

ONEIDA EMPLOYEE HANDBOOK



Effective _____

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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, sexual orientation and gender identification), national origin, age, disability,
85 economic status or genetic information. Oneida and Indian Preference are allowable and
86 are not considered a deprivation of an 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 4, 5 and 7 are complied with and that all questions asked of applicants are both
106 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 the following in the official employee record maintained by
 233 HRD:

234 (1) Department files, as provided in article 12-1; or

235 (2) Records of any non-corrective action tools used by supervisors outside of the
236 corrective action process.

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

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

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

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

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

257 **3-7. Contracted Positions.** In the event of a conflict between this Handbook and an
258 employee's contract, the employee's contract governs.

259 **3-8. Open Door Policy.** The Nation's supervisors shall maintain an open door policy in which
260 employees may, at any time, report concerns regarding the Nation's work environment and/or
261 conditions and suggest feedback for improvement.

262 **3-9. Succession Planning for Critical Positions.** Within six (6) months of the date a new
263 Oneida Business Committee is elected, HRD shall submit for the Oneida Business Committee's
264 approval a list of positions that are critical to the Nation. In preparing such list, HRD shall work
265 with division directors and supervisors.

266 (a) Within ninety (90) calendar days of the date the Oneida Business Committee
267 approves the list of critical positions:

268 (1) Each division shall provide the Oneida Business Committee with the names
269 of, at a minimum, two (2) employees trained and able to perform of the essential
270 requirements of each critical position within the division.

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

275 **3-10. Employee Identification Badges.** At all times while working, employees are required to
276 wear Oneida Nation employee identification badges containing the employee's name, photo and
277 employee number. Upon request, an employee's commonly known as name or shortened name
278 may be used on an identification badge, provided that the proposed commonly known as name or
279 shortened name is reasonable and approved by HRD.

IV. POSITION DEVELOPMENT AND MAINTENANCE

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

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

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

(1) Position titles;

(2) Grades;

(3) Position description formats;

(4) Classifying positions as earning based on a salary or a wage, which may or may not include tips;

(5) Bona-fide occupational qualifications (BFOQs);

(6) Which positions must be contracted; and

(7) Which positions are classified as Oneida only.

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

(1) When the local market supports use of a contract for the position;

(2) When the position is an executive level position which reports directly to the Oneida Business Committee; and/or

(3) When the position is for an attorney, teacher or medical professional.

(c) An employee responsible for developing a position description or revising an existing position description may not be considered as a candidate for the position based on the initial posting.

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

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

- 320 (1) A market analysis must minimally consider:
321 (A) Market indicators of appropriate wage/salary based on similar or
322 identical positions in the market;
323 (B) The wage/salary of similar or identical positions throughout the
324 Nation; and
325 (C) The market's requirements for the position based on education,
326 experience, licensing, certifications and other applicable requirements. If
327 similar positions do not exist within the market, HRD may use its
328 educated and informed discretion, in consultation with the proposed
329 supervisor, to determine the position's requirements.
- 330 (2) HRD may recommend slotting a new or amended position within a
331 determined grade if there is no comparable wage/salary for the position available
332 for comparison in the market. Examples of positions for which the market may
333 not have a comparable wage/salary may include, but are not limited to, positions
334 related to Oneida culture and language education.
- 335 (b) High School Diploma or its Equivalent. Pursuant to Section 300.5-4 of the
336 Employment law, employees shall have or obtain a high school diploma, a high school
337 equivalency diploma or a general equivalency diploma within one (1) year of being hired.
- 338 (1) Employees that are over the age of fifty (50) on their date of hire are exempt
339 from this requirement. Employees under the age of fifty (50) at their date of hire
340 who transfer or are promoted remain responsible for obtaining a high school
341 diploma or its equivalent pursuant to Section 300.5-4 of the Employment law.
- 342 (2) Employees that have been assessed by a licensed medical professional or a
343 vocational rehabilitation program to be mentally incapable of fulfilling the
344 education requirement are exempt from this requirement, provided that the
345 exemption is only available for physical labor based positions. HRD shall
346 provide exemptions based on this provision and shall provide notice of any
347 exemptions granted to the employee supervisor.
- 348 (3) Employee supervisor may grant extensions to the one (1) year period,
349 provided that, absent an exemption, the requirement to obtain a high school
350 diploma or its equivalent must be met within two (2) years of the employee's date
351 of hire.
- 352 (A) The employee supervisor may grant the said extensions only if the
353 employee is able to demonstrate that he or she has been regularly working
354 towards fulfilling the requirement.
- 355 (B) The employee supervisor shall separate employees that do not obtain a
356 high school diploma, a high school equivalency diploma or a general
357 equivalency diploma within the approved timeframe and shall provide
358 notice of the separation to the employee and HRD.

