

# Oneida Tribe of Indians of Wisconsin

## Legislative Reference Office

P.O. Box 365  
Oneida, WI 54155  
(920) 869-4376  
(800) 236-2214  
<http://oneida-nsn.gov/LOC>



## Committee Members

Brandon Stevens, Chairperson  
Tehassi Hill, Vice Chairperson  
Fawn Billie, Councilmember  
David P. Jordan, Councilmember  
Jennifer Webster, Councilmember

## LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center

June 17, 2015 9:00 a.m.

- I. Call To Order and Approval of the Agenda**
- II. Minutes to be approved**
  1. June 3, 2015 LOC Meeting Minutes
- III. Current Business**
  1. Petition: Genskow- OBC Accountability, Repeal Judiciary & Open Records Law
  2. Children's Code
  3. Election Board Bylaws Amendments
  4. Investigative Leave Policy Amendments
- IV. New Submissions**
  1. Back Pay Policy Amendments
- V. Additions**
- VI. Administrative Updates**
  1. LOC Quarterly Report
  2. LOC Priority List
  3. LOC Budget
- VII. Executive Session**
- VIII. Recess/Adjourn**

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## LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center

June 3, 2015 10:00 a.m.

**PRESENT:** Brandon Stevens, Tehassi Hill, Fawn Billie, David P. Jordan, Jennifer Webster

**OTHERS PRESENT:** Taniquelle Thurner, Jacob Metoxen, Candice Skenandore, Lynn Franzmeier, RC Metoxen, Michelle Mays, Rae Skenandore, Apache Danforth, Norbert Hill, Dianne McLester Heim, Jessica Wallenfang, Mike Debraska, Danelle Wilson

### I. Call To Order and Approval of the Agenda

Brandon Stevens called the June 3, 2015 Legislative Operating Committee meeting to order at 10:01 a.m.

Motion by Tehassi Hill to approve the agenda; seconded by Fawn Billie. Motion carried unanimously.

### II. Minutes to be approved

#### 1. May 20, 2015 LOC Meeting Minutes

Motion by David P. Jordan to approve the May 20, 2015 LOC meeting minutes; seconded by Fawn Billie. Motion carried with Jennifer Webster abstaining.

### III. Current Business

#### 1. Investigative Leave Policy Amendments (01:12-02:23)

Motion by Jennifer Webster to forward the Investigative Leave Policy Amendments to the Oneida Business Committee for consideration; seconded by David P. Jordan. Motion carried unanimously.

#### 2. Petition: Genskow- OBC Accountability, Repeal Judiciary & Open Records Law

(02:29-04:30)

Motion by Jennifer Webster to forward the memorandum to the next Oneida Business Committee agenda; seconded by David P. Jordan. Motion carried unanimously.

#### 3. Petition: Child Care Department Consumer Complaint Policy (04:32-01:31:20)

Motion by Tehassi Hill to defer back to the Legislative Reference Office for redrafting; seconded by David P. Jordan. Motion carried unanimously.

#### 4. Tribal Hearing Bodies (01:31:45-01:53:57)

Motion by Jennifer Webster for the Legislative Operating Committee to send a memorandum

to the Oneida Business Committee, to be on their agenda, for the recommendation from the Legislative Operating Committee requesting authority to develop legislation for an administrative court, also drafting a letter to be sent to elected and appointed boards, committees and commissions requesting full cooperation in submitting the data that is asked for; seconded by Fawn Billie. Motion carried unanimously.

**5. Audit Committee Bylaws (01:55:02-01:59:51)**

Motion by Jennifer Webster to forward the draft to the Audit Committee; seconded by David P. Jordan. Motion carried unanimously.

**IV. New Submissions**

**V. Additions**

**VI. Administrative Updates**

**1. LOC Sponsor List**

Motion by Tehassi Hill to accept the LOC Sponsor List as FYI; seconded by David P. Jordan. Motion carried unanimously.

*David P. Jordan:* For the record, there's not very much on my list, I just want it for the record that I just started on April 22 and this is my third meeting.

**VII. Executive Session**

**VIII. Recess/Adjourn**

Motion by Jennifer Webster to adjourn the June 3, 2015 Legislative Operating Committee Meeting at 12:02 p.m.; seconded by David P. Jordan. Motion carried unanimously.



# Legislative Operating Committee

## June 17, 2015

# Petition: Genskow-OBC Accountability, Repeal Judiciary & Open Records Law

**Submission Date:** May 5, 2015

Public Meeting:  
 Emergency Enacted:

**LOC Sponsor:** David P. Jordan

**Summary:** *This petition seeks to adopt three attached resolutions which would require the first item on the agenda of GTC Annual and Semi-Annual meetings be that each individual OBC member must verbally report to GTC if they, as an individual OBC member, know of any GTC directives that are not being carried out. This item may not be deleted from the GTC agenda; the GTC will regain it's authority as the supreme power of the Oneida Tribe, that Resolutions 1-7-13-A and 1-7-13-B be repealed immediately; and that GTC resolution 11-15-08-C be restored, "which will provide full disclosure to the Oneida people regarding how their money is spent" regarding all contracts, not just corporate contracts; and requiring Treasurer reports to include an independently audited financial statement of all receipts/debits in possession of the Treasurer, that no agent of the Tribe shall enter into any agreement with any corporation that prohibits full disclosure of all transactions - and that such an agreement is not binding to the Tribe.*

- 04/22/15 OBC:** Motion by Jennifer Webster to accept the verified petition submitted by Madelyn Genskow; to send the verified petition to the Law, Finance, Legislative Reference and Direct Report offices for the legal, financial, legislative and administrative analyses to be completed; to direct the Law, Finance, and Legislative Reference offices to submit the analyses to the Tribal Secretary's office within 60 days, and that a progress report is submitted in 45 days; to direct the Direct Report offices to submit the appropriate administrative analyses to the Tribal Secretary's office within 30 days, seconded by Lisa Summers. Motion carried unanimously.
- 5/6/15 LOC:** Motion by Jennifer Webster to add the Petition: Genskow- OBC Accountability, Repeal Judiciary & Open Records Law to the active files list with David P. Jordan as the sponsor; seconded by Fawn Billie. Motion carried unanimously.
- 6/3/15 LOC:** Motion by Jennifer Webster to forward the memorandum to the next Oneida Business Committee agenda; seconded by David P. Jordan. Motion carried unanimously.
- 6/10/15 OBC:** Motion by Tehassi Hill to accept the status report from the LOC as information<sup>1</sup>, seconded by Jennifer Webster. Motion carried unanimously.

<sup>1</sup>The status update indicates that the analyses will be brought back to the Oneida Business Committee on June 17, 2015. This is an error; the correct date is June 24, 2015.

### Next Steps:

- Review the Statements of Effect and consider forwarding to the OBC for consideration

## Oneida Tribe of Indians of Wisconsin Legislative Reference Office

Lynn A. Franzmeier, Staff Attorney  
Taniquelle J. Thurner, Legislative Analyst  
Candice E. Skenandore, Legislative Analyst



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### Statement of Effect

#### *Petition Resolution 1: OBC Accountability*

#### *Summary*

On March 30, 2015, the Tribal Secretary's Office received a petition which states "we the undersigned General Tribal Council members request a special GTC meeting to review and consider the attached resolutions. In the event that public hearings are required we direct the Business Committee to hold the required Public hearings and bring these resolutions to the GTC intact." The petition further requests that the meeting be held on a Saturday.

The Petition was verified by the Enrollment Project Specialist on March 31, 2015, and on April 22, 2015, the Oneida Business Committee (OBC) directed the Legislative Reference Office to complete a legislative analysis on the petition. This Statement of Effect addresses the first of three resolutions attached to the Petition, pertaining to OBC Accountability.

*Submitted by: Candice E. Skenandore, Legislative Analyst, Legislative Reference Office*

#### *Legislative Analysis*

According to this Resolution, it appears that the OBC cannot make public statements regarding certain problems in the Tribe without a majority vote by the OBC. The Resolution further claims that this has caused General Tribal Council directives from being carried out. An example was made that states that Resolution 11-15-08-C requiring full disclosure was never carried out.

This Resolution seeks to add a permanent item to the agenda for all Annual and Semi-Annual General Tribal Council meetings which requires each OBC member to verbally report if they know of any General Tribal Council directives that are not being carried out. The Resolution requires this verbal report to be the first item on the agenda; in addition, this item cannot be deleted from the agenda.

This Resolution has no legislative impact at this time. Please consult the legal and fiscal analyses to determine if this Resolution has any legal or fiscal impacts.

#### *Conclusion*

Adoption of this Resolution would not affect any current Tribal legislation.

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### Statement of Effect

#### *Petition Resolution 2: Repeal Judiciary*

#### *Summary*

On March 30, 2015, the Tribal Secretary's Office received a petition which states "we the undersigned General Tribal Council members request a special GTC meeting to review and consider the attached resolutions. In the event that public hearings are required we direct the Business Committee to hold the required Public hearings and bring these resolutions to the GTC intact." The petition further requests that the OBC coordinate with the petitioner on the time of the meeting.

The Petition was verified by the Enrollment Project Specialist on March 31, 2015, and on April 22, 2015, the Oneida Business Committee (OBC) directed the Legislative Reference Office to complete a legislative analysis on the petition. This Statement of Effect focuses on Resolution 2, pertaining to the repeal of GTC Resolution 01-07-13-B, which adopted the Judiciary Law; the repeal of GTC Resolution 01-07-13-B, which, according to the Resolution, has been used abusively by the OBC; restores Resolution GTC-11-15-08-C to provide full disclosure to the Oneida people regarding how their money is spent; and requires full disclosure to all contracts, not just corporate.

*Submitted by: Lynn A. Franzmeier, Staff Attorney; and Candice E. Skenandore, Legislative Analyst; Legislative Reference Office*

#### *Legislative Analysis*

The "Whereas" section of the Resolution states that after the General Tribal Council (GTC) adopted Resolution GTC-01-07-13-B: Adoption of the Judiciary Law, GTC then adopted Resolution GTC-07-01-13-A: Adoption of Corrective Amendments to the Oneida Code of Laws and Oneida Tribal Policies Regarding References to the Oneida Appeals Commission and/or Oneida Judicial System. According to the Resolution, GTC-07-01-13-A was used by the OBC as authority to pass Resolution BC-06-25-14-B which, in part, adopted amendments to the Open Records and Open Meetings Law.

The Resolution points out two sections of the Open Records and Open Meetings Law: 7.4(b) which states "Contracts or other agreements which specifically prohibit disclosure of the content of the contract or agreement to third parties"; and 7.18 which states "The Judiciary shall have the power, in its discretion and upon good cause shown, to issue an appropriate order, injunction or prohibition to declare any action taken in violation of this law void in whole or in part." The Resolution states the Business Committee has misled GTC and "now the contracts and how the Oneida tribal money is spent is once again kept secret from the Oneida people." According to the Resolution, GTC Resolution 11-15-08-C states "no agent of the Tribe shall enter into any

agreement with any corporation that prohibits full disclosure of all transactions (receipts and expenditures, and the nature of such funds) and that such an agreement is not binding to the Tribe...”

The Resolution declares GTC will regain its authority as the supreme power of the Oneida Tribe and also repeals GTC Resolution 01-07-13-B.

Repealing the Judiciary Law may have a legislative impact on additional Tribal laws that were adopted based, at least in part, on the Judiciary Law, including:

- Rules of Civil Procedure
- Rules of Evidence
- Rules of Appellate Procedure
- Family Court
- Family Court Rules
- Judicial Canons of Ethics

In addition, approximately 25 additional Tribal laws were amended to remove references to the Oneida Appeals Commission and add the Judiciary. If GTC-01-07-13-B is repealed, Tribal laws that reference the Judiciary based on that Resolution may need to be updated to reflect the proper judicial system of the Tribe, if any.

This Resolution also repeals GTC Resolution 07-01-13-A which allowed the OBC to make corrective amendments to the Oneida Code of Laws and Oneida Tribal Polices regarding references to the Oneida Appeals Commission and/or the Oneida Tribal Judicial System. There is no legislative impact associated with this portion of the Resolution.

This Resolution also “restores” GTC Resolution 11-15-08-C, implying that GTC Resolution 11-15-08-C is not being followed. GTC Resolution 11-15-08-C is still in effect and, among other things, requires that 1) all Treasurer reports include an independently audited annual statement that provides the status or conclusion of all receipts and debits in possession of the Treasurer, including but not limited to all corporations owned in full or in part by the Tribe; 2) all Treasurer’s reports to the GTC at annual and semi-annual GTC meetings include independently audited annual financial statement that provides the status or conclusion of all receipts and debits in possession of the Treasurer including, but not limited to component units (Tribally chartered corporations, and autonomous entities, limited liability companies, states chartered corporations, any tribal economic development authority, boards, committees and commissions, vendors and consultants owned in full in party by the Tribe; and 3) no agent of the Tribe can enter into any agreement with any corporation that prohibits full disclosure of all transactions and that such agreement is not binding to the Tribe.

This Resolution states that restoring GTC Resolution 11-15-08-C will provide full disclosure to the Oneida people regarding how their money is spent. In addition, this Resolution claims to provide full disclosure to all contracts, not just corporate contracts; however, the Open Records Open Meetings Law exempts inspection and copying contracts which specifically prohibit disclosure of the content of the contract to third parties from inspection and copying [*See Open Records Open Meetings 7.4-1 (b)*].

Please consult the legal and fiscal analyses to determine if this Resolution has any legal or fiscal impacts. A two-thirds vote by GTC is required in order to adopt this Resolution [*See Oneida Tribal Council Ten Day Notice Policy, III.1.a.3*].

***Conclusion***

Adoption of this Resolution would repeal the Judiciary Law and may result in a need to amend the Open Records and Open Meetings law and various laws that (1) were adopted to compliment the Judiciary Law; and (2) reference the Judiciary.



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### Statement of Effect

#### *Petition Resolution 3: Open Records Law*

#### *Summary*

On March 30, 2015, the Tribal Secretary's Office received a petition which states "we the undersigned General Tribal Council members request a special GTC meeting to review and consider the attached resolutions. In the event that public hearings are required we direct the Business Committee to hold the required Public hearings and bring these resolutions to the GTC intact." The petition further requests that the OBC coordinate with the petitioner on the time of the meeting.

The Petition was verified by the Enrollment Project Specialist on March 31, 2015, and on April 22, 2015, the Oneida Business Committee (OBC) directed the Legislative Reference Office to complete a legislative analysis on the petition. This Statement of Effect focuses on Resolution 3, pertaining to the Open Records Open Meetings Law.

*Submitted by: Candice E. Skenandore, Legislative Analyst, Legislative Reference Office*

#### *Legislative Analysis*

This Resolution claims that a Tribal member made a request to the Oneida Records Management Department on March 25, 2015 to research 1) minutes and audio for General Tribal Council meetings where by a motion was made to create the Ombudsperson position; and 2) General Tribal Council action to create the Internal Services position. According to this Resolution, this request was refused citing section 7.7-7 of the Open Records Open Meetings Law which requires a request to be sufficient in that it "reasonably describes the record or the information sought." This section goes on to state that "a request for a record without reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request" [See *Open Records Open Meetings Law 7.7-7*].

The Resolution states that past requests have been approved and that members of the General Tribal Council need to access Tribal records in order to hold the OBC and management accountable. In addition, the Resolution claims that a Tribal member requested information regarding the General Manager's content; however, was told that Tribal members did not have access to this information.

This Resolution is ordering that the General Tribal Council approve the Open Records and Open Meetings Law. The Open Records and Open Meetings Law (Law) was adopted and amended by the OBC pursuant to the following resolutions: BC 1-12-05-B, BC 04-12-06-KK and BC 10-14-09-B. This Law gives either the OBC or the General Tribal Council the authority to amend the Law [See 7.2-2]. If the intent of the Resolution is to only allow the General Tribal Council to amend this Law or to adopt laws pertaining to open records and open meetings, then the current

Law will need to be amended or repealed pursuant to the Legislative Procedures Act. The Resolution itself, if adopted, would not result in any amendments to the Law.

Please consult the legal and fiscal analyses to determine if this Resolution has any legal or fiscal impacts.

***Conclusion***

Adoption of this Resolution would require future amendments to or the repeal of the Open Records and Open Meetings Law.



# Legislative Operating Committee

## June 17, 2015

### Children's Code

**Submission Date:** September 17, 2014

Public Meeting:  
 Emergency Enacted:

**LOC Sponsor:** Fawn Billie

**Summary:** *This item was carried over into the current term by the LOC. The proposal seeks to develop a Children's Code which would enable the Tribe to take jurisdiction of child welfare matters involving Tribal children. The proposal seeks establishment of a Child Welfare Office and the Oneida Child Protective Board, and would address child welfare proceedings including CHIPS; termination of parental rights; adoption; and foster home licensing.*

**09/17/14 LOC:** Motion by Fawn Billie to add the Children's Code to the Active Files List; seconded by Jennifer Webster. Motion carried unanimously.

*Note: Fawn Billie will be the sponsor.*

**12/17/14 LOC:** Motion by Jennifer Webster to move forward with requesting a fiscal analysis; seconded by Tehassi Hill.

Seconder withdraws the second, Motioner withdraws the motion; motion withdrawn.

