

# ONEIDA EMPLOYEE HANDBOOK



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21       **I.     PURPOSE AND POLICY**

22       **1-1. Purpose.** It is the purpose of this Handbook to provide expectations and standards for  
23 implementing the Employment Law.

24       **1-2. Policy.** It is the policy of the Nation in its capacity as an employer to create and maintain a  
25 work environment in which all individuals are treated with respect and dignity and wherein the  
26 relationships among employees are professional, business-like and free of bias, prejudice and  
27 harassment.

28       **II. DEFINITIONS**

29       **2-1. Definitions.** This Article governs the definitions of words and phrases used within this  
30 Handbook. All words not defined herein are to be used in their ordinary and everyday sense.

31       (a) “**Adverse Employment Action**” means a supervisor’s failure to comply with the  
32 employment rules that results in a significant change in an employee’s employment  
33 status, including compensation, that is more disruptive than a mere inconvenience or an  
34 alteration of job responsibilities and may include a deprivation of an equal employment  
35 opportunity.

36       (b) “**Advocate**” means an Oneida non-attorney representative who is admitted to practice  
37 law and is presented to the Oneida Judiciary as the representative or advisor to a party.

38       (c) “**Attorney**” means a person trained and licensed to represent another person in the  
39 Judiciary’s Trial Court and/or Appellate Court, to prepare documents and to give advice  
40 or counsel on matters of law.

41       (d) “**At-Will Employee**” means an employee working for the Nation on a short term  
42 basis that is not hired through the standard hiring procedures, including, but not limited  
43 to, political appointees, temporary and volunteer workers, and new employees that have  
44 not yet completed their probationary period.

45       (e) “**Bona-fide Occupational Qualifications**” or “**BFOQ**” means employment  
46 requirements the Nation may consider while making decisions related to the hiring and  
47 retention of Employees, which may include consideration of protected classes, including,  
48 but not limited to, race, sex and age if membership in a protected class directly relates to  
49 an Essential Requirement.

50       (f) “**Business Day**” means Monday through Friday between the hours of 8:00 a.m. and  
51 4:30 p.m., excluding holidays.

52       (g) “**Corrective Action**” means any initiative taken by an employee supervisor with the  
53 goal of remedying an employee’s undesirable behaviors such as law, handbook, policy  
54 and rule infractions and/or performance related issues; the available corrective actions are  
55 provided in Article 12-6.

56       (h) “**Court of Appeals**” means the Oneida Judiciary Court of Appeals.

57       (i) “**Employee**” means any individual who is hired by the Nation through the normal  
58 hiring process, works full-time (30 or more hours per week) or part-time (less than 30  
59 hours per week) and is subject to the direction and control of the Nation with respect to  
60 the material details of the work performed, or who has the status of an employee under  
61 the usual common law rules applicable to determining the employer-employee  
62 relationship. “Employee” includes, but is not limited to, any individual employed by any  
63 entity, but does not include elected or appointed officials, at-will employees or  
64 individuals employed by a tribally chartered corporation. Throughout this Handbook all  
65 references to employee include both employees and at-will employees, unless the term at-  
66 will employee is used, in which case only at-will employees are intended.

67 (j) “**Employee Supervisor**” means the party responsible for directly overseeing the  
68 employee and who is responsible for taking corrective action should an employee fail to  
69 abide by the Nation’s laws and policies and any applicable rules or who may fail to fulfill  
70 the requirements of his or her position.

71 (k) “**EEO Officer**” or “**Equal Employment Opportunity Officer**” means a position  
72 within the EEO Department within HRD whose primary responsibility is to ensure that  
73 employees receive equal employment opportunities and that employee supervisors  
74 comply with the procedural requirements for issuing corrective actions.

75 (l) “**EEO Director**” or “**Equal Employment Opportunity Director**” means a position  
76 within the EEO Department within HRD responsible for the EEO Department to include  
77 all functions of the EEO Officer, EEO Mediator, and EEO Backgrounds Investigations.

78 (m) “**Entity**” means any division of the Nation having employees and may include, but  
79 is not limited to, divisions, departments, areas, programs, enterprises, boards, committees,  
80 commissions and the like.

81 (n) “**Equal Employment Opportunity**” or “**EEO**” means the Nation’s consideration for  
82 hiring selection, position retention and compensation and benefit distribution that is free  
83 from discrimination against any person on the basis of race, color, religion, sex (including  
84 pregnancy), national origin, age, disability, economic status or genetic information.  
85 Oneida and Indian Preference are allowable and are not considered a deprivation of an  
86 EEO.

87 (o) “**Essential Requirements**” means the minimum requirements an employee must  
88 meet to hold a said position, which may include, but are not limited to, position duties,  
89 education and experience and in some circumstances may consider the table of  
90 equivalency provided in 5-6(b)(2).

91 (p) “**Flex Time**” means a system which allows supervisors the ability to provide  
92 employees with flexible work schedules by allowing various starting and finishing times,  
93 provided that the employee meets the required number of hours in his or her work week.

94 (q) “**Gaming**” means the conduct of all forms of any activity, operation, or game of  
95 chance that is considered Class II or Class III pursuant to the Oneida Nation Gaming  
96 Ordinance, provided that this definition does not include Class I activities, as defined by  
97 the Oneida Nation Gaming Ordinance, and related business activities in any location or  
98 structure, stationary or movable, wherein the said activities are permitted, performed,  
99 conducted, or operated, not including the site of a fair, carnival, exposition, or similar  
100 occasion, and areas where employees for the said activities are employed or assigned.

101 (r) “**Grade**” or “**Grading**” means the process used by HRD to rank a position based  
102 upon the wage or salary the position generally earns in the local and/or regional market.

103 (s) “**Hiring Representative**” means the Nation’s representative responsible for  
104 protecting the integrity of the hiring process by ensuring the hiring procedures contained  
105 in Articles IV, V and VII are complied with and that all questions asked of applicants are  
106 both employment related and legally appropriate.

- 107 (t) “**Holidays**” means days of celebration the Nation recognizes.
- 108 (u) “**HRD**” means the Nation’s Human Resources Department.
- 109 (v) “**Immediate Family**” means an individual’s husband, wife, mother, father, step  
110 mother, step father, son, daughter, step son, step daughter, brother, sister, step brother,  
111 step sister, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-  
112 in-law, brother-in-law or sister-in-law and any of the these relations attained through  
113 legal adoption.. For purposes of this defintion, in-laws are only considered immediate  
114 family if there is a current legal marriage.
- 115 (w) “**Market**” means a geographic area or demographic segment considered as a place of  
116 demand for particular goods or services.
- 117 (x) “**Nepotism**” means preferential treatment given to a person due to his or her  
118 immediate family ties.
- 119 (y) “**Promotion**” means the Nation’s recognition of an employee’s achievement by  
120 advancing his or her position within the Nation to include additional responsibilities.
- 121 (z) “**Reviewing Supervisor**” means the party responsible for overseeing the employee  
122 supervisor.
- 123 (aa) “**Salary**” means an agreed compensation for services, usally professional or semi-  
124 professional services, paid at regular intervals on a yearly basis. Positions receiving such  
125 compensation are exempt from the requirements of the Fair Labor Standards Act  
126 (regarding overtime and the like).
- 127 (bb) “**Separate**” or “**Separation**” means ending an employee’s employment with the  
128 Nation for reasons that are not related to disciplinary issues through the corrective action  
129 process.
- 130 (cc) “**Sexual Harassment**” means unwelcome sexual advances, requests for sexual  
131 favors and other verbal or physical conduct of a sexual nature where:
- 132 (1) submission to such conduct is made either explicitly or implicitly a term or  
133 condition of an individual’s employment; or
- 134 (2) submission to or rejection of such conduct by an individual is used as the basis  
135 for employment decisions affecting such individual; or
- 136 (3) such conduct has the purpose of effect of substantially interfering with an  
137 individual’s work performance or creating an intimidating, hostile or offensive  
138 work environment.
- 139 (dd) “**Slotting**” means placing a position on the Nation’s wage or salary scale based  
140 upon the position’s responsibilities and qualifications when there is no similiar or  
141 identical position within the market.
- 142 (ee) “**Subject Matter Expert (SME)**” means an employee with the direct knowledge,  
143 skills, abilities and proficiency in his or her subject to provide accurate and reliable  
144 information and guidance as related to the subject.

- 145 (ff) “**Transfer**” means the movement of an employee from one position within the  
146 Nation to another, including reassignment of employees between entities at the request of  
147 a supervisor or employee.
- 148 (gg) “**Nation**” means the Oneida Nation.
- 149 (hh) “**Tribal Member**” means an enrolled member of the Nation.
- 150 (ii) “**wage**” means a payment for labor or services based the number of hours worked.  
151 Positions receiving such compensation are subject to the requirements of the Fair Labor  
152 Standards Act (regarding overtime and the like).
- 153 (jj) “**Workforce Level**” means the number of positions approved for an entity based on  
154 the Nation’s budgeting process.

155 **III. GENERAL PROVISIONS**

156 **3-1. Communication.** HRD shall provide notice to all employees of all rules contained in this  
 157 Handbook created pursuant to the Employment Law and shall provide updates as those rules may  
 158 be amended from time to time.

159 (a) To ensure that all employees are aware of their roles and responsibilities and the rules  
 160 that apply to their employment with the Nation, HRD shall:

161 (1) Ensure that all persons employed by the Nation are provided information on  
 162 how to access this Handbook.

163 (2) Ensure that this Handbook and the Employment Law are provided and noticed  
 164 during the required employee orientation.

165 (3) Require that all employees sign an acknowledgment form, prior to beginning  
 166 work, which minimally must state:

167 (A) That he or she received notice of this Handbook; and

168 (B) That he or she agrees to abide by this Handbook, the Employment Law  
 169 and any other applicable laws and policies of the Nation.

170 **3-2. Employee Responsibilities.** Employees are responsible for being aware of and abiding by  
 171 the rules contained in this Handbook and applicable laws and policies of the Nation and, further,  
 172 must at all times meet their position's essential requirements. In addition, if any actual or  
 173 perceived conflicts of interest arise within the employee's course of employment that did not  
 174 exist at their date of hire, the employee shall provide HRD with an updated conflict of interest  
 175 disclosure form. HRD shall include the updated conflict of interest disclosure form in the  
 176 employee's employee record and provide the form to the current and subsequent employee  
 177 supervisors. Employees not fulfilling these responsibilities may be issued a corrective action in  
 178 accordance with Article 12.

179 **3-3. Equal Employment Opportunities.** It is the policy of the Nation to provide equal  
 180 employment opportunities to all persons. Accordingly, the Nation and HRD may not utilize any  
 181 employment practices that discriminate against any person on the basis of race, color, religion,  
 182 sex (including pregnancy), national origin, age, disability, economic status or genetic  
 183 information. Oneida and Indian Preference are allowable and are not considered a violation of  
 184 this policy.

185 **3-4. Oneida Only and Indian Preference.** In accordance with Section 300.5-3 of the  
 186 Employment Law, unless otherwise prohibited by law or grant funding requirements, the Nation  
 187 and HRD shall apply Oneida and Indian Preference in making all employment decisions.

188 (a) The required order of Oneida and Indian Preference is as follows:

189 (1) Persons who are tribal members;

190 (2) Persons who are eligible to be tribal members in accordance with the  
 191 Membership Ordinance, but are not currently tribal members, and/or persons who  
 192 are documented first generation descendants of a tribal member;

193 (3) Persons enrolled in any federally recognized tribe other than this Nation;

194 (4) All other non-Indian persons.

195 (b) If a law or grant funding requirements prohibit the application of Oneida and Indian  
 196 Preference, the Nation shall make staffing decisions in accordance with the Indian  
 197 Preference requirements of the said law or grant.

198 (c) Oneida and Indian Preference applies only when an applicant meets all the essential  
 199 requirements of the position for which he or she applied.

200 (d) Oneida Only Positions. To the extent possible, all top administrative positions  
 201 must be held by tribal members. If a position requires specific skills and/or licensing by  
 202 the state or federal government and there are not any available tribal members who  
 203 possess the necessary skills or licensing to assume the position, only then may a non-  
 204 tribal member be selected to fill the position. Examples of such positions requiring  
 205 specific skills and/or licensing may include, but are not limited to positions within the  
 206 health field like doctors and nurses, safety, regulatory and compliance positions,  
 207 attorneys, teachers, and technical positions supported by grant funding.

208 **3-5. Privacy and Confidentiality of Employee Records.** HRD shall keep all applicant and  
 209 employee information with the upmost confidentiality and shall handle all employment based  
 210 issues with respect for the confidential nature of such matters.

211 **3-6. Record Keeping.** HRD is responsible for creating and maintaining all employee records  
 212 and further for keeping such records confidential as required in this Article and the Employment  
 213 Law.

214 (a) Employee records must contain the following, as applicable to the employee:

215 (1) Application for employment, including resumes, proof of satisfaction of  
 216 Essential Requirements and any hiring paperwork required by HRD;

217 (2) Performance reviews;

218 (3) Transfer paperwork;

219 (4) Compensation history, including start dates and end dates, and, for wage  
 220 earning employees, a record of hours worked;

221 (5) Career development plans;

222 (6) Leave of absence information;

223 (7) Complaints;

224 (8) Corrective Actions;

225 (9) Requests for reconsideration and appeal of a supervisor's action; and

226 (10) Unemployment information.

227 (b) Any employee may review his or her record at any time at HRD.

228 (c) An employee supervisor may review any of his or her direct employees' records at  
 229 any time at HRD. Supervisor's may not review records of terminated employees unless  
 230 employee consent to release information is provided or if the employee is appealing a  
 231 corrective action or seeking unemployment.

232 (d) HRD may not include department files, as provided in article 12-1 in the official  
 233 employee record maintained by HRD.

234 (e) Employee records may be released under the following circumstances:

235 (1) A current or past employee may have access to his or her own employment  
236 record; an employee supervisor may have access to his or her current employees'  
237 records; a hiring supervisor may have access to the last twelve (12) months of a  
238 current or former employee's work history; and HRD employees may have access  
239 to any employee's employment record according to HRD's standard operating  
240 procedures approved by the HRD manager.

241 (2) If required by law, HRD shall release the information required to be released  
242 to the party the law designates as entitled to receive said information, which may  
243 include, but is not limited to, an internal/external auditor or a party involved in a  
244 child support, unemployment, or law enforcement dispute. When information is  
245 released pursuant to this provision, approval from the HRD manager, or his or her  
246 designee, is required.

247 (3) Should an employee committ an illegal act in the course of his or her  
248 employment with the Nation against the Nation or its customers or employees, the  
249 said employee's record may be released to law enforcement agencies.

250 (4) A third party may access an employee's record if the employee provides  
251 written consent to release his or her record to a designated third party. A party  
252 seeking wage information must receive writtten consent from the employee  
253 pursuant to this sub-article.

254 **3-7. Memorandums of Understanding.** Entities may have or may enter into a memorandum of  
255 understanding in effect between the entity and HRD. In the event of a conflict between this  
256 Handbook and the provisions of a signed memorandum of understanding, the memorandum of  
257 understanding governs.

258 **3-8. Contracted Positions.** In the event of a conflict between this Handbook and an  
259 employee's contract, the employee's contract governs.

260 **3-9. Open Door Policy.** The Nation's supervisors shall maintain an open door policy in which  
261 employees may, at any time, report concerns regarding the Nation's work environment and/or  
262 conditions and suggest feedback for improvement.

263 **3-10. Succession Planning for Critical Positions.** Within six (6) months of date a new Oneida  
264 Business Committee is elected, HRD shall submit for the Oneida Business Committee's approval  
265 a list of positions that are critical to the Nation. In preparing such list, HRD shall work with  
266 division directors and supervisors.

267 (a) For all positions that are deemed critical, the division must provide the Oneida  
268 Business Committee with the names of, at a minimum, two (2) employees trained and  
269 able to perform of the essential requirements of the critical position.

270 (b) If the division does not currently have at least two (2) employees trained and able to  
271 perform the essential requirements of each critical position within the division, the  
272 division shall submit to the Oneida Business Committee a succession plan to providing  
273 how the division plans to comply with the requirement moving forward.

274 (c) If a succession plan is required to be submitted, the division shall submit the plan to  
275 the Oneida Business Committee within ninety (90) calendar days of the date the Oneida  
276 Business Committee approved the list of critical positions.

277 **IV. POSITION DEVELOPMENT AND MAINTENANCE**

278 **4-1. Workforce Levels.** HRD shall record and verify workforce levels based on an annual  
 279 workforce level report compiled by the Finance Division based on the approved budget, provided  
 280 that, temporary positions are not reflected in the workforce levels report. HRD shall post and fill  
 281 positions that are within approved workforce levels. In the event there is a need to fill a position  
 282 for which a new workforce level must be created, HRD shall notify the Finance Department of  
 283 the added workforce levels and to which entity(s) the new workforce level belongs.

284 **4-2. Development of New Positions and Revisions to Existing Positions.** All new and  
 285 existing positions require supervisors to work with HRD to develop and/or make revisions to the  
 286 position description as may be necessary from time to time, provided that prior to working with  
 287 HRD, the supervisor must have his or her reviewing supervisor's approval to develop the new  
 288 position.

289 (a) In order to maintain consistency with all departments and like positions throughout  
 290 the organization, HRD shall make the final determination as to:

- 291 (1) Position titles;
- 292 (2) Grades;
- 293 (3) Position description formats;
- 294 (4) Classifying positions as earning based on a salary or a wage, which may or  
 295 may not include tips;
- 296 (5) Bona-fide occupational qualifications (BFOQs);
- 297 (6) Which positions must be contracted; and
- 298 (7) Which positions are classified as Oneida only.

299 (b) Positions may be contracted positions under the following circumstances:

- 300 (1) When the local market supports use of a contract for the position;
- 301 (2) When the position is an executive level position which reports directly to the  
 302 Oneida Business Committee; and/or
- 303 (3) When the position is for an attorney, teacher or medical professional.

304 **4-3. Essential Requirements, BFOQs and Other Requirements.** In each position description,  
 305 HRD shall list the essential requirements, BFOQs, if any, and other applicable position  
 306 requirements. In forming the requirements for each position, HRD shall research similar  
 307 positions in the market to form a comparison on the basis of education, experience, licensing and  
 308 certifications and any other applicable requirements imposed by the Nation.

309 (a) Market Analysis. Each time a position is created or substantially amended and a  
 310 minimum of once every three (3) years, HRD shall perform a market analysis for each  
 311 position description and implement any appropriate adjustments to future position  
 312 postings. HRD shall publish the wage and salary charts updated based on the market  
 313 analysis on the Nation's intranet.

- 314 (1) A market analysis must minimally consider:
  - 315 (A) Market indicators of appropriate wage/salary based on similar or  
 316 identical positions in the market;

317 (B) The wage/salary of similar or identical positions throughout the  
318 Nation; and

319 (C) The market's requirements for the position based on education,  
320 experience, licensing, certifications and other applicable requirements. If  
321 similar positions do not exist within the market, HRD may use its  
322 educated and informed discretion, in consultation with the proposed  
323 supervisor, to determine the position's requirements.

324 (2) HRD may recommend slotting a new or amended position within a  
325 determined grade if there is no comparable wage/salary for the position available  
326 for comparison in the market. Examples of positions for which the market may  
327 not have a comparable wage/salary may include, but are not limited to, positions  
328 related to Oneida culture and language education.

