

## CHAPTER 300 EMPLOYMENT LAW

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### 300.1. Purpose and Policy

300.1-1. It is the purpose of this Law to provide a fair, consistent and efficient structure to govern all employment matters.

300.1-2. It is the policy of the Tribe to provide Tribal Entities latitude to create human resource practices to fit their individual industry standards ~~through policy guided by this Law~~, while ~~protecting Employees from undue political pressure~~ creating a strong and healthy work environment. In addition, ~~while the provisions of~~ although certain federal laws, specifically Title VII, do not apply to the Tribe, ~~it is~~ the Tribe's employment policy ~~to afford~~s applicants and Employees Equal Employment Opportunities.

### 300.2. Adoption, Amendment, Repeal

300.2-1. This Law was adopted by the Oneida General Tribal Council by resolution \_\_\_\_\_ and is effective six (6) months from the date of adoption.

300.2-2. The Oneida Tribal Management System and amendments to the Tribal Management System, including the Personnel Policies and Procedures adopted by the Oneida Business Committee on May 7, 1985, are hereby repealed.

300.2-3. This Law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

300.2-4. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity does not affect other provisions of this Law which are considered to have legal force without the invalid portions.

300.2-5. In the event of a conflict between a provision of this Law and a provision of another Law, the provisions of this Law control, provided that this Law repeals the following:-

(a) The Oneida Tribal Management System and amendments to the Tribal Management System, including the Personnel Policies and Procedures adopted by the Oneida Business Committee on May 7, 1985; and

(b) The Employee Protection Policy adopted by emergency pursuant to BC-4-20-95-B, permanently adopted pursuant to BC-12-6-95-B and subsequently amended pursuant to BC-1-20-99-B and BC-6-30-04-J.

300.2-6. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

### 300.3 Definitions

300.3-1. This section governs the definitions of words and phrases used within this Law. All words not defined herein are to be used in their ordinary and everyday sense.

(a) "At-Will Employee" means ~~Political Appointees~~, employees of the Tribe that are not hired through the standard hiring procedures, including, but not limited to, Political

39 | Appointees, part-time, seasonal, and volunteer workers, and Employees that have not yet  
40 | completed their probationary period pursuant to the Rules developed by HRD.

41 | ~~(b) “Back Pay” means money damages owed to an Employee for a salary or wage that~~  
42 | ~~would have been earned in the time taken to litigate the employment dispute, minus~~  
43 | ~~amounts that are deducted from salary or income earned from a third-party employer.~~

44 | ~~(e)(b) “Corrective Action” means any initiative taken by an Employee Supervisor with~~  
45 | ~~the goal of remedying Employee’s undesirable behaviors such as law, policy and rule~~  
46 | ~~infractions and/or performance related issues. Such initiatives may include, but are not~~  
47 | ~~limited to, verbal warnings, written warnings, suspension and termination~~correcting an  
48 | Employee’s prohibited behavior as identified in the Rules created by HRD.

49 | ~~(d)(c) “Cost of Living Adjustments” means wage or salary modifications which allow~~  
50 | ~~Employees to sustain a certain level of living, including basic expenses such as housing,~~  
51 | ~~food, taxes and healthcare.~~

52 | ~~(e)(d) “Employee” means any individual who is~~ hired by the Tribe through the normal  
53 | hiring process, employed by the Tribe works full-time (30 or more hours per week) or  
54 | part-time (less than 30 hours per week) and is subject to the direction and control of the  
55 | Tribe with respect to the material details of the work performed, ~~or who has the status of~~  
56 | ~~an Employee under the usual common law rules applicable to determining the employer-~~  
57 | ~~Employee relationship.~~ “Employee” includes, but is not limited to, any individuals  
58 | employed by any Entity and individuals employed through an employment contract as a  
59 | limited term employee, but does not include elected or appointed officials, At-Will  
60 | Employees or individuals employed by a Tribally chartered corporation. ~~For purposes of~~  
61 | ~~this Law, individuals employed under an employment contract as a limited term~~  
62 | ~~Employee are Employees of the Tribe, not consultants.~~ Throughout this law all  
63 | references to Employee include both Employees and At-Will Employees, unless the term  
64 | At-Will Employee is used, in which case only At-Will Employees are intended.

