, and is expected to uphold, with integrity, the trust and confidence placed in the employee.
2. **Obedience.** The employee shall comply with and respond to the directions and instructions of his or her supervisor and other management staff. See also Section 1.08 (chain of command).
3. **Courtesy.** An employee is expected to demonstrate professional courtesy, respect, cooperativeness, diligence and tact in dealing with supervisors, fellow workers and the general public at all times.
4. **Diligence.** An employee shall provide full, efficient and friendly service.
5. **Confidentiality.** An employee shall maintain confidential information acquired in the performance of his or her duties and refrain from disclosing any information except in the manner and to the extent authorized. See also

Fond du Lac Data Privacy & Record Management Policy, incorporated as Appendix 3.

6. Avoidance of conflicts of interest. Each employee shall refrain from using his or her official position to influence transactions involving purchases, contracts, leases, or other business dealings which advance personal interests or those of his or her friends or relatives. See also section 4.15 governing the solicitation or receipt of gifts.
7. Compliance with the law. While employed, an employee's private life is his or her own business, however, an employee's activities cannot disrupt the workplace. Each employee is expected to comply with all applicable laws.
8. Refrain from political activity in the workplace. No employee shall engage in political activity during work hours. No employee shall use his or her authority or official influence to compel or deny any employee to take part in any manner in any political activity.
9. Work product. Correspondence, papers, drawings, sketches, documentation, computer programs, instructions, procedures, forms and all such items produced by the employee in the course of his or her work are the property of the Fond du Lac Band. Unauthorized removal, reproduction, or disclosure is strictly prohibited.

10.03 **Grounds for Disciplinary Action.** The following conduct may result in disciplinary action, including discharge:

1. Inefficiency or incompetence in the performance of duties;
2. Negligence in the performance of duties;
3. Careless, negligent, or improper use of Band property or equipment;
4. Failure to maintain satisfactory and harmonious working relationships with others, including employees and the public;
5. Habitual pattern of failure to report for duty at assigned time and place;
6. Insubordination or refusal to comply with employer's instructions, unless such instructions are injurious to the employee's safety and health;

7. Gross misconduct;
8. Committing an immoral, criminal or indecent act;
9. Willful abuse or misappropriation of Band funds, materials, property or equipment (including falsification of hours worked or manipulation of scheduling to obtain overtime pay);
10. Possession of unauthorized firearms or weapons on the job;
11. Participation in any action that would in any way constitute harassment (sexual or otherwise);
12. Violation of law which causes unfavorable publicity to the Fond du Lac Band, impairs the credibility of the employee to perform the employee's job, or is otherwise connected to the employee's employment with the Band;
13. Intentional falsification of personnel records, payroll reports, or other Band records;
14. Theft, intentional destruction, or defacing of Band or employee property;
15. Deliberate or careless conduct endangering the safety of self or other employees, including the provocation or instigation of violence;
16. Consuming alcoholic beverages while on duty, or the possession or consumption of illegal drugs;
17. Abusive, threatening, or coercive treatment of another employee or member of the public;
18. Reporting for work in an unsafe condition, which includes but is not limited to, being under the influence of alcoholic beverages or drugs (this also requires testing under the Fond du Lac Employee Drug and Alcohol Policy);
or
19. Knowingly permitting an unauthorized person or persons into any locked or restricted areas or buildings.

Rules of conduct for employees are intended to promote the orderly and efficient operation of the Fond du Lac Band, as well as protect the rights of all employees. Violations, therefore, shall be regarded as cause for disciplinary action. These rules are published for the employees' information and protection. Ignorance of work rules is not an acceptable excuse for violation. It is each employee's responsibility to know and follow the personnel policies and work rules.

- 10.04 **The Administration of Disciplinary Action.** Supervisors at all levels are expected to assume responsibility for reporting and initiating proper action regarding employee misconduct, unsatisfactory work performance, or violation of personnel policies or regulations. Division Directors and Department Managers shall have the authority and responsibility to administer appropriate disciplinary action for violations of Band policies and regulations. It is recommended that managers contact the Human Resources Department for assistance in documenting and issuing disciplinary action to insure consistent implementation.
- 10.05 **Documentation.** All disciplinary actions shall be documented in writing by the supervisor. Documentation of disciplinary actions will become part of the employee's personnel record. Supervisors administering disciplinary action shall provide copies of such actions to the Human Resources Department.
- 10.06 **Notice.** Notice of disciplinary actions should be hand delivered whenever practicable or sent by certified mail. Notice by certified mail shall be effective upon delivery of notice by the U.S. Postal Service.
- 10.07 **Progressive Discipline.** In order to administer equitable and consistent discipline in the event of unsatisfactory conduct or performance in the workplace, the following guidelines are recommended.

The Fond du Lac Band strives to ensure the fair treatment of all employees; to make certain that disciplinary actions are prompt, uniform, and impartial; and to provide due process to afford the disciplined employee an opportunity to tell his or her side of the matter. The primary purpose of an employee disciplinary action is not to punish, but to correct a problem, prevent recurrence, and prepare the employee for future satisfactory service in the event that other attempts at corrective action fail. Discharge should only be utilized when a problem has proven to be uncorrectable, or when separation of the employee is necessary to protect the Band's operations.

The Fond du Lac Band may use progressive discipline at its discretion. Disciplinary action may call for any of five steps: Counseling, Verbal Warning, Written Warning,

Suspension (with or without pay) or Discharge from Employment. Each incident, depending on its severity and frequency of reoccurrences, will dictate which steps are taken. Some circumstances will require one or more steps to be bypassed.

Progressive discipline means that, with respect to most disciplinary problems, these steps will normally be followed:

1. First offense: discussion of the problem between the Division Director or Department Manager and the employee, with a referral to the Employee Assistance Program where appropriate;
2. Subsequent offense: written warning;
3. Repeated offenses: suspension (with or without pay) for 1-14 days;
4. Continuing conduct: discharge.

When applicable, the employee's immediate supervisor should provide the employee with written expectations in a performance improvement plan. The supervisor shall evaluate the employee's behavior to assess the effectiveness of the performance plan. If no significant positive change has been made by the employee, additional disciplinary action will be taken. Eventually, the Division Director or General Manager must decide whether continued employment of the employee is warranted. If discharge is deemed to be necessary, it will be administered immediately.

If 24 months have passed since the last disciplinary action, prior offenses should not be used as a basis for escalated response under the progressive discipline principle.

Certain types of employee problems are serious enough to require immediate suspension or discharge of the employee (e.g. theft, violence or other gross misconduct), without utilizing the progressive disciplinary process.

The employee has the option of appealing the decision through the grievance procedure. See Chapter 11.

CHAPTER 11
EMPLOYEE GRIEVANCE PROCESS

- 11.01 **Purpose.** An employee is entitled to prompt and fair consideration of any real or imagined wrong concerning any aspect of working conditions or relationships. While the Band has a formal grievance procedure, the Band encourages employees to communicate with their supervisors and co-workers to resolve differences. The best and most lasting solutions and resolutions are those created by the people directly involved. In the event that a dispute cannot be resolved informally, an employee may file a formal grievance using the steps listed below.
- 11.02 **Eligibility to Pursue a Grievance.** Any regular status employee is eligible to pursue a grievance. Temporary and probationary employees are not eligible. Wage disputes, performance evaluations, and drug test results are not eligible for consideration through the grievance process.
- 11.03 **Status of Employee Pending Grievance Outcome.** If the employee is grieving an administrative or disciplinary action, that action shall stand unless and until such time as it has been reversed through the grievance process.
- 11.04 **Procedures for Pursuing a Grievance.**

Step 1: Filing with the Human Resources Department.

All grievances must be filed with the Human Resources Department at the Tribal Center. The Human Resources Department will advise employees about the deadlines and the grievance process.

An employee has seven (7) calendar days from the date of the incident giving rise to the dispute to file a grievance with the Human Resources Department. If the grievance is not submitted to the Human Resources Department in time, the employee shall not be allowed to pursue the grievance and the grievance shall be dismissed as untimely.

The grievance must be in writing and it must state the complaint and the remedy sought.

Step 2: Review by the Division Director.

The Human Resources Department shall promptly inform the Division Director of the grievance. The Division Director shall, within seven (7) calendar days of receipt of the written grievance by the Human Resources Department, investigate the matter to determine if any corrective action is required, and issue a written response to the grievant. If a longer time period is needed, it must be agreed upon by all parties. A copy of all documentation is to be forwarded to the Human Resources Department.

Step 3: Appeal to the Executive Director.

If the Division Director's decision is adverse to the employee or is not issued in time, the employee may bring an appeal to the Executive Director. The appeal must be filed with the Human Resources Department at the Tribal Center. The Human Resources Department will advise employees about the appeal process and deadlines.

An employee has seven (7) calendar days from the date that the Division Director's decision was due to file an appeal. If the appeal is not submitted to the Human Resources Department in time, the employee shall not be allowed to continue to pursue the grievance and the appeal shall be dismissed as untimely.

The appeal to the Executive Director must be in writing and it must state the complaint and the remedy sought.

The Human Resources Department shall promptly inform the Executive Director of the appeal. The Executive Director shall, within seven (7) calendar days of receipt of the written appeal by the Human Resources Department, investigate the matter to determine if any corrective action is required and issue a written response to the grievant. If a longer time period is needed, it must be agreed upon by all parties. A copy of all documentation is to be forwarded to the Human Resources Department.

Step 4: Appeal to the Grievance Committee.

If the Executive Director's decision is adverse to the employee or is not issued on time, the employee may appeal to the grievance committee. The appeal must be filed with the Human Resources Department at the Tribal Center. The Human Resources Department will advise employees about the appeal process and deadlines.

An employee has seven (7) calendar days from the date that the Executive Director's decision was due to file an appeal with the Grievance Committee. If the appeal is not submitted to the Grievance Committee in time, the employee shall not be allowed to continue to pursue the grievance and the appeal shall be dismissed as untimely.

The appeal to the Grievance Committee must be in writing and it must state the complaint and the remedy sought.

The Human Resources Department shall promptly identify the Grievance Committee and inform the Grievance Committee of the appeal.

11.05 **Composition of the Grievance Committee.** The Grievance Committee shall consist of three (3) members: the grievance committee chair, who shall be selected from a rotating list of Reservation Business Committee approved grievance committee chairs, and two management-level employees randomly selected by the Human Resources Department. The committee members shall be subject to the following qualifications:

1. A committee member cannot be involved in the dispute;
2. A committee member cannot be an immediate family member of the aggrieved employee;
3. A committee member cannot be employed in the same division as the aggrieved employee (i.e., a Black Bear Casino Resort employee cannot be on the committee of another Black Bear Casino Resort employee);
4. A committee member cannot be employed in the same division as another committee member (i.e., two Black Bear Casino Resort employees cannot be on the same committee);
5. The randomly-selected committee members cannot have been on the previous five grievance committees; and
6. A selected committee member may decline to serve on the committee.

If a selected committee member is disqualified, a new committee member will be selected according to the same procedure.

- 11.06 **Employee Advocate.** An employee may represent himself or herself during the dispute resolution process, or may be represented by an advocate of his or her choice. An advocate may be an employee of the Band or a non-employee. The advocate must meet the following qualifications in order to serve:
1. The advocate cannot be involved in the dispute; and
 2. The advocate cannot be employed in the same division as the aggrieved employee (i.e., a Black Bear Casino Resort employee cannot be on the committee of another Black Bear Casino Resort employee).
- 11.07 **Reprisal.** No retaliation or intimidation directed towards anyone who makes a request for dispute resolution or any person who testifies assists or participates in an investigation, proceeding or hearing relating to the resolution of the dispute will be tolerated.
- 11.08 **Withdrawal or Abandonment of Grievance.** At any point in the grievance process, an employee may withdraw the grievance. Abandonment of a case or noncompliance with required grievance deadlines and policies by the grievant will be grounds for termination of the grievance. The Grievance Committee Chairperson will make such determination and inform all parties.
- 11.09 **Procedures of the Grievance Committee.** The Grievance Committee shall hold its proceedings in the following manner:
1. **Burden of Proof.** The burden of proof in a dispute resolution proceeding is on the employee to provide evidence that the judgment of the supervisor, Division Director and Executive Director on the matter in dispute was clearly erroneous, constituted an abuse of their discretion or was otherwise inconsistent with the policies and procedures of Fond du Lac Band.
 2. **Standard of Inquiry.** The fact-finding and focus of the Grievance Committee shall be with reference to all relevant provisions of this Handbook, and the Committee's conclusions and recommendations shall include citations to relevant policy provisions. The Committee's role is to ensure the policies and procedures are followed consistently. The Committee cannot change company policy, pay rates, benefits, or work rules.
 3. **Absent Committee Members.** If a grievance committee member is unable to attend a scheduled hearing, the other two committee members may select a

replacement and the hearing may be held as scheduled unless the employee objects. If the employee objects to the replacement committee member, a new hearing date with the original committee members will be scheduled.

4. Hearing Procedures. The Grievance Committee Chairperson shall conduct the hearing in the following manner:
 - A. The employee shall (1) state his or her dispute, and (2) provide specific evidence as to how the actions taken have been clearly erroneous, constituted an abuse of their discretion or was otherwise inconsistent with the policies and procedures of the Fond du Lac Band.
 - B. The Division, if participating, shall rebut the employee's evidence by the appropriate references to the record or policy.
 - C. The Grievance Committee shall then ask whatever questions of the parties, which may be directly relevant to the dispute.
 - D. If the Committee believes that materials or policies that are not in the record are relevant to the dispute and necessary to the disposition of the dispute, the Committee may seek such additional materials following the hearing.

4. Decision of the Grievance Committee. Following the hearing, the Grievance Committee shall decide the employee's appeal by majority vote, and the Chairperson shall submit a written decision, along with its findings, conclusions and reasoning to the Fond du Lac Reservation Business Committee or Band Corporate Board of Directors, the employee, the Executive Director, the Division Director, and the Director of Human Resources within ten (10) working days of the hearing. In the event that the Grievance Committee decides in favor of the employee, its decision shall specifically identify how the actions taken in regard to the employee were clearly erroneous or constituted an abuse of discretion, and the decision shall specify the remedial action to be taken.