Motion by Tehassi Hill to direct the Legislative Operating Committee Chair to work with the appropriate staff to develop a memorandum directing the Governmental Services Division Director to fulfill the Finance Department's request for information regarding the Children's Code in order to prepare the fiscal analysis; seconded by Fawn Billie. Motion carried unanimously.

**1/28/15 OBC:** Motion by Lisa Summers to direct the Law Office to create a policy statement and to request the Legislative Operating Committee consider the Children's Code a priority, seconded by Tehassi Hill. Motion carried unanimously.

**2/18/15:** Work meeting held with Social Services. Attendees include: Brandon Stevens, Fawn Billie, Tehassi Hill, Jessica Wallenfang, Fawn Cottrell, Taniquelle Thurner, Danelle Wilson, Michelle Mays, Rae Skenandore, Kathleen Laplant, Jennifer Kruse, Roxann Pazdera, Candice Skenandore, Lynn Franzmeier

**04/15/15 LOC:** Motion by Tehassi Hill to defer the Children's Code for 60 days for the fiscal and administrative analysis; seconded by Fawn Billie. Motion carried unanimously.

**Next Steps:**

- Accept the memorandum as FYI

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Tehassi Hill, Vice Chairperson  
Fawn Billie, Councilmember  
David P. Jordan, Councilmember  
Jennifer Webster, Councilmember

**Memorandum**

**To:** Legislative Operating Committee  
**From:** Fawn Billie, LOC Councilmember *FB*  
**Date:** June 17, 2015  
**Re:** Children's Code

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On April 15, 2015, the Legislative Operating Committee made a motion to defer the Children's Code for a fiscal impact statement and administrative analysis. These items were set to come back to the LOC on June 17, 2015.

Both the Finance Department and Social Services Department have requested a 30 day extension to complete these items. The fiscal impact statement and administrative analysis will be brought back at the July 15, 2015 Legislative Operating Committee meeting.

**Requested Action**

Accept this memorandum as FYI.



# Legislative Operating Committee

## June 17, 2015

# Election Board Bylaws Amendments

**Submission Date:** March 18, 2015

Public Meeting:  
 Emergency Enacted:

**LOC Sponsor:** Brandon Stevens

**Summary:** *The Election Board had requested amendments to their Bylaws per the current Election Law and previous GTC action.*

**3/18/15 LOC:** Motion by Jennifer Webster to add the Election Board Bylaws Amendments to the active files list, and to defer this item to the Legislative Reference Office for processing and to bring back when ready; seconded by Tehassi Hill. Motion carried unanimously.

Note: Brandon Stevens will be the sponsor.

**5/20/15 LOC:** Motion by Fawn Billie to accept the Election Board Bylaws Amendments memorandum; seconded by David P. Jordan. Motion carried unanimously.

**Next Steps:**

- Review the memorandum and determine next steps.

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 David P. Jordan, Councilmember  
 Jennifer Webster, Councilmember

## Memorandum

**To:** Legislative Operating Committee  
**From:** Brandon Stevens, LOC Chairperson *BS*  
**Date:** June 17, 2015  
**Re:** Election Board Bylaws - Stipends

This memorandum is being sent to request discussion and direction from the LOC in regards to the issues noted in the legislative analysis for the Election Board Bylaws amendments. In particular, discussion is needed in relation to the meeting stipends paid to Election Board members. In brief, the issues for discussion include:

- **Quorum requirements:**
  1. Whether and when a board, committee, or commission should pay meeting stipends for meetings that do not have quorum, including “SOP” and “Officer” meetings.
  2. Amending section 3-7 of the bylaws to clarify that meeting stipends are only paid to a member when the meeting has established a quorum for a minimum of one hour, and the official was present for at least one hour of the established quorum.
- **Hearing Stipends.** Adding language to the bylaws to identify when Board members receive a stipend for conducting hearings, and how much that stipend is.
- **Appointed Alternate Stipends.** Alternates have historically been paid the same \$100 meeting stipends as elected members. However, this conflicts with 11-3 of the Comprehensive Policy, which states that “appointed members serving on entities shall be paid a stipend of no more than \$50 per month when at least one (1) meeting is conducted where a quorum has been established in accordance with the duly adopted by-laws of that entity.”
- **GTC Meeting Double Stipends.** Identifying the authority for the additional \$100 stipend that each Board member receives for attending GTC meetings.
- **Elected Member Stipends.** Identifying authority for the increased meeting stipend amount (\$100 instead of \$50) paid to elected Board members, before approving the amended bylaws which would establish it as \$100.

In addition, it may also be beneficial to have a broader discussion of administrative processes and procedures, to look at whether safeguards are in place to ensure that stipends are only paid in accordance with the Comprehensive Policy and entity bylaws; as well as discussion of what should happen in situations where stipends are paid that should not have been.

### Requested Action

Discuss the issues identified in the legislative analysis, identify whether policy clarifications and/or corrective action are needed; and determine whether additional changes should be made to the bylaws.

**ONEIDA ELECTION BOARD BY-LAWS**

1  
2

<i>Analysis by the Legislative Reference Office</i>					
<b>Entity</b>	Election Board (“the Board”)				
<b>Requestor</b>	Racquel Hill, Board Chair	<b>Drafter</b>	Patricia Garvey	<b>Analyst</b>	Tani Thurner
<b>Reason for Request</b>	The request seeks to amend the bylaws “per the current Election Law and previous action of GTC.”				
<b>Members</b>	9 regular members, plus alternates	<b>Stipends</b>	\$100 for all meetings including GTC meetings, \$10/hour for elections	<b>Elected/ Appointed</b>	9 elected members, alternates appointed as needed.
<b>Authority</b>	Established in Election Law. The Board does not have authority to hire personnel, but alternates are appointed as needed.				
<b>Hearing Authority</b>	The Board conducts hearings when an applicant appeals a determination that s/he is ineligible for office.				

3

4 This request seeks to amend the bylaws “per the current Election Law and previous  
 5 action of GTC.” The main changes are to increase the meeting stipend amount, add qualifications  
 6 for Board members, and shorten the terms for officer positions. Additional changes were made to  
 7 ensure consistency/compliance with the Election Law, Comprehensive Policy Governing Boards,  
 8 Committees and Commissions (Comprehensive Policy) and Tribal drafting practices.

9

*Stipend Increase*

10

11 The amendments increase the meeting stipend amount from \$50 to \$100. According to  
 12 the request from the Election Board, the stipend was increased at the GTC Budget meeting held  
 13 on September 13, 2003.

14

15 The bylaws still state that Board members receive stipends for all meetings, including  
 16 General Tribal Council meetings, and are paid a \$10/hourly rate for all elections. [3-7]

16

*Qualifications for Election Board Members*

17

18 Three qualification requirements are added for members. Each Board member must:

19

- be an enrolled Tribal member, and
- a qualified voter as defined in the Oneida Tribal Constitution, and
- reside in Brown or Outagamie counties; except alternates serving at a Milwaukee polling site are not subject to the residency requirement. [1-4(c)]

20

21 The Election Law already requires all elected officials to be enrolled Tribal members and  
 22 qualified voters; so those two requirements just add requirements to the bylaws that are already  
 23 required by law. The residency requirement is the only addition that is not already required by  
 24 law. [See the Election Law, 2.5-2.]

25

26 The Oneida Tribe approved of five amendments to the Tribal Constitution in May 2015,  
 27 including an amendment that would lower the Tribe’s voting age from 21 to 18 years of age.  
 28 Once these Constitutional amendments are approved by the US Secretary of the Interior; Tribal  
 29 members age 18-20 will become eligible to serve on the Election Board, unless a higher age  
 30 requirement is established in the bylaws.  
 31

32

*Amendments to Reflect the Election Law*

The Election Board bylaws have not been updated since before the GTC amended the Election Law on January 4, 2010. The proposed amendments update the bylaws and reconcile them with the current Election Law. Changes to the bylaws include:

- The Board is reduced from 12 to 9 elected members, and a new provision adds that the OBC can appoint alternates to assist with election activities. To reflect this change, the amendments clarify that quorum, for the purpose of meetings, is a majority of the nine elected Board members, but alternates can fill in for elected members at meetings, when a member is recused or there is a vacant seat. [1-4.a and 3-3; and the Election Law, 2.4-2 and 2.4-7]
- Board members who are running for office must recuse themselves from participating in election activities, instead of taking a leave of absence, and must now provide written notification when recusing themselves from participating in election activities. [1-4.d; and Election Law, 2.4-3]
- Updating language to clarify that at GTC meetings, the Board conducts the voting process, not secret ballots. [1-5]
- Adding that Board members who are removed from the Board or whose appointment is terminated, are ineligible to serve on the Board for three years afterwards. [1-4]
- Additional responsibilities/duties which are delegated to the Board and to the Chairperson in the Election Law are added to the Board's and Chairperson's responsibilities/duties in the bylaws. [1-5 and 2-2] The Board Secretary's duties are revised to list the same duties as those identified in the Election Law. [2-4]
- References are corrected to reflect that the Board is created by the Election Law, not by the adoption of these bylaws. [1-2]

*Officers*

Officer terms are reduced from three years to one year. [2-5]

*Removal/Termination of Appointment/Resignations*

Elected members can be removed from the Board for any reason, not just for unexcused absences. The bylaws no longer address how a member's absence from a meeting can be excused – instead, the Board will follow an internal Standard Operating Procedure for excusing absences. [1-4.b]

The amendments are updated to clarify that appointed members are subject to termination of appointment, not removal. [1-4.b]

Resignations are no longer required to be in writing. Verbal resignations must be accepted by motion of the Board. An effective date is added - a resignation is effective upon delivery of notice unless a later effective date is specified. [1-4.b]

*Meetings*

Currently, regular Board meetings are held “as called for by the Chairperson.” Under the amendments, regular meetings are instead held on the first Monday of each month, unless the Board agrees otherwise.[3-1] Like the Board's Secretary, the Vice Chairperson is now also responsible for assisting the Chairperson with notifying members before a regular meeting. [3-3] The amendments also add that the Chairperson/presiding officer only votes to resolve a tie. [3-5]



79 **Other**  
 80 To meet the requirements of the Comprehensive Policy, a new provision clarifies that the  
 81 Board does not have authority to hire personnel. [2-6 and the Comprehensive Policy, 8-4(b)(6)]  
 82 The amendments add that the Board may utilize alternates for GTC meetings - the Election Law  
 83 only authorizes alternates to be used for elections. [1-4.a]

84 Instead of repeating the specific reporting requirements identified in the Comprehensive  
 85 Policy, the amended bylaws just require reporting to be done in accordance with that Policy. [4-  
 86 4]

87 A provision allowing for standing committees and special committees to be created is  
 88 expanded and revised to identify that sub-committees and special committees are appointed by  
 89 the Chair to carry out a specific objective, when deemed necessary by the Board; and that such  
 90 committees serve until their duties are completed and a report is given to the Board. [3-6]

91 Some procedural requirements related to how members are elected, are deleted – these  
 92 requirements are already addressed (for all entities) in the Election Law. [1-4]

93 Except as otherwise noted below, the proposed bylaws comply with the requirements of  
 94 the Comprehensive Policy. A public meeting is not required for bylaws.

**Considerations**

95 The following are issues the LOC may want to consider:

- 96  
 97  
 98 **1. Election Board provisions set out in the Election Law.** There are several provisions in the  
 99 Election Law that set out detailed requirements for the Election Board, but the  
 100 Comprehensive Policy requires these to be included in an entity’s bylaws, and they are not  
 101 usually set out in Tribal laws. Having the same requirements set out in both the Election Law  
 102 and bylaws can lead to overlapping – and the potential for conflicting – requirements, and it  
 103 is repetitive. The LOC may want to consider deleting some or all of these provisions from the  
 104 Election Law in the future:  
 105

Election Law	Comprehensive Policy requirements for all Tribal entity bylaws	Proposed Election Board Bylaws
2.4-2. The Election Board shall consist of nine (9) elected members. All members shall be elected to terms of three (3) years, not to exceed two (2) consecutive terms. 2.4-7 The Business Committee may appoint or reappoint a sufficient number of alternates to the Election Board, as recommended by the Election Board, to assist with election day and pre-election activities. 2.3-2. “Alternate” shall mean an individual appointed by the Business Committee to serve on the Election Board during an election and until election results have been certified.	<b>8-4.a.4. Membership.</b> The following information should be in this section: A. Number of members; B. How elected or appointed;	1-4.a. 1. The Board shall consist of nine (9) members, elected in accordance with the Election Law. Members shall serve a term of three (3) years. No member shall serve for more than two (2) consecutive terms. 2. In accordance with the Election Law, the Oneida Business Committee may appoint or reappoint a sufficient number of alternates to the Election Board, as recommended by the Election Board, to assist with Election Day and pre-election activities. Alternates shall serve on the Election Board during an election and until election results have been certified. In addition, the Election Board may utilize alternates for General Tribal Council meetings.

<p>2.4-5. <i>Vacancies.</i> Any vacancy in an unexpired term shall be filled by appointment by the Business Committee for the balance of the unexpired term. The filling of a vacancy may be timed to correspond with the pre-election activities and the needs of the Election Board.</p>	<p><b>8-4.a.4.</b> Membership. The following information should be in this section:          C. How vacancies are filled</p>	<p>1-4.b. <i>Board Vacancies.</i> Board vacancies shall be filled in accordance with the Election Law. In the event of a Board vacancy, a request shall be submitted to the Oneida Business Committee requesting the vacancy be posted.</p>
<p>2.4-8. The Election Board shall choose a Chairperson from amongst themselves as set out in the By-laws of the Election Board, to preside over the meetings. This selection shall be carried out at the first meeting of the Election Board following an election. The Chairperson shall then ask the Election Board to select a Vice-Chairperson and Secretary.</p>	<p><b>8-4.b.5.</b> How chosen. There should be specifically set out how a member of the entity will occupy an official position as set out in this Article.</p>	<p><b>2-5.</b> The officers shall serve terms of one (1) year and shall be elected by a majority vote at the first meeting of the Board following elections. In the event of a vacancy, a successor shall be voted in by the voting members for the duration of the unexpired term.</p>
<p>2.4-10 (a) Chairperson: Shall preside over meetings of the Election Board; shall select the hearing body for applicants found to be ineligible in accordance with 2.5-6 in the event of an appeal; shall oversee the conduct of the election; shall dismiss the alternates and Oneida Enrollment Department personnel when their election day duties are complete; and shall post and report election results.</p>	<p><b>8-4.b.</b> "Article II. Officers" consists of the following information:          1. Chair and Vice-Chair. This section creates the positions of the entity. Other positions may also be created here.          2. Chair duties. Because of the importance of this position, those duties and limitations should be specifically listed.          3. Vice-Chair duties. Because of the importance of this position, those duties and limitations should be specifically listed.          4. [...] There should be additional sections as needed for every office created [...]</p>	<p><b>2-2. Chairperson duties.</b> The Chairperson or designee shall be responsible for calling and presiding over all meetings, overseeing the conduct of the election, posting and reporting the results of all elections, selecting the hearing body for applicants appealing an ineligibility determination, dismissing alternates and Enrollments personnel when their Election Day duties are complete, and notifying the Enrollments Department at least twenty (20) days before an election, for notice that must be mailed to all Tribal members.</p>
<p>2.4-10 (b) Vice-Chairperson: Shall preside over all meetings in the absence of the Chairperson.</p>		<p><b>2-3.</b> The Vice Chairperson shall work with the Chairperson in all matters that concern the Board, and shall preside at all meetings in the absence of the Chairperson.</p>
<p>2.4-10 (c) Secretary: Shall keep a record of the meetings and make them available to the Tribal Secretary, other Election Board members and the public as required in the Open Records and Open Meetings Law.</p>		<p><b>2-4.</b> The Secretary shall keep a record of the meetings and make them available to the Tribal Secretary, other Election Board members and the public as required in the Open Records and Open Meetings Law.</p>

106

107 2. **Officer elections.** The terms for officers are reduced from three years to one year. However,  
 108 2-5 still states that officers are elected at the first meeting of the Board following elections.  
 109 The only regular election is the General Election, which is held every three years, and there is

- 110 no regularity as to when other elections are held. The bylaws are not clear on when officers  
111 will be elected in years when there isn't a General Election.
- 112 3. **Chairperson designee.** The amendments expand the Chairperson duties to list more of the  
113 duties identified in the Election Law, but also add that the Chairpersons responsibilities may  
114 be conducted by either the Chair or a designee. The Election Law does not mention that the  
115 Chair can designate another to conduct these duties. The language "or a designee" may cause  
116 a conflict between these bylaws and this Law, and the LOC may want to consider deleting it.
- 117 4. **Establishment of authority. The bylaws state** "This entity is established by the Oneida  
118 Election Law and further recognized by the Oneida Business Committee by adoption of these  
119 by-laws on December 30, 1998 and amended on May 21, 2003...." It is recommended that  
120 this provision be further revised to clarify that the bylaws are approved by the OBC, not  
121 adopted; and to revise for grammar - "by adoption of these by-laws... and amended on..."  
122 the clauses do not match.
- 123 5. **Stipends.** A review of stipends paid to Board members in FY 2014 and FY 2015 (to date),  
124 and the language of section 3-7 in the proposed bylaws, together raised various issues.  
125 Specifically, section 3-7 states that the Board will be compensated with a \$100 stipend for all  
126 meetings, including GTC meetings, and paid \$10/hour for all elections.
- 127 a) **Quorum Requirements.** The Comprehensive Policy only permits meeting stipends to be  
128 paid when a meeting has established a quorum for a minimum of one hour and the Board  
129 member collecting the stipend was present for at least one hour of the established  
130 quorum. However, this is not stated in the Election Board Bylaws, and the LOC may  
131 want to consider adding such language. A review of Election Board stipends paid in  
132 FY14 and FY15 shows that several stipends have been paid to members for attending  
133 meetings where there was no quorum. Most of these stipends appeared to be paid for  
134 "SOP" meetings and "Officer" meetings, and were frequently held on the same day as  
135 another meeting for which those in attendance received a stipend.
- 136 b) **Hearing Stipends.** The Election Board has authority per the Election Law to conduct  
137 hearings, but stipends for hearings are not addressed in the bylaws. Neither the Election  
138 Law nor the bylaws identify how many Board members must sit on a hearing panel, or  
139 how much of a stipend is paid, or how a member earns a hearing stipend.
- 140 c) **Stipends for Appointed Alternates.** The Comprehensive Policy allows elected officials  
141 to be paid a minimum stipend of \$50 per meeting and appointed officials to be paid a  
142 stipend of no more than \$50 per month when at least one meeting is conducted during  
143 that month. However, appointed alternates are currently paid the same \$100 stipend as  
144 elected members, for both GTC meetings and other meetings, and without a monthly  
145 limit. This conflicts with the Comprehensive Policy. It may be necessary to expressly  
146 address stipends for appointed alternates in the bylaws, and any deviations from the  
147 Comprehensive Policy should, at a minimum, be formalized. [11-3 and 11-4]
- 148 d) **Authority.** Although the Election Board bylaws currently state that the Board will  
149 receive a \$50 meeting stipend, the Board has been receiving \$100 stipends for several  
150 years. By approving these bylaws, the OBC may be ratifying a higher stipend amount  
151 than was intended. According to the Election Board, the increase from the \$50 stipend to  
152 the \$100 stipend "came by way of motion at," and is "located in the minutes" from the  
153 GTC Budget meeting held on September 13, 2003.
- 154 • At that 9/13/03 GTC meeting referenced by the Board, there was no specific  
155 motion to increase their meeting stipend amount from \$50 to \$100. The stipends

156 were increased when the annual Tribal budget proposal, which included increased  
157 stipends for the Election Board, was passed. The stipends were just one line item  
158 included in a budget that covered all Tribal operations – GTC did not specifically  
159 authorize a stipend increase.