65 | ~~(f)(e) “Employee Supervisor” means the party responsible for directly overseeing the~~  
66 | ~~Employee and who is responsible for taking Corrective Actions~~ when Employees fail to  
67 | meet their responsibilities, ~~should an Employee fail to abide by Tribe’s laws and policies~~  
68 | ~~and any applicable rules or who may fail to fulfill his or her job requirements.~~

69 | ~~(g)(f) “Entity” means any division of the Tribe having Employees and may include, but~~  
70 | ~~is not limited to, departments, areas, programs, enterprises, board, committees,~~  
71 | ~~commissions and the like~~

72 | ~~(h)(g) “Equal Employment Opportunity” or “EEO” means the Tribe’s consideration for~~  
73 | ~~hiring selection and position retention that is free from discrimination against any person~~  
74 | ~~on the basis of race (although Oneida and Indian Preference are allowable and are not~~  
75 | ~~considered a deprivation of an EEO), color, religion, sex (including pregnancy), national~~  
76 | ~~origin, age, disability or genetic information.~~

77 | ~~(i)(h) “HRD” means the Oneida Human Resources Department.~~

78 | ~~(j)(i) “Immediate Family Member” means an individual’s husband, wife, mother,~~  
79 | ~~father, son, daughter, brother, sister, grandparent, grandchild, mother-in-law, father-in-~~  
80 | ~~law,~~ daughter-in-law, son-in-law, brother-in-law or sister-in-law.

81 | ~~(k)(j) “Involuntarily Separated” means an Employee is removed from employment~~  
82 | ~~through whatever means by the employer. This may include, but is not limited to,~~  
83 | ~~investigative leave, suspension or termination.~~

84 | ~~(l)(k) “Political Appointee” means an individual appointed as an executive assistant by~~  
85 | ~~an individual Oneida Business Committee member or as an assistant by a board,~~  
86 | ~~committee or commission.~~

87 | ~~(m)~~(l) “Reviewing Supervisor” means the party responsible for overseeing the Employee  
 88 | Supervisor and who may hear an appeal of a Corrective Action taken by an Employee  
 89 | Supervisor.

90 | ~~(n)~~(m) “Rule” means any exercise of authority delegated to HRD and by HRD pursuant  
 91 | to this Law in the form of a rule, regulation, policy or any other tool designed to exercise  
 92 | HRD’s delegated authority in order to implement, interpret and/or enforce this Law. A  
 93 | Rule does not include any statements, interpretations, decisions, rules, regulations,  
 94 | policies, procedures or other matters concerning internal management of an Entity  
 95 | ~~department or division~~, or, which do not affect the private rights or interests of  
 96 | individuals outside of the said ~~department or division~~Entity.

97 | ~~(o)~~(n) “Sexual Harassment” means unwelcome sexual advances, requests for sexual  
 98 | favors and other verbal or physical conduct of a sexual nature where:

99 | (1) submission to such conduct is made either explicitly or implicitly a term or  
 100 | condition of an individual’s employment; or

101 | (2) submission to or rejection of such conduct by an individual is used as the basis  
 102 | for employment decisions affecting such individual; or

103 | (3) such conduct has the purpose or effect of substantially interfering with an  
 104 | individual’s work performance or creating an intimidating, hostile or offensive  
 105 | work environment.

106 | ~~(p)~~(o) “Standard Operating Procedure” means an internal procedure that is created to  
 107 | govern how a Entity operates and performs its designated functions; a standard operating  
 108 | procedure does not affect parties outside of the Entity to which the procedure belongs.

109 | ~~(q)~~(p) “Tribal” or “Tribe” means the Oneida Tribal of Indians of Wisconsin.

