

Chapter 56. Recall of an Official and Leave of Absence

6.5601 PURPOSE

The purpose of this Statute is to provide for paid leave of absence in the case of a recall of an Official in accordance with this Statute.

(Source: WOS 2015-002, February 24, 2015, Section I)

6.5602 DEFINITIONS

- A.** “**Leave of Absence**” means a temporary suspension of the Official’s duties and authority.

- B.** “**Official**” means Tribal Chair, Vice Chair and/or Tribal Council members

(Source: WOS 2015-002, February 24, 2015, Section II)

6.5603 CONSTITUTIONAL RECALL ELECTION and LEAVE OF ABSENCE

- A.** The Tribal Chair, Vice Chair and Tribal Council members may be subject to recall in accordance with the Constitution.

- B.** The Official against whom a recall petition has been filed shall continue to perform the duties of his or her office until the preliminary non-certified results of the recall election are posted by the Election Board.
 - 1.** If the preliminary non-certified results show that the recall election did not result in the recall of the Official, then the Official shall continue to perform the duties of his or her office; or

 - 2.** If the preliminary non-certified results show that the recall election did result in the recall of the Official, then the Official shall be placed on paid leave of absence until the Election Board certifies the election results, or if there is a challenge to the election, until the Tribal Court issues a ruling indicating that the recall election was valid and did result in the recall of the Official, and the Election Board certifies such results.

- C. If that Official (or former Official) appeals a decision of the Tribal Court to the LTBB Appellate Court, such Official (or former Official) shall remain on unpaid leave during the pendency of any appeal before the Appellate Court.
- D. If the LTBB Appellate Court rules that the recall election was not valid, or that the recall election did not result in the recall of the Official, that Official shall be reinstated to his or her office and shall receive back pay for any period of time that he or she has not been paid while on unpaid leave of absence.
- E. Upon the posting of the certified election results by the Election Board, if the recall election did not result in the recall of the Official, then the Official shall resume performing the duties of his or her office.
- F. Upon the posting of the certified election results by the Election Board, if the recall election did result in the recall of the Official, then any and all paid leave of absence shall cease.

(Source: WOS 2015-002, February 24, 2015, Section III)

6.5604 IMPLICATIONS OF LEAVE OF ABSENCE

- A. The Official on paid leave of absence shall receive his or her compensations as set forth by Tribal Statute.
- B. The Official while on paid or unpaid leave of absence shall have all duties, authority and privileges associated with the Official's position suspended. Such suspension shall include barred access to confidential information, Tribal records, offices, properties, personnel and equipment associated with the position.

(Source: WOS 2015-002, February 24, 2015, Section IV)

6.5605 SEVERABILITY

If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall

be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(Source: WOS 2015-002, February 24, 2015, Section V)

6.5606 EFFECTIVE DATE

Effective upon the signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2015-002, February 24, 2015, Section VI)