329 (b) High School Diploma or its Equivalent. Pursuant to Section 300.5-4 of the  
330 Employment Law, employees shall have or obtain a high school diploma, a high school  
331 equivalency diploma or a general equivalency diploma within one (1) year of being hired.

332 (1) Employees that are over the age of fifty (50) on their date of hire are exempt  
333 from this requirement. Employees under the age of fifty (50) at their date of hire  
334 who transfer or are promoted remain responsible for obtaining a high school  
335 diploma or its equivalent pursuant to Section 300.5-4 of the Employment Law.

336 (2) Employees that have been assessed by a licensed medical professional or a  
337 vocational rehabilitation program to be mentally incapable of fulfilling the  
338 education requirement are exempt from this requirement, provided that the  
339 exemption is only available for physical labor based positions.

340 (3) Employee supervisor may grant extensions to the one (1) year period,  
341 provided that, absent an exemption, the requirement to obtain a high school  
342 diploma or its equivalent must be met within two (2) years of the employee's date  
343 of hire.

344 (A) The employee supervisor may grant the said extensions only if the  
345 employee is able to demonstrate that he or she has been regularly working  
346 towards fulfilling the requirement.

347 (B) The employee supervisor shall separate employees that do not obtain a  
348 high school diploma, a high school equivalency diploma or a general  
349 equivalency diploma within the approved timeframe and shall provide  
350 notice of the separation to the employee and HRD.

351 (C) An employee who is separated without having met the requirement is  
352 not eligible for re-hire until he or she has fulfilled the requirements of  
353 Section 300.5-4 of the Employment Law.

354 **4-4. Determination of "Oneida Only" Positions.** In identifying which position must be filled  
355 by a tribal member pursuant to Section 300.5-3(d) of the Employment Law and Article 3-4(d) of  
356 this Handbook, HRD shall consider whether the position holder would:

- 357 (a) Supervise one (1) or more employees;
- 358 (b) Be granted key decision making responsibilities and authority;
- 359 (c) Be tasked with developing and/or interpreting policies and procedures;
- 360 (d) Have the authority to enter into agreements that financially bind the organization;
- 361 and/or
- 362 (e) Have financial management responsibility over a business unit;

363 **4-5. Compliance with Tribal Laws.** HRD shall follow any laws of the Nation which explicitly  
364 require a position to be designated as “filled by Oneida tribal members only” and in such  
365 circumstances may not exercise its discretion based on the considerations provided in Article 4-  
366 4.

367 **4-6. Position Descriptions.** HRD shall make all approved position descriptions public  
368 documents by providing copies to members of the public upon request, provided that all  
369 information relating to the position’s compensation must be stricken prior to being released to  
370 the public.

371 **V. POSITION POSTING, SELECTION AND HIRING**

372 **5-1. Training for the Hiring Process.** Supervisors, hiring representatives, and subject matter  
 373 experts (SME's) who are approved to participate in the selection process, shall complete and  
 374 maintain interview skills training prior to participating in the selection process.

375 **5-2. Approval Process for Posting Employment Vacancies.** Supervisors must obtain approval  
 376 from the reviewing supervisor, and, if the reviewing supervisor does not have budgeting  
 377 authority, also a budget authorized supervisor, in order to post and/or fill any vacant or new  
 378 position within their entity.

379 (a) It is the supervisor's responsibility to ensure that the position for which they intend to  
 380 post and fill a vacancy is approved in their entity's fiscal year budget or is otherwise  
 381 financially responsible, for example, based on budget savings or increased revenues.  
 382 Any positions posted and/or filled that are not approved in the entity's fiscal year budget  
 383 must be noticed to the Finance Department for inclusion in the workforce level  
 384 development.

385 (b) A position that may become vacant due to the termination of a current employee may  
 386 not be posted as vacant until the terminated employee has exhausted all of his or her  
 387 appeal rights, provided that a placement may be made on an interim basis.

388 (c) A supervisor may place a current employee in a vacant position on an interim basis  
 389 until the vacancy is satisfactorily filled.

390 (1) Absent a leave or any other circumstance that would require holding the  
 391 position, vacant positions must be posted prior to being filled on an interim basis.  
 392 (2) Interim transfers may be requested in six (6) months increments, provided that  
 393 transfers for positions that require posting prior to being filled on an interim basis  
 394 may not exceed one (1) year.

395 (d) A supervisor is not required to post a position prior to selecting a short term at-will  
 396 employee to fill the position.

397 **5-3. Posting Vacancies.** The supervisor and hiring representative shall work together to post  
 398 available positions internally and/or externally as follows:

399 (a) New Positions. All new positions, excluding those intended to be filled with an at-  
 400 will employee, must simulataneously be posted internally and externally for a minimum  
 401 of seven (7) days. For the purposes of this article, "new position" means a position  
 402 having essential requirements that are not currently satisfied by any other position held  
 403 by an employee of the Nation.

404 (b) Existing Vacant Positions. Existing vacant positions must be posted internally for a  
 405 minimum of seven (7) days. In addition to posting internally, a supervisor may also  
 406 direct the hiring representative to post the position externally for a minimum of seven (7)  
 407 days, during which time the position must remain posted internally. The external posting  
 408 may occur simultaneously with the internal posting or may be done after the internal  
 409 posting deadling has closed. If a position is not filled through the initial internal and/or

410 external posting based on the hiring procedures contained in this Article, it may be  
411 reposted until filled.

412 (1) Entities transferring or promoting employees from one (1) position within  
413 their own entity to a different position within the same entity are not subject to  
414 these posting requirements. For the purposes of this section, entity may be  
415 defined to include any grouping of employees up to the divisional level.

416 (c) Internal Postings. HRD shall post all internal postings both on the Nation's website  
417 and HRD's job board.

418 (c) Soon to be Vacant Positions. Supervisors may post positions as soon as they learn of the  
419 upcoming vacancy in order to encourage succession planning; supervisors are not required to  
420 wait for the position to become vacant in order to post for the position. A supervisor may have  
421 two (2) employees in the same position for succession planning for a maximum of sixty (60)  
422 calendar days. This period may only be extended if justification is provided to HRD and the  
423 entity has available budget to cover the extended period.

424 **5-4. Advertising of Posted Positions.** All position advertising must be completed by HRD,  
425 provided that an entity may be required to pay for its advertising out of its own budgets.

426 **5-5. Applications.** All applications for posted positions must be submitted to HRD no later than  
427 the closing date listed on the position description by close of business, if applying in person, or  
428 by 11:59 p.m., if applying electronically.

429 **5-6. Screening of Applicants.** Hiring representatives shall perform all eligibility based  
430 screening and the hiring team shall screen all applicants to ensure that only those who are  
431 eligible for employment, meet the essential requirements and BFOQs, if any, and contain no  
432 conflict of interest or the appearance of a conflict of interest with the Nation are granted  
433 interviews. Further, hiring representatives shall ensure that no interviews are received or  
434 applicants selected based on nepotism. The hiring representative's determination as to whether a  
435 conflict of interest, perceived conflict of interest or nepotism exists is final and is not subject to  
436 appeal. When an entity is doing on-going employee recruitment, HRD shall screen the  
437 applicants a minimum of once every thirty (30) calendar days, but may screen at any time that  
438 there are three (3) or more applicants. If an applicant is not selected based on screening done as  
439 part of an on-going recruitment, HRD shall offer the applicant the opportunity to be placed back  
440 into the applicant pool.

441 (a) Eligibility Based Screening. Applicants submitting incomplete or late applications are  
442 not eligible. HRD's Backgrounds Department shall conduct and approve or deny  
443 background checks for all non-gaming applicants/employees and will determine  
444 eligibility for employment based on criminal and non-criminal convictions, criminal  
445 reports and other documentations.

446 (1) HRD's Backgrounds Department will also conduct background checks for the  
447 following categories:

448 (A) Volunteers;

449 (B) Individuals requesting community service;

- 450 (C) Adult work experience applicants;  
451 (D) Temporary Assistance for Needy Families (TANF);  
452 (E) Kinship care for children and families; and  
453 (F) Foster parents.

454 (2) The Oneida Nation Gaming Commission shall approve background/gaming  
455 licenses for all applicants and/or employees working in the gaming division,  
456 which includes all non-gaming applicants and employees who work on the  
457 gaming premises.

458 (3) Employment eligibility is determined by the HRD's background manager, or  
459 designee. HRD's Backgrounds Department may impose restrictions upon or deny  
460 employment to an applicant or current employee based on the findings contained  
461 in a background investigation. Further, depending on the position, employees  
462 may be subject to continual background investigations throughout the course of  
463 their employment to ensure continued compliance with the position's eligibility  
464 requirements.

465 (A) Applicants and employees may review and contest the finding of a  
466 background investigation.

467 (B) If an applicant/employee is ineligible for employment based on the  
468 background investigation, the Backgrounds Department staff shall notify  
469 the applicant/employee and the employee supervisor of said ineligibility  
470 and the cause via telephone and first class mail. The Backgrounds  
471 Department staff shall advise the applicant/employee of how and where to  
472 access their background records, provided that, the applicant/employee  
473 must sign a request to review form prior to reviewing their file.

474 (C) Applicants/employees alleging inaccuracies within their backgrounds  
475 report have ten (10) business days from the date of their notice of  
476 ineligibility to resolve any inaccuracies within their record to the  
477 acceptance of HRD.

478 (D) The hiring process may continue as scheduled and is not required to be  
479 placed on hold in order for an applicant to resolve the findings of a  
480 background investigation.

481 (E) When an employee has become ineligible for employment in their  
482 current position based on an updated background investigation, the  
483 employee supervisor shall immediately remove the employee from the  
484 position.

485 (i) The employee may request that HRD provide a list of the  
486 positions for which he or she remains eligible to work in and may  
487 request a transfer if one of the said positions is available, provided  
488 that the normal transfer process must be followed.

489 (ii) If the employee is no longer eligible to remain employed with  
490 the Nation in his or her current position and there are no positions  
491 available for which the employee is eligible, the employee  
492 supervisor shall separate the employee.

493 (3) Ineligibility based on Previous Termination or Voluntary Resignation for  
494 Position Abandonment. Applicants previously terminated from employment with  
495 the Nation based on a violent act or theft in the course of the employee's  
496 employment are not eligible for re-hire, provided that, HRD shall recognize  
497 pardons and forgiveness in accordance with the Pardon and Forgiveness Law. All  
498 other previously terminated applicants and applicants that previously voluntarily  
499 resigned based on position abandonment become eligible for re-hire after the  
500 greater of either:

501 (A) One (1) year from the effective date of the termination or voluntary  
502 resignation; or

503 (B) One (1) year from the date the final action was taken regarding an  
504 appeal of a termination.

505 (4) Ineligibility based on Applicant's Behavior During the Hiring Process. An  
506 applicant's behavior during the hiring process that would amount to a violation of  
507 the Nation's laws, policies and/or rules if employed may make the said applicant  
508 ineligible for Employment. For the purposes of this Article, the hiring process  
509 begins on the date of the applicant submits his or her application.

510 (b) Qualification Based Screening. The hiring team shall screen applicants based upon  
511 the required qualifications contained in the position description for which the applicant  
512 has applied.

513 (1) The hiring representative shall make the final determination of who may  
514 participate in the qualification based screening process, provided that, the  
515 supervisor(s) may participate in the screening process. If the position has  
516 multiple supervisors (i.e. multiple shifts, locations, etc.), all supervisors may  
517 participate in the screening process.

518 (2) The hiring representative shall work with the supervisor(s) to determine if a  
519 table of equivalency may be considered. The table of equivalency may be used  
520 on any position whose essential requirements are not regulated by law (i.e. nurses,  
521 doctors, lawyers), provided that, if three (3) or more applicants qualify without  
522 using the table of equivalency, the table of equivalency may not be considered.

523 (A) For the purposes of this Article, a table of equivalency shows various  
524 combinations of post-secondary education credits earned from an  
525 accredited institution and experience that may be utilized instead of the  
526 education and experience required in the essential requirements section of  
527 the position description. If it is determined that using a table of

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equivalency is appropriate, the hiring representative and the supervisor shall use the following:

**Employment Requirement Contained in Job Description**

	<b>Master's Degree</b>	<b>Bachelor's Degree</b>	<b>Associate's Degree</b>
<b>Employment Requirement Equivalencies</b>	Bachelors degree with three (3) years of similar or identical experience.	Ninety (90) or more college credits* and two (2) years of similar or identical experience.	Thirty (30) or more college credits* and one (1) year of similar or identical experience.
	Ninety (90) or more college credits* and four (4) years of similar or identical experience.	Associates degree and three (3) years of similar or identical experience.	Vocational degree in a related field to the position applied for and two (2) years of similar or identical experience.
	Associates degree and five (5) years of similar or identical experience.	Vocational degree in a related field to the position applied for and four (4) years of similar or identical experience.	High School Diploma or HSED or GED and three (3) years of similar or identical experience.
	Vocational degree in a related field to the position applied for and six (6) years of similar or identical experience.	High School Diploma or HSED or GED and five (5) years of similar or identical experience.	--
	High School diploma, or HSED or GED and seven (7) years of similar or identical experience.	--	--

\* If a position description requires a specific degree, for example Business Administration, the college credits must be earned as part of a program that upon completion results in the participant obtaining the said degree.

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(B) For positions requiring a degree and experience, the hiring representative and the supervisor shall consider the experience required in the table of equivalencies to reach the equivalent of the said degree. For example, a position description requiring applicants to have a bachelors degree and seven (7) years of similar or identical experience an applicant having any one (1) of the following combinations of education and experience would be eligible:

- (i) A masters degree and four (4) years of experience because a masters degree is the equivalent to a bachelor's degree and three (3) years experience;
- (ii) Ninety (90) or more college credits and nine (9) years experience because a bachelors degree is equivalent to ninety (90) or more college credits plus two (2) years experience;
- (iii) An associates degree and ten (10) years experience because a bachelor's degree is the equivalent to an associates degree and three (3) years experience;
- (iv) A vocational degree and eleven (11) years of experience because a bachelors degree is the equivalent to a vocational degree and four (4) years experience; or
- (v) A high school diploma or HSED or GED and twelve (12) years of experience because a bachelors degree is the equivalent to a

552 high school diploma or HSED or GED and five (5) years  
553 experience.

554 (3) In considering applicants' qualifications, the hiring representative and any  
555 applicable supervisors participating in the screening process may consider the  
556 employment records, including, but not limited to, past performance evaluations  
557 and corrective actions that may have been issued for the last twelve (12) month  
558 period worked by any former or current employee. If the hiring team requests a  
559 copy of any applicant's last twelve (12) months of employment records from the  
560 hiring representative, the hiring representative shall also provide a copy of the  
561 record to the said applicant along with notice that his or her last twelve (12)  
562 months of employment records may be considered in the hiring process. Further,  
563 if the employment record of one (1) previous employee is requested, HRD shall  
564 provide the employment record of all previous employees that may be in the  
565 applicant pool.

566 (4) The hiring representative shall complete all skills testing, background security  
567 check, drivers' license checks, as well as pre-employment drug screenings as may  
568 be required by the position description. Skills testing results are valid for a one  
569 (1) year period; all other screens required by this Article must be completed each  
570 time the applicant applies for a position.

571 (A) The hiring representative shall screen out all applicants who do not  
572 pass the skills testing, background security check, driver' s license checks,  
573 pre-employments, etc.

574 (B) As appropriate, supervisors may allow applicants the opportunity to  
575 satisfy essential requirements within a reasonable time from the  
576 employee's date of hire, provided that entities shall develop standard  
577 operating procedures for ensuring compliance within a reasonable  
578 timeframe and separation procedures in the event an employee fails to  
579 comply.

580 (5) If the screening results in only one (1) qualified applicant, the hiring  
581 representative shall discuss with the supervisor(s) whether the selection should  
582 move forward with interviewing and hiring the qualified applicant or if the  
583 position should be reposted.

584 (c) Conflicts of Interest Screening. All applicants and parties involved in the screening  
585 and interview process, which may include but are not limited to, the hiring representative,  
586 supervisor(s) and subject matter experts, shall complete and sign the conflict of interest  
587 disclosure form which is designed to reveal any potential or perceived conflicts of  
588 interest. HRD shall include such conflict of interest disclosure forms in the employee's  
589 employee record.

590 (1) If the conflict of interest form discloses a potential or perceived conflict of  
591 interest, the conflicted person may not participate in the hiring process.

- 592 (2) The conflict of interest form must ask whether he or she:  
 593 (A) Has a current or past relationship with an applicant which impairs  
 594 his/her judgment with respect to the best interest of the Nation;  
 595 (B) May benefit, directly or indirectly, from the applicant's performance  
 596 of duties contained in the position description based on his or her  
 597 relationship with the applicant and/or the Nation;  
 598 (C) Currently has or has had personal relations and/or a domestic  
 599 partnership relationship with an applicant which may impair his or her  
 600 ability to objectively consider the applicant; or  
 601 (D) Is able to assert that to the best of his or her knowledge no potential or  
 602 perceived conflict of interest exists.
- 603 (3) The hiring representative shall make the final determination as to whether a  
 604 conflict of interest or a perceived conflict of interest exists.  
 605 (A) If the hiring representative determines that a conflict of interest exists  
 606 with a member of the hiring team which would not likely remain a conflict  
 607 of interest following the hiring process, he or she shall remove said  
 608 persons having the conflict interest from the hiring team.  
 609 (B) If the hiring representative determines that an organizational conflict  
 610 of interest exists with a member of the hiring team which would likely  
 611 remain a conflict of interest should the applicant be selected (i.e. if the  
 612 conflict of interest is with the applicant's prospective supervisor), the  
 613 hiring representative shall attempt to work with the supervisor to create an  
 614 alternate reporting structure or other mechanism to avoid the said conflict  
 615 of interest, unless the position is responsible for regulatory reporting  
 616 and/or compliance. If an alternate reporting structure or mechanism is not  
 617 possible or if the conflict of interest exists in positions responsible for  
 618 regulatory reporting and/or compliance, the hiring representative shall  
 619 disqualify the applicant from the position.
- 620 (4) If the hiring representative determines that a conflict of interest or perceived  
 621 conflict of interest exists, HRD shall provide the employee's employee  
 622 supervisor, and, in the event of a transfer or promotion, any subsequent employee  
 623 supervisors, with the conflict of interest disclosure form.
- 624 (d) Nepotism Screening. The hiring representative shall screen applicants out of  
 625 consideration for a position if nepotism exists. There is a presumption of nepotism if an  
 626 applicant is the hiring supervisor's immediate family member.
- 627 **5-7. Labor Pool Positions.** Supervisors wishing to establish labor pool positions shall work  
 628 collaboratively with HRD to create the position classification.
- 629 (a) HRD shall advertise each labor pool position as an on-going recruitment pool.  
 630 (b) Upon receipt of an application for a labor pool position, HRD shall:  
 631 (1) Perform the applicant screening based on essential requirements;

- 632 (2) If eligible and qualified, place the applicant into the labor pool; and  
 633 (3) Respond to applicant requests for status updates regarding their placement  
 634 into a labor pool.

635 (c) HRD shall maintain a current list of eligible and qualified applicants for each labor  
 636 pool position.