160 • The current Election Board bylaws were adopted in 2009 – six years after the  
161 9/13/03 GTC meeting. However, the Board bylaws adopted in 2009 only provide  
162 for a \$50 meeting stipend. Those bylaws were approved by the OBC, which could  
163 be interpreted as either ratifying a \$50 stipend or reducing the stipend to \$50.

164 e) **Stipends for GTC Meetings.** Per the bylaws, Board members are paid a \$100 meeting  
165 stipend “for all meetings, including General Tribal Council meetings”. This means that  
166 Board members and alternates receive two \$100 stipends for attending each GTC  
167 meeting.

168 • This language could be interpreted as stating that all Board members and  
169 alternates receive the additional stipend just for attending a GTC meeting,  
170 regardless of whether they actually assisted with counting votes or anything else.

171 • It is not clear where the authority for this additional stipend came from. The  
172 Election Law allows for Board members to be paid an hourly rate “when  
173 conducting elections” in an amount “as provided for in the Election Board’s  
174 bylaws as approved by the Business Committee.” The amount is currently  
175 \$10/hour. The Election Law does not mention a flat \$100 rate for GTC meetings.  
176

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## ONEIDA ELECTION BOARD BY-LAWS

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### Article I. Authority

181 **1-1. Name.** The name of this entity ~~will~~shall be the Oneida Election Board and may be referred  
182 to as the Board.

183 **1-2. Authority.** This entity is ~~re-established by the Oneida Election Law and further~~ recognized  
184 by the Oneida Business Committee by adoption of these by-laws on December 30, 1998 and  
185 amended on May 21, 2003 ~~and~~, February 25, 2009, ~~and~~ \_\_\_\_\_.

186 **1-3. Office.** The official mailing address of this entity shall be:

187 Oneida Election Board  
188 P.O. Box 413  
189 Oneida, Wisconsin 54155

190 ~~The physical meeting place shall be determined at the first meeting of this entity and may change~~  
191 ~~from time to time as determined by the entity, but shall be within the reservation boundaries~~  
192 ~~unless noticed to the membership prior to designating the meeting location.~~

### 1-4. Membership.

#### a. Members.

195 ~~Elected Members.~~ The Board ~~will~~:

196 ~~a. Consist~~shall consist of ~~12 (twelve) voting~~nine (9) members.

197 ~~b. Be selected, elected~~ in accordance with the Election Law, ~~Section 4-2, provided that~~  
198 ~~the following processes.~~ Members shall serve a term of three (3) years. No member  
199 shall be used:

1. ~~i. More nominations~~serve for more than ~~vacancies.~~ ~~At the General Tribal~~  
201 ~~Council Meeting, members shall be nominated at the meeting. The~~

202 nominated person shall either accept or decline. Upon closure of the  
203 acceptance of nominations for members, the Tribal Secretary and Election  
204 Board Chairperson, or designee, shall number the candidates consecutively  
205 for members. The General Tribal Council shall then utilize ballots prepared  
206 for this purpose and shall cast their ballots choosing the appropriate number  
207 of names from each set. two (2) consecutive terms.

208 ii. ~~Less nominations than vacancies.~~ In the event that less candidates are  
209 nominated than there are vacant positions, no voting is needed.

210 iii. ~~Ties.~~ In the event of a tie, the tie shall be broken by the flip of a coin.

211 2. e. Fill vacancies/Alternates. In accordance with the Election Law, the Oneida  
212 Business Committee may appoint or reappoint a sufficient number of  
213 alternates to the Election Board, as recommended by the Election Board, to  
214 assist with Election Day and pre-election activities. Alternates shall serve on  
215 the Election Board during an election and until election results have been  
216 certified. In addition, the Election Board may utilize alternates for General  
217 Tribal Council meetings.

218 a.b. Board Vacancies. Board vacancies shall be filled in accordance with the Election  
219 Law, Section 4-2a. In the event of a Board vacancy, a request shall be submitted to  
220 the Oneida Business Committee requesting the vacancy be posted.

221 1. ~~d. Remove~~ Removal. Elected members may be removed from the Board ~~due to~~  
222 ~~unexcused absence-s~~ in accordance with the Removal Law. A member who is  
223 removed from the Board shall be ineligible to serve on the Board for three years  
224 from the date of his or her removal.

225 2. Termination of Appointment. Alternates may have their appointments terminated  
226 by the Oneida Business Committee in accordance with the Comprehensive  
227 Policy Governing Boards, Committees and Commissions. An alternate whose  
228 appointment is terminated shall be ineligible to serve on the Board for three  
229 years from the date of his or her termination of appointment.

230 3. Resignation. A member may resign at any time by delivering written notice to  
231 the Committee or upon the acceptance by motion of the Committee of a verbal  
232 resignation. A resignation is effective upon delivery of notice unless a later  
233 effective date is specified.

234 c. Qualifications. In order to be eligible to serve on the Board, members shall meet the  
235 following qualifications:

236 1. Enrolled Tribal member

237 2. Qualified voter, as defined in the Oneida Tribal Constitution

238 3. Reside within Brown or Outagamie counties.

239 i. Exception: Alternates serving at a Milwaukee polling site shall not be  
240 subject to residency requirements.

241  
242 Conflict of Interest. ~~e. Accept resignation-s when submitted in writing and presented to~~  
243 ~~the Board in accordance with the Election Law, Section 4-6.~~

244 d. In accordance with the Election Law, Code of Ethics, Conflict of Interest Policy and  
245 Comprehensive Policy Governing Boards, Committees and Commissions; an  
246 Election Board member shall recuse himself/herself from participating as an  
247 Election Board member in any pre-election, election day, or post-election activities

248 while he or she is a petitioner, applicant or candidate in any election or where there  
249 is otherwise a conflict of interest. Written notification of recusal shall be provided to  
250 the Board as soon as possible after the Board member becomes aware of such  
251 conflict.

252 **1-5. Elections Purpose.** The Board is responsible for ~~holding~~conducting elections of the Oneida  
253 Tribe, and for conducting ~~secret ballots of the voting process at~~ General Tribal Council  
254 ~~Meetings-meetings.~~ In accordance with the Election Law, the Board shall be in charge of all  
255 registration and election procedures, and shall make a final report on election results, and shall  
256 fulfill various other duties as identified in the Election Law; including but not limited to:

- 257 a. Assisting the handicapped through the voting process  
258 b. Governing the conduct of Enrollment Department personnel during the voting period.  
259 c. Imposing fines for violating campaign contribution and campaign sign restrictions, in  
260 amounts set by the Oneida Business Committee.  
261 d. Verifying the authenticity of rejected ballots.  
262 e. Conducting hearings when an applicant appeals a determination of ineligibility.

## 264 **Article II. Officers**

265 **2-1. Officers.** This entity shall have three (3) officers -- Chairperson, Vice Chairperson, and  
266 Secretary.

267 **2-2. Chair Chairperson duties.** ~~Responsible for calling meetings and notifying members with~~  
268 ~~the assistance of the Secretary.~~ The Chairperson shall preside or designee shall be responsible for  
269 calling and presiding over all regular and special meetings, shall oversee overseeing the conduct  
270 of the election, posting and shall post reporting the results of all elections, selecting the hearing  
271 body for applicants appealing an ineligibility determination, dismissing alternates and  
272 Enrollments personnel when their Election Day duties are complete, and notifying the  
273 Enrollments Department at least twenty (20) days before an election, for notice that must be  
274 mailed to all Tribal members.

275 **2-3. Vice Chair duties.** ~~The Vice Chairperson shall preside at all meetings in the absence of the~~  
276 ~~Chairperson.~~ Chairperson duties. The Vice Chairperson shall work with the Chairperson in all  
277 matters that concern the Board, and shall preside at all meetings in the absence of the  
278 Chairperson.

279 **2-4. Secretary duties.** ~~2-4.~~ The Secretary shall keep ~~accurate minutes~~ a record of ~~all the~~  
280 ~~meetings, both regular and special meetings.~~ Assure that minutes are reported in the proper  
281 format. Read and answer all mail abiding by/ make them available to the ~~decisions of the Tribal~~  
282 Secretary, other Election Board. members and the public as required in the Open Records and  
283 Open Meetings Law.

284 **2-5. How chosen and length of term.** The officers shall serve terms of ~~three (3) years~~ one (1)  
285 year and shall be elected by a majority vote at the first meeting of the ~~Election Board~~ following  
286 ~~their selection by the GTC.~~ elections. In the event of a vacancy, ~~the~~ a successor shall be voted in  
287 by the voting members for the duration of the unexpired term.

288 **2-6. Personnel.** ~~The Board shall not have authority to hire personnel.~~  
289 ~~Members.~~ Members shall serve a term of three (3) years and shall be selected by the GTC.  
290 Members of the Board shall have voting powers. No Member shall serve for more than two  
291 consecutive terms. In the event of a vacancy of a Member, a request shall be submitted to the  
292 Oneida Business Committee requesting the vacancy be posted.

- 293 a. Upon declaration of candidacy for elected office, members shall take a leave of

294 ~~absence which shall last until the Final Report is approved by the Board.~~

295 ~~2-7. **Standing and Special Committees.** Standing and special committees shall be created when~~  
296 ~~necessary.~~

297 ~~2-8. **Compensation.** The Board shall be compensated as defined by the Comprehensive Policy~~  
298 ~~Governing Boards, Committees, and Commissions for all meetings, including General Tribal~~  
299 ~~Council meetings, at the rate of \$50.00 per meeting and paid at an hourly rate of \$10.00 per hour~~  
300 ~~for all Elections.~~

301 ~~2-9. **Conflict of Interest.** Any board member who may be related to<sup>+</sup> a candidate on the ballot~~  
302 ~~for the current election shall recuse themselves from the actual election and any recounts relative to~~  
303 ~~that election.~~

### 305 **Article III. Meetings**

306 ~~3-1. **Regular meetings.** The Unless otherwise agreed to by the Board, the regular~~  
307 ~~meeting meetings of the Board shall be held as called for by the Chairperson. Notice on the first~~  
308 ~~(1<sup>st</sup>) Monday of each month. The physical meeting location, agenda, and materials place~~  
309 ~~forwarded by the Chairperson determined at the first meeting of the Board and may change from~~  
310 ~~time to time but shall be within the Reservation boundaries unless noticed to the Board~~  
311 ~~membership prior to designating the location. The Chairperson shall be responsible for notifying~~  
312 ~~members with the assistance of the Vice Chairperson and/or Secretary. Meetings shall be run in~~  
313 ~~accordance with Roberts Rules of Order.~~

314 ~~a. Members may contact another member in any fashion to identify that they wish to be~~  
315 ~~excused prior to the meeting. After a meeting, the Board may identify that a member~~  
316 ~~may be excused from the prior meeting by majority vote.~~

317 ~~3-2. **Emergency meetings.** Emergency or special meetings may be called by the Chairperson~~  
318 ~~with at least a one (1) hour notice.~~

319 ~~3-3. **Quorum.** A quorum shall consist of a majority of current the nine elected Board~~  
320 ~~members, including any alternates who are filling in for regular members who are recused or when there is~~  
321 ~~a vacancy; and shall include the Chairperson or Vice-Chairperson.~~

322 ~~3-4. **Order of Business.** The regular meetings of the Board shall follow the order of business as~~  
323 ~~set out herein:~~

- 324 a. Call to order
- 325 b. Approve/Amend Agenda
- 326 c. Approve/Amend Minutes
- 327 d. Tabled Business
- 328 e. Old Business
- 329 f. New Business
- 330 g. Other Concerns/Announcements
- 331 h. Next Meeting & Adjournment

332 ~~3-5. **Voting.** Voting Meetings shall be conducted in accordance with Roberts Rules Robert's~~  
333 ~~Rules of Order or. Decisions shall be by a majority vote of, with each member having one (1) vote~~  
334 ~~except for the voting members Chairperson or other presiding officer, who shall not vote except to~~

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<sup>+</sup>~~The term "related to" shall be defined as a Board member's Father, Father-in-law,  
Daughter-in-law, Mother, Mother-in-law, Son-in-law, Husband, Brother-in-law, Sister-in-law,  
Wife, Brother, Sister, Son, Grandparent, Grandchild or Daughter.~~



335 resolve a tie.  
336 **3-6. Sub-Committees and Special Committees.** Sub-committees or special committees may be  
337 appointed by the Chairperson to carry out a specific objective, when deemed necessary by the  
338 Board. The sub-committee or special committee shall serve until its duties are completed and a  
339 report is given to the Board.

340 **3-7. Compensation.** The Board shall be compensated in accordance with the Comprehensive  
341 Policy Governing Boards, Committees, and Commissions for all meetings, including General  
342 Tribal Council meetings, with a stipend of one hundred dollars (\$100) per meeting and paid at a  
343 rate of ten dollars (\$10) per hour for all elections.

344

**Article IV. Reporting**

345 **4-1. Format.** Agenda items shall be in an identified format.

346 **4-2. Minutes.** Minutes shall be typed and in a consistent format designed to generate the most  
347 informative record of the meetings of the entity.

348 **4-3. Attachments.** Handouts, reports, memoranda, and the like may be attached to the minutes and  
349 agenda, or may be kept separately, provided that all materials can be identified to the meeting in  
350 which they were presented.

351 **4-4. Reporting.** The Chairperson ~~will or designee shall~~ report to the ~~Tribal Secretary, who is~~  
352 ~~the designated liaison. This reporting format may be as the Tribal Secretary and Board agree to,~~  
353 ~~but not less than that required in any policy on reporting developed by the Oneida Business~~  
354 ~~Committee or Oneida General Tribal Council. Reports shall be made within a reasonable time~~  
355 ~~after a meeting is held, or as the Tribal Secretary and the Board agree.~~in accordance with the  
356 requirements set out in the Comprehensive Policy Governing Boards, Committees, and  
357 Commissions.

358

**Article V. Amendments**

359  
360 **5-1. Amendments to By-Laws.** Amendments shall be made to these by-laws at a regular  
361 meeting of the Board provided that written notice of proposed amendments was made at a prior  
362 regular meeting. ~~Amendments are effective upon adoption by the Board and approved~~approval  
363 by the Oneida Business Committee.

364

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367

368 These by-laws, as amended and revised, are hereby attested to as adopted by the Board at a duly  
369 called meeting by the Chairperson's signature on ~~February 9, 2009,~~                     , 20 and  
370 approved by the Oneida Business Committee at a duly called meeting held on ~~February 25,~~  
371 2009,                     , 20 signed by the Tribal Secretary of the Oneida Business Committee.

372

373

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375

376

377 \_\_\_\_\_  
Oneida Election Board Chairperson

377 \_\_\_\_\_  
Oneida Tribal Secretary  
Oneida Tribe of Indians of Wisconsin

378

379

380



1 **ONEIDA ELECTION BOARD BY-LAWS**  
2

3 **Article I. Authority**

4 **1-1. Name.** The name of this entity shall be the Oneida Election Board and may be referred to  
5 as the Board.