5. Back Pay. If the Grievance Committee's decision reduces or reverses an employee's discharge or suspension, the Grievance Committee shall recommend that the employee receive back pay, consistent with its decision. If the employee received unemployment benefits while the grievance was

pending, the back pay shall be reduced by the amount of unemployment benefits received.

6. The Fond du Lac Reservation Business Committee or Band Corporate Board of Directors may, within fifteen (15) working days of receiving the Grievance Committee's decision, remand the dispute to the Grievance Committee for further inquiry or consideration, direct the Executive Director on what action to take, or allow the Grievance Committee's decision to stand. If the Reservation Business Committee or Corporate Board does not take any action within fifteen (15) working days, the Grievance Committee's decision shall be final.

11.10 **Transfer of Record.** A complete record of the Grievance Committee proceeding shall be filed within the Human Resources Department.

CHAPTER 12
SAFETY, SECURITY & OFFICE REGULATIONS

- 12.01 **Purpose.** Safety, health and security are a high priority for all employees of the Fond du Lac Band. Procedures and office regulations are necessary for office efficiency, safety and security, and must be observed by all personnel.
- 12.02 **Injuries at Work.** In the event that an employee is injured at work, any necessary medical attention shall be immediately obtained. Following a work injury, the employee must report the injury to the employee's supervisor as soon as practicable (within 24 hours) but in no case later than seven (7) calendar days after the occurrence. The employee's supervisor must fill out a First Report of Injury within 24 hours and forward that to the Division Director, Payroll Services and Human Resources Departments. Claims will be processed through the Payroll Services Department.
- 12.03 **First Aid and Emergency Procedures.** The Fond du Lac Reservation Business Committee or Band Corporate Board of Directors shall designate staff to be responsible for maintaining first aid equipment and supplies. Regulations for handling emergency first aid problems shall be posted with a list of emergency places to call for aid.
- 12.04 **Office Keys to Staff.** A record shall be maintained indicating the date and person to whom the key was allocated.
- 12.05 **After-hours Use of Office.** An employee wishing to use their office after working hours is requested to notify the watch person or security person on duty.
- 12.06 **Confidential Nature of Work and Publications.** Employees shall assume that all material not for immediate distribution is confidential, and shall maintain such material in a secure place to assure that it will not be viewed or released. See also Fond du Lac Data Privacy & Record Management Policy, incorporated as Appendix 3.
- 12.07 **Prohibition of Personal Use of Fond du Lac Band of Lake Superior Chippewa Tax Exempt Status.** The tax-exempt status of the Fond du Lac Band is exclusively reserved to the Reservation Business Committee as the governing body of the Band and the Band's subordinate corporate entities. Misuse of the Band's tax exemption

by an employee for personal reasons is theft. Violations of this section are grounds for discharge, and may also be referred to the appropriate authorities.

- 12.08 **Use of Office Equipment and Copying Machines.** Office equipment and copying machines are to be used for official business only, and not for personal business. Any use of equipment not in the normal course of an individual employee's duties requires the approval of the Division Director. No equipment shall be taken from the office without prior approval.
- 12.09 **Vehicle Use Policies.** All motor vehicles owned by the Fond du Lac Band may be used only in accordance with established procedures. The use of vehicles must be work related. Vehicle drivers must have a valid driver's license on their person when they are operating Band-owned vehicles. Employee safety while operating a vehicle is important; seat belt use and compliance with driving rules and regulations (including posted speed limits) is required. Abuse or misuse of any equipment, including vehicles (speeding while operating the vehicle, etc.), may be grounds for disciplinary action, including discharge. Employees whose job duties involve the operation of commercial motor vehicles (having a passenger capacity of 16 or more or a vehicle weight 26,000 pounds or more) shall be subject to drug and alcohol testing as required under federal law. Requests for use of vans or buses for transportation of individuals to other functions not associated with Fond du Lac activities must be made in writing one week in advance and approved by the Executive Director or the Reservation Business Committee or Band Corporate Board of Directors. Proof of driver's license and current liability insurance is required.
- 12.10 **Use of Heavy Equipment.** Only an employee of the Fond du Lac Band and a qualified equipment operator as determined by the Division Director or Enterprise Manager shall operate all heavy equipment and trucks. No heavy equipment or trucks shall be loaned out to any individual under any circumstances.
- 12.11 **Use of Telephone and Mail Systems.** Employees may be required to reimburse the Fond du Lac Band for any charges resulting from their personal use of the telephone. The use of Fond du Lac Band paid postage for personal correspondence is not permitted. To ensure effective telephone communications, employees should always use the approved greeting and speak in a courteous and professional manner, confirm information received from the caller and hang up only after the caller has done so. Employees who are issued cellular phones are responsible for complying with the Fond du Lac Employee Cellular Phone Policy, incorporated as Appendix 4.

- 12.12 **Smoking.** Employees must comply with the Smoke Free Government Facilities Policy. See Appendix 9. In keeping with the Fond du Lac Band's intent to provide a safe and healthful work environment, smoking in the workplace is prohibited except in those locations that have been specifically designated as smoking areas. In situations where the preferences of smokers and nonsmokers are in direct conflict, the preferences of nonsmokers will prevail.
- 12.13 **Emergency Closings.** At times, emergencies such as severe weather, fires, power failures, etc. can disrupt business. In extreme cases, these circumstances may require the closing of a work facility. In the event that such an emergency occurs during non-working hours, local radio and/or television stations will be asked to broadcast notifications of the closing. When operations are officially closed due to emergency conditions, the time off from scheduled work will be paid. In cases where an emergency closing is not authorized, employees who fail to report for work will not be paid for the time off. Employees may request available paid vacation time. School closings are determined on a case by case basis by the Executive Director in consultation with the Education Division.
- 12.14 **Visitors in the Workplace.** To provide for the safety and security of employees and the facilities at Fond du Lac, only authorized visitors are allowed in the workplace. Restricting unauthorized visitors helps maintain safety standards, protects against theft, ensures security of equipment, protects confidential information, safeguards employee welfare, and avoids potential distractions and disturbances. All visitors should enter the Tribal Center (or other buildings, as applicable) at the reception area. Authorized visitors will receive directions or be escorted to their destination. Employees are responsible for the conduct and safety of their visitors. If an unauthorized individual is observed on Fond du Lac Band premises, employees should immediately notify their supervisor or, if necessary, direct the individual to the reception area.

CHAPTER 13
EFFECTIVE DATE; SEVERABILITY

13.01 Effective Date.


The provisions of this Ordinance shall be effective on the date of adoption by the Reservation Business Committee.

13.02 Severability.

If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #01/23 was duly presented and adopted by Resolution #1040/23 by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on February 8, 2023, on the Fond du Lac Reservation.



Kevin R. Dupuis, Sr.
Chairman



Robert Abramowski
Secretary/Treasurer

APPENDICES

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

EMPLOYEE TRAVEL POLICY

This Policy Applies to Travel by any Employee or Official of the Fond du Lac Band or any Subdivision or Enterprise of the Band.

1. **PERMISSIBLE TRAVEL PURPOSES.** An employee may be permitted to travel for purposes which (1) are required as part of the employee's job; (2) are assigned by the Division Director; or (3) are directly related to the improvement of the performance designed for the maintenance of professional credentials or the improvement of job skills. The Division Director is responsible for assuring that an employee's travel is for legitimate business purposes. The traveler is responsible for obtaining approval for travel. This includes completing the **Request for Travel Advance** form completely and accurately. The traveler should recognize that attending training/conferences is a privilege and it is the traveler's responsibility to maximize the travel dollars spent by finding the most economical ways to spend either program or enterprise funds.
2. **PRIOR AUTHORIZATION.** Prior authorization of in-state and out-of-state travel is required in order to assure that the travel is for a permissible purpose and that the travel expenses are reasonable and are in an approved budget. Local travel, which consists of travel less than 100 miles and no more than 12 hours, does not require prior authorization.
 - a. **Local Travel and In-State Travel.** The Division Director is responsible for approving all the local and in-state travel, and for assuring that all travel by employees within that Division is reasonable and efficient. Excessive local travel between Fond du Lac work sites will not be compensated and may be subject to disciplinary action.
 - b. **Out-of-State Travel.** All out-of-state travel must be approved by both the Division Director and the Executive Director prior to making travel arrangements or taking the trip. Any travel arranged or taken without prior authorization by the Executive Director must be paid by the employee, and both the Division Director and the employee may be subject to disciplinary action.
 - c. **Travel Request Forms.** All travel request forms must be approved by the Division Director prior to travel. Out-of-state travel must be approved by the Executive Director prior to the travel date. It is the traveler's responsibility to ensure the travel has been approved.

- d. **Travel Advances.** An employee may receive an advance for approved travel based upon a documented estimate of travel expenses. A travel justification form must be completed and attached to the request showing the need for travel and the benefit to the reservation. The conference or training agenda should be attached to the requested advance, as well as hotel information. No travel advance will be issued if an employee has outstanding travel and expense reports for travel taken more than 10 days earlier. Travel advance request forms should be completely and accurately completed by the traveler and submitted to the proper accounting office 2 weeks prior to travel in order to meet check run deadlines for the week the check is needed. If the advance is not received within that time, the check will not be processed and your travel will be reimbursed upon your return. If an employee receives a travel advance and does not take the trip as scheduled, the employee must immediately repay the advance to the Accounting Department.
 - e. **Credit Card Use.** Employees have the option to use a Band credit card or a personal credit card for expenses. An employee may use a Band credit card for local travel (i.e., parking expenses) or for approved in-state or out-of-state travel. If an employee uses a personal credit card for travel, any credit card miles or rewards will accrue to the traveler, not the Band. Regardless of whether a Band or personal credit card is used, an original, itemized receipt must be turned in with the expense report.
3. **TRAVEL ARRANGEMENTS AND REIMBURSEMENT.** After travel has been approved, the employee is responsible for making travel arrangements, including any airline, hotel, or conference reservations. Reimbursement may be claimed by an employee for per diem, authorized transportation by personal vehicles, actual airline, bus or railroad costs, actual hotel costs, actual conference costs, and incidental travel expenses. The reimbursement amount will be based on the original, itemized receipts provided.
- a. **Air Travel.** The following rules apply to air travel:
 - i. Air travel should be at coach class or the lowest commercial discount fare at the time the ticket is purchased except when this fare would:
 - 1. Require circuitous routing;
 - 2. Require travel during unreasonable hours;
 - 3. Excessively prolong travel;

4. Result in additional costs that would offset the transportation savings; or
 5. Offer accommodations not reasonably adequate for the traveler's medical needs.
- ii. First class air travel shall not be reimbursed unless there is a medical reason which must be documented by Human Resources and approved by a supervisor. Cost of upgrade certificates is not reimbursable, unless first class air travel is reimbursable. Except as authorized by this paragraph, upgrades shall be made only when offered free of charge.
 - iii. Fully-refundable fares, if not already reimbursable under sections 3.a.i or 3.a.ii, are reimbursable if the purchase is approved by the Executive Director and no grant funds are used for the purchase.
 - iv. Memberships in airline flight clubs are not reimbursable.
 - v. Cost of flight insurance is not reimbursable, unless approved by the Executive Director.
 - vi. The cost of baggage fees required by airlines to either check or carry-on luggage is allowable and reimbursable. Reimbursement for more than one piece of checked luggage will be based upon the length of stay.
 - vii. Cost of canceling and rebooking flights is not reimbursable, unless it can be documented that it was necessary or required for legitimate business reasons (such as changed meeting dates, etc.).
 - viii. Travelers must identify and pay for all personal flights, even if such flights are incorporated into a flight schedule that serves business purposes (i.e., the Band will not reimburse for the personal legs of a trip).
 - ix. Frequent flyer miles will accrue to the traveler, not the Band.
 - x. Employees are encouraged to make reservations online to save on travel costs.

- xi. Airlines occasionally offer free tickets to compensate travelers for delays due to mechanical problems, flight cancellations, changes of equipment, etc. If an employee receives an airline credit voucher in these circumstances, the employee can keep it for personal use. However, if a flight is overbooked and the airline asks for volunteers to give up their seats for compensation, the employee can do so only if it will not interrupt the employee's normal work schedule, hinder job performance, or delay the purpose of the trip. Any additional expenses (lodging, Per Diem, etc) resulting from such actions are not reimbursable.
 - xii. Retrieving and compensation for lost baggage is the responsibility of the airlines. Therefore, the Fond du Lac Band will not reimburse an employee for personal items lost while traveling.
- b. **Ground Travel.** If driving is more cost effective than flying, the employee has the option of using either a company or personal vehicle. If a company vehicle is not available and the use of rental car is more cost effective than the use of a personal vehicle (i.e., the rental fee and the cost of fuel is less than the reimbursable mileage), the employee has the option of renting a car to travel to the destination.

Vehicles may be rented at the destination if the cost of the rental is less expensive than taxis and airport/hotel shuttles. Vehicle rental at the destination must be approved by the Executive Director prior to traveling. Under the Band's insurance policy, all licensed drivers on travel are insured while on Fond du Lac business; therefore no supplemental insurance is necessary. Only standard or mid-size vehicles may be rented.

- c. **Hotel.** Hotel expenses are eligible for reimbursement if an employee has traveled at least 100 miles from the Fond du Lac Reservation. Any exceptions to this must be approved by the Executive Director based on length of stay and purpose of travel prior to traveling.

Hotel reservations should be made at the location the conference or training session is being held. If this is not possible, the nearest hotel within walking distance should be used. Hotel expenses will be reimbursed for the actual cost, regardless of whether the expenses exceed GSA hotel rates. If, however, an employee voluntarily chooses to stay at any other hotel when the host hotel is available, the reimbursement for that other hotel will be no more than the actual cost of staying at the host hotel.

Employees should book their rooms using governmental rates. Government ID's are available by contacting the Employee Compliance Department.