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

362 **4-4. Determination of “Oneida Only” Positions.** In identifying which position must be filled
363 by a tribal member pursuant to section 300.5-3(d) of the Employment law and article 3-4(d) of
364 this Handbook, HRD shall consider whether the position holder would:

- 365 (a) Supervise one (1) or more employees;
366 (b) Be granted key decision making responsibilities and authority;
367 (c) Be tasked with developing and/or interpreting policies and procedures;
368 (d) Have the authority to enter into agreements that financially bind the organization;
369 and/or
370 (e) Have financial management responsibility over a business unit.

371 **4-5. Compliance with Tribal Laws.** HRD shall follow any laws of the Nation which explicitly
372 require a position to be designated as “filled by Oneida tribal members only” and in such
373 circumstances may not exercise its discretion based on the considerations provided in article 4-4.

374 **4-6. Position Descriptions.** HRD shall make all approved position descriptions public
375 documents by providing copies to members of the public upon request, provided that all
376 information relating to the position’s compensation must be stricken prior to being released to
377 the public.

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

379 **5-1. Training for the Hiring Process.** Supervisors, hiring representatives, and subject matter
 380 experts (SME's) who are approved to participate in the selection process, shall complete and
 381 maintain interview skills training prior to participating in the selection process.

382 **5-2. Approval Process for Posting Employment Vacancies.** Supervisors must obtain approval
 383 from the reviewing supervisor, and, if the reviewing supervisor does not have budgeting
 384 authority, also a budget authorized supervisor, in order to post and/or fill any vacant or new
 385 position within their entity.

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

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

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

397 (1) Absent a leave or any other circumstance that would require holding the
 398 position, vacant positions must be posted prior to being filled on an interim basis.

399 (2) Interim transfers may be requested in six (6) months increments, provided that
 400 transfers for positions that require posting prior to being filled on an interim basis
 401 may not exceed one (1) year.

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

404 **5-3. Posting Vacancies.** The supervisor and hiring representative shall work together to post
 405 available positions internally and/or externally as follows:

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

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

417 external posting based on the hiring procedures contained in this article, it may be
418 reposted until filled.

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

423 (c) Internal Postings. HRD shall post all internal postings both on the Nation's website
424 and at HRD.

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

432 **5-4. Advertising of Posted Positions.** All position advertising must be completed by HRD,
433 provided that an entity may be required to pay for its advertising out of its own budgets.

434 **5-5. Applications.** All applications for posted positions must be submitted to HRD no later than
435 the closing date listed on the position description by close of business, if applying in person, or
436 by 11:59 p.m., if applying electronically.

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

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

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

456 (A) Volunteers;

- 457 (B) Individuals requesting community service;
458 (C) Adult work experience applicants;
459 (D) Temporary Assistance for Needy Families (TANF);
460 (E) Kinship care for children and families; and
461 (F) Foster parents.

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

466 (3) Employment eligibility is determined by the HRD's background manager, or
467 designee. HRD's Backgrounds Department may impose restrictions upon or deny
468 employment to an applicant or current employee based on the findings contained
469 in a background investigation. Further, depending on the position, employees
470 may be subject to continual background investigations throughout the course of
471 their employment to ensure continued compliance with the position's eligibility
472 requirements.