637 (d) Supervisors shall notify HRD when labor pool positions become vacant and shall take  
 638 one (1) of the following actions:

- 639 (1) Work with a hiring representative to interview, pursuant to Article 5-8, and  
 640 rank, pursuant to Article 5-9, each applicant in the labor pool. When all  
 641 interviews and rankings of the labor pool are complete, the supervisor shall make  
 642 a selection pursuant to Article 5-10; or  
 643 (2) Request that a hiring representative complete a pre-screening of the labor pool  
 644 based on the applications submitted and the screening process contained in Article  
 645 5-6 to provide the supervisor with the top (3) qualified applicants for the position.  
 646 The supervisor may then interview the top three (3) applicants in the labor pool  
 647 pursuant to Article 5-8(a) and (b), and rank them, pursuant to Article 5-9. When  
 648 all interviews and rankings are complete, the supervisor shall make a selection,  
 649 provided that, if there is one (1) or more Oneida applicant in the top three (3)  
 650 most qualified, an Oneida applicant must be selected.

651 (e) If an applicant in a labor pool is selected and refuses the position, HRD shall remove  
 652 his or her name from the list of eligible and qualified applicants for the specific labor  
 653 pool position.

654 **5-8. Interviews.** The purpose of the interview process is to verify applicants' qualifications in  
 655 order to ensure that the applicants' experience aligns with the Nation's employment needs. If an  
 656 applicant's interview reveals that his or her experience does not align with the Nation's needs,  
 657 the applicant may be screened out of the applicant pool.

658 (a) The hiring representative may schedule interviews if there are one (1) or more  
 659 qualified and eligible applicants and shall schedule interviews under the following  
 660 circumstances:

- 661 (1) If there are two (2) or more qualified and eligible Oneida applicants the hiring  
 662 representative shall schedule interviews with the Oneida applicants first. In such  
 663 circumstances, the remaining applicants, if any, may only be scheduled for  
 664 interviews if an Oneida applicant has not been selected pursuant to Article 5-10.  
 665 (2) If there are not two (2) or more qualified and eligible Oneida applicants, the  
 666 hiring representative shall schedule interviews if there are three (3) or more  
 667 qualified and eligible applicants in total.

668 (b) If there are not sufficient qualified and eligible applicants, the hiring representative  
 669 shall discuss with the supervisor whether interviews should move forward or if the  
 670 position should be reposted.

671 (c) The hiring representative and the supervisor shall work together to develop interview  
 672 questions, provided that the hiring representative shall make the final determination of  
 673 which interview questions may be asked.

674 (d) Each interviewing team must minimally consist of an hiring representative and the  
 675 supervisor(s), but may also include subject matter experts (SMEs). Further, each  
 676 interviewing team must include a minimum of two (2) persons eligible to score the  
 677 applicant. If the position the applicant is applying for has only one (1) supervisor and  
 678 there are not any subject matter experts participating in the interview, the supervisor shall  
 679 request the reviewing supervisor or a lateral or higher ranking employee to the employee  
 680 supervisor to be part of the interviewing team, provided that, all scoring members of the  
 681 interviewing team must be from the same entity.

682 (1) Supervisor(s) requesting that subject matter experts participate in the  
 683 interview team shall provide the hiring representative with justification for the  
 684 said inclusion.

685 (2) The hiring representative shall make the final determination of who may  
 686 participate in the interview process.

687 (e) If the interviews result in only one (1) qualified applicant, the hiring representative  
 688 shall discuss with the supervisor(s) whether the selection should move forward with  
 689 hiring the qualified applicant or if the position should be reposted.

690 **5-9. Applicant Ranking.** The hiring representative shall score applicants based upon Oneida  
 691 and Indian preference and veteran status only and the supervisor(s) shall score applicants based  
 692 on their interviews with an available score range of zero (0) to fifteen (15) for each interview  
 693 question.

694 (a) Upon verification by tribal identification card or with the Trust Enrollment  
 695 Department, the hiring representative shall award applicants points for Oneida and Indian  
 696 preference as follows:

697 (1) Persons who are tribal members – Fifteen (15) Points;

698 (2) Persons who meet the blood quantum requirements contained in the  
 699 Membership Ordinance, but are not currently tribal members, and/or persons who  
 700 are documented first generation descendants of a tribal member – Ten (10) Points;

701 (3) Persons enrolled in any federally recognized tribe other than this Nation –  
 702 Five (5) Points;

703 (4) All other non-Indian persons – Zero (0) Points.

704 (b) Applicants who are veterans shall submit the relevant proof of service, which may  
 705 include, but is not limited to, a DD214 Discharge Form, Reservist Identification Card, or  
 706 National Guard Identification Card, and will receive five (5) points, provided that, the  
 707 applicant has any of the following military discharges or statuses:

708 (1) Honorable discharge;

709 (2) General discharge under honorable conditions;

710 (3) Reservist; or

711 (4) National Guard.

712 (c) At the close of the interview process, the hiring representative shall calculate each  
713 applicant's total interview score including Oneida and Indian preference points, veteran  
714 points and interview question points and shall rank the applicants in order from highest  
715 score to lowest.

716 **5-10. Selection.** All hiring decisions must adhere to the Oneida and Indian preference policy as  
717 contained in the Employment Law.

718 (a) When interviews have been completed pursuant to Article 5-8, the hiring  
719 representative shall:

720 (1) If there are two (2) or more qualified and eligible Oneida applicants when all  
721 pre-selection screening is complete, provide the supervisor(s) with the top three  
722 (3) ranked Oneida applicants pursuant to Article 5-9, unless there are only two  
723 (2), in which case the top two (2) shall be provided.

724 (2) If there are not two (2) or more qualified and eligible Oneida applicants when  
725 all pre-selection screening is complete, provide the supervisor(s) with the top  
726 three (3) ranked applicants pursuant to Article 5-9, provided that if there is one (1)  
727 qualified and eligible Oneida applicant, he or she must be included in top three (3)  
728 regardless of rank.

729 (3) Schedule second interviews with the applicants provided to the supervisor(s)  
730 as may be requested by the supervisor(s).

731 (b) When all interviews have been conducted, the supervisor shall select an applicant for  
732 the position based on the following, provided that if there are two (2) or more qualified  
733 and eligible Oneida applicants, one (1) of the Oneida applicants must be selected:

734 (1) For single vacancies, the supervisor must select one (1) of the top three (3)  
735 ranked applicants.

736 (2) For multiple positions, the supervisor shall make a selection from the top three  
737 (3) ranked applicants for the first position and the hiring representative shall  
738 provide the next ranked applicant for each subsequent position to be filled so that  
739 the supervisor is picking from a pool of three (3) applicants for each position.

740 (4) Should a selected applicant withdraw his or her application or decline the  
741 position, the supervisor shall make another selection from the next top three (3)  
742 ranked applicants until a selected applicant accepts the position.

743 (5) If none of the initial top three (3) applicants accept the position, the supervisor  
744 may elect to repost the position instead of offering the position to one of the next  
745 top three (3) applicants.

746 (d) If additional vacancies occur for a position for which the selection process has  
747 recently been completed, the supervisor may hire from the last interview packet for a  
748 period of three (3) months from the date the last applicant was hired for the same  
749 position, provided that the selection must follow all requirements contained in this  
750 Article.

751 **5-11. Hiring Negotiations.** The supervisor shall review the wage and salary charts created by  
752 HRD pursuant to Article 7-1(a) and shall determine the wage or salary to offer the applicant,  
753 which must be approved by HRD to ensure procedural compliance with Article 7-1(b).  
754 Supervisor's may use discretion as to where to place employees so long as the employee is  
755 placed in the correct third of the position's grade and the supervisor considers any advanced  
756 education or experience to compensate the employee above the bottom of the appropriate third of  
757 the grade. Should the supervisor seek to deviate from the standard grade placement, the  
758 supervisor shall provide justification to HRD and HRD and the reviewing supervisor must  
759 approve the selected wage or salary.

760 (a) The hiring representative shall issue a conditional position offer to the selected  
761 applicant pending the applicant's successful passing of the pre-employment drug  
762 screening test.

763 (1) The conditional position offer must include the wage/salary agreed upon by  
764 the applicant and the hiring representative based on their negotiations.

765 (2) An applicant may re-schedule a drug screening one (1) time provided that it  
766 must be re-scheduled within twenty-four (24) hours of the originally scheduled  
767 drug screening. Failure to show up for a scheduled (or re-scheduled) drug  
768 screening and/or refusal to sign the Pre-Employment Drug Screening Form is  
769 treated as a failed drug screening.

770 (3) Applicants who fail the pre-employment drug screening test are ineligible for  
771 employment for a period of 180 calendar days.

772 (4) Applicants that are current employees and fail the drug screening required for  
773 a transfer are not eligible for a promotion of transfer for a period of 180 calendar  
774 days from the date of a failed drug screen and Employee Health Nursing shall  
775 submit notice of the failure to the employee supervisor and HRD for reporting  
776 purposes.

777 (b) As part of the hiring negotiations, the hiring representative may negotiate to provide  
778 the employee with relocation assistance in accordance with the guidelines provided in the  
779 standard operating procedure that HRD shall develop.

780 **5-12. Employee Orientation.** At the close of the selection process, the hiring representative  
781 shall schedule the selected applicant for employee orientation.

782 (a) All employees shall complete all required stages of training and orientation, except  
783 those to be provided by the entity, within one (1) month of the employee's starting date,  
784 provided that it is recommended that employee orientation be completed prior to the  
785 employee beginning work.

786 (1) A former employee that is re-hired is not required to complete employee  
787 orientation upon re-hire unless a period of three (3) or more years has lapsed since  
788 the employee last completed orientation, except that employee orientation is  
789 required if the employee underwent employee orientation before the Employment  
790 law went into effect or if the employee is signing up for benefits.

- 791 (2) Transferring employees are not required to complete employee orientation,  
 792 except that employee orientation is required if the employee underwent employee  
 793 orientation before the Employment law went into effect.
- 794 (b) The employee orientation includes:
- 795 (1) Oneida Nation overview;
- 796 (2) Organization overview;
- 797 (3) Key employment laws and Handbook discussion;
- 798 (A) During orientation HRD shall require all employees to sign an  
 799 acknowledgment stating that they have been made aware of the key  
 800 employment laws and this Handbook and that they are responsible for  
 801 complying the said employment laws and this Handbook.
- 802 (4) Insurance and benefits information;
- 803 (5) Health and safety information;
- 804 (6) Any additional training as may be necessary for various entities.
- 805 (c) Entities shall provide more in-depth orientation and/or training programs to assist  
 806 employees with a successful introduction into the entity's expectations. The entity's  
 807 orientation and/or training must begin within one (1) week of the employee's start date.
- 808 (d) Employees holding positions identified as caregiver positions, which are those that  
 809 work with children and/or vulnerable adults, shall complete separate training related to  
 810 their position as determined by HRD; the caregiver specific training must be completed  
 811 within the employee's probationary period.
- 812 (e) When HRD is administering training or orientation, HRD:
- 813 (1) Shall correct any employee's poor behavior in order to maximize the benefit  
 814 of training and orientation for all employees;
- 815 (A) HRD may excuse any employee found to be exhibiting poor behavior.  
 816 Further, if it is suspected that the employee may be influenced by alcohol  
 817 and/or an illegal substance, HRD shall refer the employee to Employee  
 818 Health Nursing for a drug and alcohol screening.
- 819 (B) A new employee excused from training or orientation and/or referred to  
 820 Employee Health Nursing pursuant to sub-Article (A) may not return to  
 821 work until the said training or orientation is complete.
- 822 (C) If at anytime HRD is required to address an employee's behavior  
 823 while in training or orientation, HRD shall provide notice of the incident  
 824 to the employee supervisor.
- 825 (2) Determine whether the employee has successfully completed the required  
 826 orientation and training.
- 827 (3) Supervisory Employees. Within six (6) months of a new employee assuming  
 828 supervisory responsibilities, he or she must successfully complete supervisor training,  
 829 which includes training on this Handbook.

830 **5-13. Probationary Period.** All employees are subject to a probationary period lasting a  
 831 minimum of ninety (90) days. An employee supervisor that has timely performed an employee's  
 832 evaluations as required in sub-Article (d) may request an extended probationary period for the  
 833 employee, provided that the extension may not exceed an additional ninety (90) days and must  
 834 be approved by HRD for procedural compliance.

835 (a) All new employees on probation are at-will employees and the provisions contained  
 836 in Article 5-18(g)(i) and (j) apply to probationary at-will employees.

837 (b) Employees accrue paid time off during their probationary period. An employee may  
 838 not use or, in the event of separation or termination, be paid out for any accrued paid time  
 839 off until the employee has successfully completed his or her probationary period, except  
 840 that employees whose probation period is extended may begin using accrued paid time  
 841 off after the close of the initial ninety (90) probation period.

842 (c) Employees, excluding temporary employees, are eligible to receive all paid holidays  
 843 while on probation.

844 (d) Employee supervisors shall provide each probationary employee with two  
 845 probationary evaluations, the first occurring within the first six (6) weeks from the  
 846 employee's start date and the second occurring within seventy-five (75) to ninety (90)  
 847 days from the the employee's start date.

848 (e) If an employee supervisor extends an employee's probationary period, the supervisor  
 849 shall provide the employee with an additional evaluation upon completion of the  
 850 probationary period.

851 (f) HRD shall provide all employee supervisors and reviewing supervisors with a  
 852 reminder notice to complete the required probationary evaluations at least five (5)  
 853 business days prior to the evaluation becoming due.

854 (g) Employees at-will during the probationary period, provided that the at-will status may  
 855 not extend any past ninety (90) days from the employee's first date of work.

856 **5-14. Career Ladders: Student Internships and Promotions.** Supervisors are encouraged to  
 857 work with employees to create career ladders to plan for employees' advancement within the  
 858 Nation.

859 (a) Student Internships. The Nation encourages the use of student internships to recruit  
 860 tribal members enrolled in post-secondary education to work for the Nation upon  
 861 completion of their education and to provide such students with work experience.  
 862 Nothing in this article may be interpreted to prevent entities from utilizing interns from  
 863 internship programs provided by parties other than the Nation.

864 (1) Interns are considered temporary at-will employees and must:

865 (A) Be at least seventeen (17) years of age;

866 (B) Be a tribal member; and

867 (C) Be enrolled in a post-secondary educational institution.

868 (2) HRD shall manage and coordinate the student internship program.

- 869 (3) Student interns are subject to only the selection and hiring requirements  
870 contained in Articles 5-6, 5-12 and 5-18. In addition, student intern applicants  
871 must submit copy of either their unofficial transcript or an acceptance letter to a  
872 post-secondary educational institution to HRD.
- 873 (4) Entities participating in the student internship program shall provide each  
874 student intern with a mentor who shall:
- 875 (A) Instruct, mentor, guide and advise student interns in relation to their  
876 roles, responsibilities and functions within the entity;
  - 877 (B) Develop a meaningful career focused experience, tasks and  
878 responsibilities while working for the entity;
  - 879 (C) Provide student interns with meaningful feedback and assessments of  
880 their performances;
  - 881 (D) Work with student interns to establish learning objectives and goals;
  - 882 (E) Communicate with HRD on a bi-weekly basis regarding the student  
883 interns' performances; and
  - 884 (F) Complete a post-internship survey for each student intern.
- 885 (5) HRD shall:
- 886 (A) Review student intership applications and make placements based on  
887 education and/or interest;
  - 888 (B) Determine whether compensation is available for student interns, and,  
889 if it is, shall annually determine the wage that will be paid to all student  
890 interns for the duration of the fiscal year. The ability to pay student  
891 interns a wage is dependent on the Nation's budget and available funding.  
892 Student interns are not gauranteed to be compensated for particiaption in  
893 the student intern program.
  - 894 (C) Notify mentors of the student intern's placement and schedule, report  
895 and end dates and contact information;
  - 896 (D) Notify student interns of their placements, report and end dates,  
897 orientation and training dates and whether their internship includes  
898 compensation; and
  - 899 (E) Notify the Time and Attendance Department of the student intern's  
900 name, employee number and mentor's name.
- 901 (7) The mentor shall notify HRD of the student intern's last day and shall meet  
902 with the student intern to provide a written evaluation. The written evaluation  
903 must include, but is not limited to, a summary of the student intern's work and  
904 accomplishments, an assessment of the student intern's performance strengths and  
905 weaknesses and review of the post-internship survey.
- 906 (8) Students participating in the student intern program may use their internship  
907 experience towards the experience requirements that may be required in the

908 Nation's position descriptions and/or towards the requirements of the table of  
909 equivalency as provided in Article 5-6(b)(2).

910 (b) Promotions. Supervisors may reward an employee's performance achievements by  
911 promoting the employee. Each entity, at the divisional level, shall develop a standard  
912 operating procedure establishing how employees will fairly and consistently be selected  
913 for promotions and shall submit the standard operating procedure to HRD. HRD shall  
914 review and approve or deny all promotions based on procedural compliance with the  
915 division's standard operating procedure.

916 (1) Supervisory Employees. Within six (6) months of a promoted employee  
917 assuming supervisory responsibilities, he or she must successfully complete  
918 supervisor training, which includes training on this Handbook.

919 (2) The salary and wage negotiations requirements in Article 5-11 apply to  
920 employee promotions.

921 (3) In order to be eligible for a promotion, the employee shall have attained six  
922 (6) months of continuous employment with the Nation and may not be an at-will  
923 employee.

924 **5-15. Employee Transfers.** Employee transfers must be approved by HRD for procedural  
925 compliance and by the prospective transfer's employee supervisor and reviewing supervisor.

926 (a) Upon approval of a transfer, the employee's current employee supervisor and  
927 prospective employee supervisor shall discuss and agree upon a transition plan for the  
928 employee which will allow the current employee supervisor adequate time to respond to  
929 the newly vacant position and to provide succession planning. Unless a shorter  
930 timeframe is agreed upon by the employee and the supervisors, all transfers must be  
931 complete within sixty (60) days of the date notice of the transfer was provided to the  
932 employee's current employee supervisor.

933 (b) Employees become eligible to transfer within their entity after achieving six (6)  
934 months of continuous employment in the employee's current position with the Nation and  
935 are eligible to transfer organization-wide after achieving one (1) year of continuous  
936 employment with the Nation. At-will employees are not eligible for transfers.

937 (c) Transferring employees are not subject to an additional probationary period, but are  
938 subject to the evaluation requirements for probationary employees as provided in Article  
939 5-13(d).

940 (d) Within ten (10) business days of the effective date of the transfer, the employee  
941 supervisor accepting a transferring employee shall review with the employee the  
942 employee's last twelve (12) months of employment record. At such time, the employee  
943 supervisor shall provide notice that the employee's record is required to transfer with the  
944 employee, which includes required terminations for accumulated corrective actions as  
945 provided in Article 12-6(c)(1)(A).

946 (e) The salary and wage negotiations requirements in Article 5-11 apply to employee  
947 transfers.

948 (f) If the supervisors within an entity wish to transfer employees internally within their  
 949 division without posting subject to Article 5-3(b)(1), the entity, at the division level, shall  
 950 create a standard operating procedure establishing how employees will fairly and  
 951 consistently be selected for internal transfers and shall submit the standard operating  
 952 procedure to HRD.

953 **5-17. Interim Status Employees.** Employees, excluding at-will employees, may be assigned  
 954 into a vacant position on an interim basis until the vacant position is filled, provided that such  
 955 assignments must be approved by the current employee supervisor, the prospective employee  
 956 supervisor and prospective reviewing supervisor and, for procedural compliance, also by the  
 957 hiring representative. The current employee supervisor shall keep the interim status employee's  
 958 position available for the maximum interim period provide in Article 5-2(c) and, for that reason,  
 959 unlike a normal transfer, the current employee superviosr may deny an interim transfer of his or  
 960 her employee.

961 (a) Interim transfers are subject to the posting and maximum duration requirements found  
 962 in Article 5-2(c).