Hotel expenses are reimbursable for stays beginning the day prior to the training or conference and ending the day after the training or conference, except as authorized by section 3.g.

If offered, an employee may accept room upgrades, if the upgrade is offered at no additional cost to the Fond du Lac Band. Only the cost of stays in a standard room will be reimbursed, unless a standard room is unavailable and the Executive Director has approved a non-standard room prior to departure.

It is the employee's responsibility to cancel hotel rooms if travel needs change. If the employee fails to cancel a hotel room and a no-show charge results, the employee may be held responsible for the expense.

Mandatory resort fees are reimbursable. In-room services and meals charged to the employee's room are not reimbursable.

- d. **Mileage.** Mileage is payable for travel in which an employee uses a personal vehicle for official duties (i.e., travel to the destination and travel necessary to attend a training). Employees traveling to the same destination are encouraged to car pool whenever possible. The mileage rate is the standard federal rate in effect at the time of travel, as published by the IRS. Mileage can be documented using an online map print out which calculates the distance and/or odometer readings from the trip.

If an employee is traveling to or from home, reimbursement for mileage is limited to the shorter of the trip from home or from the employee's primary work site.

If air travel is an option, but the employee chooses to drive, the amount of mileage that will be paid is limited to the lowest cost for flying, which includes the airline ticket, parking, baggage fees, and mileage to the airport. The employee must substantiate this cost by submitting a cost estimate dated at least two weeks prior to the date of departure. If a round trip is going to be more than 1000 miles, the employee must provide a quote for flying to the destination before claiming mileage. If an employee is traveling

by air and chooses not to park his/her personal vehicle at the airport, mileage is reimbursable up to the amount of one round trip plus the cost of parking. Therefore, if two round trips are made to the airport to drop off and pick up the traveler, the lesser of the two costs will be reimbursed.

- e. **Public Transportation.** Public transportation (airline, bus, rail) for approved travel will be reimbursed at actual cost upon submission of an original, itemized receipt or ticket. Tickets purchased for traveling companions or family members shall not be direct billed to the Fond du Lac Band, but shall be paid for by the traveler or companion. The Fond du Lac Band will not pay any vendor for tickets issued to anyone other than the employee.
- f. **Per Diem.** Per diem is the amount of money that is allowed an employee for meals and miscellaneous expenses such as tips while traveling. An employee must be traveling for more than 12 hours **AND at least 100 miles round trip** before per diem will be paid. (See gsa.gov website for amounts).

When compensation for transportation is limited to the cost of a flight and the employee elects to travel by an alternative, or the employee adds a personal stopover, and the choice extends the time of the travel beyond what is necessitated for business purposes, the employee's Per Diem will be limited to the amount allowed if a flight was taken, and there was no personal stop.

The per diem rates are based on standard federal GSA rates for defined locations and are available at www.gsa.gov. It is based on the amount of time that the employee is traveling and the destination to which the employee is going.

The per diem rate is calculated using $\frac{3}{4}$ on the first and last day of travel, and four (4) quarters per day on any additional days. For calculating quarters, we use the M&IE Rate-Meals & Incidental Expenses.

To cover meal expenses on travel days, per diem is allowed up to one day prior to and one day after the training/conference attended. If an employee chooses to extend his/her trip beyond these parameters, per diem will not be allowed, except as authorized by section 3.g., and the employee must use annual leave for any additional time. This includes when an employee chooses to drive, rather than fly, to the business destination.

- g. **Business Travel with a Personal Extension or Stopover.** If a weekend stay over at the employee's business destination will result in a lower airfare and overall savings (with per diem, hotel, and other costs taken into consideration), it will be allowed. A weekend stay over is the decision of the traveler, but also must be approved by the Executive Director.

If an employee wishes to extend the business trip for personal reasons and the extension will not result in overall savings, no reimbursement will be paid by the Fond du Lac Band for travel expenses incurred as a result of the employee's personal extension.

If an employee wishes to add a personal stopover to a business trip, no reimbursement will be paid by the Fond du Lac Band for travel expenses incurred while at the employee's personal destination.

- h. **Spouse/Partner/Child/Guest Travel.** The Band does not reimburse any employee for separate travel costs (air fare, etc.) associated with his or her spouse, partner, child, or other guest. The cost of the shared hotel room need not be allocated between the employee and guest for purposes of this policy.
- i. **Other Expenses.** An employee may claim reimbursement for the actual cost of other expenses incurred in travel, such as taxi fare (to/from airport, and to/from hotel to conference site if applicable), tolls and parking, or baggage fees, upon submission of original, itemized receipts. Reimbursement for more than one piece of luggage will be based upon length of stay. No reimbursement will be paid for any traveling companion.

Personal phone calls will be reimbursed up to 15 minutes per day. Employees with Band-issued cell phones should use these phones for personal calls while on travel if possible, but are still limited to 15 minutes per day.

If it is necessary for the employee to call the office to check in or to listen to voice mail, the employee should use the Band's 800 number in order to minimize travel expenses. Any business-related phone calls that fall outside this allotment must be substantiated to the Division Director or Executive Director before being reimbursed.

In-flight internet is reimbursable, if it is used for work-related activity.

Tips for taxi service, baggage, and similar expenses will be reimbursed only with an original, itemized receipt.

Over weight limit fees on baggage may be reimbursed, based on length of stay and only if traveler has one piece of luggage.

j. **Non-Reimbursable Expenses.** Reimbursement for travel expenses must be authorized by this policy. The following are examples of miscellaneous expenses which are not reimbursable:

- i. Hotel laundry/dry cleaning services;
- ii. Room service charges;
- iii. Lost luggage, including suitcase, clothing and other personal items;
- iv. Mini-bar alcoholic refreshments;
- v. Over the counter medications;
- vi. Parking or traffic tickets;
- vii. Shoeshines;
- viii. Toiletries (toothbrush, toothpaste, etc.);
- ix. Health club facilities, saunas, etc.;
- x. Expenses for travel companions/family members;
- xi. Baby-sitting;
- xii. Optional travel, baggage or vehicle insurance;
- xiii. Cell phone rental or personal cell phone charges;
- xiv. Use of an air phone;
- xv. Entertainment, including hotel pay-per-view movies; and
- xvi. Taxi service for personal use.

NOTE: This is not an all-inclusive list. These are examples.

4. **USE OF VEHICLES.** Employees using personal vehicles for authorized travel are responsible for maintaining a valid driver's license, vehicle insurance as required by applicable law, vehicle maintenance, traffic fines and any other vehicle related expenses which arise in the course of the trip. Employees using Band vehicles for travel shall be subject to the Fond du Lac Vehicle Use Policy.
5. **ATTENDANCE AT TRAVEL FUNCTIONS.** An employee who is on approved travel is responsible for attending the event or function for which travel is approved.

6. **CONDUCT WHILE TRAVELING.** An employee on approved travel must conduct himself or herself in a manner which reflects positively upon the Fond du Lac Band at all times during the course of travel, regardless of whether the conduct at issue occurs during regularly scheduled work hours.
7. **EXPENSE AND TRAVEL ACTIVITY REPORTS.** Within 10 days of returning from travel, an employee must file both an expense report and travel activity report. Requiring travel activity reports is at the discretion of the Division Director.
 - a. **Expense Report.** The expense report must be dated and signed by the employee and must include original, itemized receipts for all expenses sought to be reimbursed. The expense report must be filed with the Accounting Department within 10 days of returning from travel. In order to receive a timely reimbursement, the expense report must be completely and accurately filled out by the traveler with original, itemized receipts attached.

Once the expense report is tabulated, if the employee owes a portion of the advance back to Fond du Lac, the entire amount due must be received by Accounting within the 10-day period, or a **ONE-TIME** payroll deduction shall be set up. A copy of the payroll deduction should be attached to the expense report when it is submitted to Accounting. If the employee fails to pay or set up a payroll deduction, then Accounting will complete the payroll deduction form for the entire amount. If an employee fails to submit an expense report, a payroll deduction for the entire amount of the travel advance will be taken.

Documentation required to be attached to the Expense Report:

Air Travel: receipt

Ground Travel: rental car agreement or odometer readings

Hotel: detailed receipt and/or folio

Miscellaneous: original parking receipts, taxi receipts, shuttle receipts – all must reflect dollar amount paid, including tips.

- b. **Travel Activity Report.** The traveler must write a narrative description of the event or function which the employee has attended, and a detailed explanation of the value or significance of the event or function to the Fond du Lac Band if their Division Director requires it. It is up to the employee to find out if this applies to them. This narrative report should be attached

to the expense report along with a copy of any certificate earned. The travel activity report must be filed with the expense report and appropriate signatures and submitted to Accounting within 10 days of returning from travel. Travel reports not filed within 10 days of returning from travel will be a **ONE-TIME payroll deduction** from the traveler's next paycheck. If funds are owed back to the program, it is the employee's responsibility to reimburse along with the expense report. If no funds are returned, a ONE-TIME payroll deduction will be processed for the funds owed.

8. **WAGES DURING TRAVEL.** While on travel, employees shall be paid at their normal rate of pay. In general, employees shall not receive overtime or compensatory pay for travel. If travel occurs outside of your normal working day, the supervisor will work with the employee to use that time as a Flex day during the same pay period.
9. **PERSONAL USE OF GOVERNMENT EMPLOYEE TRAVEL RATES.** Some hotels, airlines, and car rental companies offer government employee rates that are available regardless of whether the employee is on official travel. The use of these rates for personal travel is permissible, provided that the favorable rate or discount is available to the public or to all government employees, regardless of rank, agency, or position. Employees may not falsely claim to be on official travel or make personal use of rates that are only available for official travel.
10. **VIOLATIONS OF POLICY.** Violations of this Policy shall constitute employee misconduct and shall be subject to disciplinary action in accordance with the personnel policies.

Approved by the Fond du Lac Reservation Business Committee pursuant to Resolution #1144/05 on May 17, 2005.

Amended by the Fond du Lac Reservation Business Committee pursuant to Resolution #1295/06 on October 31, 2006.

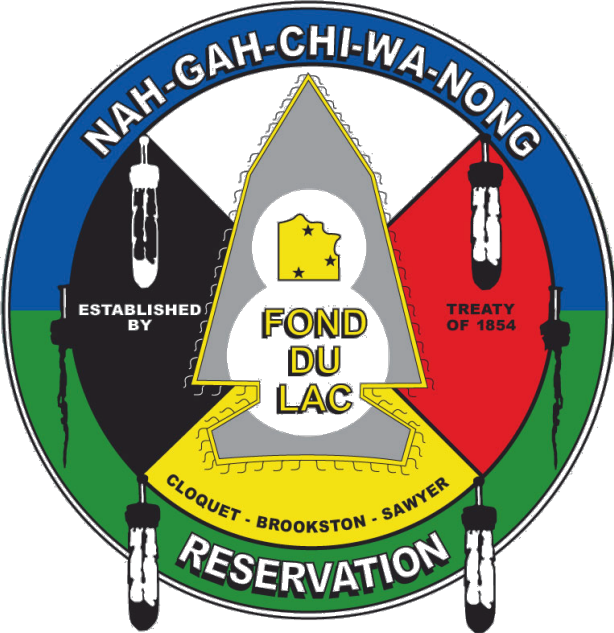
Amended by the Fond du Lac Reservation Business Committee pursuant to Resolution #1417/10 on November 23, 2010.

Amended by the Fond du Lac Reservation Business Committee pursuant to Resolution #1103/18 on April 24, 2018.

Amended by the Fond du Lac Reservation Business Committee pursuant to Resolution #1196/23 on June 28, 2023.

Fond du Lac Band of Lake Superior Chippewa

Family Medical Leave Policy



**FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA
FAMILY MEDICAL LEAVE POLICY**

PURPOSE: The purpose of the Fond du Lac Family Medical Leave (FDL-FML) Policy is to provide a safety net for the employees of the Fond du Lac Band by establishing standardized guidelines for a leave of absence based on employee and family-related medical necessity. The FDL-FML Policy applies in circumstances where a serious medical condition affecting employees or their immediate family lasts for more than a few days. Minor illnesses are addressed by the sick leave policy or paid leave policy for employees.

The Fond du Lac Family Medical Leave Policy is adopted pursuant to the inherent sovereign authority of the Fond du Lac Band of Lake Superior Chippewa, as retained under the Treaty of LaPointe, 10 Stat, 1109, and as recognized under the Indian Reorganized Act, 25 U.S.C. § 476, and is intended to be interpreted and applied consistently with both federal Family Medical Leave Act, 28 U.S.C. § 2601 et seq., and with the laws and policies of the Fond du Lac Band.