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

475 (B) If an applicant/employee is ineligible for employment based on the
476 background investigation, the Backgrounds Department staff shall notify
477 the applicant/employee and the employee supervisor of said ineligibility
478 and the cause via telephone and first class mail. The Backgrounds
479 Department staff shall advise the applicant/employee of how and where to
480 access their background records, provided that, the applicant/employee
481 must sign a request to review form prior to reviewing their file.

482 (C) Applicants/employees alleging inaccuracies within their backgrounds
483 report have ten (10) business days from the date of their notice of
484 ineligibility to resolve any inaccuracies within their record to the
485 acceptance of HRD.

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

489 (E) When an employee has become ineligible for employment in their
490 current position based on an updated background investigation, the
491 employee supervisor shall immediately remove the employee from the
492 position.

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

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

501 (4) Ineligibility based on Previous Termination or Voluntary Resignation for
502 Position Abandonment. Applicants previously terminated from employment with
503 the Nation based on a violent act or theft in the course of the employee's
504 employment are not eligible for re-hire, provided that, HRD shall recognize
505 pardons and forgiveness in accordance with the Pardon and Forgiveness Law. All
506 other previously terminated applicants and applicants that previously voluntarily
507 resigned based on position abandonment become eligible for re-hire after the
508 greater of either:

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

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

513 (5) Ineligibility based on Applicant's Behavior During the Hiring Process. An
514 applicant's behavior during the hiring process that would amount to a violation of
515 the Nation's laws, policies and/or rules if employed may make the said applicant
516 ineligible for Employment. For the purposes of this article, the hiring process
517 begins on the date of the applicant submits his or her application.

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

521 (1) The hiring representative shall make the final determination of who may
522 participate in the qualification based screening process, provided that, the
523 supervisor(s) may participate in the screening process. If the position has
524 multiple supervisors (i.e. multiple shifts, locations, etc.), all supervisors may
525 participate in the screening process.

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

531 (A) For the purposes of this article, a table of equivalency shows various
532 combinations of post-secondary education credits earned from an
533 accredited institution and experience that may be utilized instead of the
534 education and experience required in the essential requirements section of
535 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

Employment Requirement Equivalencies

Master's Degree	Bachelor's Degree	Associate's Degree
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;

556 (iv) A vocational degree and eleven (11) years of experience
557 because a bachelors degree is the equivalent to a vocational degree
558 and four (4) years experience; or

559 (v) A high school diploma or HSED or GED and twelve (12) years
560 of experience because a bachelors degree is the equivalent to a
561 high school diploma or HSED or GED and five (5) years
562 experience.

563 (C) Applicants that qualify using a table of equivalency are deemed to
564 have met the minimum position requirements in regards to compensation
565 negotiations, provided that an employee that qualifies based on the table of
566 equivalency may be required to acquire the education for which the
567 employee's experience was considered.

568 (3) For any employee transfers or in circumstances where all of the applicants
569 being considered are former or current employees of the Nation, the hiring
570 representative and any applicable supervisors participating in the screening
571 process may consider the employment records, including, but not limited to, past
572 performance evaluations and corrective actions that may have been issued for the
573 last twelve (12) month period worked by any former or current employee. If the
574 hiring team requests a copy of any applicant's last twelve (12) months of
575 employment records from the hiring representative, the hiring representative shall
576 also provide a copy of the record to the said applicant along with notice that his or
577 her last twelve (12) months of employment records may be considered in the
578 hiring process. Further, if the employment record of one (1) previous employee is
579 requested, HRD shall provide the employment record of all previous employees
580 that may be in the applicant pool.

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

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

589 (B) As appropriate, supervisors may allow applicants the opportunity to
590 satisfy essential requirements within a reasonable time from the
591 employee's date of hire, provided that entities shall develop standard
592 operating procedures for ensuring compliance within a reasonable
593 timeframe and separation procedures in the event an employee fails to
594 comply.