963 (b) Supervisors shall complete the interim assignment paperwork as may be required by  
 964 HRD.

965 (c) When making interim transfers, supervisors may waive any hiring requirements  
 966 except the following, as applicable:

- 967 (1) Tribal member only;
- 968 (2) Certifications;
- 969 (3) Licensing;
- 970 (4) Background and security checks; and
- 971 (5) Pre-employment drug screenings.

972 (d) The employee supervisor may start the employee in the interim position only after all  
 973 approvals have been obtained as noticed to him or her by HRD.

974 (e) The salary and wage negotiations pursuant to Article 5-11 apply to employee interim  
 975 reassignments.

976 (f) An interim transfer employee may not be transferred into the position he or she holds  
 977 on an interim basis as a regular status employee.

978 (1) The only exception to this restriction is that an employee placed into an  
 979 interim position that is required to be held open (i.e. pending an appeal or a family  
 980 medical leave) in the same entity (based on divisional level) he or she is currently  
 981 employed in, may be transferred or promoted into the position when the position  
 982 is formally vacant (i.e. when the termination is upheld or the employee is  
 983 separated because he or she cannot return from family medical leave). This  
 984 exception is available because the transfer or promotion may not be completed  
 985 until the position is vacant.

986 (2) In order to qualify for the exception, the interim employee must have  
 987 otherwise qualified for a transfer or promotion as provided in this Handbook.

988 **5-18. At-Will Employees.** Supervisors may request to hire temporary at-will employees to fill  
 989 an emergency or temporary need or to employ youth workers, student interns or seasonal  
 990 workers, provided that such hiring requires the approval of the employee supervisor, reviewing  
 991 supervisor and, for procedural compliance, the hiring representative.

992 (a) At-will employees taking temporary positions may not be employed for the Nation  
 993 for a period exceeding six (6) months, with one (1) six (6) month extension available only  
 994 in the event of a hiring freeze. The employee supervisor and HRD shall enforce end  
 995 dates for temporary at-will employees. Political appointees are exempt from these  
 996 timeframes and may serve for the full term of the Oneida Business Committee member  
 997 that appointed them.

998 (b) A supervisor is not required to post a position prior to selecting a short term at-will  
 999 employee to fill the position.

1000 (c) Supervisors may not schedule any temporary at-will employee to begin work until all  
 1001 required approvals have been secured, all paperwork as may be required by HRD has  
 1002 been completed and the hiring representative has provided the supervisor with the earliest  
 1003 start date available.

1004 (d) Supervisors may request a sub-relief pool position to fill in for employees on  
 1005 vacation.

1006 (1) Examples of sub-relief positions include, but are not limited to, teachers,  
 1007 pharmacists, etc.

1008 (2) Sub-relief employees are at-will employees.

1009 (3) Supervisors shall review their list of sub-relief employees annually and shall  
 1010 notify HRD to remove any people who may have become regular status  
 1011 employees of the Nation.

1012 (e) HRD shall maintain a list of applicants interested in temporary work and sub-relief.

1013 (f) Hiring of temporary and sub-relief at-will employees must adhere to the Oneida and  
 1014 Indian preference policy as described in the Employment Law and this Handbook.

1015 (g) At-will employees may not use payroll deductions to make purchases from tribal  
 1016 entities.

1017 (h) Temporary at-will employees and/or sub-relief at-will employees may not appeal the  
 1018 end dates of their temporary contracts and/or temporary service.

1019 (i) At-will employees may be terminated at any time the supervisor determines that the  
 1020 employee commits a prohibited behavior meriting corrective action and do not require  
 1021 accumulated corrective actions pursuant to Article 12-6(c)(1)(A).

1022 (j) At-will employees, excluding political appointees that are hired through the normal  
 1023 hiring process, do not have access to the grievance process provided in Article 13.

1024 (k) The salary and wage negotiations pursuant to Article 5-11 apply to temporary at-will  
 1025 employees.

1026 **5-19. Entity Re-organization.** The re-organization of an entity may not be considered to be an  
 1027 adverse employment action unless the entity fails to abide by its re-organization plan. An entity

1028 re-organization may include, but is not limited to, modifying job descriptions and moving  
1029 employees to different/new positions within the entity. A supervisor may re-organize his or her  
1030 entity, provided that:

1031 (a) He or she must work with the HRD to develop a re-organization plan;

1032 (b) He or she must have the approval of the highest level supervisor in the chain of  
1033 command;

1034 (c) He or she shall complete the re-organization forms required by HRD and shall work  
1035 with the Accounting Department to transfer the entity's budget as may be appropriate;

1036 (d) The salary and wage negotiations pursuant to Article 5-11 apply to employees subject  
1037 to position changes based on an entity's re-organization; and

1038 (e) The re-organization of the entity must be in the best interest of the Nation.

1039 **5-20. Organizational Wide Re-organization.** Any re-organization of the Nation's entire  
1040 employment base must be approved by the Oneida Business Committee. Such organizational  
1041 wide re-organizations may not be considered to be an adverse employment action unless the  
1042 Nation fails to abide by the re-organization plan developed and approved by the Oneida Business  
1043 Committee. An organizational wide re-organization may include, but is not limited to,  
1044 modifying job descriptions and moving employees to different/new positions, and combining,  
1045 eliminating or creating entities.

1046 (a) At the Oneida Business Committee's request, HRD shall work with the Oneida  
1047 Business Committee to assist in creating an organizational wide re-organization plan.

1048 (b) The salary and wage negotiations pursuant to Article 5-11 apply to employees subject  
1049 to position changes based on an organizational wide re-organization.

1050 **VI. ANNUAL PERFORMANCE EVALUATIONS AND EMPLOYEE**  
 1051 **DEVELOPMENT**

1052 **6-1. Annual Performance Evaluations.** The purpose of the annual performance evaluation is  
 1053 to assess the employee's development in their current position and to provide goals that promote  
 1054 both the growth of the employee and the Nation.

1055 (a) Employee supervisors shall evaluate each of their employees annually in the same  
 1056 month as the employee's date of hire for his or her current position and shall meet with  
 1057 each employee to discuss the contents of the annual performance evaluation.

1058 (1) When evaluating employees having supervisory responsibilities, the employee  
 1059 supervisor shall request from HRD and consider the report of the supervisor's  
 1060 accumulated evaluations from employees received under Article 6-2. The  
 1061 reviewing supervisor shall then provide ten percent (10%) of the employee  
 1062 supervisor's performance evaluation score based on such evaluations.

1063 (A) For employee supervisors having three (3) or less employees, the  
 1064 reviewing supervisor performing the evaluation shall still request from  
 1065 HRD and review the report of the supervisor's accumulated evaluations  
 1066 from employees received under Article 6-2. However, in such  
 1067 circumstances, the reviewing supervisor may not base any portion of the  
 1068 employee supervisor's performance evaluation score on such evaluations.

1069 (2) HRD shall provide all employee supervisors with a monthly notice of all  
 1070 employees requiring evaluations in the coming month.

1071 (3) HRD shall follow-up with all employee supervisors that have not turned in the  
 1072 required evaluations, including re-evaluations required under Article 6-1(e), at  
 1073 the end of each month and shall include notice to the reviewing supervisor.

1074 (4) Employee supervisors having an employee on leave, modified duty, or  
 1075 suspension whom is up for his or her annual performance evaluation shall  
 1076 complete the said evaluation within two (2) weeks of the employee's return.

1077 (b) Each annual performance evaluation must review the following:

1078 (1) The employee's performance and competency strengths and weaknesses; and

1079 (2) An employee development plan, including improvement and development  
 1080 goals for the next review period based on a collaboration of the employee and  
 1081 employee supervisor. If an employee's evaluation score results in an  
 1082 unsatisfactory evaluation, the employee development plan must also include the  
 1083 following:

1084 (A) Specific and critical performance deficiencies;

1085 (B) Position performance standards;

1086 (C) Any other items that may be appropriate to include in the performance  
 1087 improvement plan, which may include, but are not limited to, referral to an

1088 Employee Assistance Program outside the corrective action process and  
1089 required re-training.

1090 (c) Both the employee and the employee supervisor shall sign and date the annual  
1091 performance evaluation.

1092 (d) The employee supervisor shall provide a copy of the signed annual performance  
1093 evaluation to both the employee and HRD.

1094 (e) Employees who disagree with their annual performance evaluation may seek  
1095 mediation with their employee supervisor at HRD.

1096 (f) All employees receiving an overall unsatisfactory score on their annual performance  
1097 evaluation must be re-evaluated by their employee supervisor within ninety (90) days of  
1098 their signed annual performance evaluation.

1099 (1) During the re-evaluation, the employee supervisor shall follow up on and  
1100 reassess the employee development plan with the employee.

1101 (2) Employee's receiving a re-evaluation based on an initial unsatisfactory  
1102 evaluation, must receive an annual evaluation score that is an average of the initial  
1103 evaluation score and the re-evaluation score.

1104 **6-2. Employee Evaluations of Supervisors.** All employees must be given the opportunity to  
1105 anonymously evaluate their employee supervisor through the Nation's supervisor evaluation  
1106 program. When an employee supervisor provides an employee with his or her annual self-  
1107 performance evaluation materials, the employee supervisor shall provide the employee with the  
1108 supervisor evaluation forms created by HRD.

1109 (a) The supervisor evaluation forms must include:

1110 (1) Instructions for completing the evaluation of his or her employee supervisor;

1111 (2) Instructions for delivering the evaluation, either electronically or in hard copy  
1112 form, to HRD; and

1113 (3) The due date for completing the evaluation of his or her supervisor, which the  
1114 employee supervisor shall enter.

1115 (A) The supervisor evaluation due date must be prior to the date the  
1116 employee supervisor has scheduled for his or her evaluation of the  
1117 employee and must provide the employee a minimum of five (5) business  
1118 days to complete the supervisor evaluation.

1119 (b) HRD may not accept any supervisor evaluations received after the due date provided  
1120 by the employee supervisor.

1121 **6-3. Conflict of Interest Renewal Form.** Each year at the time of each employee's annual  
1122 review, employee supervisors shall require that each employee complete an updated conflict of  
1123 interest form. The employee supervisor shall collect all employee's updated conflict of interest  
1124 forms and shall forward them to HRD to be placed in each employee's employee file.

1125 **VII. COMPENSATION AND BENEFITS**

1126 **7-1. Tribal Compensation Plan.** Employees' compensation is based on the compensation plan  
 1127 created by HRD with required collaboration with entities, including, but not limited to, each  
 1128 entity's upper management. The compensation plan must be approved by the Oneida Business  
 1129 Committee pursuant to Section 300.6-1 of the Employment Law. Also, pursuant to Section  
 1130 300.6-1(a) of the Employment Law, wage and salary adjustments and benefits available to  
 1131 employees are dependent upon available funding allocations.

1132 (a) In order to remain competitive with the local market in filling positions, HRD shall  
 1133 review, adjust and approve all wage and salary charts of the Nation as needed, but not  
 1134 less than once every three (3) years.

1135 (b) HRD shall work with supervisors to create grading placements for each position  
 1136 within the Nation. To ensure earning equity within the Nation's same or similar  
 1137 positions, when negotiating Employee's wage/salary, employee supervisors shall place  
 1138 employees correctly in the bottom third, middle third or top third of the position's grade  
 1139 based upon the employee's education, experience, licensing and certification. The  
 1140 placement standards within each grade are as follows:

<b>Grade Placement</b>	<b>Requirements</b>
<b>Top Third: Master</b>	<ul style="list-style-type: none"> <li>— Employees who have achieved all job requirements and have longevity in the position for ten (10) or more years.</li> <li>— Reserved for employees who have made significant, ongoing contributions over time.</li> <li>— Employees that may be considered subject matter experts.</li> </ul>
<b>Middle Third: Proficient</b>	<ul style="list-style-type: none"> <li>— Employees with additional experience and education than what is required by the position description, this is the hiring "sweet spot" for fully competent employees ready to hit the ground running.</li> <li>— Current employees with longevity in the position for five (5) to nine (9) years that meet the minimum education and experience required to maintain the position, it is expected that all employees will reach this range position over time.</li> </ul>
<b>Bottom Third: Developing</b>	<ul style="list-style-type: none"> <li>— Employees with position longevity of less than five (5) years that meet the minimum education and experience requirements for the position, regardless of whether using the table of equivalency or not. Reserved for employees early in their learning curve.</li> </ul>

1141 (c) HRD, through the Nation's budgeting process, and by no later than February of each  
 1142 year, shall make recommendations for the organization-wide issuance of the following  
 1143 based upon market trends:  
 1144

1145 (1) Cost of living adjustments where a cost of living adjustment is an adjustment  
 1146 to employees' compensation in order to counteract the effect of inflation and must

1147 consider the Consumer Price Index from the Bureau of Labor Statistics for the  
 1148 nearest area in the state of Wisconsin, provided that HRD may also consider other  
 1149 tools it deems appropriate;

1150 (2) Wage/salary adjustments where a wage/salary adjustment is a fluctuation in a  
 1151 position's and/or employee's compensation based on market trends or other  
 1152 employment driven policies such as retention;

1153 (3) Merit based increases where a merit based increase is an increase in an  
 1154 employee's compensation based on performance as reflected in the employee's  
 1155 annual performance evaluation;

1156 (4) Bonuses where a bonus is a lump sum of money given to an employee in  
 1157 excess of an employee's wage or salary requirements; and

1158 (5) Incentives where incentives are measures taken by the Nation to encourage  
 1159 and/or recognize strong employee performance and/or years of service and may  
 1160 include, but are not limited to, gifts, gift cards and social functions.

1161 (d) Cost of Living Adjustments. If offered, cost of living adjustments must be offered  
 1162 organization-wide. When cost of living adjustments are provided, HRD shall adjust the  
 1163 grades developed under Article 7-1(a) to reflect the adjustment.

1164 (e) Wage/Salary Adjustments. All wage and salary adjustments, whether implemented  
 1165 organization-wide or initiated by individual entities must remain within the grades and  
 1166 placements as developed in Article 7-1(a) and (b).

1167 (1) The Nation may institute wage and salary adjustments organization-wide  
 1168 based on the approved compensation plan. Wage and salary adjustment that  
 1169 increase a position's compensation must go into effect for all current employees  
 1170 and new hires, whereas adjustments that decrease a position's compensation must  
 1171 only go into effect for new hires.

1172 (2) Entities may also independently initiate wage and salary adjustments for  
 1173 critical Employees and/or positions. Entities must develop and submit to HRD a  
 1174 standard operation procedure for implementing wage and salary adjustments for  
 1175 critical employees and/or positions prior to effectuating any such adjustments.

1176 Entity supervisors shall submit all such adjustments to HRD for approval  
 1177 indicating procedural compliance with the entity's standard operating procedure.

1178 (3) At any time that wage and salary adjustments are made, supervisors shall  
 1179 evaluate each employee's placement within the position's grade and may request  
 1180 assistance from HRD in performing such evaluation.

1181 (f) Merit Based Increases. Employees having one (1) or more years of continuous  
 1182 service with the Nation and who receive at least a satisfactory score on their annual  
 1183 evaluation are eligible to receive merit based increases. Merit based increases must be  
 1184 awarded in conjunction with an employee's annual evaluation, provided that no merit  
 1185 based increases may be awarded until the Nation's annual budget is approved by the  
 1186 General Tribal Council. Employees at the top of their position's grade may not be

1187 awarded a merit based increase, but may be offered a lump sum of money as a  
1188 performance reward in lieu of a merit based increased. Performance rewards may not  
1189 exceed the annual value of the merit based increase the employee would have been  
1190 eligible for if the employee was not at the top of the position's grade.

1191 (1) Merit based increases may be directed to be provided organization-wide based  
1192 on the compensation plan. In such circumstances, the compensation plan must  
1193 provide the dollar amount of the entity's budget that must be allocated to merit  
1194 based increases based on the number of employees working for the entity.  
1195 Entities shall then award the merit based increases in accordance with each  
1196 entity's standard operation procedure, which must provide for merit based  
1197 increases fairly for all levels of employment. Such standard operating procedures  
1198 must be submitted to HRD along with the actual implementation of the merit  
1199 based increases in order for HRD to ensure procedural compliance with the  
1200 standard operating procedure.

1201 (2) Entities may also independently initiate merit based increases through their  
1202 annual budgets. Entities must develop and submit to HRD a standard operation  
1203 procedure for awarding merit based increases fairly to all levels of employment.  
1204 Prior to implementation, merit based increases must be approved by HRD for  
1205 procedural compliance with the standard operating procedure.

1206 (g) Bonuses and Incentives. Bonuses and incentives may be implemented organization-  
1207 wide or initiated by individual entities. Bonuses and incentives may not be implemented  
1208 until the annual budget is approved by the General Tribal Council. Supervisors shall  
1209 require employees receiving incentives, other than social functions and years of service  
1210 gifts, to sign an acknowledgment that the incentive is taxable income in accordance with  
1211 accounting guidelines.

1212 (1) Bonuses and/or incentives may be directed to be provided organization-wide  
1213 based on the compensation plan. In such circumstances, the compensation plan  
1214 must provide the dollar amount of the entity's budget that must be allocated to  
1215 bonuses and/or incentives based on the number of employees working for the  
1216 entity. Entities shall then award the bonuses and/or incentives in accordance with  
1217 each entity's standard operation procedure which must fairly provide for bonus  
1218 and/or incentive distribution to all levels of employment. Such standard operating  
1219 procedures must be submitted to HRD along with the actual implementation of  
1220 the bonuses and/or incentives in order for HRD to ensure procedural compliance  
1221 with the standard operating procedure.

1222 (2) Entities may also independently initiate bonuses and/or incentives through  
1223 their annual budgets. Entities must develop and submit to HRD a standard  
1224 operation procedure for fairly implementing bonuses and/or incentives to all  
1225 levels of employment prior to implementation.

1226 (h) Direct reports to the Oneida Business Committee shall notify the Oneida Business  
 1227 Committee each time their entity implements any of items (e) through (g) of this sub-  
 1228 Article, at which time the Oneida Business Committee shall consider implementing the  
 1229 same for the direct report based on the direct report's entity's standard operating  
 1230 procedure.

1231 **7-2. Compensation for Additional Duties.** Employee supervisors shall negotiate additional  
 1232 duty compensation when assigning duties to an employee, excluding at-will employees.  
 1233 Additional duties compensation is available for duties that are of a different nature from those  
 1234 the employee is already responsible for and/or specialized duties of the same nature but in excess  
 1235 of those the employee is already responsible for; further, such duties must be required because  
 1236 the entity has a vacant position, has been assigned additional responsibilities but has not hired  
 1237 additional employees and/or is pursuing a special project that was not previously the entity's  
 1238 responsibility or related to its area. For the purpose of this Article, specialized duties are those  
 1239 tasks that require the employee to have particular training or formal education. In order to be  
 1240 eligible to receive additional duty compensation, the employee must retain responsibility for  
 1241 their original duties and assume additional responsibilities.

1242 (a) Additional duties compensation may exceed the maximum wage or salary of the  
 1243 employee's grade.

1244 (b) Additional duties compensation may be approved for additional duties assumed for at  
 1245 least four (4) pay periods and for a maximum period of one (1) year. Additional duties  
 1246 compensation approvals must include an effective date and an end date, provided that  
 1247 payment for additional duties may not begin until the fifth (5<sup>th</sup>) pay period following the  
 1248 effective date. HRD shall ensure that the employee receives retroactive payment for the  
 1249 initial four (4) pay periods of additional duties assignments and that additional duties  
 1250 compensation ceases effective upon the end date, provided that a supervisor may extend  
 1251 an end date within the one (1) year period.