I. DEFINITIONS

- a. Continuing Treatment means a serious health condition involving continuing treatment by a health care provider including any one or more of the following:
 - 1. A period of incapacity (i.e., inability to work or attend school or perform other regular daily activities due to serious health conditions, treatment therefore or recovery there from) of more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition that also involves:
 - i. Treatment two or more times by a health care provider; or
 - ii. Treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under the supervision of a health care provider;
 - 2. Any period of incapacity due to pregnancy or for prenatal care;
 - 3. Any period of incapacity or treatment for incapacity due to a chronic serious health condition. A chronic serious health condition is on which:
 - i. Requires periodic visits for treatment by a health care provider or by a nurse or physician's assistant under the direction of a health care professional; or

- ii. Continues over an extended period of time including recurring episode; or
 - iii. May cause episodic rather than continuing period of incapacity.
 - 4. A period of incapacity, which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by a health care professional; or
 - 5. Any period of absence to receive multiple treatment (including a period of recovery from treatments) by a health care provider or by a health care services under orders of, or on referral by a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity for more than three consecutive calendar days in the absence of medical intervention.
- b. Eligible Employee means a current employee who
- 1. Within the past seven years, has worked for the Fond du Lac Band for twelve months; and
 - 2. During the previous twelve months prior to the date of the event has worked more than 1,250 hours (excluding holiday, vacation, PTO, and sick leave).
- c. Employee means an employee for the Fond du Lac Band, including an employee of any program, enterprise, construction or other subdivision of the band.
- d. Employer means the Fond du Lac Band of Lake Superior of Chippewa. For the purpose of the administering this policy. “Employer” shall mean the Division Director with supervisory responsibility over the employee utilizing FDL-FML under this policy.
- e. Health Care Provider means doctor of medicine or osteopathy authorized to practice medicine or surgery under applicable law in the jurisdiction in which the doctor practices;
- 1. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice under applicable law in the jurisdiction in which the doctor practices and performing within the scope of their practice under applicable law;

2. Nurse practitioners, nurse-midwives, and clinical social workers authorized to practice under applicable law in the jurisdiction in which the scope of their practice as defined under applicable law;
 3. Any health care provider listed above who practices in a country other than the United States and who is authorized to practice under the laws of that country.
- f. Group Health means any plan of, or contributed to by, an employer (including self-insured plan) to provide health care (directly or otherwise) to the employer's employee, or families of such employee.
 - g. Incapable of Self Care means the individual requires active assistance or supervision to provide daily self-care in the activity of daily living.
 - h. Incapacity means the inability of an eligible employee or eligible family member to perform the duties required in a job or to attend school.
 - i. Intermittent Leave means leave taken in separate periods of time due to a single illness or injury, rather than one continuous period of time. May include leave for periods of an hour or more over several weeks.
 - j. Parent means a biological, adopted, foster parent, stepparent, legal ward, or a person standing in as a parent of a child.
 - k. Physical or Mental Disability means physical or mental impairment the substantially limits one or more of the major life activities of an individual.
 - l. Reduced Leave Schedule means a leave schedule that reduces the usual number of hours per workweek, or hours per workday of an employee.
 - m. Serious Health Condition means an illness, injury impairment, or physical or mental condition that involves:
 1. Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity, or any subsequent treatment in connection with such inpatient care; or
 2. Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes:
 - i. A period of incapacity of more than three consecutive calendar days, including subsequent treatment or period of incapacity relating to the same condition, that also involves:

- a) Treatment two or more times by a health care provider, by a nurse or a physician's assistant under the direct supervision of a health care provider or by a provider of health care services; or
 - b) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of a health care provider;
- 3. A period of incapacity due to pregnancy and or prenatal care;
- 4. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - i. Requires periodic visits from treatment by a health care provider, or by a nurse or physician's assistant under the direction of a health care provider;
 - ii. Continues over an extended period of time; and
 - iii. May cause episodic rather than continuing period of incapacity.
- 5. A period of incapacity, which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider;
- 6. Any period of absence to receive multiple treatments (including a period of recovery from treatments) by a health care provider or by a health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity for more than three consecutive calendar days in the absence of medical intervention.

Treatment for the purpose of this definition includes examination to determine if a serious health condition exists and evaluation of the condition. Treatment does not include routine physical examination, eye examinations, or dental examinations. Under paragraph 2(i) of this definition, a regimen of continuing treatment includes, for example, a course of prescribed medication (e.g. an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of continuing treatment that includes the taking of over the counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not by itself, sufficient to constitute a regime of continuing treatment for the purpose of the FDL-FML Policy;

Conditions for which cosmetic treatment are administered (such as treatments for acne or plastic surgery) are not “serious health conditions” unless inpatient hospital care is required or unless complications develop. Unless complications arise, the common cold, the flu, ear aches, upset stomach, ulcers, headaches, other than migraine, routine dental or orthodontia problems, periodontal disease, etc. are examples of conditions that do not meet the definition of a serious health condition and do not qualify for leave under the FDL-FML Policy. Restorative dental or plastic surgery after an injury or removal of cancerous growth is a serious health condition providing that all the other conditions of the program are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of the section are met; or

7. Substance abuse may be a serious health condition. An individual wishing to use leave under the FDL-FML Policy to complete treatment must meet the qualifications of the policy. Leave under the FDL-FML Policy may only be taken on referral by a health care provider for in-patient treatment of substance abuse at a health care services facility. An employee may not self refer into a substance abuse program. Absence due to an employee’s substance abuse does not qualify for leave under the FDL-FML Policy.
- n. Son or Daughter means a biological, adopted, foster child, stepchild, legal ward, or a child of a person standing in as a parent. A child is under the age of 18. A child over the age of 18 who is incapable of self-care because of medical or physical disability.
- o. Spouse means a husband or wife as defined or recognized by state or tribal law, or a documented domestic partnership of at least five years.
- p. Year means the period of time beginning on an employee’s first day of work and ending twelve months from that date.

II. LEAVE REQUIREMENTS

a. Employee Eligibility

In order to qualify for leave under the FDL-FML Policy, an employee must:

1. Be a current employee who, within the past seven years, has worked for the Fond du Lac Band for twelve months;
2. Have actually worked at least 1,250 hours (excluding holiday, vacation, PTO, and sick leave) during the previous 12 months prior to the date of the event; and

3. Submit a fully completed application within 15 days following the event.

b. Leave Entitlement

The eligible employee will be granted up to a total of 12 workweeks of unpaid leave in a rolling 12-month period for one or more of the following reasons:

1. For the birth of a son or daughter, and to care for the newborn child. Leave to care for a newborn child or a newly placed child must conclude within 12 months after the birth or placement;
2. For the placement with the employee of a child for adoption or foster care, and care for the newly placed child;
3. To care for an immediate family member (spouse, child, or parent – but not “parent-in-law”) with a serious health condition; or
4. When an employee is unable to work because of a serious health condition.

Spouses who both work for the Band are limited to a combined total of 12 workweeks during a 12 month period for the birth of a child or to care for a child after birth, placement for adoption or foster care, or to care for an immediate family member with a serious health condition.

c. Intermittent/Reduced Schedule Leave

The FDL-FML Policy permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances:

1. Intermittent/reduced schedule leave may be taken when medically necessary to care for a serious ill family member, or because of the employee’s serious health condition.
 2. Intermittent/reduced leave may be taken to care for a newborn or newly adopted or foster care child only with the employer’s approval.
- d. Only the amount of leave actually taken while on intermittent/reduced schedule leave may be charged to FDL-FML. Employees may not be required to take more leave than necessary to address the circumstances that caused the need for the leave. Leave must be taken in increments of one hour or more. Leave time will not be given for less than one hour.

e. Employee notice requirements

When requesting leave for FDL-FML the employee must specifically reference the qualifying reason or state “FML” leave otherwise it will not be counted as FDL-FML.

- f. Employees needing intermittent/reduced schedule leave for foreseeable medical treatment must work with their employers to schedule the leave so as not to unduly disrupt the employer’s operation, subject to approval of the employee’s health care provider. In such cases the employer may transfer the employee temporarily to an alternative job with equivalent pay and benefits to accommodate recurring periods of leave better than the employee’s regular job.

g. Accrued Leave Time

1. Employees who have accrued paid leave, vacation and/or sick leave will not be required to use the time while they are on leave under the FDL-FML Policy; unless on disability. Employees using paid leave, sick time and/or vacation time will receive the same benefits that any employee paid leave sick time, and/or vacation time would be given. This includes any deduction from pay to cover the cost of individual or family medical insurance premiums. Employees applying accrued paid leave towards FDL-FML leave under this Policy shall be entitled to use up to twelve (12) weeks of unpaid leave in addition to the use of such accrued leave.
2. Employees who do not have accrued leave or sick time may take unpaid leave under the FDL-FML Policy. During the time of these employees will not receive addition benefits. This includes tips. Individuals who are taking unpaid leave under the FDL-FML Policy who have opted for family medical insurance coverage will be responsible for the cost of all employee-paid premiums during the time they are away from work.
3. Employees who have short-term disability will be required to use the short-term disability concurrently with leave under the FDL-FML Policy.
4. Leave used under any workers compensation policy will be counted simultaneously with leave under the FDL-FML Policy. Benefits will term after 12 weeks of FDL-FML Leave.

III. CERTIFICATION

Except in the case of the birth of a son or daughter, and to care for the newborn child, or for the placement with the employee of a child for adoption or foster care, and care for the newly placed child, leave under the FDL-FML Policy will only be allowed for a serious health condition of the employee or the employee’s immediate family. The condition of the

employee be supported by certification issued by a health care provider. The employee must provide the employer with the certification within 15 calendar days of the start of the leave.

IV. MAINTENANCE OF BENEFITS

- a. An employee meeting the qualification for the FDL-FML Policy will retain his/her health care coverage for the 12 weeks on the same level as it was if the employee continued to work.
 1. An employee taking unpaid leave under the FDL-FML Policy and who is paying any premiums for medical coverage under the Fond du Lac Employee Medical Benefit Plan must make arrangement to pay the health insurance premiums for coverage. Such payments may be in any arrangement voluntarily agreed to by the employer and the employee.
 2. If an employee fails to make arrangements to pay the coverage premiums under the Fond du Lac Employee Medical Benefit Plan while on leave, the coverage portion of the employee's insurance will end and the employee will have to meet the standard insurance requirements to regain his/her insurance status. The employer is not responsible for making coverage payments if the employee fails to make arrangement.
 3. If the employee fails to return to work at the end of the leave period, the employers obligation for individual and/or family coverage under the Fond du Lac Employee Medical Benefit Plan ends.
 4. The employee will be responsible for the cost to maintain medical coverage at the current COBRA rates after 12 weeks of continuous FDL-FML Leave or denial of FDL-FML.
- b. Employees who take leave time while under the FDL-FML Policy will receive tips. Employees who take unpaid leave under the FDL-FML Policy will not receive tips.
- c. Accrued Leave Employees who take accrued leave while on leave under the FDL-FML Policy will continue to accrue leave and or sick time at the same rate they would if they were taking any other paid leave time. Employees who take unpaid leave under the FDL-FML Policy will not accrue leave and or sick time while they are on leave under the FDL-FML Policy.
- d. Job Restoration upon returning from the period of 12 weeks leave under the FDL-FML Policy, and employee must be restored to his/her original job, or to an "equivalent" job, which is identical to the original job in terms of pay, benefits, and shift.

V. NOTICE

a. Employee Notice

It is the Employer's responsibility to determine whether a leave of absence constitutes FDL-FML under this policy.

Eligible employees seeking to use leave under the FDL-FML Policy are required to provide:

1. Thirty days advance notice of the need to take leave under the FDL-FML Policy when the need is foreseeable.
2. Notice "as soon as practicable" when they need to take leave under the FDL-FML Policy and the need is unforeseeable. Verbal notice must be given to the supervisor within two business days of learning the need to take leave under the FDL-FML Policy.
3. Sufficient information for the supervisor to understand that the employee needs to qualify for the FDL-FML Policy under what criteria they qualify (i.e. birth, illness, etc.).
4. If the employer was not made aware of that the employee was absent for FDL-FML reasons, and the employee wants the leave to count toward FDL-FML, the employee has two business days to inform in writing the Supervisor, Division Director, FML Specialist that the leave was taken for a FDL-FML qualifying reason.
5. Medical Certificate
 - i. Certification/recertification forms must be "complete" (not missing one or more applicable entries) and sufficient (not vague, ambiguous, or nonresponsive).
 - ii. If the certification/recertification is returned but is incomplete or nonresponsive, the FML Specialist must use the Designation Form or provide written notice of what specific information is still required.
 - iii. If medical certification/recertification is complete and sufficient, the FML specialist may contact the employee's health care provider to authenticate the form or to clarify information in the form.

- iv. Authentication means verification that the information was provided or authorized by the employee's health care provider.
- v. Clarification means understanding the handwriting or the meaning of something written but not asking for more information beyond that required form.

b. Employer Notices

The Fond du Lac Band as an employer is responsible for giving its employee's adequate notice and information on the FDL-FML Policy. This will include information given to the employees at the "new employee orientation," and notice to current employees through additions to the handbooks and departmental meeting.

VI. MILITARY FAMILY LEAVE ENTITLEMENTS

a. Military Caregiver Leave

An eligible employee who is a spouse, son, daughter, parent, or next of kin of a covered servicemember with a serious injury or illness is qualified for up to a total of **26 workweeks** of **unpaid** leave during a single 12-month period to care for the servicemember. A "covered servicemember" is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. A "serious injury or illness" is one that was incurred by a servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating. The "single 12-month period" for leave to care for a covered servicemember with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later. An eligible employee is limited to a **combined** total of 26 workweeks of leave for any FML-qualifying reason during the "single 12-month period." (Only 12 of the 26 weeks total may be for a FMLA-qualifying reason other than to care for a covered servicemember.)

b. Qualifying Exigency Leave

An eligible employee is qualified for up to a total of **12 workweeks** of **unpaid** leave during the a 12-month period for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. Qualifying exigency leave is available to a family member of a military member in the National Guard or Reserves; it does not extend to family members of military members in the Regular Armed Forces.

c. Qualifying exigencies include:

1. Issue arising from a covered military member's short notice deployment (i.e., deployment on seven or less days of notice) for a period of **seven** days from the date of notification;
2. Military events and related activities, such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member;
3. Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;
4. Making or updating financial and legal arrangements to address a covered military member's absence;
5. Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;
6. Taking up to **five** days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment; and
7. Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member.

Spouses employed by the same employer are limited to a **combined** total of 26 workweeks in a "single 12-month period" if the leave is to care for a covered servicemember with a serious injury or illness, and for the birth and care of a newborn child, for placement of a child for adoption or foster care, or to care for a parent who has a serious health condition.

FDL-FML leave may be taken intermittently whenever **medically necessary** to care for a covered servicemember with a serious injury or

illness. FDL-FML leave also may be taken intermittently for a qualifying exigency arising out of the active duty status or call to active duty of a covered military member. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operation.

d. Notice Requirements

1. Employee Notice

Employees seeking to use military caregiver leave must provide 30 days advance notice of the need to take FDL-FML leave for planned medical treatment for a serious injury or illness of a covered servicemember. If leave is foreseeable but 30 days advance notice is not practicable, the employee must provide notice as soon as practicable – generally, either the same or next business day. An employee must provide notice of the need for foreseeable leave due to a qualifying exigency as soon as practicable. When the need for military family leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. Generally, it should be practicable to provide notice for unforeseeable leave within the time prescribed by the employer's usual and customary notice requirements.