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

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

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

607 (2) The conflict of interest form must ask whether he or she:

608 (A) Has a current or past relationship with an applicant which impairs
609 his/her judgment with respect to the best interest of the Nation;

610 (B) May benefit, directly or indirectly, from the applicant's performance
611 of duties contained in the position description based on his or her
612 relationship with the applicant and/or the Nation;

613 (C) Currently has or has had personal relations and/or a domestic
614 partnership relationship with an applicant which may impair his or her
615 ability to objectively consider the applicant; or

616 (D) Is able to assert that to the best of his or her knowledge no potential or
617 perceived conflict of interest exists.

618 (3) The hiring representative shall make the final determination as to whether a
619 conflict of interest or a perceived conflict of interest exists.

620 (A) If the hiring representative determines that a conflict of interest exists
621 with a member of the hiring team which would not likely remain a conflict
622 of interest following the hiring process, he or she shall remove said
623 persons having the conflict interest from the hiring team.

624 (B) If the hiring representative determines that an organizational conflict
625 of interest exists with a member of the hiring team which would likely
626 remain a conflict of interest should the applicant be selected (i.e. if the
627 conflict of interest is with the applicant's prospective supervisor), the
628 hiring representative shall attempt to work with the supervisor to create an
629 alternate reporting structure or other mechanism to avoid the said conflict
630 of interest, unless the position is responsible for regulatory reporting
631 and/or compliance. If an alternate reporting structure or mechanism is not
632 possible or if the conflict of interest exists in positions responsible for
633 regulatory reporting and/or compliance, the hiring representative shall
634 disqualify the applicant from the position.

635 (4) If the hiring representative determines that a conflict of interest or perceived
 636 conflict of interest exists, HRD shall provide the employee's employee
 637 supervisor, and, in the event of a transfer or promotion, any subsequent employee
 638 supervisors, with the conflict of interest disclosure form.

639 (d) Nepotism Screening. The hiring representative shall screen applicants out of
 640 consideration for a position if nepotism exists. There is a presumption of nepotism if an
 641 applicant is the hiring supervisor's immediate family member.

642 **5-7. Labor Pool Positions.** Supervisors wishing to establish labor pool positions shall work
 643 collaboratively with HRD to create the position classification.

644 (a) HRD shall advertise each labor pool position as an on-going recruitment pool.

645 (b) Upon receipt of an application for a labor pool position, HRD shall:

646 (1) Perform the applicant screening based on essential requirements and including
 647 skills based testing;

648 (A) HRD shall provide candidates for labor pool positions with
 649 opportunities for skills based trainings.

650 (B) If an applicant does not satisfy the skills based testing requirements,
 651 HRD shall refer the applicant to the relevant skills based trainings.

652 (C) There is no limit on how many times an applicant may apply for a
 653 labor pool position and/or may take the required skills based testing.

654 (2) If eligible and qualified, place the applicant into the labor pool; and

655 (3) Respond to applicant requests for status updates regarding their placement
 656 into a labor pool.

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

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

661 (1) Work with a hiring representative to interview, pursuant to article 5-8, and
 662 rank, pursuant to article 5-9, each applicant in the labor pool. When all interviews
 663 and rankings of the labor pool are complete, the supervisor shall make a selection
 664 pursuant to article 5-10; or

665 (2) Request that a hiring representative complete a pre-screening of the labor pool
 666 based on the applications submitted and the screening process contained in article
 667 5-6 to provide the supervisor with the top (3) qualified applicants for the position.
 668 The supervisor may then interview the top three (3) applicants in the labor pool
 669 pursuant to article 5-8(a) and (b), and rank them, pursuant to article 5-9. When all
 670 interviews and rankings are complete, the supervisor shall make a selection,
 671 provided that, if there is one (1) or more Oneida applicant in the top three (3)
 672 most qualified, an Oneida applicant must be selected.

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

676 **5-8. Interviews.** The purpose of the interview process is to verify applicants' qualifications in
677 order to ensure that the applicants' experience aligns with the Nation's employment needs. If an
678 applicant's interview reveals that his or her experience does not align with the Nation's needs,
679 the applicant may be screened out of the applicant pool.