1252 (c) When assigning additional duties, an employee supervisor may waive any position  
 1253 requirements except the following, as applicable:

- 1254 (1) Tribal member only;
- 1255 (2) Certifications;
- 1256 (3) Licensing;
- 1257 (4) Background and security checks; and
- 1258 (5) Additional drug screenings.

1259 (d) If an employee supervisor revises any position description following assignment of  
 1260 additional duties in order to incorporate the additional duties to the employee's existing  
 1261 duties, the employee must meet all eligibility and qualification requirements.

1262 (e) Supervisor's approving additional duties compensation shall create an additional  
 1263 duties performance agreement and must be signed by the employee, the employee  
 1264 supervisor and the reviewing supervisor. This agreement must be forwarded to HRD and  
 1265 approved for procedural compliance with this Handbook, specifically to ensure that the

1266 duties assigned meet qualify for additional duties compensation. HRD has the final say  
 1267 as to which duties qualify for additional duties compensation. At a minimum, the  
 1268 additional duties performance agreement must contain the following:

- 1269 (1) The specific responsibilities and duties that the employee is assuming;
- 1270 (2) The agreed upon percentage of additional duties compensation; and
- 1271 (3) The start and end dates of additional duties compensation.

1272 (f) Unless an entity develops its own standard operating procedure for negotiating  
 1273 additional duties compensation, supervisors must negotiate additional duties  
 1274 compensation based on the following:

<b>Types of Additional Duties Assumed</b>	<b>Approved Additional Compensation Ranges</b>
Assumption of three (3) to four (4) non-supervisory but specialized duties	<b>5%</b>
Assumed supervision of employees, kronos approvals, and short term planning	<b>6% - 9%</b>
Assumed supervision of supervisor/management level staff, kronos approvals, budget approval/sign-off, and short term planning	<b>10% - 14%</b>
Assumed supervision of upper management, kronos approvals, budget approval/sign-off, and short and long term planning	<b>15%</b>

1275 \*If more than one (1) employee is assuming one (1) positions duties, the additional duties percentages must be  
 1276 divided between the employees, but may not exceed the maximum range according to this table.

1277 **7-3. Compensation for Travel Time.** Time spent traveling on an airplane, train or car is  
 1278 compensable time if the said travel is part of the employee’s position responsibilities.

- 1279 (a) Travel from home to work and work to home is considered portal to portal travel and  
 1280 is not compensable.
- 1281 (b) Employees required to drive as a part of the responsibilities of their position, must be  
 1282 certified to drive a tribal vehicle or their own personal vehicle.
- 1283 (c) Employees’ time spent traveling from work site to work site is compensable. An  
 1284 example of work site to work site travel would be a casino employee whose normal work  
 1285 site is IMAC being asked to go to West Mason Street casino location to complete his or  
 1286 her shift.
- 1287 (d) Employees are eligible for workers compensation while on travel.

1288 **7-4. On-Call Compensation.** Employees holding positions that are supported by on-call  
 1289 services may receive on-call compensation as approved by the employee supervisor. Prior to an  
 1290 entity’s offering on-call compensation, the entity shall develop a standard operating procedure  
 1291 based on available industry standards which establishes the conditions under which such  
 1292 compensation may be offered and the compensation rate.

- 1293 (a) Exempt (salaried) employees are not eligible for on-call compensation, but may,  
 1294 with the employee supervisor’s approval, use flex time during the work week to  
 1295 accommodate for any time they are required to be on-call.

1296 (b) If the employee must remain on site when the employee is on-call or so close to  
 1297 work site the employee cannot use their own personal time effectively, this is considered  
 1298 hours worked.

1299 (c) Employees on-call are required to be drug and alcohol free while on-call.

1300 **7-5. Shift Differentials.** Entities that operate outside the Nation's normal business day may  
 1301 offer employees shift differentials in order to incentivize working shifts that are difficult to fill.  
 1302 A shift differential is an increased rate of compensation when working outside of the Nation's  
 1303 normal business day. If an entity chooses to offer a shift differential, the amount of increased  
 1304 compensation must be the same for all employees and the entity shall develop a standard  
 1305 operating procedure establishing what rate is to be offered and for which shifts. The standard  
 1306 operating procedure must be submitted to HRD for approval to ensure compliance herewith.

1307 **7-6. Lead Compensation.** Employee supervisors may approve lead compensation for wage  
 1308 earning employees that do not have current supervisory responsibilities and that the employee  
 1309 supervisor has designated to provide guidance to employees in his or her absence.

1310 (a) Lead duties may not include disciplining, hiring employees or approving employee's  
 1311 work hours.

1312 (b) Supervisors wishing to designate leads shall develop a standard operating procedure  
 1313 outlining leads' responsibilities and lead compensation available, provided that it may not  
 1314 exceed two dollars (\$2.00) per hour; the said standard operating procedure must be  
 1315 reviewed and approved by HRD for compliance with this Handbook.

1316 **7-7. Positions Earning Tips.** Tips earned by an employee are considered to be part of his or  
 1317 her compensation. Entities with positions having tip earning capacity shall develop a standard  
 1318 operating procedure outlining how any tips earned will be dispersed to employees (i.e. whether  
 1319 each employee keeps all tips earned in his or her own capacity or whether there is a tip pool).

1320 **7-8. Overtime Compensation.** Any and all overtime compensation must be kept to a minimum  
 1321 and requires approval of the employee supervisor and reviewing supervisor prior to overtime  
 1322 hours being incurred. For the purposes of this Article, overtime is classified as any hours worked  
 1323 by non-exempt (wage earning) employees in excess of forty (40) hours per week and is not  
 1324 inclusive of paid time off used.

1325 (a) In case of overtime hours that may need to be incurred when a supervisor is not  
 1326 available for the required approvals, employees may incur overtime without supervisor  
 1327 approval in order to fulfill a business need.

1328 (b) The Nation shall pay all employees eligible for overtime at a rate of 1.5 the  
 1329 employee's hourly pay.

1330 (1) HRD shall maintain and make available to all supervisors, a list of each  
 1331 entity's exempt (salary earning) employees, as exempt employees are not eligible  
 1332 for overtime compensation.

1333 (c) If required to maintain efficiency of the Nation's business or to complete required  
 1334 regulatory functions, supervisors may require employees to work overtime hours.

1335 (d) Employees shall report all overtime hours incurred to his or her employee supervisor.

1336 **7-9. Speaker and/or Presenter Compensation.** An employee whom is offered compensation  
 1337 by a third party for participating in an event as a speaker and/or presenter as related to his or her  
 1338 position's duties must either:

1339 (a) Request paid time off to attend the event for which the employee will speak and/or  
 1340 present and keep the compensation offered by the third party; or

1341 (b) Collect his or her normal compensation from the Nation for the time spent speaking  
 1342 and/or presenting as related to his or position's duties and forward the compensation  
 1343 provided by the third party to the Nation's Accounting Department to be added to the  
 1344 employee's entity's budget as income.

1345 (c) Employees receiving compensation, including gifts and gift cards, equal or less than  
 1346 fifty dollars (\$50.00) in value are exempt from this requirement.

1347 **7-10. Snow and Ice Removal Compensation and Work Week.** Employees engaged in snow  
 1348 and ice removal must be compensated consistently as provided below.

1349 (a) When snowstorms are forecasted within a work week, supervisors may send  
 1350 employees home on non-snow days to save on wages and so that the employees are able  
 1351 to be prepared to shift from the normal work week schedule to perform snow and ice  
 1352 removal.

1353 (1) Employees engaged in snow and ice removal shall be prepared to adjust their  
 1354 workweek schedule at any time that snow and/or ice removal becomes necessary.

1355 (2) If a supervisor sends employees home and flexes their time in anticipation of a  
 1356 weather event, and the said weather event does not transpire, the supervisor shall  
 1357 allow employees to make up hours flexed outside of the employee's regularly  
 1358 scheduled times, including Saturdays, in order to minimize the likelihood that  
 1359 employees are unable to work a full work week because of weather event  
 1360 preparation.

1361 (b) Non-salary employees that are called in and report for snow and/or ice removal and  
 1362 are dismissed before having worked one (1) hour are guaranteed to receive a minimum of  
 1363 one (1) hour of compensation at their regular rate of pay.

1364 (c) Non-salary employees earn at their regular rate of pay for their regularly scheduled  
 1365 shift and earn at their regular rate of pay plus two dollars (\$2.00) for each hour worked  
 1366 outside of their regularly scheduled shift.

1367 (1) For purposes of determining overtime compensation in accordance with  
 1368 Article 7-7, the two dollar (\$2.00) per hour rate increase for non-salary employees  
 1369 working outside of their regularly scheduled shift must be applied to the base rate  
 1370 of pay before increasing the rate by time and a half.

1371 (d) Employees engaged in snow and/or ice removal must comply with the Wisconsin  
 1372 Department of Transportation's rest requirements.

1373 **7-11. Premium Pay.** The Nation shall pay non-salaried employees working during times of the  
 1374 year that are strong in traditions, but not recognized as official holidays premium pay, at a rate

1375 determined by HRD with collaboration with supervisors not to exceed four dollars (\$4.00) per  
 1376 hour. The said rate must be added to the base hourly rate, inclusive of overtime pay.

1377 (a) Premium pay is only available to non-salaried employees as follows:

1378 (1) For Christmas Eve, a maximum of four (4) hours worked between 12:01 p.m.  
 1379 and 11:59 p.m.;

1380 (2) For New Year's Eve Day from 5:00 p.m. to 11:59 p.m.; and

1381 (3) For Easter Sunday from 12:00 a.m. to 11:59 p.m.

1382 (b) Supervisors shall ensure that premium pay is included in their entity's budget through  
 1383 the budgeting process.

1384 **7-12. Paid Holidays.** HRD shall distribute and post on Employee Self-Service a calendar of  
 1385 paid holidays observed by the Nation for the upcoming year no later than November 1<sup>st</sup> of the  
 1386 current year.

1387 (a) The Nation observes the following paid holidays:

1388 (1) New Year's Day;

1389 (2) Good Friday (half day);

1390 (3) Oneida Code Talkers Day (observed the Friday prior to Memorial Day);

1391 (4) Memorial Day;

1392 (5) Independence Day;

1393 (6) Labor Day;

1394 (7) Veteran's Day;

1395 (8) Thanksgiving Day;

1396 (9) Indian Day (observed the day after Thanksgiving);

1397 (10) Christmas Eve (half day);

1398 (11) Christmas Day; and

1399 (12) Floater Holidays for all Employees Working Outside of the Nation's Regular  
 1400 Business Day. The Nation is offering floating holidays to employees working  
 1401 outside of the standard work day in order to recognize those employees for  
 1402 working evenings, weekends and holidays by providing. Floating holidays  
 1403 provide employees alternate days to take the holiday pay offered by the Nation  
 1404 which would allow such employees the ability to spend "floating holiday" days at  
 1405 home with friends and family the same way employees working standard business  
 1406 days are able to spend the Nation's recognized holidays. Employees that work  
 1407 outside of the Nation's regular business day may take a floating holiday for any  
 1408 and/or all holiday(s) recognized by the Nation which would allow the employee to  
 1409 take the holiday pay provided on a different day (i.e. the employee's birthday or a  
 1410 holiday that is not recognized by the Nation, like Hanukah).

1411 (A) Wage earning employees taking a floating holiday that are required to  
 1412 work on a holiday recognized by the Nation will continue to receive  
 1413 holiday worked pay at one half the employee's regular rate. The holiday

- 1414 pay that the employee would normally also receive on that day is  
 1415 transferred to the day selected by the employee for the floating holiday.
- 1416 (i) If a wage earning employee did not take a floating holiday as  
 1417 was required to work an eight (8) hour shift on Christmas day, the  
 1418 employee would be compensated for twenty (20) hours, eight (8)  
 1419 of which are based on his normal rate of pay, four (4) of which are  
 1420 based on holiday worked pay and the remaining eight (8) of which  
 1421 are holiday pay.
- 1422 (ii) If a wage earning employee took a floating holiday to take  
 1423 holiday pay on the employee's birthday instead of on Christmas  
 1424 day and worked eight (8) hours on Christmas day, the employee  
 1425 would be compensated for twelve (12) hours on his paycheck that  
 1426 covered his Christmas day shift and would receive his eight (8)  
 1427 hours of holiday pay on his paycheck that covered his birthday.
- 1428 (B) Salaried employees working for an entity that qualifies for floating  
 1429 holidays may also float the holiday pay offered, although the salaried  
 1430 employee is not eligible for holiday worked pay.
- 1431 (C) Prior to offering employees a floating holiday, the entity shall create a  
 1432 standard operating procedure to govern the approval process for such  
 1433 requests and the standard operating procedure must be submitted to and  
 1434 approved by HRD.
- 1435 (D) If an employee elects to take a floater holiday in lieu of one (1) of the  
 1436 holidays recognized by the Nation, the employee is not eligible for holiday  
 1437 pay on the holiday recognized by the Nation that has been substituted for  
 1438 the floating holiday.
- 1439 (b) Paid holidays falling on a Saturday will be observed the preceding Friday and paid  
 1440 holidays falling on a Sunday will be observed on the following Monday.
- 1441 (1) Entities that do not operate under the Nation's standard business day and are  
 1442 open on the weekends shall observe the Holiday on the actual calendar day.
- 1443 (c) Full-time employees must receive eight (8) hours of paid holiday time and part-time  
 1444 employees will receive four (4) hours of paid holiday time. For positions earning tips,  
 1445 holiday pay shall be based on the position's average hourly earnings for the previous  
 1446 thirty (30) calendar day period.
- 1447 (d) The following employees are not eligible for paid holidays:
- 1448 (1) Employees on a leave of absence;  
 1449 (2) Employees on investigative leave;  
 1450 (3) Laid-off employees;  
 1451 (4) Temporary at-will employees; and  
 1452 (5) Employees on suspension over the course of a holiday.

1453 (e) In order to be eligible to receive compensation for the paid holiday, employees must  
 1454 work their scheduled days immediately preceding and following the paid holiday  
 1455 recognized by the Nation, provided that approved paid time off meeting the notice  
 1456 requirements in Article 7-12(f) is not considered a scheduled day.

1457 (f) Non-salary employees working on paid holidays must receive both the holiday pay at  
 1458 their compensation rate as well as holiday worked pay, which is one half of the  
 1459 employee's regular compensation rate.

1460 **7-13. Paid Time Off (PTO).** Employees accrue PTO based on years of continuous service,  
 1461 provided that temporary employees are not eligible to accrue PTO.

1462 (a) PTO accrual rates for full-time employees are as follows:

1463 (1) 0-3 years of service – 144 hours annually

1464 (2) 4-7 years of service – 184 hours annually

1465 (3) 8-15 years of service – 240 hours annually

1466 (4) 16 + years of service – 296 hours annually

1467 (b) Part-time employees accrue time off based on the hours worked as a ratio of full-time  
 1468 hours.

1469 (c) Once an employee reaches 280 hours of accrued PTO, he or she ceases to accrue  
 1470 PTO. Employee supervisors shall notify employees in danger of reaching the accrual cap  
 1471 when the employee reaches 200 hours of accrued PTO.

1472 (d) Trade back of accrued PTO for cash is not permitted unless expressly authorized by  
 1473 an Oneida Business Committee resolution, provided that, even if authorized by an Oneida  
 1474 Business Committee resolution, employees may not trade in more than eighty (80) hours  
 1475 of accrued PTO in one (1) year.

1476 (e) Upon resignation, separation or termination, the Nation shall pay out the said  
 1477 employee, excluding at-will employees, for any unused accrued PTO.

1478 (f) PTO may be used for any reason, provided that the request for PTO must be approved  
 1479 by the employee supervisor. Employee supervisors must approve all requests for PTO  
 1480 unless the request would interfere with the business of the Nation. When an employee  
 1481 supervisor denies a request for PTO, he or she shall provide justification supporting his or  
 1482 her assertion that granting the request would have interfered with the business of the  
 1483 Nation.

1484 (g) Employees requesting PTO shall comply with the following timelines for submitting  
 1485 the request to their employee supervisors:

1486 (1) For one (1) to two (2) days of PTO, no less than one (1) day in advance.

1487 (2) For three (3) to five (5) days of PTO, no less than one (1) week in advance.

1488 (3) For six (6) or more days of PTO, no less than two (2) weeks in advance.

1489 (h) In the case of an illness or unforeseen circumstances, an employee must notify his or  
 1490 her employee supervisor that he or she will be absent no less than fifteen (15) minutes  
 1491 prior to the employee's scheduled starting time. Employees may use PTO based the  
 1492 reduced notice requirements in this Article a maximum of six (6) occurrences in twelve

1493 (12) month period. In such circumstances, the employee supervisor's approval is not  
 1494 required, provided that the reduced notice requirement must be satisfied. In  
 1495 circumstances where an employee is unable to provide any notice of an absence because  
 1496 they were medically incapacitated, as verified by a doctor's note, supervisors shall allow  
 1497 PTO to be taken without fulfilling the notice requirements. For purposes of calculating  
 1498 the allowable six (6) occurrences:

1499 (1) An employee may only use an occurrence without the potential of being  
 1500 subject to corrective action based on the entity's standards if the employee has  
 1501 available accrued PTO and meets the reduced notice requirements.

1502 ~~(1)~~(2) Leaving work in the middle of a workday based on illness or  
 1503 unforeseen circumstances remains subject to employee supervisor approval and  
 1504 may not be considered an occurrence.

1505 (3) Using multiple days of PTO for the same illness or unforeseen circumstance is  
 1506 considered one (1) occurrence so long as the employee:

1507 (A) Notices his or her employee supervisor that he or she may need  
 1508 additional days off of work based on the illness or unforeseen  
 1509 circumstances on the first day he or she calls in to work; and

1510 (B) Provides the employee supervisor with a doctor's note or other  
 1511 verifiable written notice confirming that the employee required more than  
 1512 one (1) day off of work.

1513 (4) The use of multiple days of PTO for the same illness or unforeseen  
 1514 circumstance may be considered a separate occurrence for each day if the  
 1515 employee does not meet the requirements contained in Article 7-12(h)(1)(C).

1516 (i) Entities may develop their own standard operating procedures that deviate from the  
 1517 requirements contained in sub-Articles (g) and (h). In regards to sub-Article (h), entities,  
 1518 except those excluded in subsection (1) below, may not provide Employees with less than  
 1519 six (6) occurrences in a rolling twelve (12) month period to use PTO using the reduced  
 1520 notice requirements and may not require greater than two (2) hours of notice for such call  
 1521 ins. Such standard operating procedures may include blackout dates deemed critical to  
 1522 business during which no PTO may be taken regardless of whether it is proposed to be  
 1523 taken pursuant to sub-article (g) or (h) above.

1524 (1) Entities that have service provider to service receiver ratios regulated by law  
 1525 (i.e. Oneida Airport Road Childcare Center or the Anna John Nursing Home),  
 1526 may develop separate standard operating procedures from those provided in sub-  
 1527 article (g) above for employees calling in with reduced notice based on illness or  
 1528 unforeseen circumstances. For these entities only, the entity's standard operating  
 1529 procedure may provide less than six (6) occurrences to call in with reduced notice  
 1530 in a rolling twelve (12) month period and may require greater than two (2) hours  
 1531 of notice for such call ins if the entity determines such deviations are required in  
 1532 order to maintain the employee ratios required by law.