110 | ~~(r)~~(q) “Tribal Member” means an individual who is an enrolled member of the Oneida  
 111 | Tribe of Indians of Wisconsin.

### 113 | **300.4. Human Resources Department**

#### 114 | 300.4-1. *General Responsibilities.* The HRD shall:

115 | (a) Develop , amend, implement, interpret and enforce Rules necessary to carry out the  
 116 | intent of this Law ~~\_, the authority for which is hereby delegated to HRD by the Oneida~~  
 117 | ~~Legislative Operating Committee. The Legislative Operating Committee retains~~  
 118 | ~~authority to develop and amend Tribal legislation and policy relating to human resources,~~  
 119 | ~~however, shall avoid having, creating the appearance of having, or attempting to create or~~  
 120 | ~~have undue influence in day to day human resources decisions.~~ The Rules developed by  
 121 | HRD pursuant to this Section are effective upon HRD final approval. HRD shall provide  
 122 | notice of approval of said Rules to the Oneida Business Committee at the next available  
 123 | regularly scheduled Oneida Business Committee meeting following approval. If the  
 124 | Oneida Business Committee has any concerns and/or requested revisions upon review of  
 125 | the Rules, HRD shall work with the Oneida Business Committee to address such  
 126 | concerns and/or requested revisions.

127 | (1) Unless the Oneida Business Committee repeals the Rules approved by HRD,  
 128 | ~~they will~~the Rules remain in effect while HRD and the Oneida Business  
 129 | Committee jointly work to amend the Rules approved by HRD.

130 | (A) Should the Oneida Business Committee repeal the Rules approved by  
 131 | HRD, the Rules that were in effect immediately previous to those repealed  
 132 | ~~will be~~are automatically reinstated and effective immediately upon the repeal  
 133 | of the Rules approved by HRD.

134 | (B) If HRD does not receive written notice from the Oneida Business

135 Committee of intent to repeal or amend the Rules within thirty (30) days of  
136 the date the Oneida Business Committee is provided notice of the Rules  
137 approved by HRD, they will remain in effect as approved by HRD.

138 (2) Should the Oneida Business Committee pursue amendments to the Rules  
139 approved by the HRD, the amendments must be completed through one (1) of the  
140 following actions within six (6) months from the date the amendments are  
141 initiated by the Oneida Business Committee:

142 (A) if HRD and the Oneida Business Committee reach an agreement as to the  
143 content of the amendments, the HRD must approve the revised Rules that  
144 have been discussed with and agreed upon by the Oneida Business  
145 Committee; or

146 (B) if HRD and the Oneida Business Committee do not reach an agreement as  
147 to the content of the amendments, the Oneida Business Committee may adopt  
148 revised Rules that incorporate the amendments it deems necessary.

149 (3) If revised Rules are not approved or adopted by either HRD or the Oneida  
150 Business Committee respectively within six (6) months from the date the  
151 amendments are initiated by the Oneida Business Committee, the Rules originally  
152 approved by HRD will remain in effect.

153 (b) Provide all Employees a copy of all employment Rules and all Tribal laws and  
154 policies specifically pertaining to Employment matters, and shall further notify  
155 Employees of how such Rules, laws and policies may be electronically accessed.

156 (c) Review and approve employment related Standard Operating Procedures for all  
157 Entities.

158 (d) Issue guidance opinions regarding the application of this Law, Rules promulgated  
159 pursuant to this Law, and Standard Operating Procedures created to implement this Law  
160 and the Rules promulgated hereunder.

161 (e) Keep a record of all employment related decisions made by the Employee  
162 Supervisors, Reviewing Supervisors and the Oneida Judiciary.

163 (f) Collect and maintain data on human resource related information including, but not  
164 limited to, information on hiring, appointments, firing, transfers, Employee development,  
165 grievances, policy issues and insurances.

166 (1) HRD shall provide quarterly reports to the Oneida Business Committee in  
167 accordance with the schedule provided by the Tribal Secretary's office.