The employee must provide "sufficient information" to make the employer aware of the need for FDL-FML leave and the anticipated timing and duration of the leave. Depending on the situation, such information may include, as applicable:

- i. that the requested leave is for a particular qualifying exigency related to the active duty or call to active duty status of a covered military member and the anticipated duration of the leave;
- ii. that the leave is for a qualifying family member who is a covered servicemember with a serious injury or illness and the anticipated duration of the leave.

When an employee seeks leave due to a qualifying reason for which the employer has previously provided the employee FDL-FML leave, the employee **must** specifically reference either the qualifying reason for leave or the need for FDL-FML leave.

2. Employer Notice

The Fond du Lac Band as an employer is responsible for giving its employee's adequate notice and information on the FDL-FML Policy, including information about military family leave entitlements. This will

include information given to the employees at the “new employee orientation,” and notice to current employees through additions to the handbooks and departmental meeting.

e. Certification Requirements

An employee’s request for military family leave must be supported by an appropriate certification.

1. Leave for a qualifying exigency must be supported by a copy of the covered military member’s active duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party.
2. Leave to care for a covered servicemember with a serious injury or illness must be supported by a certification completed by an authorized health care provider **or** by a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered servicemember’s family.

The FML Specialist may authenticate or clarify a medical certification of a serious injury or illness, or an ITO or ITA. Additionally, the FML Specialist may contact the individual or entity named in a certification of leave for a qualifying exigency for purposes of verifying the existence and nature of the meeting.

VII. ENFORCEMENT

- a. Any employee of the Fond du Lac Band who has been adversely affected by a violation of this policy may bring his/her complaint to the Executive Director.
- b. Any complaint brought under this policy shall contain:
 1. The name and address of the complaint;
 2. The name of the supervisor and the division in which the employee is employed;
 3. The section of the policy that was allegedly violated;
 4. A description of the events and facts that support the complainant’s claim;
and
 5. A request for remedies.
- c. After reviewing the complaint, the Executive Director will bring the complaint before the Fond du Lac Reservation Business Committee in executive session.

- d. If the Reservation Business Committee finds that there has been a violation of the policy, the RBC may order the following remedies:
 - 1. That the supervisor must cease and desist from engaging in a violation of this policy;
 - 2. Back pay; and/or
 - 3. Any other relief that the RBC deems reasonably necessary to remedy the violation of the policy.
- e. No interest will be paid on back wages.
- f. Any complaint must be brought forward within one year of the alleged violation of this policy.

Approved and adopted by the Fond du Lac Reservation Business Committee pursuant to Resolution #1120/05 on April 19, 2005; amended by Resolution #2124/07 on July 24, 2007; Resolution #1380/09 on August 27, 2009; Resolution #1446/09 on November 10, 2009; Resolution #1137/12 on May 2, 2012; and Resolution #1054/15 on March 4, 2015.

**FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA
DATA PRIVACY & RECORD MANAGEMENT POLICY**

1. **PURPOSE.** The purpose of this Policy is to establish definitive standards governing the retention of all records which are compiled or maintained by the Fond du Lac Band of Lake Superior Chippewa. The requirements of this Policy shall be interpreted in a manner which is consistent with other laws and regulations of the Fond du Lac Band and with applicable laws and regulations of the United States.
2. **GENERAL POLICY.** It is the policy of the Fond du Lac Band that all data pertaining to members, employees or clients of the Band are of a private and confidential nature, and that the record management standards established by this Policy are applicable to the collection, retention and dissemination of such data.
3. **DEFINITIONS.** The following definitions shall apply in the interpretation and application of this Policy.
 - a. "Controlled area" means any area of the workplace which involves immediate access to records.
 - b. "Document" means any record, statement or other form of information or data created in conjunction with a program, enterprise, grant, contract or other activity undertaken by or on behalf of the Fond du Lac Band.
 - c. "Fond du Lac Band" means the Fond du Lac Band of Lake Superior Chippewa and any governmental or business activity undertaken by or on behalf of the Fond du Lac Band.
 - d. "Individual" means any living person, or any deceased person for purposes of any records pertaining to enrollment in the Fond du Lac Band.
 - e. "Record" means any item, collection, or grouping of information which contains an individual's name or identifying number, symbol or other identification which is particularly associated with the individual.

- f. "Routine use" means the disclosure of a record outside the department without the consent of the subject individual for a purpose which is compatible with the purpose for which the record was collected.
- g. "System of records" means any group of records under the control of the department from which a record is retrieved by personal identifier.

4. RESPONSIBILITIES OF AN EMPLOYEE WORKING WITH A SYSTEM OF RECORDS. Following are the responsibilities of any employee of the Fond du Lac Band who works with records. There are no exceptions to these standards of conduct.

- a. The employee shall be informed of his or her responsibilities under the data privacy and record retention policies of the Fond du Lac Band.
- b. The employee shall be alert as to possible abuses of the system of records with which the employee is involved and shall report to his or her supervisor any potential or actual use of the system which the employee believes is not in compliance with this Policy.
- c. The employee shall disclose records within the department only to another employee who has a legitimate need to know the information as part of the employee's official duties.
- d. The employee shall maintain records as accurately as possible.
- e. The employee shall consult with a supervisor before taking any action when there is doubt as to conformity with this Policy.
- f. The employee shall under no circumstances disclose, in any form, records from a system of records except:
 - (1) where disclosure is permitted as a matter of routine use, as defined by Section 3f of this Policy; or
 - (2) with the consent or at the request of the subject individual.

- g. The employee shall not permit unauthorized persons to be present in controlled areas, and shall report the observance of any unauthorized persons in controlled areas to his or her supervisor or to security personnel.
 - h. The employee shall not knowingly or willfully take action which might subject the department or the Fond du Lac Band to liability for violation of this Policy.
5. **RESPONSIBILITIES AS AN EMPLOYEE NOT WORKING WITH A SYSTEM OF RECORDS**. An employee whose duties do not involve working with a system of records will not disclose to anyone, without specific authorization from the employee's supervisor, records pertaining to employees or other individuals which by reason of his or her official duties are available to the employee.
6. **RECORD RETENTION**. Each Division Director or Enterprise Manager shall be responsible for establishing standards which assure that the records of that division or enterprise are retained in accordance with the provisions of this Policy and any applicable laws, regulations, and grant or contract conditions.
7. **DESTRUCTION OF RECORDS**. When the retention of records is no longer required, the records shall be destroyed in a manner which assures that their contents cannot be retrieved.
8. **VIOLATIONS OF POLICY**. Violations of this Policy by any employee shall be considered misconduct and shall be subject to disciplinary action in accordance with the applicable personnel policies.

Adopted by Resolution #1021/00 of the Fond du Lac Reservation Business Committee on January 25, 2000.

**FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA
CELLULAR PHONE POLICY**

This Policy applies to the assignment and use of cellular phones by employees of the Fond du Lac Band and any subdivision or enterprise of the Band.

I. ASSIGNMENT OF CELLULAR PHONES

When a particular position requires a cellular phone in order to assure accessibility and timely communications for that position, the Division shall provide a cellular phone to the employee in that position. An employee who is assigned a cellular phone is responsible for protecting it from loss and damage, and must return the phone upon termination of employment in good working order.

II. USE OF CELLULAR PHONES

Cellular phone use should be limited to job-related purposes. Charges arising from excessive or unnecessary personal use of a cellular phone will be the responsibility of the employee. The Division Director or Enterprise Manager shall be responsible for reviewing each cellular phone bill in that division or enterprise and determining the portion of the bill which will be the responsibility of the employee. An employee who has failed to repay personal phone expenses within thirty (30) days shall be subject to involuntary withholding from his or her paycheck.

III. CELLULAR PHONE CHARGES & BILLS

All bills received for Band-assigned cellular phones must be turned in to the Accounting Department, complete with the details of individual calls. If an employee fails to provide a complete cellular phone bill, the employee will be personally responsible for all costs which are unsupported by a bill.

IV. SAFETY RULES

Employees are encouraged to refrain from all cellular phone use while driving. Safety is the overriding concern. An employee may use a cellular phone while driving only if the phone is used in a hands-free mode. Texting or e-mailing while driving is prohibited. The employee who must be on the phone while traveling is strongly encouraged to pull over to the side of the road and safely stop the vehicle before using the phone.

Approved by motion of the Fond du Lac Reservation Business Committee on May 23, 2002.

Amended by motion of the Fond du Lac Reservation Business Committee on June 6, 2012.

**FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA
SOCIAL MEDIA POLICY**

Social media can be a fun and rewarding way to share your life and opinions with family, friends and co-workers. However, use of social media also presents certain risks and carries with it certain responsibilities. To assist you in making responsible decisions about your use of social media, we have established these guidelines for appropriate use of social media.

This policy applies to all employees who work for the Fond du Lac Band of Lake Superior Chippewa, or one of the Band's tribally-chartered corporations: Fond du Lac Management, Inc., the Fond du Lac Development Corporation, the Fond du Lac Construction Company, and the Fond du Lac Tribal College.

Guidelines

In the rapidly expanding world of electronic communication, "social media" can mean many things. "Social media" includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else's web log or blog, journal or diary, personal web site, social networking or affinity web site, web bulletin board or a chat room, whether or not associated or affiliated with the Band, as well as any other form of electronic communication.

The same principles and guidelines found in the Band's policies apply to your activities online. Ultimately, you are solely responsible for what you post online. Before creating online content, consider some of the risks and rewards that are involved. Keep in mind that any of your conduct that adversely affects your job performance, the performance of fellow employees or otherwise adversely affects customers, clients, suppliers, people who work on behalf of the Band or the Band's legitimate business interests may result in disciplinary action up to and including termination.

Know and Follow the Rules

Carefully read these guidelines, the Fond du Lac Band of Lake Superior Chippewa Employment Handbook, the Data Privacy & Records Management Policy and any applicable departmental policies, and ensure your postings are consistent with these policies. Inappropriate postings that may include discriminatory remarks, harassment, and threats of violence or similar inappropriate or unlawful conduct will not be tolerated and may subject you to disciplinary action up to and including termination.

Be Respectful

Always be fair and courteous to fellow employees, customers, clients, supplies or people who work on behalf of the Band. Also, keep in mind that you are more likely to resolve work-related complaints by speaking directly with your co-workers than by posting complaints to a social media outlet. Nevertheless, if you decide to post complaints or criticism, avoid using statements, photographs, video or audio that reasonable could be viewed as malicious, obscene, threatening or

intimidating, that disparage customers, clients, or suppliers, or that might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion or any other status protected by law or Band policy.

Be Honest and Accurate

Make sure you are always honest and accurate when posting information or news, and if you make a mistake, correct it quickly. Be open about any previous posts you have altered. Remember that the Internet archives almost everything; therefore, even deleted postings can be searched. Never post any information or rumors that you know to be false about the Band, fellow employees, customers, clients, suppliers, people working on behalf of the Band or competitors.

Post Only Appropriate and Respectful Content

- Maintain the confidentiality of the Band's trade secrets and private or confidential information. Trades secrets may include information regarding the development of systems, processes, products, know-how and technology. Do not post internal reports, policies, procedures or other internal business-related confidential communications.
- Do not create a link from your blog, website or other social networking site to the Band's website without identifying yourself as a Band employee.
- Express only your personal opinions. Never represent yourself as a spokesperson for the Band. If the Band is a subject of the content you are creating, be clear and open about the fact that you are an employee and make it clear that your views do not represent those of the Band, fellow employees, customers, clients, suppliers or people working on behalf of the Band. If you do publish a blog or post online related to the work you do or subjects associated with the Band, make it clear that you are not speaking on behalf of the Band. It is best to include a disclaimer such as "The postings on this site are my own and do not necessarily reflect the views of the Fond du Lac Band of Lake Superior Chippewa."

Using Social Media at Work

Refrain from using social media while on work time or on equipment we provide, unless it is work-related as authorized by your manager. Do not use Band email addresses to register on social networks, blogs or other online tools utilized for personal use.

Retaliation is Prohibited

The Band prohibits taking negative action against any employee for reporting a possible deviation from this policy or for cooperating in an investigation. Any employee who retaliates against another employee for reporting a possible deviation from this policy or for cooperating in an investigation will be subject to disciplinary action, up to and including termination.

Violations of Policy

Violations of this Policy by any employee shall be considered misconduct and shall be subject to disciplinary action in accordance with the Fond du Lac Band of Lake Superior Chippewa Employment Handbook.

Approved by motion of the Fond du Lac Reservation Business Committee on October 3, 2012.

**FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA
EMPLOYEE DRUG AND ALCOHOL POLICY**

Adopted by Resolution #2026/03 of the Fond du Lac Reservation Business Committee on April 4, 2003.

Amended pursuant to Resolution #1236/07 by the Fond du Lac Reservation Business Committee on June 13, 2007.

Amended pursuant to Resolution #1238/07 by the Fond du Lac Reservation Business Committee on June 13, 2007.

Amended pursuant to Resolution #1072/13 by the Fond du Lac Reservation Business Committee on February 27, 2013.

Amended pursuant to Resolution #1044/15 by the Fond du Lac Reservation Business Committee on February 18, 2015.

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Amended pursuant to Resolution #1222/23 by the Fond du Lac Reservation Business Committee on July 26, 2023.

**FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA
EMPLOYEE DRUG AND ALCOHOL POLICY**

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FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA EMPLOYEE DRUG AND ALCOHOL POLICY

I. INTRODUCTION

The Fond du Lac Band is dedicated to providing its employees with a safe and drug-free work environment. We require our employees to report to work in a suitable condition to perform their job responsibilities safely and effectively. The use of drugs or alcohol by employees will be regarded as an unsafe work practice because it increases the risk to the safety of employees and the public. As a condition of employment, all employees must abide by the terms of this Policy and the procedures herein. Individuals working in a volunteer status, including student teachers, interns, and temporary personal are required to comply with this Policy, as described in Section XI. Individuals working for or as an independent contractor are required to comply with this Policy, as described in Section XII. Elected officials of the Reservation Business Committee are required to comply with this Policy, as described in Section XIII.