1533 (j) Supervisors shall retain employee requests for PTO for a period of seven (7) years.

1534 **7-14. Donation of PTO Hours.** An employee, excluding temporary at-will employees, who  
1535 accrue PTO, may donate such PTO to another employee, excluding temporary employees. In  
1536 order to receive donated hours, the donee must have a medical emergency requiring a prolonged  
1537 absence from work, which may include intermittent absences related to the same illness or  
1538 condition, for which the donee has insufficient accrued PTO (less than 20 hours). Employees  
1539 may not receive donated hours in any circumstance outside of a medical emergency and HRD  
1540 must approve all donations of PTO for procedural compliance.

1541 (a) In order to receive donated PTO, the donee must provide his or her employee  
1542 supervisor with documentation of the medical emergency from a medical provider.

1543 (1) For the purposes of this Article, a medical emergency is a major illness or  
1544 medical condition; examples include, but are not limited to, cancer, heart attack,  
1545 stroke and diabetes complications.

1546 (b) Donated hours of PTO are paid at the donee's rate of compensation.

1547 (c) Donated hours of PTO may only be used for the identified and documented medical  
1548 emergency.

1549 (d) Employees who receive donated PTO may not trade back these hours for cash under  
1550 any circumstances.

1551 (e) Employees may request donated PTO hours from individuals through the Nation's e-  
1552 mail system, but may not include groups in such e-mail requests.

1553 **7-15. Health Insurance.** HRD shall provide employees information related to health insurance  
1554 benefits during the new employee orientation pursuant to Article 5-12(b)(4) and shall provide  
1555 notice to employees at reasonable timeframes and each time the benefits provided are subject to  
1556 change.

1557 **7-16. Retirement.** HRD shall provide employees information related to retirement benefits  
1558 during the new employee orientation pursuant to Article 5-12(b)(4) and shall provide notice to  
1559 employees at reasonable timeframes and each time the benefits provided are subject to change.

1560 **7-17. Full-time and Part-time Determination.** For the purpose of determining benefits, an  
1561 employee's status as full-time or part-time is determined based on the average hours worked per  
1562 week by the employee during the previous six (6) month period.

1563 **VIII. WORK DAY STANDARDS**

1564 **8-1. Business Day.** The regular business day is from 8:00 a.m. to 4:30 p.m. with one (1) hour  
 1565 provided for lunch, of which thirty (30) minutes are paid and thirty (30) minutes are unpaid.  
 1566 Further, employees must work a minimum of 5.25 hours to receive the one (1) hour lunch break.

1567 (a) Entities may establish varying work day standards for the purposes of providing  
 1568 services that extend beyond the regular business day (i.e. Oneida Bingo and Casino's  
 1569 24/7 operations), provided that such standards must include appropriate break and/or  
 1570 lunch periods that promote efficiency and must be submitted to HRD prior to becoming  
 1571 effective.

1572 (b) All entities shall comply with applicable child labor laws regulating the employment  
 1573 of persons under the age of eighteen (18).

1574 (c) All entities shall provide nursing mothers with lactation rooms and lactation breaks to  
 1575 express milk during their work day.

1576 (1) Lactation rooms must consist of a private, non-bathroom place, that is  
 1577 shielded from view and free from intrusion by employees or the public.

1578 (2) Lactation breaks are not required to be paid, unless the employee is using part  
 1579 of an otherwise paid break to express milk, in which case she must be  
 1580 compensated in the same way that other employees are compensated for normal  
 1581 break times.

1582 (3) An employee may take a maximum of one (1) unpaid lactation break for each  
 1583 three (3) hours worked, provided that the employee supervisor shall record all  
 1584 unpaid lactation breaks taken by his or her employees in the timekeeping system  
 1585 with a note indicating "LB Lactation Break/unpaid time."

1586 (d) Upon an entities receipt of notice of a blood drive sponsored by the Nation, it shall  
 1587 notify employees of the said blood drive so they may schedule donation appointments.  
 1588 Supervisors may provide employees with a paid donation break so long as the employee  
 1589 has a pre-approved and scheduled donation appointment.

1590 (e) Supervisors may provide employees with a paid voting break in order to participate in  
 1591 Oneida and national elections.

1592 **8-2. Time Keeping Standards.** Wage earning employees shall correctly use the Nation's  
 1593 timekeeping system and follow all standard operating procedures established by their entity.  
 1594 Start and end times may be rounded to the nearest quarter of an hour. Further, employees shall  
 1595 clock in and out on their own behalf; it is strictly forbidden for employees to clock in or out on  
 1596 another employee's behalf.

1597 (a) Regardless of salary status, salary positions must work a full work week in order to  
 1598 receive full salary compensation. Salaried employees are eligible to request both full and  
 1599 partial days off using PTO. A salaried employee requesting hours off in excess of his or  
 1600 her accrued PTO must either be denied the request and required to either flex time in  
 1601 order to take those hours off or to take time off without pay, provided that such time must  
 1602 be taken in full workday increments.

1603 (b) Employees who do not report to work because of inclement weather or unforeseen  
 1604 circumstances will not be compensated for such time missed unless the employee elects  
 1605 to use PTO to cover the missed time, provided proper notice is given based on Article 7-  
 1606 12(g)-(i).

1607 (c) Employee supervisors shall review, approve and correctly record in the Nation's  
 1608 timekeeping system all of their employees' time worked and time off. Should the  
 1609 employee supervisor suspect any errors in an employee's time keeping and/or  
 1610 compensation received based on time records, he or she shall report the suspected error to  
 1611 the Time and Attendance Department, which shall investigate the error and provide a  
 1612 response to the employee supervisor.

1613 (d) Supervisors may allow an employee to use flex time for his or her work schedule  
 1614 within a work week as defined as Sunday through Saturday, provided that hours may not  
 1615 be flexed outside of a single week.

1616 (e) Supervisors shall report any change in an employee's status to HRD. Examples of  
 1617 such changes may include, but are not limited to:

- 1618 (1) A change from full-time status to part-time status or vice versa;
- 1619 (2) A salaried employees modification of hours worked in a work week;
- 1620 (3) Any approved leave of absences;
- 1621 (4) Modified duties; and
- 1622 (5) Any time off granted without pay for periods extending longer than two (2)  
 1623 weeks.

1624 (f) The Time and Attendance Department shall retain all time and attendance records for  
 1625 a period of seven (7) years.

1626 (g) The Time and Attendance Department may create a standard operating procedure  
 1627 which establishes pay codes and comments required in order for the Time and  
 1628 Attendance Department to monitor and achieve time and attendance procedural  
 1629 compliance.

1630 **8-3. Position Abandonment.** An employee that fails to show up for three (3) consecutive  
 1631 scheduled work days without making any communication with his or her supervisor is deemed to  
 1632 have abandoned his or her position, which amounts to a voluntary resignation.

1633 (a) It is understood that circumstances may arise in which an employee is unable to  
 1634 provide notice to supervisor for more than three (3) scheduled work days due to  
 1635 extenuating circumstances, like a medical emergency, but does not wish to abandon his  
 1636 or her position. Accordingly, prior to asserting that an employee has abandoned his or  
 1637 her position, the employee supervisor shall attempt to contact the employee via e-mail if  
 1638 available, otherwise via telephone where a call log is required.

1639 (b) If the employee supervisor is able to make contact with the employee and the  
 1640 employee is able to provide a note from a doctor confirming that a medical emergency  
 1641 prevented him or her from reporting to work and noticing his or her employee supervisor

1642 of the absence, the employee supervisor may not find position abandonment has  
1643 occurred.

1644 (c) If the employee supervisor is unable to contact the employee, he or she shall  
1645 document that the employee has abandoned his or her position by sending a letter to the  
1646 employee's last known address via first class mail. The letter must include the following:

1647 (1) The dates the employee failed to show up to work or provide notice to his or  
1648 her employee supervisor of the absence;

1649 (2) The date the employee supervisor attempted and failed to contact the  
1650 employee; and

1651 (3) Notice that the Nation has accepted the employee's voluntarily resignation.

1652 **8-4. Work Day Changes for Emergencies.** Tribal emergency, incident and state of emergency  
1653 closures may be organization wide, at multiple locations or at a single location, and may be made  
1654 by the Emergency Management/Homeland Security Agency and/or the Oneida Police  
1655 Department.

1656 (a) In the event of an emergency closure, the party effectuating the closure shall provide  
1657 notice of the said closure to the Oneida Communications Department, which shall  
1658 provide notice to the appropriate parties, including HRD. Each entity, including HRD  
1659 shall provide the Oneida Communications Department with two (2) points of contact for  
1660 communication in the event of an emergency.

1661 (b) Supervisors shall notify their employees in the event of a closing and shall develop a  
1662 standard operating procedure for providing said notice.

1663 (c) In the event of an emergency closure, any timelines provided in these rules must be  
1664 extended for the same period of time as the emergency closure.

1665 (d) Critical entities may deviate from the closure requirements contained in this Article  
1666 so long as the entity has developed and submitted to HRD its own emergency closure  
1667 standard operation procedure. The following is a list of the entities deemed to be critical:

1668 (1) Oneida Anna John Resident Care Center Community;

1669 (2) Oneida Child/Day Care – Departments;

1670 (3) Oneida Department of Public Works;

1671 (4) Emergency Management – Homeland Security Agency;

1672 (5) Oneida Enterprise Division;

1673 (6) Oneida Gaming Division;

1674 (7) Oneida Internal Security Department;

1675 (8) Oneida Police Department;

1676 (9) Oneida Surveillance Department;

1677 (10) Oneida Health Center; and

1678 (11) Oneida Tribal School System.

1679 **IX. LEAVES**

1680 **9-1. Family Medical Leave.** Family Medical Leave (FML) is an unpaid leave for qualifying  
 1681 events which protects the employee's position and is available for all employees (excluding at-  
 1682 will employees) and salaried elected officials of the Nation.

1683 (a) Employees are entitled to up to ninety (90) calendar days of FML in a rolling twelve  
 1684 (12) month period in accordance with the qualifying events recognized by the Family and  
 1685 Medical Leave Act, which includes the birth, adoption, and/or placement for adoption of  
 1686 a child.

1687 (1) An employee may receive extended FML up to 180 calendar days if the FML  
 1688 is to care for an immediate family member of the employee who is a military  
 1689 member with a serious health condition as recognized by the Family and Medical  
 1690 Leave Act and the United States Department of Labor.

1691 (A) Documentation from a health care provider must be provided to  
 1692 support an FML extension.

1693 (B) Requests for extended FML beyond the initial ninety (90) days under  
 1694 this article require approval from the employee supervisor, reviewing  
 1695 supervisor and HRD where such approval is completely discretionary and  
 1696 subject to the entity's needs.

1697 (b) Employees are not required to take all of the FML they are entitled to in a single  
 1698 block of time; it may be taken on an intermittent or reduced schedule basis when  
 1699 medically necessary.

1700 (1) Employees must provide documentation from a health care provider that  
 1701 identifies the medical necessity of an intermittent or reduced scheduled FML.

1702 (2) Intermittent FML does not apply if the FML is for the birth, placement or  
 1703 adoption of a child or if the FML is beyond the first 90 calendar days of FML the  
 1704 Employee is entitled to.

1705 (c) Requests for the 90 calendar days of FML employees are entitled to pursuant to  
 1706 Article 9-1(a) require approval from the employee supervisor and HRD. Such approvals  
 1707 are required only to verify that the request includes a valid qualifying event; provided that  
 1708 the request is based on a valid qualifying event, it may not be denied.

1709 (d) Employees eligible for FML based on a serious health condition shall have the  
 1710 serious health condition verified by a health care provider. For the purposes of this  
 1711 section, a health care provided includes the following persons practicing in accordance  
 1712 with state and federal laws:

1713 (1) Doctors of medicine or osteopathy;

1714 (2) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors;  
 1715 and

1716 (3) Nurse practitioners, physician assistants, and clinical social workers.

1717 (e) If an employee partakes in the Nation's insurance benefits at the time FML is  
 1718 granted, the Nation shall continue to pay for its contribution to the employees insurance

- 1719 for medical, dental, vision and short and long term disability while the employee is on  
 1720 FML for a maximum of 180 calendar days. While the employee is on FML, the Nation  
 1721 will not pay individual benefits, including but not limited to, critical illness, whole life,  
 1722 voluntary term life, accident, and individual short term disability. In addition,  
 1723 employees' accrual of PTO is suspended while on FML.
- 1724 (f) If the FML was for an employee's own serious health condition, a release to return to  
 1725 work from the employee's health care provider must be provided to the employee  
 1726 supervisor and HRD before the employee may return to work.
- 1727 (1) If an employee is not able to return to work following FML, HRD shall, upon  
 1728 a supervisor's request, separate the employee from his or her employment with  
 1729 the Nation.
- 1730 (2) So long as an employee is able to return to work following a FML, his or her  
 1731 job must be made available upon return, unless a business need of the Nation has  
 1732 eliminated the position, in which case the employee must be placed within the  
 1733 closest comparable and available position for which the employee is eligible.
- 1734 (g) The following process must be followed when employees request FML:
- 1735 (1) The employee shall complete FML request form and shall submit it to his or  
 1736 her employee supervisor, along with supporting documentation from a health care  
 1737 provider.
- 1738 (A) To the extent possible, the employee shall provide the request to his  
 1739 or her employee supervisor no later than ten (10) business days from the  
 1740 date the employee intends to begin his or her FML.
- 1741 (B) If the employee is unable to complete the FML request form, the  
 1742 employee supervisor may complete it on behalf of the employee.
- 1743 (C) Upon receipt of an employee's request for FML, the employee  
 1744 supervisor shall provide notice of the request to the reviewing supervisor  
 1745 and shall forward the request to HRD.
- 1746 (2) HRD shall approve or deny the FML request based on Articles 9-1(a)(1)(B)  
 1747 and 9-1(c).
- 1748 (A) If an FML request is denied, HRD must provide written notice of the  
 1749 denial to the employee, the employee supervisor and the reviewing  
 1750 supervisor.
- 1751 (B) If the FML request is approved, HRD shall process the FML and  
 1752 provide written notices to the employee, the employee supervisor and the  
 1753 reviewing supervisor.
- 1754 (i) All written notices must include the approved dates of the FML,  
 1755 the starting and end date of the FML, and any instructions helpful  
 1756 to both the employee and the employee's supervisors (i.e.  
 1757 instructions for tracking intermittent FML).

1758 (ii) In addition, the notice to the employee must also include any  
 1759 instructions for the employee only (i.e. instructions for making  
 1760 payments for voluntary benefits) and any other applicable benefits  
 1761 information.

1762 **9-2. Personal Leaves.** Employees, excluding at-will employees, may request to take leave for  
 1763 personal reasons (i.e. educational leave), provided that personal leaves may not exceed one (1)  
 1764 year.

1765 (a) An employee requesting personal leave shall submit his or her request to his or her  
 1766 employee supervisor who shall then forward the request to the employee's reviewing  
 1767 supervisor.

1768 (b) All requests for personal leave are subject to the approval of the employee's  
 1769 employee supervisor and reviewing supervisor; said approvals are subject to the  
 1770 supervisors' complete discretion based on the entity's needs. Employee supervisors must  
 1771 notify the employee's reviewing supervisor of his or her decision regarding a request for  
 1772 personal leave.

1773 (1) If the personal leave is approved by both the employee supervisor and the  
 1774 reviewing supervisor, the employee supervisor shall provide a copy of the  
 1775 approved leave request form to HRD for processing and record keeping.

1776 (c) If an employee partakes in the Nation's insurance benefits at the time personal leave  
 1777 is granted, such coverage is suspended on the employee's last working day prior to taking  
 1778 leave and is re-instated on the first day the employee returns to work following leave.  
 1779 Employees' accrual of PTO is suspended while on personal leave.

1780 (d) So long as an employee is able to return to work following a personal leave, his or her  
 1781 job must be made available upon return, unless a business need of the Nation has  
 1782 eliminated the position, in which case the employee must be placed within the closest  
 1783 comparable and available position for which the employee is eligible.

1784 (e) If an employee is not able to return to work following a personal leave, he or she must  
 1785 be separated.

1786 **9-4. Military Leave.** The Military Service Protection Act governs all military leaves, the  
 1787 following provisions also apply.

1788 (a) A military leave of absence is afforded to employees entering active duty without the  
 1789 accrual of holiday pay or PTO during the said leave. The Nation shall maintain any  
 1790 benefits accrued by the employee prior to such leave.

1791 (b) Leave for inactive duty training, examinations to determine fitness for duty and  
 1792 funeral honors duty is afforded to employees and during such leave employees will  
 1793 continue to accrue PTO and to be eligible for holiday pay. Further, the Nation shall pay  
 1794 employees for any absences attributed to required reservist training, provided that; the  
 1795 employee shall provide documentation from the military of such training dates. The  
 1796 Nation shall deduct any pay an employee receives for partaking in reservist training from  
 1797 the employee's pay for absent workdays incurred for such training.

1798 **9-5. Funeral/Bereavement Leave.**

1799 (a) An employee may take up to forty (40) hours of paid funeral/bereavement leave for  
 1800 the death of an immediate family member, which the employee supervisor may not deny.  
 1801 An employee that is primarily responsible for making funeral arrangements for the death  
 1802 of someone outside of his or her immediate family may also take up to forty (40) hours of  
 1803 paid funeral/bereavement leave, provided that such leave is at the discretion of his or her  
 1804 employee supervisor.

1805 (1) Persons primarily responsible for making funeral arrangements are those  
 1806 responsible for making major decisions including, but not limited to, the place of  
 1807 the service, the date and time of the services, the type of service and/or burial.

1808 (2) The forty (40) hours of paid funeral/bereavement leave is not required to be  
 1809 taken consecutively and may be split into different work weeks to the extent that  
 1810 it is related to funeral services.

1811 (b) An employee, excluding at-will employees, may, at the employee supervisor's  
 1812 discretion, take up to twenty-four (24) additional hours of unpaid funeral/bereavement  
 1813 leave if the employee is assisting with funeral arrangements, which may include but are  
 1814 not limited to, being a fire-keeper, coordinating meals, or being a pall-bearer, speaker or  
 1815 singer.

1816 (c) An employee may take up to three (3) paid hours of funeral/bereavement leave for the  
 1817 death of someone outside of his or her immediate family, provided that his or her  
 1818 employee supervisor must approve such leave.

1819 **9-6. Jury Duty Leave.** The Nation shall pay employees for any work missed because of jury  
 1820 duty.

1821 (a) In order to receive payment from the Nation for work missed because of jury duty,  
 1822 the employee shall remit any jury duty pay received to the Nation as well as the  
 1823 employee's notice to report for jury duty; the Nation may not pay an employee who fails  
 1824 to meet this requirement for work missed because of jury duty.

1825 (b) The Nation may not consider overtime when determining an employee's pay while  
 1826 serving on jury duty.

1827 **9-7. Parent Leave.** Employees, excluding volunteer and temporary at-will employees, who are  
 1828 parents, guardians, or an immediate family member of the child may request to participate in  
 1829 their children's educationally sanctioned events for a maximum of four (4) hours per employee  
 1830 per month. Unused monthly parent leave hours do not accumulate.

1831 (a) For the purposes of this Article, educationally sanctioned events include, but are not  
 1832 limited to, school concerts, orientations, sporting events, field trips, parent-teacher  
 1833 conferences, open houses, science fairs and the like. Educationally sanctioned events  
 1834 exclude time children spend off of school for any reason, including but not limited to  
 1835 weather closings, normally scheduled days off school and student suspensions and/or  
 1836 expulsions.