6 **1-2. Authority.** This entity is established by the Oneida Election Law and further recognized by  
7 the Oneida Business Committee by adoption of these by-laws on December 30, 1998 and  
8 amended on May 21, 2003, February 25, 2009 and \_\_\_\_\_.

9 **1-3. Office.** The official mailing address of this entity shall be:

10 Oneida Election Board  
11 P.O. Box 413  
12 Oneida, Wisconsin 54155

13 **1-4. Membership.**

14 a. **Members.**

15 1. **Elected Members.** The Board shall consist of nine (9) members, elected in  
16 accordance with the Election Law. Members shall serve a term of three (3)  
17 years. No member shall serve for more than two (2) consecutive terms.

18 2. **Alternates.** In accordance with the Election Law, the Oneida Business  
19 Committee may appoint or reappoint a sufficient number of alternates to the  
20 Election Board, as recommended by the Election Board, to assist with  
21 Election Day and pre-election activities. Alternates shall serve on the  
22 Election Board during an election and until election results have been  
23 certified. In addition, the Election Board may utilize alternates for General  
24 Tribal Council meetings.

25 b. **Board Vacancies.** Board vacancies shall be filled in accordance with the Election  
26 Law. In the event of a Board vacancy, a request shall be submitted to the Oneida  
27 Business Committee requesting the vacancy be posted.

28 1. **Removal.** Elected members may be removed from the Board in accordance with  
29 the Removal Law. A member who is removed from the Board shall be ineligible  
30 to serve on the Board for three years from the date of his or her removal.

31 2. **Termination of Appointment.** Alternates may have their appointments terminated  
32 by the Oneida Business Committee in accordance with the Comprehensive  
33 Policy Governing Boards, Committees and Commissions. An alternate whose  
34 appointment is terminated shall be ineligible to serve on the Board for three  
35 years from the date of his or her termination of appointment.

36 3. **Resignation.** A member may resign at any time by delivering written notice to  
37 the Committee or upon the acceptance by motion of the Committee of a verbal  
38 resignation. A resignation is effective upon delivery of notice unless a later  
39 effective date is specified.

40 c. **Qualifications.** In order to be eligible to serve on the Board, members shall meet the  
41 following qualifications:

- 42 1. Enrolled Tribal member  
43 2. Qualified voter, as defined in the Oneida Tribal Constitution  
44 3. Reside within Brown or Outagamie counties.

45 i. **Exception:** Alternates serving at a Milwaukee polling site shall not be  
46 subject to residency requirements.

47  
48 d. *Conflict of Interest.* In accordance with the Election Law, Code of Ethics, Conflict  
49 of Interest Policy and Comprehensive Policy Governing Boards, Committees and  
50 Commissions; an Election Board member shall recuse himself/herself from  
51 participating as an Election Board member in any pre-election, election day, or post-  
52 election activities while he or she is a petitioner, applicant or candidate in any  
53 election or where there is otherwise a conflict of interest. Written notification of  
54 recusal shall be provided to the Board as soon as possible after the Board member  
55 becomes aware of such conflict.

56 **1-5. Purpose.** The Board is responsible for conducting elections of the Oneida Tribe, and for  
57 conducting the voting process at General Tribal Council meetings. In accordance with the  
58 Election Law, the Board shall be in charge of all registration and election procedures, and shall  
59 make a final report on election results, and shall fulfill various other duties as identified in the  
60 Election Law; including but not limited to:

- 61 a. Assisting the handicapped through the voting process  
62 b. Governing the conduct of Enrollment Department personnel during the voting period.  
63 c. Imposing fines for violating campaign contribution and campaign sign restrictions, in  
64 amounts set by the Oneida Business Committee.  
65 d. Verifying the authenticity of rejected ballots.  
66 e. Conducting hearings when an applicant appeals a determination of ineligibility.

67  
68 **Article II. Officers**

69 **2-1. Officers.** This entity shall have three (3) officers -- Chairperson, Vice Chairperson, and  
70 Secretary.

71 **2-2. Chairperson duties.** The Chairperson or designee shall be responsible for calling and  
72 presiding over all meetings, overseeing the conduct of the election, posting and reporting the  
73 results of all elections, selecting the hearing body for applicants appealing an ineligibility  
74 determination, dismissing alternates and Enrollments personnel when their Election Day duties  
75 are complete, and notifying the Enrollments Department at least twenty (20) days before an  
76 election, for notice that must be mailed to all Tribal members.

77 **2-3. Vice Chairperson duties.** The Vice Chairperson shall work with the Chairperson in all  
78 matters that concern the Board, and shall preside at all meetings in the absence of the  
79 Chairperson.

80 **2-4. Secretary duties.** The Secretary shall keep a record of the meetings and make them  
81 available to the Tribal Secretary, other Election Board members and the public as required in the  
82 Open Records and Open Meetings Law.

83 **2-5. How chosen and length of term.** The officers shall serve terms of one (1) year and shall be  
84 elected by a majority vote at the first meeting of the Board following elections. In the event of a  
85 vacancy, a successor shall be voted in by the voting members for the duration of the unexpired  
86 term.

87 **2-6. Personnel.** The Board shall not have authority to hire personnel.  
88

89 **Article III. Meetings**

90 **3-1. Regular meetings.** Unless otherwise agreed to by the Board, the regular meetings of the  
91 Board shall be held on the first (1<sup>st</sup>) Monday of each month. The physical meeting place shall be  
92 determined at the first meeting of the Board and may change from time to time but shall be

93 within the Reservation boundaries unless noticed to the Board membership prior to designating  
94 the location. The Chairperson shall be responsible for notifying members with the assistance of  
95 the Vice Chairperson and/or Secretary.

96 **3-2. *Emergency meetings.*** Emergency or special meetings may be called by the Chairperson  
97 with at least one (1) hour notice.

98 **3-3. *Quorum.*** A quorum shall consist of a majority of the nine elected Board members,  
99 including any alternates who are filling in for regular members who are recused or when there is  
100 a vacancy; and shall include the Chairperson or Vice Chairperson.

101 **3-4. *Order of Business.*** The regular meetings of the Board shall follow the order of business as  
102 set out herein:

- 103 a. Call to order
- 104 b. Approve/Amend Agenda
- 105 c. Approve/Amend Minutes
- 106 d. Tabled Business
- 107 e. Old Business
- 108 f. New Business
- 109 g. Other Concerns/Announcements
- 110 h. Next Meeting & Adjournment

111 **3-5. *Voting.*** Meetings shall be conducted in accordance with Robert's Rules of Order. Decisions  
112 shall be by majority vote, with each member having one (1) vote except for the Chairperson or other  
113 presiding officer, who shall not vote except to resolve a tie.

114 **3-6. *Sub-Committees and Special Committees.*** Sub-committees or special committees may be  
115 appointed by the Chairperson to carry out a specific objective, when deemed necessary by the  
116 Board. The sub-committee or special committee shall serve until its duties are completed and a  
117 report is given to the Board.

118 **3-7. *Compensation.*** The Board shall be compensated in accordance with the Comprehensive  
119 Policy Governing Boards, Committees, and Commissions for all meetings, including General  
120 Tribal Council meetings, with a stipend of one hundred dollars (\$100) per meeting and paid at a  
121 rate of ten dollars (\$10) per hour for all elections.

## 122 **Article IV. Reporting**

123 **4-1. *Format.*** Agenda items shall be in an identified format.

124 **4-2. *Minutes.*** Minutes shall be typed and in a consistent format designed to generate the most  
125 informative record of the meetings of the entity.

126 **4-3. *Attachments.*** Handouts, reports, memoranda, and the like may be attached to the minutes and  
127 agenda, or may be kept separately, provided that all materials can be identified to the meeting in  
128 which they were presented.

129 **4-4. *Reporting.*** The Chairperson or designee shall report to the Business Committee in  
130 accordance with the requirements set out in the Comprehensive Policy Governing Boards,  
131 Committees, and Commissions.

## 132 **Article V. Amendments**

133 **5-1. *Amendments to By-Laws.*** Amendments shall be made to these by-laws at a regular  
134 meeting of the Board provided that written notice of proposed amendments was made at a prior  
135 regular meeting. Amendments are effective upon adoption by the Board and approval by the  
136 Oneida Business Committee.

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These by-laws, as amended and revised, are hereby attested to as adopted by the Board at a duly called meeting by the Chairperson=s signature on \_\_\_\_\_, 20\_\_ and approved by the Oneida Business Committee at a duly called meeting held on \_\_\_\_\_, 20\_\_ signed by the Tribal Secretary of the Oneida Business Committee.

\_\_\_\_\_  
Oneida Election Board Chairperson

\_\_\_\_\_  
Oneida Tribal Secretary  
Oneida Tribe of Indians of Wisconsin

\_\_\_\_\_



# Legislative Operating Committee

## June 17, 2015

# Investigative Leave Policy Amendments

**Submission Date:** December 17, 2014

Public Meeting: 4/30/15  
 Emergency Enacted:

**LOC Sponsor:** Jennifer Webster

**Summary:** *Amendments to the Investigative Leave Policy were requested to delete a section of the Policy which prohibits the use of investigative leave when a complaint is filed. While the original intent of the section was to prohibit the use of investigative leave when one employee files a complaint against another, as defined under the Personnel Policies and Procedures, a decision by the Oneida Appeals Commission has interpreted the Policy to apply anytime the term "complaint" is used in an investigation. This could prohibit a supervisor from taking action to protect the Tribe in cases of misappropriation if inappropriate activities are identified based on a complaint arising out of a disciplinary or complaint process. The amendments would also reduce the time period of the investigation from 30 days to 15 days.*

- 12/17/14 LOC:** Motion by Jennifer Webster to add the Investigative Leave Policy Amendments to the active files list with herself as the sponsor; seconded by Tehassi Hill. Motion carried unanimously.
- 02/18/15 LOC:** Motion by Tehassi Hill to defer the Investigative Leave Policy Amendments for a legislative analysis and a fiscal impact statement; seconded by Fawn Billie. Motion carried unanimously.
- 4/3/15 LOC:** Motion by Jennifer Webster to make the changes as discussed and forward to an April 30th, 2015 Public Meeting; seconded by Tehassi Hill. Motion carried unanimously.
- 4/30/15:** Public Meeting Held.
- 5/20/15 LOC:** Motion by David P. Jordan to defer the Investigative Leave Policy Amendments to the Legislative Reference Office to make the noted changes and to prepare this item for OBC consideration; seconded by Tehassi Hill. Motion carried unanimously.
- 6/03/15 LOC:** Motion by Jennifer Webster to forward the Investigative Leave Policy Amendments to the Oneida Business Committee for consideration; seconded by David P. Jordan. Motion carried unanimously.
- 6/10/15 OBC:** Motion by Jennifer Webster to defer the resolution titled Investigative Leave Policy Amendments to the next Business Committee meeting, seconded by David Jordan. Motion carried unanimously.

**Next Steps:**

- Review changes to the draft and consider forwarding to the OBC for consideration.


# Oneida Tribe of Indians of Wisconsin

**Legislative Reference Office**  
 P.O. Box 365  
 Oneida, WI 54155  
 (920) 869-4376  
 (800) 236-2214  
<http://oneida-nsn.gov/LOC>



**Committee Members**  
 Brandon Stevens, Chairperson  
 Tehassi Hill, Vice Chairperson  
 Fawn Billie, Councilmember  
 David P. Jordan, Councilmember  
 Jennifer Webster, Councilmember

## Memorandum

**To:** Oneida Business Committee  
**From:** Brandon Stevens, LOC Chairperson   
**Date:** June 24, 2015  
**Re:** Investigative Leave Policy Amendments

Please find attached the following for your consideration:

1. Resolution: Investigative Leave Policy Amendments
2. Statement of Effect: Investigative Leave Policy Amendments
3. Fiscal Impact Statement: Investigative Leave Policy Amendments
4. Investigative Leave Policy Amendments (redline)
5. Investigative Leave Policy Amendments (clean)

### *Overview*

The attached Resolution will adopt amendments to the Investigative Leave Policy (Policy). Amendments to the Policy were requested to delete a section which prohibits the use of investigative leave when a complaint is filed. While the original intent of this section was to prohibit the use of investigative leave when one employee files a complaint against another, as defined under the Tribe's personnel policies and procedures; a decision by the Oneida Appeals Commission has interpreted the Policy to apply anytime the term "complaint" is used in an investigation. In order to avoid prohibiting a supervisor from taking action to protect the Tribe, reduce the amount of time an employee can be placed on investigative leave and streamline the Policy, the following amendments were made:

- Remove language that states that investigative leaves do not apply to investigations regarding appeals of disciplinary actions or employee complaint investigations.
- Reduce how long an employee can be placed on investigative leave; this timeframe has been reduced from 30 calendar days to 15 calendar days.
- Reduce how long an employee's investigative leave can be extended; this timeframe has been reduced from 30 calendar days to 15 calendar days.
- Require the employee's supervisor to notify the employee through a memorandum when to return to work and/or the disciplinary action that will be taken.
- Add an enforcement provision.
- Amend the appeal process, only allowing the employee to review a redacted copy of the written report created as a result of the investigation in the event the employee files an appeal. Employees are only allowed to appeal a disciplinary action that arises from an investigation.

A public meeting was held on April 30, 2015 in accordance with the Legislative Procedures Act and the comments were received were considered by the Legislative Operating Committee on May 20, 2015. Additional comments were received at the June 10, 2015 OBC meeting and incorporated into the Policy.

### **Requested Action**

Approve the Resolution: Investigative Leave Policy Amendments

**BC Resolution \_\_\_\_\_**  
*Investigative Leave Policy Amendments*

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**WHEREAS,** the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

**WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Tribe of Indians of Wisconsin; and

**WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

**WHEREAS,** the Investigative Leave Policy was adopted by the Oneida Business Committee by resolution BC-04-07-99-A and amended by resolution BC-08-13-14-D; and

**WHEREAS,** the amendments to the Investigative Leave Policy remove language that states that investigative leaves do not apply to investigations regarding the appeals of disciplinary actions or employee complaint investigations; and

**WHEREAS,** the amendments reduce how long an employee can be placed on investigative leave as well as reduce the timeframe of an extension; and

**WHEREAS,** the amendments require the employee’s supervisor to notify the employee through a memorandum when to return to work and/or the disciplinary action that will be taken; and

**WHEREAS,** the amendments add an enforcement provision; and

**WHEREAS,** other amendments change the appeal process, only allowing the employee to review a redacted copy of the written investigation report in the event of an appeal and only allowing an appeal for a disciplinary action that arises from an investigation; and

**WHEREAS,** a public meeting was held on April 30, 2015, in accordance with the Legislative Procedures Act.

**NOW THEREFORE BE IT RESOLVED,** that the attached amendments to the Investigative Leave Policy are hereby adopted.

## Legislative Reference Office

P.O. Box 365

Oneida, WI 54155

(920) 869-4376

(800) 236-2214

<http://oneida-nsn.gov/LOC>



## Committee Members

Brandon Stevens, Chairperson

Tehassi Hill, Vice Chairperson

Fawn Billie, Councilmember

David P. Jordan, Councilmember

Jennifer Webster, Councilmember

## Statement of Effect

### *Investigative Leave Policy Amendments*

### Summary

This Resolution adopts amendments to the Investigative Leave Policy (Policy) which will avoid prohibiting a supervisor from protecting the Tribe, reduce the amount of time an employee is subject to an investigative leave and streamline the Policy.

*Submitted by: Candice E. Skenandore, Legislative Analyst, Legislative Reference Office*

### *Analysis by the Legislative Reference Office*

On December 17, 2014, amendments to the Investigative Leave Policy (Policy) were requested by the Law Office to delete a section within the Policy that prohibits the use of investigative leave when a complaint is filed. While the original intent of this section was to prohibit the use of investigative leave when one employee files a complaint against another; as defined under the Tribe's personnel policies and procedures, a decision by the Oneida Appeals Commission has interpreted the Policy to apply anytime the term "complaint" is used in an investigation.

Proposed amendments to the Policy include the following:

- Remove language that states that investigative leaves do not apply to investigations regarding appeals of disciplinary actions or employee complaint investigations.
- Reduce how long an employee can be placed on investigative leave; this timeframe has been reduced from 30 calendar days to 15 calendar days.
- Reduce how long an employee's investigative leave can be extended; this timeframe has been reduced from 30 calendar days to 15 calendar days.
- Require the employee's supervisor to notify the employee when to return to work and/or the disciplinary action that will be taken.
- Add an enforcement provision.
- Amend the appeal process, only allowing the employee to review a redacted copy of the written investigation report in the event of an appeal and only allowing an appeal for a disciplinary action that arises from an investigation

A public meeting on the proposed amendments was held on April 30, 2015 pursuant to the Legislative Procedures Act. The comments pertaining to this Policy were considered by the Legislative Operating Committee on May 20, 2015. Additional changes were incorporated based on a discussion that occurred at the June 10, 2015 Oneida Business Committee meeting.

### Conclusion

Adoption of this Resolution would not conflict with Tribal law.