II. PROHIBITED SUBSTANCES

This Policy prohibits the use of any drug not lawfully prescribed by a physician or misuse of a lawfully prescribed controlled substance. Any drug test required under this Policy will test for the presence of any of the following substances:

1. Alcohol (ALC)
2. Amphetamine (AMP)
3. Benzodiazepine (BZO)
4. Cocaine (COC)
5. EDDP
6. Methadone (MTD)
7. Methamphetamine (MET)
8. Opiates (OPI)
9. Oxycodone (OXY)

III. PROHIBITED CONDUCT

The Fond du Lac Band prohibits use, possession, manufacture, transfer, and sale of alcohol and illegal drugs in the workplace, while on any Band premises, and while operating vehicles, equipment, or machinery during employment. It also prohibits reporting to work and /or working anywhere on behalf of FDL while under the influence of alcohol or illegal drugs. FDL prohibits the use of alcohol or any illegal drugs during the work day or while on call. The work day includes lunch and other breaks, whether or not the employee is on or off the work site. Individuals who entertain others or may be entertained by others as part of a job are prohibited from drinking alcoholic beverages during work hours.

This Policy does not prohibit:

1. The moderate (not to exceed the legal limit) consumption of alcoholic beverages at FDL-sponsored events, if any, where alcoholic beverages are to be served in conjunction with the event; or

2. The possession of sealed bottles or cans of alcoholic beverages in employee vehicles on facility property, so long as such possession would be in compliance with tribal, state and federal law if the vehicle were on a public street.

NOTE: The purchase of alcohol, even if for later off-duty consumption, while being either an operator or passenger in any tribal owned or rented vehicle is prohibited.

IV. VOLUNTARY DISCLOSURE

Employees are encouraged to voluntarily disclose any personal excessive use of alcohol or illegal drugs before being confronted, tested or otherwise involved in drug or alcohol related disciplinary proceedings. Employees will be required to seek assistance through a Licensed Substance Abuse Professional (SAP). An individual who does so may be eligible for time off for treatment, rehabilitation, or counseling in accordance with company policy. Employees who voluntarily disclose excessive use of alcohol or illegal drugs before being confronted, tested, or otherwise involved in drug or alcohol related discipline or proceedings will not be discriminated against because of this disclosure. Individuals who disclose drug and/or alcohol use must have a negative test before returning to work and will be subject to follow up testing.

V. TESTING

The Fond du Lac Employee Drug and Alcohol Policy includes these five types of tests:

1. Pre-employment
2. Reasonable Suspicion
3. Post- Accident
4. Follow-up
5. Return to duty

Pre-employment Testing

All applicants for employment with the Fond du Lac Band will be required to submit and pass a drug test as a condition of employment. Pre-employment testing is administered after a job offer has been made, and the job offer is contingent upon results of the drug test. Pre-employment drug test must be administered within eight (8) calendar days of the hire date. If the pre-employment drug test is not administered within eight (8) calendar days, the job offer will be rescinded by the Employee Compliance Department. An applicant with a positive test will not be hired. An applicant with a positive pre-employment test will be disqualified from employment with the Band for 30 days. Employees who are returning to work following lay-off, injury, summer recess, extended sick leave, or rehire lasting ten (10) days or longer are subject to drug testing prior to returning to work. A negative test is required before these individuals may return to work.

Reasonable Suspicion

Employees may be tested for the presence of alcohol or drugs when there is reasonable suspicion that the employee:

1. Is under the influence of alcohol or drugs; or
2. Has violated the Policy set forth regarding onsite drug and alcohol possession, manufacture, transfer, and sale.

Reasonable suspicion must be based on specific, contemporaneous, articulated observation concerning the employee's appearance, behavior, speech, body odors, and /or job performance. Employees being tested upon reasonable suspicion will be transported to the collection site and from the collection site to their home by the company, a taxi, or other form of transportation not controlled by the employee. These individuals are required to stay off work until the test result is received and should receive pay for the time off unless the result is positive.

The on-call drug tester in the Employee Compliance Department can be reached at (218) 428-0619.

Post-Accident

Whenever an employee is involved in a serious workplace accident or equipment is damaged and a manager, supervisor, or employee compliance department representative has made a reasonable documented determination that the employee's unexplained behavior may have caused or contributed to the accident, the employee will be required to immediately undergo a drug and/or alcohol test.

Unexplained behavior includes, but is not limited to, behavior for which there is no logical explanation, is not directly related to the performance of the employee's duties lacking sound judgment, or is not consistent with safety procedure or work rules. If a supervisor does not request a drug test after a serious workplace accident, the supervisor must document the reason in writing to the Director of Human Resources within twenty-four hours of the incident.

The on-call drug tester in the Employee Compliance Department can be reached at (218) 428-0619.

Follow-up

When a substance abuse professional (SAP) has determined that an employee is in need of assistance in resolving problems with drugs and/or alcohol, the employee will be subject to unannounced follow-up testing by the Employee Compliance Department for up to two years following the incident.

Return to Duty

Employees who have a positive test for alcohol or illegal drugs must undergo treatment or counseling whichever is applicable, as described in Section VII, and have a negative drug and alcohol test result before returning to work.

Refusal to Submit

Any job applicant or employee has the right to refuse drug and alcohol testing. Applicants who refuse will not be employed by the Fond du Lac Band. Refusal to submit to the requested testing will result in the employee's **immediate termination** from his or her position.

Refusal to test/submit includes the following:

- Failure to provide specimen
- Failure to cooperate with the testing process
- Failure to report to the collection site in a timely manner
- Failure to provide adequate specimen without legitimate reason preventing adequate urination; or submitting an adulterated or substituted specimen
- Resignation from employment in response to a test request

If an employee refuses to test/submit as defined above, or refuses to sign the consent form, he or she will be informed that the refusal to test/submit or to sign form will result in **immediate**

termination. An employee discharged for test refusal will be disqualified from employment with the Band for either (1) 90 days or (2) until the employee obtains a counseling evaluation with a Substance Abuse Professional or another state certified rehabilitation program and provides the Employee Compliance Department with evidence of commencing or completing compliance with the rehabilitation recommendation. If the employee is permitted to return to work based on commencing compliance, the employee's employment shall be contingent upon ongoing compliance with the rehabilitation recommendation; failure to comply with and complete the rehabilitation recommendation will result in discharge.

Any employee who professes to "shy bladder syndrome" or the inability to produce a urine specimen will be given up to 40 ounces of liquid and allowed to wait no more than three (3) hours at the collection site. As soon as it becomes apparent the donor is unwilling or unable to produce a specimen, he or she should be advised of the three (3) hour time limit. At the end of three (3) hours, his/hers specimen will not be accepted and he /she will sent to a doctor chosen by FDL to determine if there are any medical conditions present that would prevent the ability to provide a urine specimen. This examination doesn't have to be done within a certain time frame, but should be conducted as soon as possible. If no medical condition is found, it will be considered a refusal to submit, and the employee will be disciplined in accordance with this Policy and company personnel policies. For pre-employment testing, it is not necessary to send "shy bladder" applicants to the doctor. If at the end of a three (3) hour time limit the applicant is still unable to produce a specimen, he or she will no longer be considered for employment.

VI. COLLECTION

1. **Drug:** Employees who are being tested for drugs will be tested in-house using an oral fluid test or be transported to the Raiter Clinic in Cloquet, the Cloquet Memorial Hospital, or Workright Duluth Clinic for a urine screen. Drug screening may utilize a urine or oral fluid test.
2. **Alcohol:** Employees who are being tested for alcohol will be tested in-house using a breath analyzer or be transported to Raiter Clinic, Cloquet Memorial Hospital, or Workright Duluth Clinic. Alcohol screening may utilize breath, saliva, or blood.

If the individual's behavior is such that management and/or the clinic/hospital staff feel the employee is not capable of driving, the employee's supervisor will arrange for others to transport the employee to their home or another appropriate location.

VII. TESTING - LAB AND METHODOLOGY

1. **Drugs:** All urine and oral fluid specimens to be tested for the presence of drugs will be analyzed by a laboratory certified by Health and Human Services (HHS) under the National Laboratory Certification Program as meeting the minimum standards of subpart C of the HHS Mandatory Guidelines for Workplace Drug Testing Programs.

Every specimen is required to undergo an initial screen followed by conformation of all positive screen results. The screening confirmation process utilizes highly sophisticated techniques to detect specific levels of prohibited substances in urine or oral fluid. Any urine or oral fluid specimen identified as positive on the initial test screen will be confirmed by the use of gas chromatography/mass spectrometry test.

When appropriate, the laboratory will also analyze the specimen for the presence of adulterants. The laboratory shall report to the Medical Review Officer (MRO) any presence of adulterants.

2. **Alcohol:** The breath alcohol test will be conducted by as trained technician using a breath analyzer or by a certified Breath Alcohol Technician at the Raiter Clinic, the Cloquet Memorial Hospital, or the Workright Duluth Clinic using an Evidential Breath Measurement Device. The breath alcohol test will be considered positive if it indicates a blood alcohol concentration at or above 0.04, expressed in terms of grams of alcohol per 210 liters of breath as measured by a breath-taking device.

If for some reason a breath test is not possible, a blood alcohol test must be conducted and the urine drug chain of custody form must be used. The collection site must send a sample to the lab for testing. The lab will notify the MRO of the test result and the MRO will use the same notification method as if it were a drug test.

3. **Results**

- a. **Negative results** will be forwarded to the FDL contact person who will in turn notify the donor by mail of the results.
- b. **Positive Results.** When the initial result is positive, the MRO will contact the donor first to review any prescription medication that the he/she may be taking which could alter the result and give the employee a reasonable opportunity to explain a confirmed positive result. After conducting the telephone interview with the donor, the MRO will rule either the sample positive or negative. If the donor has a legitimate prescription in his/her name, the sample will be ruled a negative if the result is connected to the prescription and will be routed back through the negative process.

If the sample is confirmed positive, it will be reported to the FDL contact person. Although the donor is already aware through talking with the MRO that his/her test was positive, the Employee Compliance department will contact the individual and the individual's supervisor. At this time the employee will be suspended from work without pay. The employee will be given local SAP contacts. It will be the employee's responsibility to make initial contact with the SAP. After meeting with the employee, the SAP will contact the FDL contact person and will inform the contact person about the treatment recommendations.

4. **Prescribed Medication.** The prohibitions outlined above do not apply to use of a controlled substance pursuant to the instruction of a licensed physician who is familiar with the employee's medical history and assigned duties. However, the physician must advise him/her that the use of such substances will not adversely affect his/her ability to work in the capacity required by the employee's job description.

Any employee requested to submit to a drug test under this Policy will have the opportunity to discuss the use of this medication with the MRO. They will be required to identify the physician prescribing the medication and authorize the

MRO to discuss the use of the medication with that physician, including the possible side effects and its relationship to the employee's ability to perform his/her job duties. If it is determined that an employee is taking or is under the influence of a prescribed medication that will adversely affect his/her ability to perform the functions of his/her job and/or pose a significant risk of substantial harm to the employee or other employee's, or the general public, the employee will be removed from the performance of any job functions and/or placed on a medical leave of absence until that threat is acceptably reduced or eliminated. FDL further reserves the right to place any employee taking a prescribed medication on a temporary medical leave of absence until the information described above is provided.

VIII. DISCIPLINARY CONSEQUENCES

Any Fond du Lac employee who is found to have a confirmed positive test result, if it is found to be the first such result for an employee on a required test, will be suspended immediately without pay and will be required to seek counseling evaluation with a Substance Abuse Professional or another state certified rehabilitation program of his/her choice within seven business days of the report of a positive test. Employees who do not make an attempt to meet with a SAP within this time period will be considered abandoning their job and terminated. The employee will not be permitted to return to work until he/she has provided the Employee Compliance Department with evidence of commencing or completing compliance with the rehabilitation recommendation. If the employee is permitted to return to work based on commencing compliance, the employee's employment shall be contingent upon ongoing compliance with the rehabilitation recommendation; failure to comply with and complete the rehabilitation recommendation will result in discharge. Additionally, before the employee is permitted to return to work, his/her Division Director will require him/her to submit to a drug test and/or alcohol test and have a negative result.

Compliance with a rehabilitation program, in and of itself, does not guarantee continued employment. The future employment of such an employee will be based on satisfactory job performance and work behaviors as well as follow-up testing for two (2) years after the completion of a rehabilitation program.

Should the employee who has tested positive on a drug or alcohol test again test positive on a drug or alcohol test within two (2) years and one (1) day of the original positive test, this will be considered a second positive test and the employee will be discharged.

If an employee is discharged for failing to meet with a SAP, for failing to comply with the rehabilitation recommendation, or for a second positive test, the employee will be disqualified from employment with the Band for either (1) 90 days or (2) until the employee obtains a counseling evaluation with a Substance Abuse Professional or another state certified rehabilitation program and provides the Employee Compliance Department with evidence of commencing or completing compliance with the rehabilitation recommendation. If the employee is permitted to return to work based on commencing compliance, the employee's employment shall be contingent upon ongoing compliance with the rehabilitation recommendation; failure to comply with and complete the rehabilitation recommendation will result in discharge.

Safety-Sensitive Functions. An employee who returns to work following a confirmed positive test result shall not be allowed to perform safety-sensitive functions until the employee provides the Employee Compliance Department with evidence of successfully completing compliance with

the rehabilitation recommendation. An employee whose breath alcohol test indicates a blood alcohol concentration at or above 0.02 but less than 0.04 shall be removed from safety-sensitive functions for at least 8 hours and, if safety-sensitive functions are essential to the employee's job, the employee shall be suspended without pay for a corresponding period of time. For purposes of this policy, "safety sensitive functions" means (1) operation of a motor vehicle, (2) maintenance of a motor vehicle, and (3) carrying a firearm for security purposes. The consequences described in this paragraph shall be in addition to any consequences required under the Band's FTA Drug and Alcohol Testing Policy.