168 (2) The Oneida Business Committee may not have direct access to Employee  
169 information and/or personnel files, especially information relating to individual  
170 compensation or Corrective Actions; provided that, ~~the Tribal Chairperson may~~  
171 ~~have access to information on those personnel who directly report to him or her~~  
172 ~~and each Oneida Business Committee member may have access to information on~~  
173 ~~his or her Political Appointee(s)~~Oneida Business Committee members that are  
174 also Employee Supervisors may access the Employee records of any of his or her  
175 direct Employees pursuant to Section 300.4-1(f)(3)(B).

176 (3) HRD shall store these Employee records in a manner that maintains the  
177 records' private and confidential nature. Information contained in Employee  
178 records may only be released in the following situations:

179 (A) A current or past Employee may have access to his or her own Employee  
180 record.

181 (B) An Employee Supervisor may review any of his or her current direct  
182 Employees' records.

183 (C) If required by law, the Tribe shall release the information required to be  
184 released to the party the law designates as entitled to receive said information.

185 (D) A third party may access an Employee's record if the Employee provides  
186 written consent to release his or her record to a designated third party.

187 300.4-2. HRD shall uphold the Tribe's sovereignty, laws and policies in its hiring and  
188 employment practices.

189 ~~Administrative. The HRD Department Manager, or his or her designee, is responsible for all of~~  
190 ~~HRD's administrative duties, which include, but are not limited to sign offs, assessments,~~  
191 ~~planning, budgeting, goal setting, continuous improvement and other day-to-day management~~  
192 ~~decisions relating to HRD.~~

193 ~~300.4-3. Tribal Entities. Individual Entities shall comply with this Law and the Rules~~  
194 ~~promulgated under Section 300.4-1(a) and, if necessary, shall develop internal rules and~~  
195 ~~Standard Operating Procedures for the implementation of said Rules. If the development of~~  
196 ~~internal rules and Standard Operating Procedures is deemed necessary, either by HRD or the~~  
197 ~~individual Tribal Entity, said rules and Standard Operating Procedures must be reviewed and~~  
198 ~~approved by HRD prior to becoming effective.~~

199 300.4-4. *Memorandum of Understanding.* The Oneida Business Committee and HRD shall  
200 negotiate and enter into a memorandum of understanding which governs the relationship  
201 between the two parties by establishing the responsibilities and expectations of each party with  
202 regard to the management of HRD.

### 203 **300.5. Hiring**

204 300.5-1. *Hiring Philosophy.* The Tribe shall recruit, hire, retain and develop individuals who  
205 are culturally respectful, professionally competent and civically responsible. ~~HRD must uphold~~  
206 ~~the Tribe's sovereignty, laws and policies in its hiring and employment practices.~~

207 300.5-2. *Equal Employment Opportunities.* The Tribe and HRD shall afford all applicants and  
208 Employees Equal Employment Opportunities; however, the Tribe shall follow the preferences  
209 outlined in Section 300.5-3 and such preferences may not be considered a violation of this Law.

210 300.5-3. *Oneida and Indian Preference.* ~~As a sovereign and a unique cultural group, t~~  
211 ~~The~~  
212 ~~Tribe's employment policy is to shall~~ provide a preference to Tribal Members first and members  
213 of other federally recognized tribes secondly.

214 (a) Unless otherwise prohibited by law or grant funding requirements, the Tribe shall  
215 apply the following order of Oneida and Indian Preference in staffing decisions:

216 (1) Persons who are Tribal Members.

217 (2) Persons who meet the blood quantum requirements contained in the  
218 Membership Ordinance, but are not currently Tribal Members, and/or persons  
219 who are documented first generation descendants of a Tribal Member.

220 (3) Persons enrolled in any federally recognized tribe other than this Tribe.

221 (4) All other non-Indian persons.

222 (b) If a law or grant funding requirements prohibits the application of Oneida and Indian  
223 Preference in accordance with 300.5-3(a), the Tribe shall make staffing decisions in  
224 accordance with the Indian Preference requirements of the said law or grant.