# ONEIDA TRIBE OF INDIANS OF WISCONSIN



## ONEIDA FINANCE OFFICE

Office: (920) 869-4325 • Toll Free: 1-800-236-2214

FAX # (920) 869-4024

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made possible.

## MEMORANDUM

DATE: July 9, 2014  
FROM: Rae Skenandore, Project Manger  
TO: Larry Barton, Chief Financial Officer  
CC: Ralinda R. Ninham-Lamberies, Assistant Chief Financial Officer  
RE: **Financial Impact of the Investigative Leave Policy**

### **I. Background**

The Investigative Leave Policy was originally approved with BC resolution 04-07-99A. Amendments were requested by HRD and based on Appeals Commission ruling that indicated the language of the policy needed clarification. The policy outlines the process and timelines to be used to complete a work-related investigation into alleged acts that could result in disciplinary acts or termination.

### **II. Executive Summary of Findings**

The amendments clear up some ambiguities in the previous policy by adding distinct timelines and identifying the specific requirements that an employee on investigative leave must follow in order to be paid during that time. There are no startup costs associated with the implementation of this policy and no new personnel is needed. Existing in-house staff will communicate the amendments to the organization and the policy can be enacted immediately upon approval and notification of the HRD manager. HRD is responsible for the oversight and approval of an investigative leave and will inform supervisors of the changes in the policy.

### **III. Financial Impact**

No financial impact.

### **III. Recommendation**

The Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that General Tribal Council has full information with which to render a decision.



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

## Investigative Leave Policy

Article I. Purpose and Policy  
Article II. Adoption, Amendment, Repeal  
Article III. Definitions  
Article IV. Scope  
Article V. Authorization  
Article VI. Employee Notice  
Article VII. Investigator(s) and Reports

Article VIII. Duration  
Article IX. Employee Responsibilities  
Article X. Pay and Benefits  
Article XI. Enforcement  
Article XII. Appeal  
Article XIII. Confidentiality

<i>Analysis by the Legislative Reference Office</i>					
<b>Title</b>	Investigative Leave Policy (Policy)				
<b>Requester</b>	Chief Counsel	<b>Drafter</b>	Lynn A. Franzmeier	<b>Analyst</b>	Candice E. Skenandore
<b>Reason for Request</b>	It has recently been interpreted that this Policy cannot be utilized if a “complaint” has been filed. The intent of this Policy was to prohibit an employee complaint about another employee (i.e. personal issue between two employees or a peer level complaint affecting the work environment), not a “complaint” in an investigation. In addition, it has been requested that the investigation period be reduced to 15 days.				
<b>Purpose</b>	The purpose of this Policy is to address investigative leave for employees undergoing work-related investigations <i>[See 1-1]</i> .				
<b>Authorized/ Affected Entities</b>	This Policy affects Tribal employees employed by any program or enterprise but does not pertain to elected or appointed officials and political appointees <i>[See 3-1 (a)]</i> . Other identified entities include the employee’s supervisor and/or area manager, Human Resource Department (HRD), HRD Manager, Division Directors or their equivalent and possibly the Equal Employment Opportunity Officer.				
<b>Due Process</b>	An employee can appeal any disciplinary action arising out of an investigation pursuant to the Tribe’s personnel policies and procedures <i>[See 12-1]</i> .				
<b>Related Legislation</b>	Back Pay Policy <i>[See 10-4]</i> , appeals and releasing confidential information will follow the processes set out in the Tribe’s personnel policies and procedures <i>[See 12.1 &amp; 13-1]</i> ,				
<b>Enforcement</b>	Any violation of this Policy is subject to disciplinary action as set out in the Tribe’s personnel policies and procedures <i>[See 11-1]</i> .				

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### Overview

An employee will be placed on investigative leave when a situation requires an investigation and the employee’s presence can influence the outcome or if an employee allegedly commits an act which prevents the employee from meeting employment eligibility such as required licenses, Tribal fidelity bond or background investigation requirements. This Policy; however, cannot be used as a form a discipline *[See 4-1 & 4-2]*. The Policy will:

- Require the supervisor to obtain prior approval before placing an employee on investigative leave *[See 5]*;
- Call for the supervisor to place an employee in an alternative work assignment during the investigation so long as: the alleged action does not prevent the employee from working elsewhere in the Tribe; an alternative work assignment is available and the employee meets the minimum qualifications of the alternative work assignment *[See 5-4]*;
- Require the supervisor to provide written notice to the employee being placed on investigative leave *[See 6]*;
- Identify who is responsible for completing the investigation and how the employee placed on investigative leave is notified of the findings *[See 7]*;
- Set out how long an employee can be placed on investigative leave *[See 8]*;
- Specify the employee’s responsibilities while on investigative leave *[See 9]*;

For OBC consideration (redline)

06/24/15

- 20     ▪ Explain how pay and benefits are handled while the employee is on investigative leave,  
21 including when an employee is eligible for back pay [See 10];
- 22     ▪ Subject the employee to discipline in accordance with the Tribe’s personnel policies and  
23 procedures if the employee violates this Policy [See 11];
- 24     ▪ Identify how appeals are conducted [See 12] and
- 25     ▪ Require information related to the investigation to be confidential and only be released in  
26 accordance with relevant laws and personnel policies and procedures [See 13].

### Proposed Amendments

The following are proposed amendments to the Policy:

- 30     ▪ The term “disciplinary action” has been removed from the Policy, the definition of  
31 “employee” has been revised to be consistent with other Tribal laws and the definition for  
32 “investigative leave” has been enhanced to better reflect the intent of the Policy [See  
33 *redline 3-1*].
- 34     ▪ This Policy no longer states that investigative leave does not apply to investigations  
35 regarding appeals of disciplinary actions or employee complaint investigations [See  
36 *redline 4-3*]. This amendment will help avoid any further confusion as to whether this  
37 Policy can be utilized when a complaint is filed.
- 38     ▪ Currently, the HRD Manager must, among other things, decide to approve or deny a  
39 request to place an employee on investigative leave. Because there may be times when  
40 the HRD Manager is not available when a request is made, language has been added that  
41 allows the HRD Manager or his/her designee to make the necessary determinations [See  
42 *5-1 & 5-2*].
- 43     ▪ The current Policy allows the supervisor to authorize an alternative work assignment for  
44 the employee placed on investigative leave if the alleged action does not preclude the  
45 employee from working elsewhere in the Tribe. The proposed Policy will also require  
46 that an alternative work assignment be available and the employee to meet the minimum  
47 qualifications of the alternative work assignment prior to the supervisor authorizing an  
48 alternative work assignment [See *5-4*].
- 49     ▪ The timeframe for how long an employee can be placed on investigative leave has been  
50 reduced from 30 calendar days to 15 calendar days. In addition, if an extension is  
51 granted, that extension can only be for an additional 15 calendar days instead of 30  
52 calendar days, which is current practice [See *6-2 & 8-1*]. This amendment will reduce  
53 the amount of time a supervisor and/or area manager has to complete an investigation;  
54 however, the amount of time an employee is subject to an investigative leave is cut in  
55 half.
- 56     ▪ If anyone other than the employee’s supervisor conducts the investigation, the supervisor  
57 must complete an investigation within 48 hours of receiving the report to determine if any  
58 corrective actions are needed [See *7-3*]. In addition, the Policy now clarifies that  
59 regardless of who conducts the investigation, the employee’s supervisor is responsible for  
60 notifying the employee of any corrective actions needed based on the written report,  
61 when to return to work and/or of what disciplinary action will be taken and a redacted  
62 copy of the written report will be available only if the employee appeals any disciplinary

For OBC consideration (redline)

06/24/15

63 action [See 7-4].

- 64 ■ An enforcement provision was added to the Policy that subjects an employee to  
65 disciplinary action in accordance with the Tribe's personnel policies and procedures if the  
66 employee violates this Policy [See 11-1].
- 67 ■ An employee can only appeal a disciplinary action that arises from an investigation  
68 pursuant to the Tribe's personnel policies and procedures [See 12-1]. The current Policy  
69 allows an employee to appeal the findings in the written report and/or a decision in  
70 accordance with the Tribe's personnel policies and procedures; however, the Personnel  
71 Policies and Procedures only allow employees to appeal disciplinary actions [See  
72 *Personnel Policies and Procedures Section V.D.3*].

### 73 74 **Considerations**

75 The Legislative Operating Committee may want to consider the following:

- 76 ■ There are inconsistencies with how the Tribe views political appointees. There are times  
77 when Tribal legislation includes political appointees in the definition for "employee" and  
78 other times political appointees are excluded from the "employee" definition. This  
79 Policy does not apply to political appointees but the proposed Furlough Policy will apply  
80 to political appointees [See 3-1 (a) and proposed Furlough Policy draft 3, 3-1 (a)].

### 81 82 **Miscellaneous**

83 A public meeting was held on April 30, 2015. Minor language changes have been made  
84 to provide more clarity to the Policy.

---

### 85 86 **Article I. Purpose and Policy**

87 1-1. The purpose of this Policy is to addresses investigative leave for employees undergoing  
88 work-related investigations.

89 1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin to maintain confidentiality and  
90 avoid undue influence when conducting an investigation into an employee's alleged wrong  
91 doings.-

### 92 93 **Article II. Adoption, Amendment, Repeal**

94 2-1. This Policy was adopted by the Oneida Business Committee by resolution BC-#04-07-99-  
95 A, and amended by resolution BC-#08-13-14-D; and \_\_\_\_\_.

96 2-2.- This Policy may be amended or repealed by the Oneida Business Committee or the General  
97 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

98 2-3. Should a provision of this Policy or the application thereof to any person or circumstances  
99 be held as invalid, such invalidity shall not affect other provisions of this Policy which are  
100 considered to have legal force without the invalid portions.

101 2-4. In the event of a conflict between a provision of this Policy and a provision of another  
102 policy, the provisions of this Policy shall control.

103 2-5. This Policy is adopted under authority of the Constitution of the Oneida Tribe of Indians of  
104 Wisconsin.

For OBC consideration (redline)

06/24/15

106 **Article III. Definitions**

107 3-1. This section shall govern the definitions of words and phrases used within this Policy. All  
 108 words not defined herein shall be used in their ordinary and everyday sense.

109 ~~(a) —“Disciplinary action” shall mean the process as set forth in the Tribe’s personnel~~  
 110 ~~policies for dealing with job-related behavior that does not meet expected and~~  
 111 ~~communicated performance standards.~~

112 ~~(b)~~(a) “Employee” shall mean any individual who is employed by the Tribe and is  
 113 subject to the direction and control of the Tribe with respect to the material details of the  
 114 work performed, or who has the status of an employee under the usual common law rules  
 115 applicable to determining the employer-employee relationship. “Employee” includes, but  
 116 is not limited to; an individual employed by any program or enterprise of the Tribe, but  
 117 does not include elected or appointed officials or ~~individuals employed by a Tribally~~  
 118 ~~Chartered Corporation, and political appointees. For purposes of this Policy, individuals~~  
 119 ~~employed under an employment contract as a limited term employee are employees of~~  
 120 ~~the Tribe, not consultants~~political appointees.

121 ~~(e)~~(b) “Investigative leave” shall mean a temporary absence ~~without~~from regular job  
 122 duties ~~and without pay~~ for the purpose of ~~determining~~conducting an investigation to  
 123 determine whether conduct or ~~not~~alleged conduct by an employee should result in  
 124 disciplinary action ~~needs to be taken~~and/or termination of employment.

125 ~~(d)~~(c) “Tribal” or “Tribe” shall mean the Oneida Tribe of Indians of Wisconsin.  
 126

127 **Article IV. Scope**

128 4-1. An employee shall be placed on investigative leave when one (1) of the following occurs:

129 (a) ~~An~~A situation requires an investigation ~~needs to~~ be conducted and ~~an~~the employee’s  
 130 presence ~~would~~may influence the outcome.

131 (b) An employee allegedly commits an act which would preclude ~~them~~the employee  
 132 from meeting employment eligibility including required Licenses, the Tribal Fidelity  
 133 Bond, or Background Investigation requirements.

134 4-2. This Policy shall not be used as a form of discipline.

135 ~~4-3. Investigative leave shall not apply to investigations regarding appeals of disciplinary~~  
 136 ~~actions or employee complaint investigations.~~

137 **Article V. Authorization**

138 5-1. This leave, or an extension of this leave, shall only be used when an employee’s supervisor  
 139 receives prior approval from the Human Resources Department Manager or his or her designee  
 140 and:  
 141

142 (a) their Division Director; or

143 (b) if there is no Division Director, the person at the highest level of the chain of  
 144 command.-

145 5-2. If the Human Resources Department Manager or his or her designee and the Division  
 146 Director or his or her equivalent do not agree with placing the employee on investigative leave,  
 147 then the final decision shall rest with the Human Resources Department Manager or his or her  
 148 designee.

For OBC consideration (redline)

06/24/15

149 5-3. The prior approval requested in 5-1 shall be granted or denied within forty-eight (48) hours  
150 of receiving the request.-

151 5-4. During the investigative leave, the employee's supervisor shall authorize an alternative  
152 work assignment if all the following occur:

153 (a) The alleged action does not preclude the employee from working elsewhere in the  
154 organization-;

155 (b) An alternative work assignment ~~authorized~~ is available; and

156 (c) The employee meets the minimum job requirements of the alternative work assignment.

157 5-5. If an employee is placed in an alternative work assignment under ~~this~~ section 5-4, the  
158 alternative work assignment shall be considered a part of the investigative leave and the  
159 employee shall continue to receive their same rate of pay.

160

## 161 Article VI. Employee Notice

162 6-1. When the employee is placed on investigative leave, the employee shall immediately  
163 receive a written notice from the employee's supervisor; the notice shall contain the following:

164 (a) The specific allegation(s) being investigated;

165 (b) The employee shall be on unpaid status, unless he or she is placed in an alternative  
166 work assignment;

167 (c) The alternative work assignment, if appropriate;-

168 (d) The expected length of the investigation;

169 (e) Whether or not the investigation is being forwarded to an outside agency;

170 (f) The telephone number and name of person to contact in case of questions;

171 (g) The procedures to return to work upon completion of the investigation; and

172 (h) That the employee still remains as an employee with the Tribe.

173 6-2. ~~If the employee's investigative leave is extended past the original thirty~~ (30 fifteen (15))  
174 calendar days pursuant to section 8-1, the supervisor shall immediately notice the employee in  
175 writing of this extension and the reason for the extension.

176

## 177 Article VII. Investigator(s) and Reports

178 7-1. The employee's supervisor and/or area manager shall be responsible for completing the  
179 investigation. If the employee ~~is one who being investigated reports~~ directly reports to the  
180 Oneida Business Committee, the Tribal Equal Employment Opportunity Officer shall conduct  
181 the investigation.

182 7-2. If the allegations against the employee include criminal actions, or actions that may affect  
183 licensing, the ~~investigations may be completed by an appropriate agency, including but not~~  
184 ~~limited to: Police Departments, District Attorneys, Oneida Security, the Oneida Gaming~~  
185 ~~Commission, and Social Services~~ supervisor shall conclude the employment related investigation  
186 without waiting for the results of a criminal or licensing investigation.

187 7-3. The person(s) conducting an investigation shall prepare a written report that shall include  
188 the findings of the investigation, and ~~provide a copy of the written report to the employee and, if~~  
189 ~~necessary~~ someone other than the employee's supervisor- conducts the investigation, a copy of  
190 the written report shall be provided to the employee's supervisor.

191 ~~7-4. Within~~ If someone other than the employee's supervisor conducts the investigation, within



192 | forty-eight (48) hours of ~~creating or~~ receiving the written ~~reports~~report, the supervisor shall ~~be~~  
193 | ~~responsible for informing the employee in writing when to return to work, and/or deciding the~~  
194 | ~~discipline which may be appropriate~~ complete the investigation by determining and documenting  
195 | any corrective actions needed.

196 | 7-4. The employee's supervisor shall prepare a memorandum based on the written report which  
197 | shall be provided to the employee and shall inform the employee of the following:

- 198 | (a) corrective actions needed based on the written report, if any; and  
199 | (b) when to return to work, if applicable and/or what disciplinary action will be taken  
200 | against the employee based on the report; and  
201 | (c) a redacted copy of the written report will be made available to the employee only in  
202 | the event the employee appeals any disciplinary action.

203 |  
204 | **Article VIII. Duration**

205 | 8-1. An investigative leave shall be no longer than ~~thirty (30)~~fifteen (15) calendar days, with the  
206 | ability to extend one (1) time for an additional ~~thirty (30)~~fifteen (15) calendar days with a valid  
207 | explanation of the reason for the extension. The extension shall be determined by the same  
208 | individuals who placed the employee on investigative leave in section 5-1. However, if the  
209 | investigation is forwarded to an outside agency, these timelines shall not apply.-

- 210 | 8-2. Investigative leave shall end upon any of the following occurrences:  
211 | (a) the expiration of the ~~thirty (30)~~fifteen (15) calendar day time limit, if applicable;  
212 | (b) the expiration of the ~~thirty (30)~~fifteen (15) calendar day extension if granted;  
213 | (c) termination of the employee's employment based on the investigation;  
214 | (d) the employee's return to work ~~when the~~ based on the written report submitted to the  
215 | employee after an investigation is completed ~~prior to the expiration of the time limits~~  
216 | ~~given in (a) and/or (b) as officially documented by whomever is designated as the official~~  
217 | ~~investigative body; or~~  
218 | (e) the employee chooses to resign or retire.