Pharmacy Employees. In the case of Pharmacy employees, FDL Human Services Division will notify appropriate Law Enforcement if there is reasonable suspicion of drug related criminal activity on the premises. The Pharmacy coordinator will provide the required notifications concerning drug-related activities in accordance with the State Board of Pharmacy requirements.

On-Call Employees. Employees (who are not scheduled On-Call) who are called in, have the responsibility to self-disclose to their supervisor if they have ingested alcohol or controlled substances.

Adulterated or Substituted Specimens. Adulterated or substituted specimens will be treated as a "refusal to submit". As previously stated, refusal to submit to the requested testing will result in the employee's immediate suspension and the employee shall also be subject to disciplinary action up to and including immediate termination.

Self-Referrals. For assistance in addressing substance abuse concerns, Fond du Lac employees may refer themselves to any member of the Employee Compliance Department, the FDL Employee Assistance Officer, or the FDL Director of Human Resources. All self-referrals will be held strictly confidential.

Any employee who self-refers into an in-patient drug treatment program will be placed on leave and will not be subject to drug testing during that period of time. He/she must cooperate with and comply with any prescribed rehabilitation program or be subject to discipline up to and including suspension without pay or termination.

An employee granted Self-Referral Rehabilitation Status will be permitted to use paid and/or unpaid leave which the individual may have available.

If the employee goes into an out-patient treatment program and continues to work, he/she would be subject to testing should his/her name be selected. If tested positive, the employee would be subject to discipline up to and including suspension without pay and/or termination.

IX. CONFIDENTIALITY

All records generated and information received on an employee or applicant are strictly confidential and will not be released by the FDL Employee Compliance Department to any third-party individual, governmental agency, or private organization without the written consent of the job applicant or employee.

Notwithstanding, the employee consent requirement set forth above, evidence of a positive test result may be used as follows:

1. In a judicial proceeding, provided that the information is relevant to the hearing or

proceeding, except that positive results may not be used as evidence in a criminal action against the job applicant or employee tested;

2. Disclosed to any federal agency or other unit for the United States Government as required under federal law, regulations or order, or in accordance with compliance requirements of a federal government contract; or
3. Disclosed to a substance abuse treatment facility for the purpose of evaluation or treatment of the employee.

X. CRIMINAL CHARGES

Any employee who is charged with a drug and/or alcohol related crime which, if convicted, would disqualify the employee from employment, will be suspended without pay pending the outcome of the charge. Upon demonstrating the charge has been dropped or the employee has been found not guilty of the charge, the employee will be reinstated to his /her position or to a comparable position if one is available. If convicted of the charge, the employee will be removed from the leave of absence without pay list and terminated.

XI. VOLUNTEERS

Individuals working in a volunteer status, including student teachers, interns, and temporary personal are subject to testing in accordance with this policy if the individual works or is expected to work on site on more than three days in a one-year period. The volunteer will be subject to suspension, discharge, and reinstatement to the volunteer position under the same circumstances as an employee would be under this policy.

XII. INDEPENDENT CONTRACTORS

An individual working as an independent contractor for the Band or a Band-owned entity shall be required to enter into an agreement, at the individual's cost, with the Employee Compliance Department for testing in accordance with this policy, if the individual works or is expected to work on site on more than one day in a one-year period. The individual's contract shall be suspended, terminated, and reinstated under the same circumstances that an employee would be suspended, discharged, and reinstated under this policy.

A company, or other organization consisting of two or more individuals, working as an independent contractor for the Band or a Band-owned entity shall be required to show proof of a company policy equal to or more stringent than this Policy or shall be required to enter into an agreement, at the contractor's cost, with the Employee Compliance Department for testing in accordance with this policy, if the company or other organization works or is expected to work on site on more than one day in a one-year period. If the contractor has entered into a testing agreement with the Employee Compliance Department, individual employees of the contractor shall be suspended from, removed from, and reinstated to the Band project under the same circumstances that an employee would be suspended, discharged, and reinstated under this policy. Failure to comply with the contractor's policy or to suspend or remove employees in accordance with this policy shall result in termination of the contractor's contract.

XIII. RESERVATION BUSINESS COMMITTEE

The elected officials of the Reservation Business Committee are subject to testing in accordance with this policy. However, the consequences, if any, of a positive test shall be governed by the Reservation Business Committee Code of Ethics, Fond du Lac Ordinance #04/15, and by Article X of the Minnesota Chippewa Tribe Constitution.

Adopted pursuant to Resolution #2026/03 by the Fond du Lac Reservation Business Committee on April 3, 2003.

Amended pursuant to Resolution #1236/07 by the Fond du Lac Reservation Business Committee on June 13, 2007.

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Amended pursuant to Resolution #1044/15 by the Fond du Lac Reservation Business Committee on February 18, 2015.

Amended pursuant to Resolution #1091/16 by the Fond du Lac Reservation Business Committee on August 3, 2016.

Amended pursuant to Resolution #1193/18 by the Fond du Lac Reservation Business Committee on July 17, 2018.

Amended pursuant to Resolution#1222/23 by the Fond du Lac Reservation Business Committee on July 26, 2023.

Fond du Lac Band of Lake Superior Chippewa Policy on Reasonable Accommodation of Disabilities

The Fond du Lac Band of Lake Superior Chippewa is committed to the fair and equal employment of people with disabilities. Reasonable accommodation is the key to this non-discrimination policy. While many individuals with disabilities can work without accommodation, other qualified applicants and employees face barriers to employment without the accommodation process. It is the policy of the Band to reasonably accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship. Although the Americans with Disabilities Act does not apply to the Band, the Band's policy is to be in substantive compliance with the ADA to the extent possible. In accordance with Band policy, accommodations will be provided to qualified individuals with disabilities when such accommodations are directly related to performing the essential functions of a job, competing for a job, or to enjoy equal benefits and privileges of employment. This policy applies to all applicants, employees, and employees seeking promotional opportunities.

Definition

Disability. For purposes of determining eligibility for a reasonable accommodation, a person with a disability is one who has a physical or mental impairment that materially or substantially limits one or more major life activities.

Reasonable accommodation

A reasonable accommodation is a modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to enjoy an equal employment opportunity.

Examples of accommodations may include acquiring or modifying equipment or devices; modifying training materials; making facilities readily accessible; and modifying work schedules.

Reasonable accommodation applies to three aspects of employment:

1. To assure equal opportunity in the employment process;
2. To enable a qualified individual with a disability to perform the essential functions of a job; and
3. To enable an employee with a disability to enjoy equal benefits and privileges of employment.

Procedure - Current employees and employees seeking promotion

The employee shall inform his or her supervisor of the need for an accommodation. When a supervisor becomes aware of the need for an accommodation, the employee shall be given a Reasonable Accommodation Request form, which the employee will be required to fill out. The Reasonable Accommodation Request form is attached as Appendix A.

After receipt of the Reasonable Accommodation Request form, the supervisor may request documentation of the individual's functional limitations to support the request. Any medical documentation must be collected and maintained on separate forms and in separate, locked files in the Human Resources Department. No one will be told or have access to medical information unless the disability might require emergency treatment.

When a qualified individual with a disability has requested an accommodation, the supervisor shall, in consultation with the individual:

1. Discuss the purpose and essential functions of the particular job involved. Completion of a step-by-step job analysis may be necessary.
2. Determine the precise job-related limitation.
3. Identify the potential accommodations and assess the effectiveness each would have in allowing the individual to perform the essential functions of the job.
4. Select and implement the accommodation that is the most appropriate for both the individual and the employer. While an individual's preference will be given consideration, the supervisor is free to choose among equally effective accommodations and may choose the one that is less expensive or easier to provide.

The supervisor will work with the employee to obtain technical assistance, as needed. The supervisor will provide a decision to the employee within a reasonable amount of time. If an accommodation cannot overcome the existing barriers or if the accommodation would cause an undue hardship on the operation of the business, the employee may be discharged pursuant to Section 9.07 of the Fond du Lac Employment Handbook.

Procedure - Job applicants

The job applicant shall inform the Human Resources Department of the need for an accommodation. The Human Resources Department will discuss the needed accommodation and possible alternatives with the applicant. The supervisor, in consultation with the Human Resources Department, will make a decision regarding the request for accommodation and, if approved, take the necessary steps to see that the accommodation is provided.

Definition

Undue hardship. An undue hardship is an action that is unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the Band.

Procedure for determining undue hardship

1. The employee will meet with the supervisor to discuss the requested accommodation.
2. The supervisor will review undue hardships by considering:
 - a. The nature and cost of the accommodation in relation to the size, the financial resources, and the nature and structure of the operation; and
 - b. The impact of the accommodation on the nature or operation of the department.
3. The supervisor will provide a decision to the employee.

Adopted by Resolution #1161/14 of the Fond du Lac Reservation Business Committee on May 6, 2014.

**Fond du Lac Band of Lake Superior Chippewa
Reasonable Accommodation Request Form**

Name: _____

Job Title: _____

Department: _____

Request for Accommodation:

What specific accommodation are you requesting? _____

If you are not sure what specific accommodation is needed, do you have suggestions about options to explore?

Documentation:

What job function are you having difficulty performing? _____

What limitation is interfering with your ability to perform your job? _____

If you are requesting a specific accommodation, how will that accommodation assist you? _____

Please provide any other information you think will be useful in processing your request:

Signature

Date



FOND DU LAC RESERVATION

1720 Big Lake Road, Cloquet, MN 55720

POLICIES AND PROCEDURES FOR VOLUNTARY ANNUAL LEAVE DONATION POLICY

PURPOSE:

The FDL Voluntary Annual Leave Donation Policy provides assistance to employees during an eligible event when all other sources of collective leave time (sick, vacation and PTO) have been exhausted by the recipient of the donation.

DEFINITIONS:

The FDL Family Medical Leave Policy (FDL-FML Policy) is standardized guidelines for leaves of absences based on an employee and family-related medical necessity. The FDL-FML Policy applies in circumstances where a serious medical condition affects employees and their immediate family.

The term Immediate Family as used in this policy means spouse, child, sibling, or parent.

ELIGIBILITY:

Employees who may be a recipient of a Voluntary Annual Leave Donation are those employees that are covered by the Fond du Lac Employment Handbook and qualify for one the following other eligibility requirements:

1. An employee, who is eligible and qualifies for the FDL-FML Policy, and is on leave under the policy for a **minimum of 2 weeks**;
2. An employee, who has a death in his or her immediate family;
3. An employee, who has an illness/injury that would qualify for the FDL-FML Policy but is not eligible for FDL-FML leave; or
4. An employee, who has an immediate family member with an illness/injury that would qualify under the FDL-FML Policy but is not eligible for a FDL-FML leave.

DOCUMENTATION REQUIREMENTS:

The following requirements must be met:

1. **The Employee must file an Application for FDL Family Medical Leave :**
 - a. An application must be made in accordance to the FDL-FML Policy.
 - b. The FDL-FML application must be approved or denied prior to the recipient being eligible to receive a voluntary annual leave donation.
2. **The Employee must have exhausted all their sources of collective leave and have been on a FML leave for a minimum of 2 weeks.** If during a look back period of the 2 weeks minimum an employee has unpaid hours, they can receive donated hours on their next bi-weekly paycheck to compensate the unpaid time. The plan has a maximum of 400 hours voluntary annual leave donated time per FML illness/injury in a rolling calendar year.
3. **A donating employee must fill out a Transfer of Voluntary Annual Leave Donation Form.**
 - a. The form must be filled out completely and signed by the employee who is voluntarily donating annual leave to another employee.
 - b. The form must be signed by the Supervisor of the donating employee acknowledging that their division's budget will be charged for the donated hours and benefits.
 - c. The form must be signed by the Supervisor of the recipient.
 - d. The form must be approved by the Benefit Specialist verifying the employee qualifies for FDL-FML.

4. No payment will be made to the Employee under any portion of this Plan for:
 - a. Donations that cannot be charged back to the donating funding source.
 - b. RBC Council Members are not eligible for voluntary annual leave donation.
 - c. Any donations that exceed 400 hours per FML illness/injury of voluntary annual leave donated time.
 - d. Any period of disability that the Employee is being compensated by sick leave benefits, annual leave benefits, personal leave benefits, workers' compensation, re-employment insurance benefits, benefits paid under a no-fault auto policy, and wages paid by the Employer.
 - e. Any period of a medical leave that is less than the two (2) week minimum.
 - f. More than four (4) days of donated leave for employees eligible as a result of a death in his or her immediate family.

5. The voluntary annual donated leave shall **terminate at the earliest time** below:
 - a. Upon termination of employment or retirement, benefits will cease on the day the Employee is terminated.
 - b. The date the Employee ceases to be eligible for voluntary annual leave donations.
 - c. The date the Employee ceases to qualify for the FDL Family Medical Leave Policy.

MAINTENANCE OF BENEFITS:

An Employee will be eligible for the following benefits while qualifying for Voluntary Annual Leave Donated Time:

1. The recipient may choose to retain his/her health care coverage by applying for COBRA coverage. Both the single and family coverage premiums can be deducted from the employees voluntary annual donated leave time on a pre taxed basis.
2. Workers' compensation, unemployment and retirement benefits will be calculated on the voluntary annual donated leave time. These benefits will be charged to the donating funding source.
3. An employee **will not** receive vacation and sick accruals on the voluntary annual donated leave time.
4. An employee will not receive holiday pay hours while on voluntary annual leave donated time.

I have read and understand the above ***Policies and Procedures***. I understand that by signing this form I must comply with all the ***Policies and Procedures*** and if I fail to do so, my ***FDL Voluntary Annual Leave Donation*** assistance will be discontinued.

Employee Signature

Address Book Number

Date

Approved by motion of the Reservation Business Committee on October 23, 2008; amended by motion on January 28, 2010; September 6, 2011; October 5, 2011; October 25, 2011; and November 4, 2014.