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

683 (1) If there are two (2) or more qualified and eligible Oneida applicants the hiring
684 representative shall schedule interviews with the Oneida applicants first. In such
685 circumstances, the remaining applicants, if any, may only be scheduled for
686 interviews if an Oneida applicant has not been selected pursuant to article 5-10.

687 (2) If there are not two (2) or more qualified and eligible Oneida applicants, the
688 hiring representative shall schedule interviews if there are three (3) or more
689 qualified and eligible applicants in total.

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

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

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

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

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

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

712 **5-9. Applicant Ranking.** The hiring representative shall score applicants based upon Oneida
 713 and Indian preference and veteran status only and the supervisor(s) shall score applicants based
 714 on their interviews with an available score range of zero (0) to fifteen (15) for each interview
 715 question.

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

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

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

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

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

726 (b) Applicants who are veterans shall submit the relevant proof of service, which may
 727 include, but is not limited to, a DD214 Discharge Form, Reservist Identification Card,
 728 Veteran's Affairs Identification Card, or National Guard Identification Card, and will
 729 receive five (5) points, provided that, the applicant has any of the following military
 730 discharges or statuses:

731 (1) Honorable discharge;

732 (2) General discharge under honorable conditions;

733 (3) Reservist; or

734 (4) National Guard.

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

739 **5-10. Selection.** All hiring decisions must adhere to the Oneida and Indian preference policy as
 740 contained in the Employment law.

741 (a) When interviews have been completed pursuant to article 5-8, the hiring
 742 representative shall:

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

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

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

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

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

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

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

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

769 (c) If additional vacancies occur for a position for which the selection process has
770 recently been completed, the supervisor may hire from the last interview packet for a
771 period of three (3) months from the date the last applicant was hired for the same
772 position, provided that the selection must follow all requirements contained in this article.

773 **5-11. Hiring Negotiations.** The supervisor shall review the wage and salary charts created by
774 HRD pursuant to article 7-1(a) and shall determine the wage or salary to offer the applicant,
775 which must be approved by HRD to ensure procedural compliance with article 7-1(b).
776 Supervisor's may use discretion as to where to place employees so long as the employee is
777 placed in the correct third of the position's grade and the supervisor considers any advanced
778 education or experience to compensate the employee above the bottom of the appropriate third of
779 the grade. Should the supervisor seek to deviate from the standard grade placement, the
780 supervisor shall provide justification to HRD and HRD and the reviewing supervisor must
781 approve the selected wage or salary.

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

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

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

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

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

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

802 **5-12. Employee Orientation.** At the close of the selection process, the hiring representative
803 shall schedule the selected applicant for employee orientation.

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

808 (1) A former employee that is re-hired is not required to complete employee
809 orientation upon re-hire unless a period of three (3) or more years has lapsed since
810 the employee last completed orientation, except that employee orientation is
811 required if the employee underwent employee orientation before the Employment
812 law went into effect and benefit orientation is required if the employee is signing
813 up for benefits.

814 (2) Transferring employees are not required to complete employee orientation,
815 except that employee orientation is required if the employee underwent employee
816 orientation before the Employment law went into effect.

817 (b) The employee orientation includes:

818 (1) Oneida Nation overview;

819 (2) Organization overview;

820 (3) Key employment laws and Handbook discussion;

821 (A) During orientation HRD shall require all employees to sign an
822 acknowledgment stating that they have been made aware of the key
823 employment laws and this Handbook and that they are responsible for
824 complying with the said employment laws and this Handbook.

825 (4) Insurance and benefits information;

826 (5) Health and safety information;

827 (6) Any additional training as may be necessary for various entities.

828 (c) Entities shall provide more in-depth orientation and/or training programs to assist
829 employees with a successful introduction into the entity's expectations. The entity's
830 orientation and/or training must begin within one (1) week of the employee's start date.

831 (d) Employees holding positions identified as caregiver positions, which are those that
 832 work with children and/or vulnerable adults, shall complete separate training related to
 833 their position as determined by HRD; the caregiver specific training must be completed
 834 within the employee's probationary period.