219 |  
220 | **Article IX. Employee Responsibilities**

- 221 | 9-1. An employee placed on investigative leave shall:  
222 | (a) ~~Not report to work or the worksite without prior supervisory approval;~~  
223 | ~~—(b) Abide by all Tribal laws and policies, including prohibited gaming activities; and~~  
224 | (c) Fully cooperate with the investigation as requested by those conducting the  
225 | investigation.

226 |  
227 | **Article X. Pay and Benefits**

228 | 10-1. Paid leave shall not be authorized ~~in accordance with the Tribe's personnel policies and~~  
229 | ~~procedures and the Oneida Nation Gaming Ordinance.~~

230 | 10-2. An employee placed on investigative leave shall not receive any wages or benefits unless  
231 | placed in an alternative work assignment. If the employee refuses the alternative work  
232 | assignment and is returned to work, the employee shall not receive any back pay or benefits.

233 | 10-3. If an alternative work assignment is not available, the employee may use his or her  
234 | accrued vacation and/or personal time while on investigative leave.-

235 | 10-4. An employee shall receive back pay and benefits for the time the employee was on  
236 | investigative leave, ~~including prorated credit for vacation/personal time~~ pursuant to ~~Section 4-4~~  
237 | ~~of~~ the Back Pay Policy if all of the following occur:

- 238 (a) The employee was not offered an alternative work assignment when placed on  
239 investigative leave; and-  
240 (b) The employee is returned to his or her position; and-  
241 (c) The employee is not disciplined ~~or terminated~~ based on the investigation.  
242

243 **Article XI. ~~Enforcement~~ ~~Appeal~~**

244 11-1. ~~In Any employee found violating this Policy shall be subject to discipline in~~ accordance  
245 with the ~~Tribe's~~ personnel policies and procedures.  
246

247 **Article XII. ~~Appeal of the Tribe, an~~**

248 ~~12-1. An~~ employee ~~can~~ ~~may~~ appeal ~~the findings in the written report and/or the decision~~ ~~any~~  
249 ~~disciplinary action~~ arising out of ~~the an~~ investigation ~~within ten (10) business days of receiving~~  
250 ~~the written report required in 7-3. in accordance with the Tribe's personnel policies and~~  
251 ~~procedures.~~  
252

253 **Article ~~XII~~ XIII. Confidentiality**

254 ~~1213-1.~~ Information related to an investigation is confidential. ~~Access or sharing of this~~  
255 ~~information shall be limited to those who have a legitimate "need to know" and may only be~~  
256 ~~released~~ in ~~compliance~~ ~~accordance~~ with relevant laws and personnel policies and procedures.-

257 ~~1213-2.~~ All investigation materials shall be maintained in the ~~employees~~ ~~employee's~~  
258 personnel file with ~~the~~ Human Resources Department.  
259

260 *End.*  
261

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262 OBC Approved 4-07-99-A  
263 Amended- BC-08-13-14-D



## Investigative Leave Policy

Article I. Purpose and Policy  
Article II. Adoption, Amendment, Repeal  
Article III. Definitions  
Article IV. Scope  
Article V. Authorization  
Article VI. Employee Notice  
Article VII. Investigator(s) and Reports

Article VIII. Duration  
Article IX. Employee Responsibilities  
Article X. Pay and Benefits  
Article XI. Enforcement  
Article XII. Appeal  
Article XIII. Confidentiality

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1

### 2 **Article I. Purpose and Policy**

3 1-1. The purpose of this Policy is to address investigative leave for employees undergoing  
4 work-related investigations.

5 1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin to maintain confidentiality and  
6 avoid undue influence when conducting an investigation into an employee's alleged wrong  
7 doings.

8

### 9 **Article II. Adoption, Amendment, Repeal**

10 2-1. This Policy was adopted by the Oneida Business Committee by resolution BC-04-07-99-A,  
11 and amended by resolution BC-08-13-14-D and \_\_\_\_\_.

12 2-2. This Policy may be amended or repealed by the Oneida Business Committee or the General  
13 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

14 2-3. Should a provision of this Policy or the application thereof to any person or circumstances  
15 be held as invalid, such invalidity shall not affect other provisions of this Policy which are  
16 considered to have legal force without the invalid portions.

17 2-4. In the event of a conflict between a provision of this Policy and a provision of another  
18 policy, the provisions of this Policy shall control.

19 2-5. This Policy is adopted under authority of the Constitution of the Oneida Tribe of Indians of  
20 Wisconsin.

21

### 22 **Article III. Definitions**

23 3-1. This section shall govern the definitions of words and phrases used within this Policy. All  
24 words not defined herein shall be used in their ordinary and everyday sense.

25 (a) "Employee" shall mean any individual who is employed by the Tribe and is subject to  
26 the direction and control of the Tribe with respect to the material details of the work  
27 performed, or who has the status of an employee under the usual common law rules  
28 applicable to determining the employer-employee relationship. "Employee" includes, but  
29 is not limited to; an individual employed by any program or enterprise of the Tribe, but  
30 does not include elected or appointed officials or political appointees.

31 (b) "Investigative leave" shall mean a temporary absence from regular job duties for the  
32 purpose of conducting an investigation to determine whether conduct or alleged conduct  
33 by an employee should result in disciplinary action and/or termination of employment.

34 (c) "Tribal" or "Tribe" shall mean the Oneida Tribe of Indians of Wisconsin.

35

### 36 **Article IV. Scope**

37 4-1. An employee shall be placed on investigative leave when one (1) of the following occurs:

38 (a) A situation requires an investigation be conducted and the employee's presence may  
39 influence the outcome.

40 (b) An employee allegedly commits an act which would preclude the employee from

41 meeting employment eligibility including required Licenses, the Tribal Fidelity Bond, or  
42 Background Investigation requirements.

43 4-2. This Policy shall not be used as a form of discipline.

44

#### 45 **Article V. Authorization**

46 5-1. This leave, or an extension of this leave, shall only be used when an employee's supervisor  
47 receives prior approval from the Human Resources Department Manager or his or her designee  
48 and:

49 (a) their Division Director; or

50 (b) if there is no Division Director, the person at the highest level of the chain of  
51 command.

52 5-2. If the Human Resources Department Manager or his or her designee and the Division  
53 Director or his or her equivalent do not agree with placing the employee on investigative leave,  
54 then the final decision shall rest with the Human Resources Department Manager or his or her  
55 designee.

56 5-3. The prior approval requested in 5-1 shall be granted or denied within forty-eight (48) hours  
57 of receiving the request.

58 5-4. During the investigative leave, the employee's supervisor shall authorize an alternative  
59 work assignment if all the following occur:

60 (a) The alleged action does not preclude the employee from working elsewhere in the  
61 organization;

62 (b) An alternative work assignment is available; and

63 (c) The employee meets the minimum job requirements of the alternative work assignment.

64 5-5. If an employee is placed in an alternative work assignment under section 5-4, the  
65 alternative work assignment shall be considered a part of the investigative leave and the  
66 employee shall continue to receive their same rate of pay.

67

#### 68 **Article VI. Employee Notice**

69 6-1. When the employee is placed on investigative leave, the employee shall immediately  
70 receive a written notice from the employee's supervisor; the notice shall contain the following:

71 (a) The specific allegation(s) being investigated;

72 (b) The employee shall be on unpaid status, unless he or she is placed in an alternative  
73 work assignment;

74 (c) The alternative work assignment, if appropriate;

75 (d) The expected length of the investigation;

76 (e) Whether or not the investigation is being forwarded to an outside agency;

77 (f) The telephone number and name of person to contact in case of questions;

78 (g) The procedures to return to work upon completion of the investigation; and

79 (h) That the employee still remains as an employee with the Tribe.

80 6-2. If the employee's investigative leave is extended past the original fifteen (15) calendar days  
81 pursuant to section 8-1, the supervisor shall immediately notice the employee in writing of this  
82 extension and the reason for the extension.

83

#### 84 **Article VII. Investigator(s) and Reports**

85 7-1. The employee's supervisor and/or area manager shall be responsible for completing the  
86 investigation. If the employee being investigated reports directly to the Oneida Business

87 Committee, the Tribal Equal Employment Opportunity Officer shall conduct the investigation.

88 7-2. If the allegations against the employee include criminal actions, or actions that may affect  
89 licensing, the supervisor shall conclude the employment related investigation without waiting for  
90 the results of a criminal or licensing investigation.

91 7-3. The person(s) conducting an investigation shall prepare a written report that shall include  
92 the findings of the investigation, and if someone other than the employee's supervisor conducts  
93 the investigation, a copy of the written report shall be provided to the employee's supervisor. If  
94 someone other than the employee's supervisor conducts the investigation, within forty-eight (48)  
95 hours of receiving the written report, the supervisor shall complete the investigation by  
96 determining and documenting any corrective actions needed.

97 7-4. The employee's supervisor shall prepare a memorandum based on the written report which  
98 shall be provided to the employee and shall inform the employee of the following:

99 (a) corrective actions needed based on the written report, if any; and

100 (b) when to return to work, if applicable and/or what disciplinary action will be taken  
101 against the employee based on the report; and

102 (c) a redacted copy of the written report will be made available to the employee only in  
103 the event the employee appeals any disciplinary action.

104

#### 105 **Article VIII. Duration**

106 8-1. An investigative leave shall be no longer than fifteen (15) calendar days, with the ability to  
107 extend one (1) time for an additional fifteen (15) calendar days with a valid explanation of the  
108 reason for the extension. The extension shall be determined by the same individuals who placed  
109 the employee on investigative leave in section 5-1. However, if the investigation is forwarded to  
110 an outside agency, these timelines shall not apply.

111 8-2. Investigative leave shall end upon any of the following occurrences:

112 (a) the expiration of the fifteen (15) calendar day time limit, if applicable;

113 (b) the expiration of the fifteen (15) calendar day extension if granted;

114 (c) termination of the employee's employment based on the investigation;

115 (d) the employee's return to work based on the written report submitted to the employee  
116 after an investigation is completed; or

117 (e) the employee chooses to resign or retire.

118

#### 119 **Article IX. Employee Responsibilities**

120 9-1. An employee placed on investigative leave shall:

121 (a) Not report to work or the worksite without prior supervisory approval;

122 (b) Abide by all Tribal laws and policies; and

123 (c) Fully cooperate with the investigation as requested by those conducting the  
124 investigation.

125

#### 126 **Article X. Pay and Benefits**

127 10-1. Paid leave shall not be authorized.

128 10-2. An employee placed on investigative leave shall not receive any wages or benefits unless  
129 placed in an alternative work assignment. If the employee refuses the alternative work  
130 assignment and is returned to work, the employee shall not receive any back pay or benefits.

131 10-3. If an alternative work assignment is not available, the employee may use his or her  
132 accrued vacation and/or personal time while on investigative leave.

133 10-4. An employee shall receive back pay and benefits for the time the employee was on  
134 investigative leave pursuant to the Back Pay Policy if all of the following occur:

135 (a) The employee was not offered an alternative work assignment when placed on  
136 investigative leave; and

137 (b) The employee is returned to his or her position; and

138 (c) The employee is not disciplined based on the investigation.

139

140 **Article XI. Enforcement**

141 11-1. Any employee found violating this Policy shall be subject to discipline in accordance  
142 with the Tribe's personnel policies and procedures.

143

144 **Article XII. Appeal**

145 12-1. An employee may appeal any disciplinary action arising out of an investigation in  
146 accordance with the Tribe's personnel policies and procedures.

147

148 **Article XIII. Confidentiality**

149 13-1. Information related to an investigation is confidential and may only be released in  
150 accordance with relevant laws and personnel policies and procedures.

151 13-2. All investigation materials shall be maintained in the employee's personnel file with the  
152 Human Resources Department.

153

154 *End.*

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155

156 OBC Approved 4-07-99-A

157 Amended- 08-13-14-D

**From:** [David P. Jordan](#)  
**To:** [Candice E. Skenandore](#); [Lynn A. Franzmeier](#)  
**Subject:** FW: Suggestions for Article VII  
**Date:** Wednesday, June 10, 2015 9:18:48 AM  
**Attachments:** [ArticleVII comments.docx](#)

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FYI

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**From:** James D. Martin  
**Sent:** Tuesday, June 09, 2015 3:11 PM  
**To:** David P. Jordan; Brandon L. Yellowbird-Stevens  
**Subject:** Suggestions for Article VII

I have concerns/comments with some of the verbage and would like to discuss further. I have attached some of the comments I had.

## Article VII. Investigator(s) and Reports

7-1. The employee's supervisor and/or area manager shall be responsible for completing the investigation. If the employee ~~is one who~~ being investigated reports

directly ~~reports~~ to the Oneida Business Committee, the Tribal Equal Employment Opportunity Officer shall conduct the investigation.

7-2. If the allegations against the employee include criminal actions, or actions that may affect licensing, the ~~investigations may be completed by an appropriate agency, including but not~~

~~limited to: Police Departments, District Attorneys, Oneida Security, the Oneida Gaming Commission, and Social Services~~ supervisor shall conclude the employment related investigation without waiting for the results of a criminal or licensing investigation.

7-3. The person(s) conducting an investigation shall prepare a written report that shall include the findings of the investigation, and provide a copy of the written report to the employee and, if ~~necessary~~ someone other than the employee's supervisor: ~~— conducts the investigation, a copy of the written report shall be provided to the employee's supervisor.~~

~~(a) 7 4. — Within~~ If the employee's supervisor conducts the investigation, the written report shall inform the employee when to return to work, if applicable, and/or of what disciplinary action will be taken against the employee based on the report.

(b) If someone other than the employee's supervisor conducts the investigation, within

forty-eight (48) hours of ~~creating or~~ receiving the written ~~reports~~ report, the supervisor shall ~~be responsible for informing~~ complete the investigation by determine any corrective actions needed, inform the employee in writing when to return to work if applicable, and/or ~~deciding~~ inform the ~~discipline which may~~ employee of any applicable disciplinary action will be ~~appropriate.~~ taken against the employee based on the report.

- 1- 7-1. Internal Security to Assist OBC. (Just easier as they have more experience with investigations than EEO).
- 2- 7-3. Report should be confidential, and only during the "Discovery" phase of an appeal is the report redacted and issued to appellant, if applicable.
- 3- 7-3. Has potential to interfere with investigations outside of Supervisor duties, and may be considered double jeopardy if one is done before the other. Supervisor may alert Law enforcement is applicable.
- 4- 7-4. Report has potential for retaliation, work place violence, and hostility, as names and statements from individuals will be in it to be complete. From Supervisor a Memorandum will be drafted citing just cause of termination based on policies or the memorandum will explain when the employee is to return to work.



# LOC AGENDA REQUEST FORM



PLEASE COMPLETE THE FOLLOWING INFORMATION:

1) Date: 06-11-15 Person submitting request: Melinda J. Danforth (behalf of the BC Officers)

2) Council Member, Entity, or other person requesting this draft: Business Committee Officers

3) Phone Number: Day 920-869-4461 Evenings \_\_\_\_\_ E-mail: mdanforj@oneidanation.org

4) Persons to contact for questions about this draft (names and phone numbers) Melinda J. Danforth

5) Describe the issue, including any helpful examples.

Article 4-1 g(1) - CHS reimbursements (if employee is being reinstated for employee health care benefits as if they were never terminated and the employee claims medical from CHS during the time they were off, they should be required to pay back any CHS dollars that were used. Article 4-1 g(1) is unclear in the section relating to terminations. "The Tribe shall deduct health insurance premiums from the back pay award. Health insurance coverage by the Tribe shall continue during the involuntary separation, excluding terminations."

6) Describe how you would like to resolve the issue:

Amend the Back Pay Policy

7) Please list other departments or persons you have brought your concern to:

8) Do you consider this request urgent? **No** If yes, please indicate why: \_\_\_\_\_

9) Should we give this request priority over any pending request of this Council Member, entity or person? **No**  
Please attach a copy of any correspondence or other material that may help us, including an electronic version if available.  
If you know of any laws, ordinances or resolutions that might be affected list them or provide a marked-up copy.

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester: Melinda J. Danforth (es) Date: 06-11-15

(Signature required)

**Candice E. Skenandore**

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**From:** Melinda J. Danforth  
**Sent:** Thursday, June 11, 2015 3:45 PM  
**To:** LOC  
**Cc:** Jessica L. Wallenfang; Brandon L. Yellowbird-Stevens  
**Subject:** Request - Amend Back Pay Policy

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

LOC:

The Oneida Business Committee Officers met on January 6, 2015 to consider a settlement proposal for a direct report. During the review of the settlement 2 issues were discovered that the Business Committee Officers felt needed to be amended in the Back Pay Policy. Attached you will find the agenda request form and below you will find the 2 amendments.

First, Article 4-1 (g)1 - If an employee is being reinstated for employee health care benefits as if they were never terminated, the employee should be mandated to reimburse the Tribe for any CHS claims they may have had during the time they were off of work.

Second, Article 4-1 (g) 1 – this is unclear how to apply this section as it relates to terminations. Although we relied upon the Oneida Law Office's interpretation, they agreed that this section is unclear and needs to be amended for clarity.