225 (c) Oneida and Indian Preference applies only when an applicant meets all the minimum  
226 requirements of the position applied for.

227 (d) *Oneida-Only Positions.* To the extent possible, all top administrative and political

228 appointee positions must be held by Tribal Members.<sup>1</sup> If a position requires specific  
229 | skills and/or licensing by the state or federal government and there are ~~not any~~no  
230 available Tribal Members who possess the necessary skills or licensing to assume the  
231 | ~~position vacancy~~, only then may a non-Tribal Member be selected to fill the  
232 | ~~position vacancy~~.

233 300.5-4. *Education.* Employees under the age of fifty (50) who do not have a high school  
234 diploma or its equivalent at the time of hire, shall obtain a high school diploma, a high school  
235 equivalency diploma or a general equivalency diploma within one (1) year of being hired.  
236 Employees that do not meet this deadline and have not been granted an extension from HRD  
237 | may be ~~laid-off~~suspended until the employee provides documentation to HRD that he or she is in  
238 compliance with this Section.

239 300.5-5. *Workplace Safety* The Tribe is committed to protecting the safety, health and well-  
240 being of all Employees and other individuals in the workplace. Alcohol and drug use pose a  
241 significant health and safety threat not only to the user but also to customers and other  
242 Employees. HRD shall establish a drug and alcohol policy that applies to all applicants for  
243 employment, whether external or internal, and all Employees.

244 300.5-6. *Conflicts.* An applicant is ineligible for positions for which he or she has a conflict of  
245 interest, as defined by the Conflict of Interest Policy, and/or if he or she would be directly  
246 supervised by an Immediate Family Member.

247 300.5-7. *Right to Work.* No person may be required to do any of the following in order to  
248 become or remain an Employee of the Tribe:

- 249 (a) resign or refrain from being a member of a labor organization;
- 250 (b) become or remain a member of a labor organization; or
- 251 (c) pay dues or other charges to a labor organization.

252

### 253 **300.6. Compensation and Benefits**

254 300.6-1. *Compensation Plan.* HRD shall develop and institute an Employee Compensation Plan  
255 to assure equitable salary and wage levels and shall consider data from the Bureau of Labor  
256 Statistics for average earnings in the Green Bay area; the said plan must be approved by the  
257 | Oneida Business Committee ~~and must receive the said approval before~~prior to becoming  
258 effective.

259 (a) Wage and salary adjustments and benefits available to Employees are dependent  
260 upon available funding allocations, provided that, the Compensation Plan must require  
261 HRD to make reasonable efforts to regularly implement Cost of Living Adjustments  
262 based on the United States Department of Labor – Bureau of Labor Statistics’ Consumer  
263 Price Index for the Midwest Region.

264 300.6-2. *Designation of Employees.* The Tribe shall use the standards created under the Fair  
265 Labor Standards Act to designate its Employees as either nonexempt or exempt and to set  
266 minimum wage and maximum hour restrictions for employees receiving an hourly wage.

267 300.6-3. *Insurance and Retirement.* The Tribe may provide insurances and/or a retirement plan  
268 as a benefit to full-time Employees. Emergency and temporary Employees are not eligible for  
269 these benefits.

270 300.6-4. *Time Off.* The Tribe shall afford Employees paid time off to the extent that paid time  
271 off is accumulated based on continuous service to the Tribe. HRD shall establish rates of accrual

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<sup>1</sup> January 8, 1990 GTC: Debbie Powless moved that the General Manager’s and all top administrative positions be held by enrolled tribal members, motion seconded. ... Main motion carried.

272 and the process for requesting paid time off in the Rules it is charged with developing under  
273 Section 300.4-1(a).

274 300.6-5. *Leaves.* Employees of the Tribe may be allowed leave under circumstances provided in  
275 the Rules developed under Section 300.4-1(a) and any other applicable Tribal laws and policies.  
276 If applicable to an Employee's basis for leave, the Tribe may offer an Employee on leave the  
277 opportunity to return to work and conduct temporary, transitional work within the Employee's  
278 functional capacity and/or rehabilitative needs.