1837 (b) Employees seeking to use parent leave hours must have the said leave approved by  
1838 their employee supervisors and shall submit their request for approval no later than  
1839 twenty-four (24) hours in advance of the requested parent leave.

1840 (1) Employee supervisors considering approval of parent leave may request  
1841 verification of the employee's qualifying relationship to child and/or attendance at  
1842 the event for which he or she requested the parent leave.

1843 (2) In order for an employee supervisor to deny an employee's request for parent  
1844 leave, he or she shall justify that the denial was necessary to prevent an  
1845 interference with the business of the Nation.

1846 (3) When considering an employee's request for parent leave, employee  
1847 supervisors may require the requesting employee to flex the hours used for parent  
1848 leave by making up the said hours at a time the employee is not normally  
1849 scheduled to work.

1850 (c) Employees may not be paid overtime for any parent leave hours.

1851 **9-8. Color Guard Leave.** Employees that are honorably served veterans and are officially  
1852 selected by the Oneida Nation Veterans Affairs Committee to perform veteran related  
1853 government-to-government services may participate in said services with pay without using  
1854 PTO, provided that such leave may not exceed five (5) calendar days for any single color guard  
1855 leave.

1856 (a) Veteran related government-to-government services include, but are not limited to,  
1857 funeral honors, dedications, flag raisings, color guard duties, ceremonial events.

1858 (b) Employees seeking to use color guard leave must have the said leave approved by  
1859 their employee supervisor and shall submit their request for approval as soon as possible,  
1860 but in no circumstances may the notice be less than twenty-four (24) hours in advance of  
1861 the requested color guard leave.

1862 (c) In order for an employee supervisor to deny an employee's request for color guard  
1863 leave, he or she shall justify that the denial was necessary to prevent an interference with  
1864 the business of the Nation.

1865 **X. SAFETY AND HEALTH**

1866 **10-1. Safety and Health Policy.** The personal safety and health of each employee, customer  
 1867 and client of the Nation is of primary importance. The prevention of injuries and illness is of  
 1868 such importance that it will take precedence over operating productivity whenever necessary.  
 1869 An incident report must be created for all employee injuries. Further, supervisors and employees  
 1870 shall comply with all applicable requirements of the Drug and Alcohol Policy and Workers  
 1871 Compensation Law.

1872 (a) Entities shall maintain a safety and health program conforming to the best practices  
 1873 available, based on the entity's industry. To be successful, this program will work to  
 1874 develop proper attitudes toward on-the-job injury and illness prevention on the part of all  
 1875 employees and supervisors. This program will strive to develop a high level of  
 1876 cooperation in safety and health matters between supervisors and employees and among  
 1877 fellow employees.

1878 **10-2. Safety and Health Procedures.** All entities shall comply with the Nation's Safety Law.

1879 **10-3. Clean Air Rules for Tribal Buildings.** The Nation strives to provide a healthy work  
 1880 environment within all buildings and vehicles of the Nation.

1881 (a) Smoking, which includes use of e-cigarettes, is expressly prohibited in all buildings  
 1882 and vehicles of the Nation and within thirty (30) feet from all of the Nation's buildings  
 1883 except as follows:

1884 (1) Smoking is permitted in all of the Nation's buildings housing gaming  
 1885 activities. The Nation shall have separate ventilation for the non-smoking break  
 1886 rooms. If separate break rooms are not available, employees may not smoke in  
 1887 the break room and shall instead smoke outside.

1888 (A) Even if smoking is permitted in an employee's workplace, while  
 1889 working, he or she may not smoke in the said building, other than in the  
 1890 smoking break room.

1891 (b) Receptacles for disposing of smoking materials must be placed a minimum of thirty  
 1892 (30) feet from the main entrance of any of the Nation's buildings.

1893 (c) For specific cultural uses tobacco, sage, cedar and/or sweetgrass may be reasonably  
 1894 burnt, provided that, employees working in shared work spaces may request that  
 1895 employees within the same work space refrain from cultural burning.

1896 **10-4. Communicable Disease.** The Community/Public Health Department has the authority to  
 1897 require isolation/quarantine of an employee if the existence of any communicable disease is  
 1898 suspected or determined.

1899 (a) Employees are not entitled to compensation for time off required in the event  
 1900 isolation, incubation, and/or quarantine is mandated by the Community/Public Health  
 1901 Department, but may utilize PTO.

1902 (b) In the event isolation, incubation, and/or quarantine is mandated by the  
 1903 Community/Public Health Department, employees shall provide a doctor's note  
 1904 confirming that it is safe for them to return to the workplace.

1905 (c) Each case involving a potential communicable disease must be handled on an  
1906 individual basis and the confidentiality of the employee(s) must at all times be protected.  
1907 Information about the personal health of an employee shall be made available only to  
1908 persons specifically authorized to receive the said information, which may include, but is  
1909 not limited to, employees performing any required medical reporting and monitoring  
1910 recommended to protect employees' and customers' health and to avoid further exposure  
1911 to communicable diseases.

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## **XI. ENTITIES' RULEMAKING AUTHORITY**

**11-1. Entities' Rulemaking Authority.** Entities may establish internal rules and standard operating procedures as they deem appropriate to effectively, safely and successfully complete their purpose, provided that:

- (a) All internal rules and standard operating procedures must include an effective date and be submitted to and approved by HRD for compliance with this Handbook;
- (b) In the event that there is a conflict between this Handbook and the rules and/or standard operating procedures created under this Article, this Handbook governs;
- (c) Entities shall provide notice to their employees of the development and/or revision of any internal rules and/or standard operating procedures.

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## XII. CORRECTIVE ACTIONS

**12-1. Department Employee Files.** Entities shall develop standard operating procedures for tracking and documenting employees' prohibited behavior for the purpose of determining when issuing a corrective action is appropriate. Supervisors are encouraged to keep department employee files in order to document employee's progression and any behaviors that may be considered for the issuance of corrective actions. Supervisors that keep department files shall make such files available to the employee upon request. Supervisor's shall destroy department files when an employee transfers, resigns, or is terminated, provided that a terminated employee's department file may not be destroyed until the employee's timeframe to file any/all appeals has expired.

**12-2. Prohibited Behavior Meriting Corrective Action.** Employees committing any of the following prohibited behaviors are failing to fulfill their employee responsibilities and therefore merit corrective action:

(a) Attendance and Punctuality.

- (1) An unexcused absence or excessive tardiness. The only absences that are excused are those for which the employee has received approval to take PTO based on Article 7-12 (g)-(i).
- (2) Position abandonment, which is three (3) consecutive days of failing to both call in to work and show up for work; position abandonment amounts to voluntary resignation.
- (3) Working unauthorized overtime.
- (4) Misuse of the timekeeping system.

(b) Unacceptable Personnel Actions.

- (1) Intentional acts of dishonesty or damage to property, including, but not limited to, arson, fraud, forgery, bribery, perjury, obstruction or interference with an administrative, criminal investigation and the like.
- (2) Failure to immediately report an illegal activity to the appropriate chain of command and law enforcement agency.
- (3) Threatening, attempting, or intentionally doing bodily harm to another person.
- (4) Intimidating, interfering with and/or using abusive language towards employees and/or customers.
- (5) Possession of dangerous and/or unauthorized materials, such as explosives or firearms, in the workplace.
- (6) Bullying, creating a hostile work environment, discrimination, harassment, intimidation, retaliation, sexual harassment, and deprivation of an equal employment opportunity.
- (7) Making false or malicious statements concerning other employees.
- (8) Direct involvement in political campaigning during scheduled work hours.
- (9) Failure to appropriately investigate/handle a corrective action, and/or appeal.

- 1961 (10) Failure to be courteous in dealing with fellow employees and/or the general  
 1962 public.
- 1963 (11) Failure to exercise proper judgment.
- 1964 (12) Failure to immediately report any work-related injuries to the immediate  
 1965 supervisor.
- 1966 (13) Giving preferential treatment to any person or entity.
- 1967 (14) Inappropriate dress or personal hygiene and/or failure to wear a name badge.
- 1968 (15) Reporting for work under the influence of alcohol or illegal controlled  
 1969 substances pursuant to the Drug and Alcohol Free Workplace Policy.
- 1970 (16) Use of alcohol or illegal controlled substances during work hours pursuant  
 1971 to the Drug and Alcohol Free Workplace Policy.
- 1972 (17) Using any entity or position for private gain.
- 1973 (18) Acceptance of gifts or gratuities for personal gain in the course of official  
 1974 employment duties.
- 1975 (19) Failure to follow any internal rules and/or standard operating procedures  
 1976 created pursuant to Article 11.
- 1977 (c) Misuse of Property.
- 1978 (1) Theft of property, which includes, but is not limit to, theft, embezzlement,  
 1979 cheating, defrauding, pilfering, robbery, extortion, racketeering, swindling or  
 1980 conspiracy to commit such actions.
- 1981 (2) Unauthorized entry onto tribal land pursuant to the Public Use of Tribal  
 1982 Lands Law and/or unauthorized access to tribal property or land pursuant to any  
 1983 entity's rules and based upon the employee's position description.
- 1984 (3) Unauthorized or improper use of tribal property or equipment.
- 1985 (4) Unauthorized possession, removal or willful destruction of the property of the  
 1986 Nation or an employee.
- 1987 (5) Unauthorized use, lending, borrowing or duplicating of tribal keys.
- 1988 (d) Unsatisfactory Work Performance.
- 1989 (1) Failure or refusal to comply with health, safety and sanitation requirements.
- 1990 (2) Failure to provide accurate and complete information.
- 1991 (3) Falsifying records or giving false information.
- 1992 (4) Insubordination, which is the failure or refusal to carry out assignments or  
 1993 instructions.
- 1994 (5) Loafing, loitering, sleeping or engaging in personal business.
- 1995 (6) Negligence in the performance of assigned duties.
- 1996 (7) Unauthorized disclosure of confidential information or records.
- 1997 (8) Failure or refusal to satisfactorily perform the duties contained in the position  
 1998 description for which the employee was hired.
- 1999 **12-3. Employee Supervisor Responsibilities.** When an employee supervisor learns that one  
 2000 (1) of his or her employees has committed a prohibited behavior meriting corrective action under

2001 Article 12-2, he or she shall initiate the appropriate corrective action. In all circumstances  
2002 employee supervisors shall approach all corrective actions in an objective, fair and consistent  
2003 manner.

2004 (a) An employee supervisor may learn of prohibited behavior by either:

2005 (1) Personally observing/experiencing the employee committing the prohibited  
2006 behavior meriting corrective action; or

2007 (2) A report from an employee, customer or guest of the Nation that the employee  
2008 has committed a prohibited behavior meriting corrective action, which the  
2009 employee supervisor has considered and finds in his or her best discretion to be  
2010 truthful.

2011 (b) Within ten (10) business days of the date the employee supervisor learns of prohibited  
2012 behavior meriting corrective action, the employee supervisor shall:

2013 (1) Investigate the alleged prohibited behavior meriting corrective action through  
2014 a meeting with the employee and, if applicable, witnesses to determine if  
2015 corrective action is appropriate, provided that, an investigation is not required if  
2016 the supervisor personally witnessed the prohibited behavior meriting corrective  
2017 action.

2018 (A) If the employee is unavailable for a meeting with the employee  
2019 supervisor for three (3) consecutive regularly scheduled workdays, and the  
2020 employee supervisor is accordingly unable to complete the required  
2021 investigation, the employee is considered to have abandoned his or her  
2022 position, which amounts to a voluntary resignation.

2023 (B) If the prohibited behavior meriting corrective action is related to work  
2024 performance as provided under Article 12-2(d), the investigation must  
2025 consider not only single incidents, but also patterns that may be indicative  
2026 of an employee's overall poor performance, provided that the corrective  
2027 action may only be issued if each of the following conditions has been  
2028 met:

2029 (i) The employee was issued proper instructions;

2030 (ii) The employee received the required orientation;

2031 (iii) The employee received appropriate training to allow them to  
2032 succeed in the position the employee was hired for, provided that,  
2033 the Nation is not required to provide training to employees for  
2034 essential requirements included in the position description for  
2035 which the employee was hired; and

2036 (iv) The employee was aware of the essential requirements  
2037 included in his or her position description, as may have been  
2038 amended from time to time with notice to the affected employee.

2039 (2) If the employee supervisor finds that corrective action is appropriate, the  
2040 employee supervisor shall issue a corrective action based on the recommended

2041 progressive order provided in Article 12-6 and using the corrective action form  
2042 provided by HRD.

2043 (A) An employee supervisor may deviate from the progressive corrective  
2044 action order provided in Article 12-6. In such circumstances he or she  
2045 shall submit justification supporting that the deviation from the  
2046 recommended order was merited based on the severity of the employee's  
2047 infraction.

2048 (B) Prior to issuing a suspension or termination, employee supervisors  
2049 shall consult with an EEO Officer and receive his or her written  
2050 certification of procedural compliance with the corrective action process.  
2051 The only exception to this requirement is for supervisors terminating an  
2052 employee at a time outside of the Nation's normal business hours for  
2053 criminal activity (i.e. theft), provided that, the supervisor still must attempt  
2054 to contact an EEO Officer/Director prior to terminating. Employee  
2055 supervisors may consult with an EEO Officer at any time throughout the  
2056 course of the issuance of any corrective action.

2057 (C) The employee supervisor shall setup a meeting with the employee to  
2058 discuss the corrective action to be issued with the employee. If the  
2059 employee is unavailable for three (3) consecutive regularly scheduled  
2060 shifts or if the ten (10) business day timeframe for the issuance of a  
2061 corrective action will expire if not issued before a meeting can be  
2062 scheduled, the employee supervisor shall:

2063 (i) Indicate that the employee was unavailable to sign the  
2064 corrective action form on the corrective action form; and  
2065 (ii) Deliver a copy of the corrective action to the employee via  
2066 certified mail to the last available address provided in the  
2067 employee's record.

2068 (D) During the meeting with the employee, the employee supervisor shall  
2069 read the employee his or his right to appeal and when he or she may have  
2070 the right to representation by an attorney or advocate as provided in the  
2071 Employment Law and Article 13 of this Handbook.

2072 (E) The employee supervisor shall indicate on the corrective action form,  
2073 before it is signed by the employee as required by Article 12-3(b)(2)(F),  
2074 that the employee's due process rights were read to and acknowledged by  
2075 the employee.

2076 (F) The employee supervisor shall require the employee to sign the  
2077 corrective action form acknowledging his or her receipt of the corrective  
2078 action. If the employee refuses to sign the corrective action form, the  
2079 employee supervisor shall indicate on the said form that the employee has

2080 refused to sign and shall provide a copy of the said form to both the  
2081 employee and the EEO Officer.

2082 (c) Employee supervisors shall submit record of all corrective actions issued to  
2083 employees to an EEO Officer.

2084 (d) If the prohibited behavior meriting corrective action rises to the level of a criminal  
2085 action, the employee supervisor shall immediately report the behavior to local law  
2086 enforcement and shall also issue a corrective action.

2087 **12-4. EEO Officer Responsibilities.** EEO Officers shall file, monitor, and report to employee  
2088 records all corrective actions and further shall guide persons involved in the corrective actions  
2089 process by:

2090 (a) Advising employee supervisors as to the corrective action process generally,  
2091 including but not limited to, when employee actions merit corrective action, which  
2092 corrective actions are available, the normal progression of corrective actions, and whether  
2093 a situation may merit a deviation from the normal progression of corrective actions;

2094 (b) Making employees, employee supervisors and reviewing supervisors aware of their  
2095 rights to appeal and when the employee may be entitled to representation of an attorney  
2096 or advocate; and

2097 (c) Reviewing all corrective actions submitted by supervisors.

2098 (1) For suspensions and terminations, the EEO Officer shall ensure procedural  
2099 compliance with the corrective action process prior to issuing the supervisor a  
2100 written certification of procedural compliance, which allows the suspension or  
2101 termination to be issued.

2102 (2) Should the EEO Officer suspect procedural non-compliance in regards to any  
2103 corrective action, he or she shall forward the matter to the EEO Director.

2104 **12-5. EEO Director Responsibilities.** The EEO Director shall review EEO Officer's concerns  
2105 of supervisor's non-compliance with corrective action requirements. If the EEO Director is not  
2106 able to issue the written certificate of procedural compliance required for suspension and  
2107 termination, he or she shall inform the supervisor that the suspension or termination may not be  
2108 issued to the employee and shall provide the supervisor with the procedural requirements for  
2109 issuing a suspension or termination and which corrective actions the supervisor has available in  
2110 the given circumstance. If the EEO Director confirms procedural non-compliance as related to  
2111 an issued written warning, he or she shall report the said non-compliance and/or negligence to  
2112 the reviewing supervisor and may include a recommendation that the employee supervisor be  
2113 issued a corrective action.

2114 **12-6. Progressive Corrective Actions.** Corrective actions employ a range of actions that are  
2115 applied based on the nature and history of the prohibited behavior meriting corrective action. The  
2116 ultimate goal of corrective actions, as applied through this Handbook, is to help employees  
2117 contribute fully to the Nation's mission and goals. HRD shall create a corrective action  
2118 checklist, which supervisors shall use when considering a corrective action. The checklist must  
2119 encourage supervisors to use the other non-corrective action tools provided in Article 12-7, to the

2120 extent applicable, prior to issuing a corrective action. The available corrective actions and the  
2121 normal progression of issuance is as follows, provided that any employee who breaches his or  
2122 her responsibility of trust and commits a crime of theft against the Nation while employed must  
2123 be disciplined to the full extent of law:

2124 (a) Written Warning. A written warning records an employee's prohibited behavior  
2125 meriting corrective action by defining the seriousness of the situation so that the behavior  
2126 may be addressed and avoided in the future. Written warnings may not be utilized as a  
2127 corrective action if the prohibited behavior meriting corrective action rises to the level of  
2128 a criminal or illegal act, in which case immediate termination is required.

2129 (b) Suspension. A suspension is the temporary removal of an employee from performing  
2130 his or her work duties and from receiving pay. When suspension is utilized as a  
2131 corrective action, the available suspension is limited to a maximum of forty (40)  
2132 consecutive working hours, which must be based upon the employee's normal work  
2133 schedule.

2134 (1) Suspensions may not be utilized as a corrective action if the prohibited  
2135 behavior meriting corrective action rises to the level of a criminal or illegal act, in  
2136 which case immediate termination is required.

2137 (2) If suspending a salaried employee, the suspension must be issued in full  
2138 workday increments. Because salaried employees must be suspended in full  
2139 workday increments, a salaried employee may only be suspended for serious  
2140 misconduct identified as the following prohibited behaviors meriting corrective  
2141 action in Article 12-2: (b)(1)-(6) and (15)-(18); (c)(2)-(5) (where (c)(1) is  
2142 excluded because theft is criminal and requires termination pursuant to Article 12-  
2143 5(c)(1)(B)); and (d)(1), (3), and (6)-(7).

2144 (c) Termination. A termination is the release of an employee from employment against  
2145 the employee's will.

2146 (1) Termination must be used as the corrective action under the following  
2147 circumstances:

2148 (A) The employee accumulates any three (3) corrective actions provided  
2149 under Article 12-6 within any twelve (12) month period where the  
2150 termination itself constitutes the third corrective action; or

2151 (B) The employee has engaged in a prohibited action that rises to the level  
2152 of a criminal or otherwise illegal act.

2153 (2) At-will employees may be terminated at any time the supervisor determines  
2154 that the employee commits a prohibited behavior meriting corrective action and  
2155 do not require accumulated corrective actions pursuant to Article 12-6(c)(1)(A).

