

Title 2. Employment – Chapter 214
ONEIDA POLICY ON REPORTING CHILD ABUSE AND NEGLECT

214.1 Purpose and Policy
214.2 Adoption, Amendment, Repeal
214.3 Definitions
214.4 General

214.5 Certification
214.6 Reporting
214.7 Enforcement

214.1 Purpose and Policy

214.1-1. It is the policy of the Tribe that all Tribal employees are responsible for protecting the health and welfare of the children with whom they come into contact during the course of their employment.

214.1-2. It is the purpose of this policy to set out a procedure for Tribal employees to follow when the employee is involved with a child he or she may suspect is a victim of child abuse or neglect. While the State of Wisconsin may require that certain professionals have a duty to report, the Oneida Tribe of Indians of Wisconsin feels that all persons who have in their charge the children of this Nation and the Nation's employees have a responsibility to report actual or suspected abuse or neglect.

214.2 Adoption, Amendment, Repeal

214.2-1. This policy is adopted by the Oneida Business Committee under authority delegated by the Oneida General Tribal Council by Resolution # BC-4-2-97-E.

214.2-2. This policy may be amended pursuant to the procedures set out in the Oneida Administrative Procedures Act by the Oneida Business Committee or the Oneida General Tribal Council.

214.2-3. 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.

214.2-4. All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with this policy are hereby repealed unless specifically re-enacted after adoption of this policy.

214.3 Definitions

214.3-1. This section shall govern the definitions of words as phrases as used herein. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Abuse" means any of the following:

- (1) Physical injury inflicted on a child by other than accidental means;
- (2) Sexual intercourse or sexual contact under Wis. Stats. 940.225 or 948.02, which refers to sexual assault and sexual assault of a child;
- (3) A violation of Wis. Stat. 948.05, which refers to sexual exploitation of a child;
- (4) Permitting, allowing, or encouraging a child to violate Wis. Stat. 944.30, which refers to prostitution;
- (5) Emotional damage; or
- (6) A violation of Wis. Stat. 940.227, which refers to forced viewing.

(b) "Emotional Damage" means

- (1) harm to a child's psychological or intellectual functioning which is exhibited by severe

anxiety, depression, withdrawal, or outward aggressive behavior;

(2) or failure of a parent, guardian, legal custodian or other person exercising temporary or permanent control over the child to obtain the treatment necessary to remedy the harm;

(3) a substantial and observable change in behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development.

(c) "Neglect" means failure, refusal or inability on the part of a parent, guardian, legal custodian, or other person exercising temporary or permanent control over a child, by reasons other than poverty, to provide necessary care, food, clothing, medical or dental care, or shelter so as to seriously endanger the physical health of a child, or lack of supervision, including having the child at home alone, or total abandonment.

(d) "Tribal Employee" refers to anyone employed by the Oneida Tribe of Indians of Wisconsin in one of the following employed capacities: full-time, part-time, emergency temporary, limited term or on a contractual basis.

(e) "Child" means a person who is less than 18 years of age.

(f) "Mandated Reporting" refers to the procedure by which a Tribal employee relays information pertaining to suspected child abuse/neglect to the proper authorities as set out in this policy.

(g) "Good faith belief" as used herein means sufficient indications or signs of child abuse or neglect as to cause an employee to believe that abuse or neglect has, is, or may be taking place.

(h) "Extreme emergency" is defined as possible physical injury to the child that requires medical attention.

214.4 General

214.4-1. All Tribal employees who regularly interact with children are responsible for that child's welfare and reporting instances of child abuse or neglect.

214.4-2. All Tribal employees who interact with children, not in the regular course of employment, are responsible for the welfare of the child or children while in their care. Care, as used here, means having the responsibility of a child or children as a special occasion, field trip, visit, mentor, sponsor, or other irregular employment related functions.

214.4-3. It is recognized that many Tribal employees work with children after working hours. However, this policy does not affect Tribal employees outside the course of their employment.

214.4-4. All Tribal employees included in section 214.4-1 shall be responsible for completing training in recognizing and reporting child abuse and neglect on an annual basis and receiving certification from the Human Resources Department regarding this training.

214.4-5. All Tribal employees included in section 214.4-2 shall be required to obtain certification prior to engaging in employment required child care.

214.4-6. All programs and enterprises of the Tribe working regularly or occasionally with children are encouraged to develop additional training sessions regarding these issues in order to maintain a high level of consciousness regarding child abuse and neglect and how it is reported.

214.4-7. Tribal employees working with children in family planning are exempted *as set out* in applicable Wisconsin statutes, specifically those exemptions granted in section 48.981 of the Wisconsin statutes.

214.5 Certification

214.5-1. Tribal employees required to obtain certification must complete 4 hours of training at an approved facility or training session.

214.5-2. Tribal employees failing to maintain certification may be subject to suspension without pay or termination in accordance with section 214.7 of this policy if the Tribal employee fails to obtain certification within a reasonable amount of time. Reasonable as used herein means within the next two offerings of approved training sessions.

214.6 Reporting

214.6-1. All reporting of child abuse or neglect by employees in accordance with this policy, which is done so with a good faith belief and substantial compliance with the procedures set out herein or additional specialized procedures set out by programs or enterprises, shall be protected actions of the employee.

214.6-2. All programs and enterprises are encouraged to develop internal procedures to help direct Tribal employees to follow the policies set out herein, provided that no internal procedures shall interfere with the time lines set out in this policy, or cause an employee to violate a state reporting requirement.

214.6-3. All Tribal employees are required to report to the Oneida Police Department suspected child abuse and neglect as defined in this policy.

214.6-4. Child abuse reports (Form CA/N-1) are to be filled out prior to contacting the Oneida Police Department. Forms should be completely filled out with as much specific information as can be obtained.

214.6-5. In the event of an extreme emergency, the Tribal employee shall call 911 prior to making a report to the Oneida Police Department.

214.6-6. All Tribal employees shall also contact the Oneida Indian Child Welfare Department.

214.6-7. Those employees employed outside the Oneida Reservation of Indians are exempt from the reporting requirements set out in this policy. These employees shall utilize the local reporting entities and procedures.

214.7 Enforcement

214.7-1. Certification under this policy is a requirement of employment of the Oneida Tribe of Indians of Wisconsin where indicated on a job description. Job descriptions containing this requirement shall allow an applicant to receive certification within six weeks of beginning employment, provided that the applicant has been granted a license, permit, certificate or other permission by a State agency to work with minors.

214.7-2. Failure to obtain certification or maintain certification in accordance with this policy shall subject an employee of the Oneida Tribe to immediate suspension upon notice of the supervisor until certification is obtained.

214.7-3. An employee failing to obtain certification within six weeks of beginning employment, or within three weeks of suspension under section 214.7-2, shall be terminated from employment of the Oneida Tribe.

214.7-4. Employees who fail to properly report child abuse and neglect as required within this policy are subject to immediate suspension while the failure to report is investigated, provided that employees shall be reassigned to employment responsibilities which do not involve supervision of children where possible. Investigation of failure to report shall be undertaken by the supervisor and a representative of the Social Services Department and shall be completed in an expeditious manner.

End.

Adopted - BC-3-27-96-A
Amended - BC-4-2-97-E