279

### 280 **300.7. General**

281 300.7-1. *Employee Development.* The Tribe encourages the advancement and transfer of  
282 Employees in order to make the best possible use of human resources. Employees who wish to  
283 advance in the organization may work with the Human Resources Department to develop a  
284 personal development plan.

285 300.7-2. ~~*Employee Records*~~*Tribal Entities. Individual Entities shall comply with this Law and*  
286 *the Rules promulgated under Section 300.4-1(a) and, if necessary, shall develop internal rules*  
287 *and Standard Operating Procedures for the implementation of said Rules.*~~The Tribe collects~~  
288 ~~information from Employees to make human resource decisions and HRD shall store these~~  
289 ~~Employee records in a manner that maintains the records' private and confidential nature.~~  
290 Information contained in Employee records may only be released in the following situations:

291 ~~(a) A current or past Employee may have access to his or her own Employee record.~~

292 ~~(b) If required by law, the Tribe shall release the information required to be released to the party~~  
293 ~~the law designates as entitled to receive said information.~~

294 ~~(c) A third party may access an Employee's record if the Employee provides written consent to~~  
295 ~~release his or her record to a designated third party.~~

296 300.7-3. *Safety and Fitness-for-Duty.* In order to create a safe and healthy work environment  
297 for Employees and to keep the number of job-related illnesses and/or injuries to a minimum, the  
298 Tribe shall maintain safety standards ~~for the Tribe as an employer,~~ in accordance with the Tribe's  
299 applicable laws and policies. ~~-. The Tribe~~and shall also maintain standards requiring Employees  
300 to perform their job duties in a safe, secure, productive and effective manner.

301 300.7-4. *Unemployment Insurance.* The Tribe shall comply with the State of Wisconsin's  
302 unemployment insurance program; Employees of the Tribe may be eligible for unemployment  
303 benefits in accordance with the provisions of the laws of the State of Wisconsin.

304

### 305 **300.8. Employee Responsibilities**

306 300.8-1. *Harassment and Discrimination Prohibited.* All Employees are expressly prohibited  
307 from committing Sexual Harassment of another individual or engaging in any conduct that  
308 harasses or discriminates against another based on sex, race, religion, national origin, pregnancy,  
309 age, marital status, sexual orientation, or disability, provided that Employees must comply with  
310 the Oneida Preferences identified in Section 300.5-3 and such compliance is not a violation of  
311 this provision.

312 300.8-2. *Child Abuse and Neglect Reporting.* All Employees shall protect the health and welfare  
313 of the children with whom they come into contact during the course of their Employment. In  
314 addition to those professional Employees who have a duty to report child abuse or neglect, all  
315 Employees who have children in their charge ~~as an Employee of the Tribe~~ have a responsibility  
316 to report actual or suspected child abuse or neglect. All Employees must comply with the  
317 Oneida Policy on Reporting Child Abuse and Neglect.

318 300.8-3. *Anonymous Information.* Employees who receive anonymous information of any type  
319 shall maintain the confidentiality of the said information and forward a summary of the

320 information to the Chief of the Oneida Police Department expressly noting that the information  
321 was provided anonymously.

322 300.8-4. *Employee Protection.* The Tribe may not retaliate against any Employee who reports an  
323 Employee's, Political Appointee's and/or Tribal official's violation(s) of Tribal laws, policies or  
324 rules and shall protect any Employees who report such violations from retaliatory actions ~~from~~  
325 ~~other Employees.~~

326 (a) HRD shall develop Rules and procedures designed to protect Employees reporting  
327 others' violations of Tribal laws, policies or rules from any and all forms of retaliation.

328

### 329 **300.9. Layoffs and Furloughs**

330 300.9-1. Employees may be laid off and/or furloughed to the extent necessary for the Tribe to  
331 operate effectively and efficiently in varying economic conditions pursuant to the Tribe's laws,  
332 policies and rules.