**DONATION FORMS ARE AVAILABLE IN THE PAYROLL/ INSURANCE SERVICES
DEPARTMENT**

**Fond du Lac Band of Lake Superior Chippewa
Smoke Free Government Facilities
POLICY GUIDELINES
January, 2015**

This document establishes policies that govern smoke free government facilities that are owned and operated by the Fond du Lac Band of Lake Superior Chippewa as approved by the Fond du Lac Reservation Business Committee on January 21, 2015. Effective February 15, 2015, no use of tobacco products will be allowed in any Fond du Lac Band Government buildings or vehicles at any time, with limited exceptions noted below.

I. CONTEXT

The Fond du Lac Reservation Business Committee (RBC) recognizes both the health and financial impact of smoking on community members and employees and has taken proactive steps to eliminate smoking in government buildings and vehicles operated by the Band. At Fond du Lac it is documented that the prevalence of smoking is 54% as compared to only 14% among all Minnesota residents. Approximately 94% of the community agrees that secondhand smoke is somewhat or very harmful. The scientific evidence indicates that there is no risk free level of exposure to secondhand smoke and eliminating smoking in indoor spaces fully protects non-smokers from exposure to secondhand smoke. Separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposures of nonsmokers to secondhand smoke. The proactive steps can reduce premature death in children and adults who do not smoke; sudden infant death syndrome (SIDS), acute respiratory infections, ear problems, and more severe asthma. In addition, smoking by parents and/or guardians causes respiratory symptoms and slows lung growth in children, while exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer. Smoking related illness remains the single most expensive contributing factor to the Fond du Lac Insurance Company Self Insured Employee Health Plan.

See attached supporting documentation in appendix A.

II. COVERED INDIVIDUALS

- A. Elected Officials
- B. Employees
- C. Contractors
- D. Community members
- E. Visitors

III. PRODUCTS INCLUDED

- A. Cigarettes
- B. Cigars
- C. Non-ceremonial pipes
- D. Hookahs
- E. Smokeless / E Cigarettes
- F. Chewing Tobacco

IV. PROPERTY INCLUDED

- A. All Government Buildings
- B. Tribal Center
- C. Cloquet Community Center
- D. Sawyer Community Center
- E. Brookston Community Center
- F. All other facilities owned, operated and/or managed by the Fond du Lac Band
- G. Common /public areas located within any Band owned facility.
- H. All vehicles owned and operated by the Fond du Lac Band, whether or not they are being used for Band business and/or to transport community members or employees.
- I. Personal vehicles when being used to transport community members or employees.

V. SMOKE FREE ZONES

Public entrances to all Government buildings:

- A. All public entrances will have a minimum 25 ft. smoke free zone.
- B. Building managers have the authority to restrict smoking in any area necessary to protect the health of community members and/or maintain a smoke free facility.
- C. Any smoking near non-public entrances must be done in a way that keeps the smoke from entering the building.
- D. All materials used for smoking outside of Government buildings, including cigarette butts and matches, will be extinguished and disposed of in appropriate containers.

VI. ENFORCEMENT

- A. Employees
 - a. No additional breaks beyond those allowed under the department's break policy may be taken for the purpose of using tobacco products. Employees may smoke outside during breaks.
 - b. Failure to comply will result in progressive disciplinary action in accordance with the FDL Employee handbook.
- B. Community Members, elected officials, contractors, and visitors
 - a. Failure to comply with this policy will result in restricted access to facilities

VII. EXCEPTIONS

- A. Smoking will be allowed for ceremonial purposes in all facilities.
- B. Individual home owners and/or renters that have a formal contract or lease with the Band.
- C. Black Bear Casino Resort
- D. Fond du Luth Casino

VIII. COMPLAINT PROCEDURE

- A. Persons observing a violation of this policy should bring it to the attention of either their supervisor or the site manager. All complaints received will be investigated as confidentially as possible. All employees are expected to cooperate fully with any such investigation.
- B. Retaliation against individuals for reporting violations of this policy or for exercising their rights under this policy will not be tolerated.

Approved by motion of the Fond du Lac Reservation Business Committee on February 4, 2015.

Fond du Lac Lactation Support Policy

Purpose

To establish guidelines for promoting breastfeeding friendly environments at Fond du Lac Band of Lake Superior Chippewa programs and enterprises for employees, clients, and guests.

Policy

The Fond du Lac Band of Lake Superior Chippewa recognizes the benefits of breastfeeding for community health, employee health and wellness, as well as for promoting optimal growth and development of infants. The Fond du Lac Band of Lake Superior Chippewa encourages employees and management to have a positive, supportive attitude toward working people who are breastfeeding. The Fond du Lac Band of Lake Superior Chippewa promotes and supports breastfeeding and the expression of breast milk by employees who are breastfeeding when they return to work, and by clients and guests of its programs and enterprises.

Discrimination and harassment of breastfeeding employees, clients and guests in any form is unacceptable and will not be tolerated.

It shall be the policy to provide:

Staff Support and Training

The Fond du Lac Band of Lake Superior Chippewa Lactation Support Policy shall be distributed to current and incoming employees. A toolkit of resources will be available upon request of employee.

The Employee Benefits Program will provide information about the Lactation Support Policy and other support programs to employees upon being notified that the employee is pregnant, breastfeeding, or when an employee requests maternity leave, whichever comes sooner.

Supervisors are also responsible for implementing systems and practices that will help facilitate each employee's infant feeding goals. It is expected that all employees will assist in providing a positive atmosphere of support for breastfeeding employees.

Infants at Work Program for Certain Job Categories and Milk Expression Breaks

Due to the variety of services FDL provides, along with the diversity of job positions within FDL programs and enterprises, and to address safety and liability concerns as well as minimize potential business disruptions, this policy establishes two categories of positions relating to lactation time:

- Nursing employees with Category I positions may bring their babies to work with them until the baby is six months of age or is mobile, whichever comes first. Positions such as Administrative Assistant, Program Coordinator/Manager, Secretary and Clerk will generally be eligible to be considered as Category I positions. Supervisors will determine eligibility for the infants at work program, with approval from division directors.
- Nursing employees with Category II positions will be provided two paid breaks [see Time to

Express Milk or Breastfeed on Site (Lactation Time) below] so they can pump while at work. Category II jobs are those that due to the nature of the work or work requirements (such as child-to-staff ratios), it would not be safe or feasible to bring a baby to work. Category II positions include, but are not limited to, jobs that require any of the duties below:

- Home visits
- Transportation of clients
- Direct services
- Extensive and/or frequent travel (e.g., bus drivers)
- Potential safety concerns (e.g., kitchen workers, bus monitors)

Eligibility to participate in the Infants at Work program is subject to the specific job responsibilities of the parent and subject to ensuring the physical safety of the infant. A parent may not leave the premises (not even for a short time) without taking the infant with them. The parent will accept complete responsibility for the safety of the infant, and will provide all supplies and equipment needed to care for their baby.

Infants at Work program is a voluntary option for employees, and is a privilege not a right. If at any point the baby becomes a major distraction to your work, your supervisor has the right to terminate this privilege.

Time to Express Milk or Breastfeed on Site (Lactation Time)

All employees, whether nursing at work or pumping, get three paid lactation breaks. These breaks will run concurrently with the existing fifteen minute breaks in the morning and afternoon as well as during their lunch break. Lactation break length may vary to meet individual needs.

The lactation breaks shall be no more than ½ hour in the a.m. and no more than ½ hour in the p.m. The two lactation time breaks along with the lunch period will provide opportunities for employees to pump milk three times during the work day. The paid lactation time breaks will apply up to the child's first birthday. Employees may take additional unpaid lactation time breaks, or schedule paid lactation time breaks at times different from the regularly scheduled paid breaks, as reasonably necessary, and in consultation with their immediate supervisors. Upon return from maternity leave and monthly thereafter, employees should inform their immediate supervisors of their proposed lactation schedule; supervisors should approve those schedules absent a compelling reason that makes the schedule infeasible.

When more than one breastfeeding employee needs to use the designated lactation room, employees should discuss among each other what times will work best for them. If times cannot be agreed upon between the employees, the employee's supervisor will be involved to work out a resolution and mutually agreed upon times for expression of milk.

Designated Lactation Room Use and Features

A private room shall be available for employees, clients, and guests to breastfeed or express milk. This room is the designated lactation room, and must have the following features:

- is equipped with an electrical outlet
 - is a private area that can be locked from the inside
 - is in close proximity, within five minutes walking distance or less, to the employee's work area
 - Contains comfortable seating and table for breast pump
 - Contains a clean refrigerator for storage of expressed breast milk.
 - Is clearly labeled with a lactation room sign
- The designated lactation room will be near:

The designated lactation room will be near:

- A sink with hot water and soap for hand washing and cleaning of equipment
- A restroom or toilet stall shall not serve as the designated lactation area.

Breastfeeding employees and others who use the designated lactation room are responsible for keeping milk expression areas clean, using antimicrobial wipes to clean the pump and area around it. Users are also responsible for keeping the room clean for the next user. This responsibility includes table, pumping equipment, garbage, and refrigerator. The responsibility to keep the lactation room clean extends to both designated lactation room, as well as other areas where expressing milk will occur.

Employees should label all milk expressed with their name and date collected so it is not inadvertently confused with another employee's milk. Each employee is responsible for proper storage of their milk in the provided refrigerator.

When building renovation happens under Fond du Lac Band of Lake Superior Chippewa, the inclusion of a lactation room that would provide the features described above must be considered.

Atmosphere of Support

Discrimination in employment or access to employment based on lactation needs or goals is prohibited. It is prohibited under this policy to harass a breastfeeding employee; such conduct unreasonably interferes with an employee's work performance and creates an intimidating, hostile or offensive working environment.

Any incident of harassment of or other forms of discrimination against a breastfeeding employee will be addressed in accordance with the Fond du Lac Band of Lake Superior

Chippewa policies and procedures for discrimination and harassment in the Employee Handbook.

Approved by motion of the Reservation Business Committee on January 24, 2020, and incorporated into the Employment Handbook as Appendix 10 by Resolution #1095/20 of the Reservation Business Committee on March 10, 2020.

Use of Personal Computers and Cell Phones

I. Purpose

The purpose of this policy is to provide rules about using an employee's personal computer or personal cell phone while performing work for the Band.

II. Permissible Uses

In general, employees are encouraged to use Band cell phones and Band-owned computers when performing work for the Band. In order to protect the Band's data, the following rules apply to the use of personal devices for Band-related work.

- a. *Work product and files.* All Band-related work product must only be created on a personal computer or personal cell phone through remote access software on another Band computer. Files created for Band-related work shall not be transferred to a personal device and should only be accessed through remote access software.
- b. *E-mail and calendar data.* Band e-mail and electronic calendars may only be accessed on a personal device through approved remote access software or the Office Outlook Web Access system. Band e-mail and calendar data shall not be downloaded to personal devices. Personal e-mail and calendar accounts shall not be used for Band-related work.
- c. *Text messages and voicemails.* Work-related text messages and voicemails on personal devices shall be limited to scheduling issues and multimedia messages involving non-sensitive materials (i.e., a picture of a maintenance issue).
- d. *Phone calls.* Employees may make work-related phone calls from personal devices, provided that the employee does not record the call.
- e. *Network Access.* Personal computers and personal cell phones shall not be connected to Band-owned networks, with the exception of Band-owned public networks.

III. Use of Personal Numbers

Personal cell phone numbers shall not be published on Band business cards or Band advertising. The Band will not port a cell phone number for a Band-owned device to a personal cell phone.

IV. Stipends and Reimbursement

Employees who use personal devices for Band-related work do so for their own convenience. Accordingly, employees shall not be reimbursed or receive a stipend for the cost of personal devices or services. Employees may be eligible for employee discounts for certain devices or services.

Approved by motion of the Reservation Business Committee on June 12, 2018.

Universal On-Call Pay Schedule

Effective September 5, 2021

Some enterprises and programs of the Fond du Lac Reservation require 24/7 support. Therefore, a “Universal On-Call Pay Schedule” is needed to define a standard compensation structure for hourly employees when their position requires them to be on-call. This document only establishes a universal pay schedule, because each enterprise or program’s needs will be different. It does not replace department specific policies regulating qualifications and rules that are currently in place. Each enterprise or program’s policy must define its own specific requirements for who will be on call, response times, scheduling, performance expectations, etc. Because of the unique needs of police work, this schedule does not apply to the Fond du Lac Law Enforcement Division.

This policy applies to only hourly employees who are identified as on-call in their job description. Salaried employees are not eligible for on-call time. Having a company issued cell phone does not indicate that an employee is eligible for on-call time. Hourly employees will be compensated as shown below. Compensatory time (comp time) is not ever allowed to be awarded in lieu of on-call payment.

There will be four pay types used:

On-Call Available – Employees will be paid \$2.00/hr. for all non-worked hours when an employee is on call, unless a different type of on-call pay applies. An employee is not eligible for on-call available pay if 8 hours of leave time is used for that day, unless approved by your immediate supervisor.

On-Call Response Time – An on-call employee responding to a call will be paid at the employee’s regular rate for a minimum of 3 hours. An eligible employee will be paid from the time they leave home until the time they arrive back at home. Normal Overtime rules apply (i.e. Overtime will be paid only after 40 regular hours worked). The minimum 3-hour payment can be paid out more than once per day, but only if the employee is called out again after a 3 ½-hour time period. Times should be documented in the comments section of the electronic timecard.

Holiday On-Call Available – Employees will be paid \$4.00/hr. for all non-worked hours when an employee is on call on a holiday. For the purposes of this schedule, if different, a holiday is defined as the actual holiday, not the day that FDL observes it.

Holiday On-Call Response Time – An on-call employee responding to a call on a holiday will be paid at “holiday worked rate” for a minimum of 3 hours. An eligible employee will be paid from the time they leave home until the time they arrive back at home. Holiday Worked will be paid at one and a half times the normal pay rate. The minimum 3-hour payment can be paid out more than once per day, but only if the employee is called out again after a 3 ½-hour time period. Times should be documented in the comments section of the electronic timecard.

Approved by motion of the Reservation Business Committee on August 25, 2021.

Revised and approved by motion of the Reservation Business Committee on September 15, 2021.