*Health Insurance Premiums.*

(1) The Tribe shall deduct health insurance premiums from the back pay award. Health insurance coverage by the Tribe shall continue during the involuntary separation, excluding terminations.

*Melinda J. Danforth, Vice Chairwoman*

Oneida Tribe of Indians of WI  
P.O. Box 365  
Oneida, WI 54155

Work: (920) 869-4461  
Cell: (920) 562-0290  
Fax: (920) 869-4040



## Back Pay Policy

Article I. Purpose and Policy  
 Article II. Adoption, Amendment, Appeal  
 Article III. Definitions

Article IV. Back Pay Calculation  
 Article V. Back Pay Process

---

### Article I. Purpose and Policy

1-1. The purpose of this Policy is to set forth standards used in the calculation of back pay for all employees of the Tribe in accordance with Tribal law.

1-2. It is the policy of the Tribe to have consistent and standard procedures for the management of employee back pay.

### Article II. Adoption, Amendment, Appeal

2-1. This Policy was adopted by the Oneida Business Committee by resolution BC-5-24-06-PP and amended by resolutions BC-06-23-10-F and BC-08-13-14-C.

2-2. This Policy may be amended or repealed by the Oneida Business Committee or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

2-3. Should a provision of this Policy or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Policy which are considered to have legal force without the invalid portions.

2-4. In the event of a conflict between a provision of this Policy and a provision of another policy, the provisions of this Policy shall control.

2-5. This Policy is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

### Article III. Definitions

3-1. This section shall govern the definitions of words and phrases used within this Policy. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Advocate" shall mean a non-attorney person as provided by law and other person who is admitted to practice law and is presented to the court as the representative or advisor to a party.

(b) "Back pay" shall mean money damages owed to the employee for a salary or wage that would have been earned in the time taken to litigate the employment dispute, minus amounts that are deducted from salary or income earned from a third-party employer or limited by other law of the Tribe.

(c) "Consequential Damages" shall mean damages that are not a direct and immediately result of an act, but a consequence of the initial act, including but not limited to penalties on early withdrawal of retirement account.

(d) "Consultant" shall mean a professional who is contracted externally whose expertise is provided on a temporary basis for a fee.

(e) "Court" shall mean the trial court of the Tribe's judicial system.

(f) "Earnings" shall include vacation/personal time, shift differential, holiday pay, merit increases, bonuses and incentives, employment benefits and income received during the back pay period.

(g) "Employee" shall mean any individual who is employed by the Tribe and is subject to the direction and control of the Tribe with respect to the material details of the work performed, or who has the status of an employee under the usual common law rules applicable to determining the employer-employee relationship. "Employee" includes, but

is not limited to; an individual employed by any program or enterprise of the Tribe, but does not include elected or appointed officials or individuals employed by a Tribally Chartered Corporation. For purposes of this Policy, individuals employed under an employment contract as a limited term employee are employees of the Tribe, not consultants.

(h) “Involuntarily separated” shall mean an employee removed from employment through whatever means, other than a layoff, by the employer. This shall include, but is not limited to, investigative leave, suspension or termination.

(i) “Tribal” or “Tribe” shall mean the Oneida Tribe of Indians of Wisconsin.

#### **Article IV. Back Pay Calculation**

4-1. *Back Pay Limitations.* Back pay shall only include the items identified in this Article as they relate to the employee. Back pay shall include and be subject to the following:

(a) *Vacation/Personal Time Accrual.* Employees shall receive prorated credit for vacation/ personal time which would have accrued during the back pay period.

(1) Reinstated employees shall be credited for vacation/ personal time. If the crediting of vacation/personal time would result in the employee exceeding the accrual cap of two-hundred eighty (280) hours pursuant to the Tribe’s personnel policies and procedures, then any amount over that cap shall be provided as a cash payout. Non-reinstated employees shall be paid out vacation/personal time in lieu of crediting personal/vacation time.

(b) *Shift Differential.* Shift differential shall be included in the back pay amount to the extent it is a part of the employee’s regularly scheduled hours.

(c) *Tips.* If the employee received pooled tips at the time of involuntary separation, tips shall be included in the total back pay amount at the same tip rate that other employees in the same position and on the same shift received on the same dates.

(1) If the employee received individual tips at the time of involuntary separation, the employee shall be ineligible for tips during the back pay period.

(d) *Holiday Pay.* Holiday pay shall be included in the back pay amount to the extent the employee would have received such pay if the employee had not been involuntarily separated.

(e) *Merit Increases.* The hourly rate used to calculate back pay shall be increased according to the merit increase system/standard used by the employee’s supervisor during the back pay period.

(1) The effective date of the employee’s merit increase shall be the same as the effective date for other employees in the same department. Retroactive increases shall be calculated back to the retroactive date used for other employees in the same department.

(2) The most recent performance review issued to the employee prior to being involuntarily separated shall be used to determine the level of merit increase. However, if the employee appealed the performance review to the Human Resource Department Manager prior to involuntary separation, a method under the Tribe’s personnel policies and procedures shall be used to determine the merit increase.

(f) *Bonuses and Incentives.* All bonus and incentive payments for which the employee would have been eligible during the back pay period shall be included in the total back pay amount, except for non-monetary gifts distributed by the Tribe to all employees (e.g.

Winter Gift gift certificates) or other non-monetary benefits, such as clothing allowance.

(g) *Employment Benefits.* Employee benefits shall be subject to the provisions in this section.

(1) *Health Insurance Premiums.* The Tribe shall deduct health insurance premiums from the back pay award. Health insurance coverage by the Tribe shall continue during the involuntary separation, excluding terminations. If the employee's circumstances have changed during the back pay period and such circumstances affect the employee's health insurance needs, the employee shall notify the Tribe of such changes at the time of reinstatement.

(2) *Flexible Benefit Plan Contributions.* If a terminated employee was contributing to the Tribe's flexible benefit plan at the time of termination, the status of the employee's flex benefit plan shall be subject to the provisions of the Internal Revenue Code.

(3) *Retirement Benefit Contributions.* In the event the employee was participating in the Tribe's retirement plan at the time of involuntary separation, the employee shall be responsible for contacting the retirement plan administrator and reactivating contributions.

(A) The employee may choose whether to have the employee's contribution to the retirement plan that would have been made during the back pay period deducted from the total back pay amount and deposited into the employee's retirement account.

(B) If the employee was eligible for employer matching contributions at the time of involuntary separation and the employee chooses to make a contribution through back pay, the Tribe shall contribute the employer match into the employee's retirement account.

(C) If the employee was not participating in the Tribe's retirement plan or chooses not to make contributions through the back pay process, then the Tribe shall not make employer match contributions into the employee's retirement account or otherwise make payments to the employee in lieu of employer match contributions.

(h) *Income Received During the Back Pay Period.*

(1) *Unemployment Benefits.* Any unemployment compensation paid by the Tribe to the State of Wisconsin for an involuntarily separated employee shall be deducted from the employee's back pay award.

(2) *Income Received Through Employment.* Except as provided in 4-1(h)(2)(B), income earned by an employee during the back pay period shall be deducted from the total back pay amount.

(A) The employee shall provide information to verify the amount of or lack of earned income and sign an affidavit attesting to the amount of or lack of earned income.

(B) If the employee worked an additional job prior to being involuntarily separated and continued working in the same capacity, the income earned from that employment shall not be deducted from the total back pay amount to the extent that the income is consistent with pre-involuntary separation earnings. Where the employee worked the additional job, the employee shall provide information from the employer to verify the income earned before and during the back pay period.

4-2. *Payments Not Allowed.* The Tribe shall not include the following in any back pay amount:

- (a) Punitive damages;
- (b) Consequential damages;
- (c) Attorney's or advocate's fees.
- (d) Time when the employee would not have been eligible to work.
- (e) Monies normally paid for additional duties while working where an alternate employee assumed that function while the employee was involuntarily separated, unless the additional duties are a part of such involuntarily separated employee's regular schedule.

4-3. *Back Pay Period.* Calculation of back pay begins on the day the employee is involuntarily separated and ends on the day the employee is reinstated.

- (a) If the employee is reinstated but refuses to return to work, the back pay period ends on the date reinstatement would have taken effect, but was refused by the employee.
- (b) Back pay shall be calculated by taking the employee's earnings during the fifty-two (52) week period immediately preceding the date of the involuntary separation and divide that amount by the number of weeks worked.
  - (1) If the employment prior to the involuntary separation was less than fifty-two (52) weeks, the average weekly wage shall be calculated by taking the employee's earnings and divide that amount by the number of weeks worked.
  - (2) If the involuntary separation period involves a fractional week, the indemnity shall be paid for each day of such week at the rate of one-sixth (1/6) of the weekly indemnity.

#### **Article V. Back Pay Process**

5-1. The Oneida Law Office shall develop necessary forms and procedures for the purpose of implementing this Policy.

5-2. The Oneida Law Office shall work with the employee's supervisor, the Human Resource Department and the employee/advocate to assemble information and prepare the back pay agreement. A reasonable effort shall be made to complete the back pay agreement within thirty (30) calendar days, starting the day after the party to the grievance action provides to the Oneida Law Office a judgment ordering back pay or the results of an investigation showing the employee is cleared of any wrongdoing.

5-3. An employee not receiving back pay in accordance with the back pay agreement may seek enforcement by appealing to the court.

*End.*

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Adopted - BC-5-24-06-PP

Amended - BC-06-23-10-F

Amended - BC-08-13-14-C

# Oneida Tribe of Indians of Wisconsin

## Legislative Reference Office

P.O. Box 365

Oneida, WI 54155

(920) 869-4376

(800) 236-2214

<http://oneida-nsn.gov/LOC>



## Committee Members

Brandon Stevens, Chairperson

Tehassi Hill, Vice Chairperson

Fawn Billie, Councilmember

David P. Jordan, Councilmember

Jennifer Webster, Councilmember

## Quarterly Report Legislative Operating Committee January-March 2015

### 1. Purpose and Mission

The purpose and mission of the Legislative Operating Committee (LOC) is to enhance the policymaking capability of the Oneida Business Committee (OBC) and the General Tribal Council (GTC) by drafting laws and policies and reviewing past and current laws, policies and regulations of the Oneida Tribe.

A legislative analysis is completed for proposed laws, policies, regulations, bylaws and amendments. Public meetings are facilitated by the LOC in accordance with the Legislative Procedures Act (LPA). A Resolution and Statement of Effect are prepared for all legislation that is presented for final adoption which is submitted to the OBC and/or GTC for approval.

### 2. Members

The LOC is comprised of the five council members of the OBC: Brandon Stevens (Chair), Tehassi Hill (Vice-Chair), Jennifer Webster, Fawn Billie, and David P. Jordan.

### 3. Contact Information

The LOC office is located on the second floor in the Norbert Hill Center. For more information, please contact the Legislative Reference Office (LRO) at (920) 869-4376 or e-mail [LOC@oneidanation.org](mailto:LOC@oneidanation.org).

### 4. Meetings

The LOC meets on the first and third Wednesday of every month. The LOC meetings are held in the Norbert Hill Center-2<sup>nd</sup> Floor, Business Committee Conference Room and begin at 9:00 a.m.

### 5. Prioritization

The LOC continuously reviews the proposals on our Active Files List (AFL). Priorities will be identified based on GTC Directive, OBC Directive and by LOC agreement/consensus.

### 6. Summary

During this reporting period (January, February, and March 2015), the LOC added six legislative items to the Active Files List and completed three legislative items, bringing the total number of legislative items on the Active Files List to 41. The LOC also completed processing legislative analyses for three GTC petitions, and held four public meetings.

### Items Added to the Active Files List

Of the six legislative items added to the Active Files List during this reporting period, two are proposals for new Tribal laws, two are proposals to amend existing Tribal laws, and two are proposals to process amendments to the bylaws for a Tribal board, committee or commission.

#### Proposals for new Tribal laws:

- **Violence Against Women Act (VAWA).** This is a proposal to look at how the Tribe can exercise jurisdiction over non-Indians in domestic abuse cases on the Reservation being that the State of Wisconsin is a PL 280 state. (Added to the AFL on 3/18/15)
- **Industrial Hemp Law.** The 2013 Farm Bill authorizes institutions of higher education or State departments of agriculture, in states where it is legal to grow hemp, to grow hemp for research or agriculture pilot programs. Because the State of Wisconsin does not have hemp legislation, this new Law is being proposed that would govern how industrial hemp will be grown on the Reservation, pending the appropriate federal permits are obtained. (Added to the AFL on 3/18/15)

#### Proposals to amend existing Tribal laws:

- **Hunting, Fishing, Trapping Law amendments.** Amendments were requested to update and streamline the Law and to separate policy making and management decisions from the Law, in order to avoid yearly/bi-yearly updates. (Added to the AFL on 1/21/15)
- **Real Property Law Amendments.** Amendments to the leasing section of the Real Property Law are being proposed in order to be consistent with the proposed Leasing Law. (Added to the AFL on 3/4/15)

#### Proposals to process amendments to bylaws:

- **Personnel Commission Bylaws Amendments** – The Personnel Commission has requested amendments to its bylaws in order to outline more specifically the qualifications for appointed commissioners. (Added to the AFL on 3/18/15)
- **Election Board Bylaws Amendments** - The Election Board has requested amendments be made to their Bylaws per the current Election Law and previous GTC action. (Added to the AFL on 3/18/15)

### Completed Items

**Completed Legislative Items.** The following legislative items were completed during this reporting period and removed from the Active Files List:

- **Administrative Procedures Act Emergency Amendments.** Emergency amendments to the Judiciary Law were requested because the APA was set to be repealed as of March 1, 2015; however if it is repealed at that time, it would leave various Tribal hearing bodies without any rules to govern hearings. On February 25, 2015, the OBC adopted those emergency amendments.
- **Rules of Appellate Procedure Amendments.** On March 25, 2015, the OBC adopted amendments to the Judiciary's Rules of Appellate Procedure.
- **Oneida Appeals Commission References Removal.** On February 25, 2015, the OBC adopted amendments to several Tribal laws to remove references to the Oneida Appeals Commission pursuant to GTC Resolution # 07-01-13-A:
 

✓ Attorney Contract Policy	✓ Employee Protection Policy
✓ Condominium Ordinance	✓ Local Land Use Regulation
✓ Emergency Management and Homeland Security	Reimbursement Policy
	✓ Notary Act

- |                            |                                   |
|----------------------------|-----------------------------------|
| ✓ Oneida Election Law      | ✓ Real Property Law               |
| ✓ Oneida Food Service Code | ✓ Social Media Policy             |
| ✓ Oneida Nation Law        | ✓ Tattooing and Body Piercing Law |
| Enforcement Ordinance      | ✓ Tribal Environmental Response   |
| ✓ Oneida Vendor Licensing  |                                   |

**Completed Administrative Items.** The following items were completed during the quarter:

- **Petition: Budget Cuts, Swimming Lessons, GTC Directives & Home Repairs for Elders.** This is a petition submitted by Madelyn Genskow, seeking GTC action on four separate items. The OBC accepted the legislative analysis for this item on February 11, 2015.
- **Petition: Judiciary Support System.** This is a petition submitted by Gina D. Powless seeking to have the Tribe “Create a support system of paralegals, advocates, and attorneys to assist and advocate for Oneida Enrolled Tribal members that are engaged in any case with the Oneida Judiciary.” The OBC accepted the legislative analysis for this item on February 11, 2015.
- **Petition: Raise Employee Salaries 99 Cents.** This is a petition submitted by Yvonne Metivier that seeks to have GTC direct OBC raise employee salaries by 99 cents hourly, for all employees earning less than \$65,000 annually; with no layoffs. The OBC accepted the legislative analysis for this item on February 11, 2015.

#### Public Meetings

The LOC held four Public Meetings this quarter – on February 5, 2015, Public Meetings were held for the proposed Furlough Policy and for the Rules of Appellate Procedure amendments. On February 19, 2015, public meetings were held for the proposed amendments to the Motor Vehicle Registration Ordinance and for the proposed Vehicle Driver Fleet Management law, which would update and combine the current Vehicle Driver Certification and Fleet Management policies.

**Person responsible for this report and contact information:** Brandon Stevens, Legislative Operating Committee Chair. Phone: (920) 869-4378.

# LOC Priority List

06/01/2015

Below is the LOC priority list that the LOC submitted to the 2/11/15 OBC meeting. Based on this list, the OBC took the following action: Motion by Lisa Summers to accept the Legislative Operating Committee priority list, seconded by Trish King. Motion carried unanimously. Note: The following were suggested priority items: Organizational Restructure Regulations (Trish King), Membership Ordinance (Lisa Summers), and Fit for Duty Regulations (Melinda J. Danforth). A “second tier” priority list was also suggested.

## GTC DIRECTIVES

### **Budget Management and Control Law**

Summary: Budget Management and Control Law was deferred to the OBC by the GTC. The request was to develop a law to provide a consistent manner to govern the Tribal budget process, establish a procedural framework and oversee Tribal expenditures.