333 300.9-2. Layoffs and furloughs may not be used for disciplinary reasons and may not under any  
334 circumstances be considered adverse employment actions.

335 300.9-3. The Tribe's decision to layoff and/or furlough an Employee is not subject to appeal.

336

### 337 **300.10. Employee Discipline and Grievances**

338 300.10-1. ~~Pursuant to Section 300.4-1(a), HRD shall develop, implement and enforce~~  
339 ~~progressive~~ Corrective Action Rules and procedures ~~for use~~ may be used by Employee  
340 Supervisors to correct Employees' unacceptable work performance and/or behavior.

341 300.10-2. Employees, excluding At-Will Employees, who disagree with a Corrective Action  
342 may contest the Corrective Action using the Rules and procedures, ~~which HRD shall develop~~  
343 ~~pursuant to Section 300.4-1(a)~~ developed by HRD, and based on the following available levels of  
344 review:

345 (a) *First Level of Review.* Any Employee, excluding At-Will Employees, contesting the  
346 validity of a ~~Corrective Action~~ Suspension or Termination may appeal the said Corrective  
347 Action to ~~his or her Reviewing Supervisor~~ the Oneida Administrative Court. Unless the  
348 Employee asserts that the contested ~~Corrective Action~~ Suspension or Termination  
349 amounts to a deprivation of an Equal Employment Opportunity ~~based on the Tribe's~~  
350 ~~policy under Section 300-5.2~~, the decision of the ~~Reviewing Supervisor~~ Oneida  
351 Administrative Court is final.

352 ~~(1) Direct Reports to the Oneida Business Committee do not have Reviewing~~  
353 ~~Supervisors; the first level of review is not available to Direct Reports. Accordingly,~~  
354 ~~unless a Direct Report asserts that a Corrective Action taken by the Oneida Business~~  
355 ~~Committee deprived him or her of an Equal Employment Opportunity, the said action is~~  
356 ~~final. Any claim by a Direct Report asserting that a Corrective Action deprived him or~~  
357 ~~her of an Equal Employment Opportunity remains subject to the second level of review~~  
358 ~~provided under sub-Section (b) below.~~

359 ~~(A) For the purposes of this sub-Section, Direct Report means any Employee~~  
360 ~~whom answers directly to the Oneida Business Committee.~~

361 (b) *Second Level of Review.* An Employee, excluding At-Will Employees, that is  
362 unhappy with the ~~Reviewing Supervisor~~ Oneida Administrative Court's decision  
363 regarding a contested ~~Corrective Action~~ Suspension or Termination, and, is able to  
364 demonstrate that the contested Corrective Action amounts to a deprivation of an Equal  
365 Employment Opportunity ~~based on the Tribe's policy under Section 300-5.2~~, may appeal  
366 the ~~Reviewing Supervisor~~ Oneida Administrative Court's decision to the Oneida  
367 ~~Judiciary~~ Court of Appeals.

368 | ~~(1c)~~ Compensatory Damages. Should the Oneida Judiciary determine that there was an  
369 | intentional deprivation of an Equal Employment Opportunity ~~based on the Tribe's policy~~  
370 | ~~under Section 300.5-2~~, the Oneida Judiciary may award compensatory damages,  
371 | including, but not limited to, attorney's or advocate's fees and court costs, as against the  
372 | individual(s) found to have engaged in the intentional deprivation of an Equal  
373 | Employment Opportunity. Said compensatory damages may not be awarded against the  
374 | Tribe.

375 |  
376 | **300.11. Applicability to Elected Officials**

377 | 300.11-1. The provisions of Sections 300.6-8 apply to Elected Officials of the Tribe that work  
378 | ~~full~~ full-time (30 hours or more per week) and receive salaries for their service.

379 | **300.12. Violations**

380 | 300.12-1. Unless expressly stated otherwise in this Law, claims of alleged violations of this Law  
381 | may be filed with the Oneida Judiciary.

382 |  
383 | End.  
384 |

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