2156 (3) If the employee supervisor determines that the terminated employee is likely  
2157 to create a potentially hostile and/or dangerous situation, he or she shall contact  
2158 the Internal Security Director or the Oneida Police Department for assistance.

2159 **12-7. Other Non-Corrective Action Tools Available.** Supervisors may use these tools outside  
2160 of the corrective action process by requesting an employee to participate in the employee  
2161 assistance and/or alternative dispute resolution programs. Supervisors may also use these tools  
2162 as a required component of a corrective action. If used as a required component of a corrective  
2163 action and the employee does not satisfy the requirement, an additional corrective action may be  
2164 issued against the employee.

2165 (a) Referral to the Employee Assistance Program. If there appear to be signs of personal  
2166 problems during the work day that may have contributed to an employee's undesirable  
2167 behavior, an employee supervisor may refer the employee to the Employee Assistance  
2168 Program. If there is a conflict of interest between the employee and the counselors at the  
2169 Employee Assistance Program or if the employee would prefer to use the Employee  
2170 Resource Center, HRD may work with the employee and his or her employee supervisor  
2171 to see if the employee is eligible to seek assistance from the Employee Resource Center  
2172 as an alternative.

2173 (b) Alternate Dispute Resolution (ADR). ADR includes a variety of conflict intervention  
2174 processes and is facilitated by a neutral third party, the Continuous Improvement  
2175 Mediation Specialist (CIMS). The policy of ADR is to provide an alternative to normal  
2176 disciplinary actions which corrects undesired behaviors, improves employee performance  
2177 and develops a mutual understanding of expectations among employee supervisors and  
2178 employees. ADR may be a useful tool in situations where there appear to be signs of  
2179 conflict based problems during the work day that may have contributed to the undesired  
2180 behavior.

2181 (1) The types of ADR include, but are not limited to, the following:

2182 (A) Conflict Resolution, which is process that assists two (2) or more  
2183 parties find peaceful solutions to a disagreement through collective  
2184 negotiation.

2185 (B) Consensus Building, which is a process used to settle complex, multi-  
2186 party disputes in which members develop and agree to support a decision  
2187 in the best interest of the whole.

2188 (C) Mediation/Peacekeeping, which is a process using a mediator or  
2189 peacemaker to assist two (2) or more parties resolve disputes through  
2190 working out their own solutions to problems.

2191 (D) Employee/Supervisor Expectations, which is a clear documented  
2192 understanding of what is expected of an employee (e.g. reliability,  
2193 leadership, professionalism, safe working conditions, fair and constructive  
2194 feedback, etc.).

2195 (E) Win-Win Agreements, which is a negotiation process used to help  
2196 supervisors and employees clarify expectations and mutually commit  
2197 themselves to getting desired results.

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(F) Environmental Assessments, which is a process of estimating and evaluating significant short-term and long-term effects of a program or project on the quality of its location's environment.

2201 **XIII. RECONSIDERATION AND APPEAL OF CORRECTIVE ACTIONS**  
 2202 **AND ADVERSE EMPLOYMENT ACTIONS**

2203 **13-1. Requesting Reconsideration of a Corrective Action and/or Adverse Employment**  
 2204 **Action.** Prior to initiating a formal appeal of a corrective action and/or adverse employment  
 2205 action, an employee shall request reconsideration of the said action with his or her reviewing  
 2206 supervisor, provided that such requests must be made within ten (10) business days from the date  
 2207 of the employee supervisor's action.

2208 (a) Upon receipt of a request for reconsideration of an employee supervisor's action, the  
 2209 reviewing supervisor, or designee, shall investigate the matter and issue a decision to the  
 2210 employee, with a copy to the employee supervisor and HRD's EEO Department within  
 2211 ten (10) business days from the date of the employee's request for reconsideration.

2212 (b) In making a decision regarding a request for reconsideration, the reviewing  
 2213 supervisor, or designee, shall take one (1) of the following actions and notify the  
 2214 employee and employee supervisor of their decision in writing delivered in person and/or  
 2215 by first class mail:

- 2216 (1) Uphold the employee supervisor's action;  
 2217 (2) Modify the employee supervisor's action; or  
 2218 (3) Overturn the employee supervisor's action.

2219 (c) In the event the reviewing supervisor, or designee, determines that reversal or  
 2220 modification of the employee supervisor's action is required, he or she shall include an  
 2221 explanation of the reversal or modification to the employee supervisor. In addition, the  
 2222 reviewing supervisor, or designee, may issue the employee supervisor a corrective action  
 2223 and/or require the employee supervisor to complete updated supervisor training.

2224 **13-2. Right to Appeal.** All employees, excluding at-will employees, who were subject to  
 2225 discipline and disagree with the corrective action or allege that a supervisor's actions amount to  
 2226 an adverse employment action, may appeal the action to the Judiciary's Trial Court based on the  
 2227 Administrative Rules of Procedure. Any party disagreeing with the decision of the Trial Court  
 2228 may appeal to the decision to the Judiciary's Appellate Court.

2229 **13-3. Appeal Authority.** Appeals of corrective actions are subject to the following levels of  
 2230 appeal:

2231 (a) **First Level of Appeal.** The Trial Court shall hear employees' appeals of alleged  
 2232 adverse employment actions and the following corrective actions: suspensions and  
 2233 terminations. If the employee claims that the adverse employment action or  
 2234 corrective action also amounted to a deprivation of an equal employment  
 2235 opportunity, it must be included in this appeal as well.

2236 (1) In considering an appeal of a corrective action, the Trial Court may consider  
 2237 previous corrective actions upon which the suspension or termination was based,  
 2238 provided that, the employee must demonstrate that he or she requested a  
 2239 reviewing supervisor's reconsideration of such prior corrective actions in  
 2240 accordance with Article 13-1. When reviewing prior corrective actions, the Trial

2241 Court shall only consider whether the corrective action was justified based on the  
2242 employee's behavior; procedural compliance may not be considered.

2243 (b) Second Level of Appeal. The Court of Appeals may hear any party's appeal of the  
2244 Trial Court's decision.

2245 **13-4. Attorneys and Advocates.** Employees appealing a supervisor's action who are being  
2246 heard by the Trial Court and/or the Appellate Court, have a right, but not a guarantee, to be  
2247 represented by an attorney or advocate. All representation costs are the employee's  
2248 responsibility, unless included in the award as compensatory damages pursuant to Section  
2249 300.10-2(1) of the Employment Law. Employees subject to corrective action and/or potential  
2250 adverse employment actions or deprivation of an equal employment opportunity may contact an  
2251 employee representative for full explanation of the employee's and the Nation's rights and  
2252 responsibilities under the Employment Law and this Handbook.

2253 **13-5. Employee's Responsibilities.** When appealing a supervisor's action, the employee is  
2254 responsible for timely filing the appeal and providing accurate and truthful information to all  
2255 parties involved in the appeal process.

2256 (a) Timely Filing a First Level Appeal. Any employee who wishes to appeal a  
2257 supervisor's action must file his or her appeal, in writing, to the Trial Court within in ten  
2258 (10) business days from the date the employee received the reviewing supervisor's  
2259 response in regards to the employee's request for reconsideration in accordance with  
2260 Article 13-1. Appeals filed with the Trial Court are governed by the Rules of  
2261 Administrative Procedure.

2262 (b) Timely Filing a Second Level Appeal. If an Employee wishes to file an appeal of the  
2263 Trial Court's decision regarding an initial appeal which included a claim that the  
2264 supervisor's action amounted to a deprivation of an equal employment opportunity, he or  
2265 she must file their appeal with the Appellate Court within thirty (30) calendar days from  
2266 the date of the Trial Court's decision. Appeals filed with the Judiciary's Appellate Court  
2267 are governed by the Rules of Appellate Procedure.

2268 (c) In making a determination, the Trial Court and/or the Judiciary's Appellate Court  
2269 shall take any one (1) of the following actions:

- 2270 (1) Uphold the decision/determination;
- 2271 (2) Modify the decision/determination; or
- 2272 (3) Overturn the decision/determination.

2273 **13-6. Holding Employee's Positions Pending Appeal.** A terminated employee's employee  
2274 supervisor shall hold the terminated employee's position vacant until the timeframes for  
2275 allowable appeals have lapsed. In order to address the vacancy, the employee supervisor may:

- 2276 (a) Fill the vacancy on an interim basis pursuant to Article 5-17;
- 2277 (b) Hire a temporary at-will employee pursuant to Article 5-18; or
- 2278 (c) Distribute the terminated employee's duties to existing employees, which may trigger  
2279 an obligation to negotiate additional duties compensation pursuant to Article 7-2.

2280 **XIV. EMPLOYEE PROTECTION AND REPORTING A DEPRIVATION OF**  
 2281 **AN EEO AND/OR SEXUAL HARASSMENT**

2282 **14-1. Employee Protection.** The Nation shall protect employees providing information to  
 2283 guard the Nation from employees committing fraud, theft, or other criminal acts and to protect  
 2284 the Nation from other financial loss and unauthorized disclosure of confidential information from  
 2285 any and all employment related retaliations. The Nation and its employees receiving information  
 2286 pursuant to this Article shall keep all employees' requests for protection confidential.

2287 **14-2. Providing Information Subject to a Request for Employee Protection.** Employees  
 2288 sharing or receiving information based on this Article, are subject to the following requirements.

2289 (a) An employee providing information subject to a request for employee protection shall  
 2290 report such information to one (1) of the following authorized parties:

- 2291 (1) The employee's employee supervisor;
- 2292 (2) The employee's reviewing supervisor;
- 2293 (3) The Oneida Police Department;
- 2294 (4) The Nation's internal security department; or
- 2295 (5) HRD's EEO Department.

2296 (b) An employee providing information subject to a request for employee protection shall  
 2297 provide the authorized party with the following:

- 2298 (1) His or her employee number;
- 2299 (2) The name of the employee(s) that are the subject of the information  
 2300 disclosure;
- 2301 (3) A full written account of the employee's information, including dates and  
 2302 times and any supporting documentation that may be available.

2303 (c) Upon receipt of information provided pursuant to this Article, the authorized party  
 2304 shall inform the employee that the information will be used to conduct an investigation  
 2305 and that the information will only be shared with entities' management/employees  
 2306 essential to conducting the investigation.

2307 (1) The authorized party receiving the information shall then share the  
 2308 employee's information, without sharing the identity of the employee subject to  
 2309 protection with entities' management/employees essential to conducting the  
 2310 investigation. The authorized party shall notify said entities that the investigation  
 2311 results must be returned to the authorized party within thirty (30) business days  
 2312 from the date the information is provided to the entity.

2313 (2) The entities provided with the information shall take appropriate action to  
 2314 conduct a thorough investigation and shall take any appropriate actions to address  
 2315 the findings of said investigation, which may include, but are not limited to:

- 2316 (A) Report of the conduct and investigation to the Oneida Business  
 2317 Committee, which must be presented in closed executive session, to  
 2318 request direction regarding appropriate action moving forward; and

2319 (B) Consultation with the Oneida Law Office to determine whether  
 2320 initiating a civil and/or criminal action is appropriate.

2321 (3) If HRD's EEO Department was not the authorized party the information was  
 2322 initially shared with, the authorized party shall provide the EEO Department with  
 2323 all of the information related to the shared information and the investigation upon  
 2324 completion of the investigation.

2325 **14-3. Reporting and Preventing Retaliation.** The EEO Department may conduct any  
 2326 investigations it deems necessary in order to assess whether an action amounts to retaliation.

2327 (a) The EEO Department shall review all actions taken and suspension and terminations  
 2328 proposed to be taken against an employee protected pursuant to this Article for the  
 2329 duration of the employee's employment with the Nation. The EEO Department shall  
 2330 make a determination as to whether retaliation occurred within ten (10) business days of  
 2331 receipt of any of the following:

2332 (1) A protected employee's report of to the EEO Department of an action taken  
 2333 against him or her as retaliatory;

2334 (2) A request for a written certificate of procedural compliance required in order  
 2335 to issue a suspension or termination pursuant to Article 12-3(b)(2)(B) regarding a  
 2336 protected employee; or

2337 (3) Notice of issuance of a written warning regarding a protected employee.

2338 (b) If the EEO Department determines that a suspension or termination amounts to  
 2339 retaliation, EEO Department shall deny supervisors of the written certificate of  
 2340 procedural compliance required in order to issue a suspension or termination pursuant to  
 2341 Article 12-3(b)(2)(B) and shall provide an explanation of why the certificate was denied.

2342 (c) If the EEO Department determines that any supervisor's action amounts to retaliation,  
 2343 the EEO Officer shall issue a corrective action to all parties responsible for the retaliation  
 2344 in accordance with Article 12.

2345 (1) In such circumstances, the EEO Officer assumes the responsibilities of the  
 2346 employee supervisor; the EEO Director assumes the responsibilities of the  
 2347 reviewing supervisor; and the review and approval of the EEO Department is not  
 2348 applicable since an EEO Officer is issuing the corrective action.

2349 (2) The EEO Officer shall provide notice of the corrective action issued to the  
 2350 retaliating employee's employee supervisor.

2351 **14-4. Reporting and Preventing Deprivation of EEOs and/or Sexual Harassment.**

2352 Employees that believe that they have been subject to or have witnessed another employee being  
 2353 subject to a deprivation of an EEO and/or sexual harassment may report the incident to HRD,  
 2354 provided that the report must be in writing and must be delivered either in person or by first class  
 2355 mail. The EEO Department may conduct any investigations it deems necessary in order to assess  
 2356 whether an action amounts to a deprivation of an EEO and/or sexual harassment.

2357 (a) The EEO Officer shall notify the employee supervisor of the employee that is the  
 2358 subject to the investigation that his or her employee is the subject of an on-going

2359 investigation. In addition, The EEO Officer shall notify the employee's employee  
2360 supervisor of the results of the investigation and any corrective actions issued.

2361 (b) If the EEO Department determines that any supervisor's action amounts to a  
2362 deprivation of an EEO or sexual harassment, the EEO Officer shall issue a corrective  
2363 action to all parties responsible and, if appropriate, shall notify the relevant law  
2364 enforcement agency(s).

2365 (1) In such circumstances, the EEO Officer assumes the responsibilities of the  
2366 employee supervisor; the EEO Director assumes the responsibilities of the  
2367 reviewing supervisor; and the review and approval of the EEO Department is not  
2368 applicable since an EEO Officer is issuing the corrective action.

2369 (2) The EEO Officer shall provide notice of the corrective action issued to the  
2370 employee's employee supervisor.

2371 (c) The EEO Officer shall notify the reporting employee when his or her investigation is  
2372 complete. The EEO Officer shall keep actions taken confidential and may not disclose  
2373 them to the reporting employee.

2374 **XV. EMPLOYEES ON HUBER**

2375 **15-1. Employees on Huber.** Employees on Huber shall report their Huber privileges to their  
2376 employee supervisor. Upon notice, the employee supervisor shall contact HRD for the  
2377 completion of an updated backgrounds check to determine if the employee's conviction affects  
2378 his or her eligibility to remain employed with the Nation.

2379 (a) HRD shall notify the employee supervisor of the results of the background check as  
2380 related to the employee's eligibility to remain employed with the Nation. If employment  
2381 eligibility is affected the employee supervisor shall notify the employee.

2382 (1) If the employee is no longer eligible to remain employed with the Nation in  
2383 his or her current position, he or she may request that HRD provide a list of the  
2384 positions for which he or she remains eligible to work in and may request a  
2385 transfer if one of the said positions is available, provided that the normal transfer  
2386 process must be followed.

2387 (2) If the employee is no longer eligible to remain employed with the Nation in  
2388 his or her current position and there are no positions available for which the  
2389 employee is eligible, the employee supervisor shall separate the employee.

2390

## XVI. EXITING EMPLOYEES

2391 **16-1. Mechanisms for Ending Tribal Employment.** Employees may cease to be employed by  
2392 the Nation through resignation, separation or termination.

2393 (a) Separation and Termination. Separation is addressed in this Handbook in the  
2394 following Articles: 4-3(b); 5-6(a)(3)(E); 5-6(b)(4)(B); 5-13(b); 9-1(e); 9-2(e) and 14-  
2395 1(a)(2). Termination is addressed in this Handbook in the following Articles: 5-2(b); 5-  
2396 6(a)(3); 5-13(a) and (b); 5-18(d)(2); 7-12(d); 12-3(b)(2)(B); 12-4(c)(1); 12-5; 12-6 and  
2397 13-1 through 13-4.

2398 (b) Resignations. Employees wishing to resign from employment with the Nation shall  
2399 submit a written resignation and/or communicate a verbal resignation to their employee  
2400 supervisor, provided that a voluntary resignation may also occur via position  
2401 abandonment as explained in Article 8-3.

2402 (1) Employee Supervisors. Upon receipt of an employee's resignation, employee  
2403 supervisors shall notify HRD of the employee's resignation.

2404 (A) Employee supervisors may not approve employees resigning to use  
2405 PTO after the employee's physical last day of work in her or her position.

2406 (B) The resigning employee's employee supervisor shall collect all tribal  
2407 property from the employee, which may include, but it not limited to,  
2408 removing computer access, building access and document access.

2409 (2) HRD shall terminate the employee's benefits on the effective date of the  
2410 resignation.

2411 (3) Rescinding Resignations. An employee may submit a request to rescind his or  
2412 her resignation in writing prior to the effective date of the resignation. It is within  
2413 the employee supervisor's discretion whether to approve or deny an employee's  
2414 request to rescind a resignation, provided that, a resignation may not be rescinded  
2415 if an employee has been hired as part of a succession plan under Article 5-3(c) or  
2416 5-15(a).

2417 (4) Rejecting Resignations. Employee supervisors may not accept an employee's  
2418 resignation if the employee is under investigation or in the process of being  
2419 terminated for committing a violent act or theft. In all other circumstances, it is  
2420 within the employee supervisor's discretion whether or not to accept the  
2421 resignation of an employee that is currently involved in the corrective action  
2422 process.

2423 **16-2. Collection of Tribal Property.** On or before an employee's last day of work, the  
2424 employee supervisor shall collect any tribal property in the employee's possession. If the  
2425 employee refuses to return any tribal property in his or her possession, the employee supervisor  
2426 shall contact the Oneida Policy Department to enforce the return of the tribal property.

2427 (a) As applicable to the employee's position, the employee supervisor shall:

2428 (1) Contact MIS to have the employee's computer access and login stripped;

- 2429 (2) Contact the Accounting Department to have the employee removed from all  
2430 budgetary sign offs;
- 2431 (3) Contact the building coordinator to remove the employee's access to the  
2432 building;
- 2433 (4) Collect the employee's name badge;
- 2434 (5) Contact the Kronos administrator to have the employee removed from  
2435 Kronos; and
- 2436 (6) Allow the employee to collect his or her personal property, provided that in  
2437 the event of a termination, the employee supervisor shall arrange for the employee  
2438 to be escorted by a security guard or Oneida Police Officer.
- 2439 (b) Entities shall develop their own standard operating procedures for addressing exiting  
2440 employees and shall either develop their own checklist for supervisors to use as a tool or  
2441 shall direct their supervisor to use the exiting employee checklist available with HRD.
- 2442 **16-3. Exit Interviews.** Employee supervisor(s) shall conduct exit interviews with resigning  
2443 employees using the exit interview form available with HRD. In the event the employee had  
2444 more than one (1) employee supervisor, the exit interview team must include all of employee's  
2445 available employee supervisors.