*Next Steps: Continue to draft the Law*

### **Petition: Budget Cuts, Swimming Lessons, GTC Directives and Home Repairs for Elders**

*Next Steps: Analyses submitted, waiting for GTC consideration*

### **Petition: Child Care Department Consumer Complaint Policy**

*Next Steps: Draft deferred to LRO for redrafting*

### **Petition: Cornelius-Seven Generations 4 Resolutions**

*Next Steps: Tribal Secretary will obtain Resolutions by June 24, 2015 in order to complete an analysis.*

### **Petition: Genskow-OBC Accountability, Repeal Judiciary and Open Records Law**

*Next Steps: Analysis submitted to OBC on June 24, 2015*

## OBC DIRECTIVES

### **Comprehensive Policy Governing Boards, Committees and Commissions Amendments**

Summary: Clarify the appointment process, include language on what happens when a publishing notice mistake is made and consider the following: prohibit individuals on service on multiples boards, committees and commissions; set term limits and prohibit Tribal employees from serving on boards, committees or commissions.

*Next Steps: LRO is making amendments to the draft based on the work meeting held on June 8, 2015 and will be brought back when ready*

### **Furlough Policy**

Summary: Develop a permanent policy that allows for furloughs.

*Next Steps: Forward to OBC for consideration.*

### **Higher Education**

\*items the OBC suggested be priorities



# LOC Priority List

06/01/2015

**Summary:** The LOC was directed to look at codifying the rules created by the Higher Education Office, which currently governs how Higher Ed disburses funding in accordance with GTC directives.

*Next Steps: Work meeting held on May 20, 2015. Draft is currently being revised.*

## **Tribal Flag Code**

**Summary:** A Code that includes: protocol for those who oversee flag responsibilities, identify who the authority to lower the flag to half-staff, determine the height and position of the Tribal Flag as compared to the US Flag, etc.

*Next Steps: Schedule meeting with ONVAC and LOC sponsor and begin developing a draft.*

## **LOC PRIORITIES (based on March 4, 2015 LOC motion)**

### **Children's Code**

**Summary:** Develop a Code which would enable the Tribe to take jurisdiction of child welfare matters involving Tribal children.

*Next Steps: Administrative and fiscal analyses are being developed and will be brought back to the LOC on July 15, 2015. The LOC will decide how to proceed after reviewing the analyses.*

### **Code of Ethics Law Amendments**

**Summary:** Seeks to amend the current Code of Ethics to strengthen accountability of employees, elected officials and appointed officials.

*Next Steps: Continue making amendments to the Law*

### **Employment Law**

**Summary:** Develop a law that may replace the Personnel Policies and Procedures

*Next Steps: Work meeting held on June 15, 2015.*

### **Removal Law Amendments**

**Summary:** Give the OBC the ability to remove elected members of boards, committees and commissions upon petition.

*Next Steps: Review public meeting comments, make any necessary changes and prepare to forward to the OBC for consideration.*

### **Sanctions and Penalties**

**Summary:** Proposal for a consistent process that would provide for members of the OBC and other boards, committees and commissions to face sanctions for misconduct.

*Next Steps: Research how this item affects the Code of Ethics, Removal Law and Comprehensive Policy Governing Boards, Committees and Commissions and decide to either combine this item with one or more of the mentioned legislation or continue to work on this item separately*

## **Emergencies**

\*items the OBC suggested be priorities

# LOC Priority List

06/01/2015

## **Administrative Procedures Act**

Summary: The APA was repealed by GTC on March 1, 2015; however, the APA housed rules governing how Tribal hearing bodies conduct their hearings. A new law was created on an emergency basis which provides procedures for Tribal boards, committees and commission that do not have procedures in place under other Tribal law, to conduct hearings for disputes arising under Tribal law.

*Expires: September 1, 2015 and can be extended for an additional 6 months.*

## **ONGO**

Summary: ONGO was amended on an emergency basis in order to comply with the National Indian Gaming Commission regulations. These amendments went into effect on November 14, 2014 and have been extended for an additional six months on May 1, 2015.

*Expires November 1, 2015 and cannot be extended.*

## **ACTIVE FILES LIST**

### **Agriculture Law**

Summary: Consider legislation that would enable the Tribe to identify agricultural products that can be grown on the Reservation.

*Next Steps: Begin working on a draft.*

### **Audit Committee Bylaws**

Summary: The previous LOC deferred a draft of the Bylaws to the Audit Committee for review and were awaiting a response when the term ended.

*Next Steps: Draft was sent to the Audit Committee for review.*

### **Audit Law Amendments**

Summary: The Audit Committee requested establishing a standard requirement for correcting high risk findings. The Committee also requested that the OBC clarify roles and responsibilities related to Audit issue interpretations and resolutions, including: who is the primary authority to determine whether audit issues are pursued or closed, who can enforce the need for management action and what process should be adopted to achieve results so past audits can be resolved and closed.

*Next Steps: LRO and sponsor discussed changes to Law, changes are being developed and will be brought to the LOC when ready.*

### **Capping Damages and Awards from the Judicial System**

Summary: Develop legislation that would cap damages and awards that can be rendered by the Judicial System

*Next Steps: Review proposed draft and either continue work on the draft or create a new draft*

### **Election Board Bylaws**

# LOC Priority List

06/01/2015

Summary: The Election Board requested amendments be made to their Bylaws per the current Election Law and previous GTC action.

*Next Steps: Review the draft and legislative analysis and direct next steps.*

## **Election Law Amendments**

Summary: Amend the Law to prohibit Tribal members from running for more than one seat per election and serving on more than one board, committee or commission; add enforcement provisions for campaign violations; streamline the role of Election Board, require a Milwaukee polling site; add provisions regarding election observations and clarify the referendum process.

*Next Steps: The sponsor and the LRO are continuing to work on the draft.*

## **Employee Advocacy Law**

Summary: Develop a new Law that formally codifies the rules and requirements for Tribal employees who wish to serve as an advocate for other Tribal employees who are challenging disciplinary action.

*Next Steps: Review proposed draft and either continue work on the draft or create a new draft*

## **Environmental, Health and Safety Law**

Summary: Develop a new Law that enables the Environmental, Health and Safety Department (EHSD) to protect land, water, air, people and safety on the Reservation. EHSD shall have the authority to protect the Reservation, promote public health & safety and do business on the Reservation as well as perform duties such as creating rules in implementing this Law.

*Next Steps: The sponsor is reviewing the proposed draft and will determine whether it is ready to move forward for an analysis or if changes should be made*

## **Family Court Amendments: Bench Warrants**

Summary: Amendments to the Family Court to explicitly include bench warrant authority.

*Next Steps: Waiting on input for implementation from the appropriate departments*

## **\*Fitness For Duty Policy**

Summary: Develop a policy that allows supervisors to send employees for an assessment when it is believed that an employee presents a health and/or safety hazard to themselves, others or the Tribe.

*Next Steps: Review proposed draft and either continue work on the draft or create a new draft*

## **GTC Meetings Law**

Summary: Develop a new law to govern the scheduling and conducting of GTC meetings, including: a standard agenda format and a code of conduct for those in attendance; outlining the duties of those preparing and assisting with GTC meetings, and establishing how petitions would be processed.

*Next Steps: Being presented to GTC on July 6, 2015 for consideration.*

## **Guardianship Law**

\*items the OBC suggested be priorities

# LOC Priority List

06/01/2015

Summary: Develop a Guardianship Law for minor children because the Child Custody, Placement and Visitation Law permits a third party (i.e. a non-parent) to petition for custody of a minor child, but does not address third-party guardianships.

*Next Steps: Review proposed draft and either continue work on the draft or create a new draft*

## **Hunting, Fishing and Trapping Law Amendments**

Summary: Streamline the Law and separate policy making and management decisions from the Law to avoid yearly/bi-yearly updates to the Law.

*Next Steps: Work meeting held, draft is being revised.*

## **Industrial Hemp Law**

Summary: 2013 Farm Bill authorizes institutions of higher education or State Departments of Agriculture, in states where it is legal to grow hemp, to grow hemp for research or agriculture pilot programs. A new Law is being developed to govern how industrial hemp will be grown on the Reservation, pending the appropriate federal permits are obtained.

*Next Steps: Consider supporting AB 215 and continue development of Law*

## **Investigative Leave Policy Amendments**

Summary: Because of a decision made by the Oneida Appeals Commission, it was requested that the section of the Policy which prohibits the use of investigative leave when a complaint is filed be deleted. In addition, the time period of the investigation should be reduced from 30 days to 15 days.

*Next Steps: LOC will review comments by Mr. Martin and direct next steps.*

## **Law Enforcement Ordinance Amendments: Conservation Officers**

Summary: In order to avoid confusion when it comes to issuing fines, OPD and the Law Office are asking that the Ordinance clarify that Conservation Wardens are not sworn police officers.

*Next Steps: Begin making amendments to the Ordinance*

## **Leasing Law**

Summary: Develop a new law which would allow the Tribe to approve surface leases at their discretion, instead of the Secretary of Interior, so long as the Secretary of Interior has approved Tribal surface lease regulations.

*Next Steps: Leasing Law was forwarded to the Department of Interior for consideration on May 18, 2015.*

## **\*Membership Ordinance**

Summary: Trust/Enrollment Department requested amendments to the Ordinance to include an individual's New York Oneida blood and Oneida of the Thames blood when determining blood quantum for Tribal membership.

*Next Steps: Wait until the Sustain Oneida initiative gathers information and the Trust/Enrollment Department decides how to proceed.*

## **Personnel Commission Bylaws Amendments**

\*items the OBC suggested be priorities

# LOC Priority List

06/01/2015

Summary: The Personnel Commission has identified the need to revise its Bylaws in order to outline more specifically the qualifications for appointed commissioners.

*Next Steps: Review the proposed Bylaws and analysis and consider forwarding to the Personnel Commission for approval.*

## **Rulemaking Law**

Summary: Develop a new Law in order to have a consistent process for Tribal agencies that have been granted rulemaking authority under Tribal laws to adopt of administrative rules.

*Next Steps: Develop the Law*

## **Tribal Hearing Bodies**

Summary: This was a request for the LRO to conduct research on Tribal Boards, Committees and Commissions to find out which are also hearing bodies and where the hearing body authority comes from.

*Next Steps: An action plan is due to the OBC by August 12, 2015*

## **Tribally-Owned Business Organization Code**

Summary: Because the Tribe has several Tribally-owned entities, a proposal seeks the adoption of a Tribal corporation code.

*Next Steps: Develop the Code*

## **Vehicle Driver Certification and Fleet Management**

Summary: Risk Management requests a new Law to govern employee/Tribal official use of vehicles while on Tribal business and replace the current Vehicle Driver Certification Policy and Fleet Management Policy.

*Next Steps: The last of the public meeting comments will be reviewed at a work meeting scheduled for July 15, 2015.*

## **Violence Against Women Act (VAWA)**

Summary: Look at how the Tribe can exercise jurisdiction over non-Indians in domestic abuse cases on the Reservation being that the State of Wisconsin is PL 280 state.

*Next Steps: Draft is being developed.*

## **Whistleblower Law**

Summary: Develop a new Law that will replace the Employee Protection Law which would provide a more comprehensive avenue for complaints to be processed in a confidential manner.

*Next Steps: Review proposed draft and either continue work on the draft or create a new draft*

## **Workplace Violence Policy**

Summary: Develop a new Policy that provides guidance to Tribal employees to maintain an environment at and within the Tribe's property and events that is free of violence and the threats of violence.

*Next Steps: Develop the Policy*

REPORT NAME: BD\_T\_FYRPA  
 REF:C/B

LEGISLATIVE OPERATING COMMITTEE - X272X10  
 REPORT FOR COMPLETE FISCAL YEAR

ACCOUNT NAME	ACCOUNT NUMBER	FISCAL 2013 ACTUAL	FISCAL 2014 ACTUAL	ANNUAL 2015 BUDGET	ANNUAL 2016 PROPOSED BUDGET	ANNUAL 2017 PROPOSED BUDGET	ANNUAL 2018 PROPOSED BUDGET
Revenue - External							
-----							
Sub-Total							
Revenue/Contribution- Internal							
TRIBAL CONTRIBUTION	000-458100-000	441,031	353,859	399,026	399,854	400,223	
Sub-Total		441,031	353,859	399,026	399,854	400,223	
-----							
Labor/Payroll Expense							
PERSONNEL	000-502100-000	256,744	207,710	272,245	272,245	272,245	
WAGE ACCRUAL EXPENSE	000-502100-999	1,014	492				
SALARIES - TRAINING	000-502110-000	1,477	458				
PAID TIME OFF	000-504000-000	42,352	36,077				
FRINGE BENEFIT	000-505000-000	77,967	54,400	57,780	57,780	57,780	
FRINGE ACCRUAL EXPENSE	000-505000-999	282	49				
Sub-Total		379,836	299,186	330,025	330,025	330,025	
-----							
Cost of Sales							
-----							
Sub-Total							
-----							
External Expenses							
SUPPLIES & MATERIALS	000-700001-000	142	455	2,500	2,500	2,500	
COPY CHARGES	000-700010-000	1,470	1,472	1,600	1,600	1,600	
TRANSP. & PER DIEM	000-701000-000			5,000	5,000	5,000	
TRAVEL - LODGING	000-701000-200		168				
TRAVEL - MEALS	000-701000-300		103				
TRAVEL - REGISTRATION	000-701000-600		300				
MILEAGE EXPENSE	000-701001-000			100	100	100	
OUTSIDE SERVICES	000-702010-000	146	155	155	160	165	
TRAINING & EDUCATION	000-705010-000		1,800	1,329	1,370	1,411	
RENTAL USAGE	000-705202-000	856	1,107	1,030	1,060	1,092	
HEAT & LIGHTS	000-705211-000	2,941	2,999	3,342	3,442	3,442	
TELEPHONE	000-705213-000	936	1,269	1,300	1,300	1,300	
LICENSE, CERT, FEES	000-705401-000	1,453	1,060	1,575	1,610	1,658	
INSURANCE	000-705500-000	462	755	515	532	775	
Sub-Total		8,406	11,643	18,446	18,674	19,043	

REPORT NAME: BD\_T\_FYRPA  
 REF:C/B

LEGISLATIVE OPERATING COMMITTEE - X272X10  
 REPORT FOR COMPLETE FISCAL YEAR

ACCOUNT NAME	ACCOUNT NUMBER	FISCAL 2013 ACTUAL	FISCAL 2014 ACTUAL	ANNUAL 2015 BUDGET	ANNUAL 2016 PROPOSED BUDGET	ANNUAL 2017 PROPOSED BUDGET	ANNUAL 2018 PROPOSED BUDGET
-----							
Internal Expenses							
I/T - PRINTING	000-750009-000			100	100	100	
I/T RENT EXPENSE	000-755201-000	3,573	3,573	4,200	4,800	4,800	
I/T UTILITIES EXPENSE	000-755210-000	149	128	300	300	300	
INDIRECT COSTS	000-758300-000	48,903	39,250	45,955	45,955	45,955	
INDIRECT COST ACCRUAL EXPENSE	000-758300-999	165	79				
-----							
Sub-Total		52,790	43,030	50,555	51,155	51,155	
-----							
NET PROFIT OR (LOSS)		(1)					
=====							

# June 2015

June 2015							July 2015						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
7	1	2	3	4	5	6	5	6	7	1	2	3	4
14	8	9	10	11	12	13	12	13	14	8	9	10	11
21	15	16	17	18	19	20	19	20	21	15	16	17	18
28	22	23	24	25	26	27	26	27	28	22	23	24	25
	29	30					26	27	28	29	30	31	

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
May 31 - Jun 6	May 31	Jun 1 6:00pm 9:00pm GTC Meeting (Radisson)	2 3:00pm 4:30pm FW: Vehicle Driver PM Comment Review (BCCR) - Candice E. Skenandore	3 9:00am 2:00pm LOC Meeting (BCCR) - LOC_Calendar	4	5	6
Jun 7 - 13	7	8 1:30pm 3:00pm Comprehensive Policy LOC Work Me 3:00pm 4:30pm Tribal Flag Code Work Meeting (ECR)	9	10 BC Meeting (BCCR)	11	12	13
Jun 14 - 20	14	15 3:00pm 4:30pm Employment Law Work Meeting (ECR) - LOC_Calendar	16	17 9:00am 2:00pm LOC Meeting (BCCR) - LOC_Calendar	18	19	20
Jun 21 - 27	21	22	23	24 BC Meeting (BCCR)	25	26	27
Jun 28 - Jul 4	28	29	30	Jul 1	2	3	4



# July 2015

July 2015							August 2015						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4							1
5	6	7	8	9	10	11	2	3	4	5	6	7	8
12	13	14	15	16	17	18	9	10	11	12	13	14	15
19	20	21	22	23	24	25	16	17	18	19	20	21	22
26	27	28	29	30	31		23	24	25	26	27	28	29
							30	31					

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Jun 28 - Jul 4	Jun 28	29	30	Jul 1	2	3	4
				9:00am 2:00pm LOC Meeting (BCCR) - LOC_Calendar		8:00am 4:30pm 4th of July Holiday	
Jul 5 - 11	5	6	7	8	9	10	11
		6:00pm 10:00pm GTC Semi-Annual (Radisson)		BC Meeting (BCCR)			
Jul 12 - 18	12	13	14	15	16	17	18
				9:00am 2:00pm LOC Meeting (BCCR) - LOC_Calendar 2:00pm 4:30pm Vehicle Driver PM Comment Review (ECR) - LOC_			
Jul 19 - 25	19	20	21	22	23	24	25
				BC Meeting (BCCR)			
Jul 26 - Aug 1	26	27	28	29	30	31	Aug 1