835 (e) When HRD is administering training or orientation, HRD:

836 (1) Shall correct any employee's poor behavior in order to maximize the benefit
 837 of training and orientation for all employees;

838 (A)HRD may excuse any employee found to be exhibiting poor behavior.
 839 Further, if it is suspected that the employee may be influenced by alcohol
 840 and/or an illegal substance, HRD shall refer the employee to Employee
 841 Health Nursing for a drug and alcohol screening.

842 (B) A new employee excused from training or orientation and/or referred to
 843 Employee Health Nursing pursuant to sub-article (A) may not return to
 844 work until the said training or orientation is complete.

845 (C) If at anytime HRD is required to address an employee's behavior
 846 while in training or orientation, HRD shall provide notice of the incident
 847 to the employee supervisor.

848 (2) Determine whether the employee has successfully completed the required
 849 orientation and training.

850 (f) Supervisory Employees. Within six (6) months of a new employee assuming
 851 supervisory responsibilities, he or she must successfully complete supervisor training,
 852 which includes training on this Handbook.

853 **5-13. Probationary Period.** All employees are subject to a probationary period lasting a
 854 minimum of ninety (90) days and a maximum of six (6) months. An employee supervisor that
 855 has timely performed an employee's evaluations as required in sub-article (d)(1) may request an
 856 extended probationary period for the employee, provided that the extension may not cause the
 857 probationary period to exceed six (6) months in duration and must be approved by HRD for
 858 procedural compliance.

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

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

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

868 (d) Employee supervisors shall provide each probationary employee with two entry
 869 evaluations:

870 (1) The first occurring within the first six (6) weeks from the employee's start
871 date; and

872 (2) The second occurring within seventy-five (75) to ninety (90) days from the
873 date the employee completed the position's training requirements.

874 (e) If an employee supervisor extends an employee's probationary period, the supervisor
875 shall provide the employee with an additional evaluation upon completion of the
876 probationary period.

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

880 (g) Employees are at-will during the probationary period.

881 **5-14. Career Ladders: Student Internships and Promotions.** Supervisors are encouraged to
882 work with employees to create career ladders to plan for employees' advancement within the
883 Nation.

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

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

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

891 (B) Be a tribal member; and

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

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

894 (3) Student interns are subject to only the selection and hiring requirements
895 contained in articles 5-6, 5-12 and 5-18. In addition, student intern applicants
896 must submit copy of either their unofficial transcript or an acceptance letter to a
897 post-secondary educational institution to HRD.

898 (4) Entities participating in the student internship program shall provide each
899 student intern with a mentor who shall:

900 (A) Instruct, mentor, guide and advise student interns in relation to their
901 roles, responsibilities and functions within the entity;

902 (B) Develop a meaningful career focused experience, tasks and
903 responsibilities while working for the entity;

904 (C) Provide student interns with meaningful feedback and assessments of
905 their performances;

906 (D) Work with student interns to establish learning objectives and goals;

907 (E) Communicate with HRD on a bi-weekly basis regarding the student
908 interns' performances; and

909 (F) Complete a post-internship survey for each student intern.

- 910 (5) HRD shall:
- 911 (A) Review student internship applications and make placements based on
- 912 education and/or interest;
- 913 (B) Determine whether compensation is available for student interns, and,
- 914 if it is, shall annually determine the wage that will be paid to all student
- 915 interns for the duration of the fiscal year. The ability to pay student
- 916 interns a wage is dependent on the Nation's budget and available funding.
- 917 Student interns are not guaranteed to be compensated for participation in
- 918 the student intern program.
- 919 (C) Notify mentors of the student intern's placement and schedule, report
- 920 and end dates and contact information;
- 921 (D) Notify student interns of their placements, report and end dates,
- 922 orientation and training dates and whether their internship includes
- 923 compensation; and
- 924 (E) Notify the Time and Attendance Department of the student intern's
- 925 name, employee number and mentor's name.
- 926 (6) The mentor shall notify HRD of the student intern's last day and shall meet
- 927 with the student intern to provide a written evaluation. The written evaluation
- 928 must include, but is not limited to, a summary of the student intern's work and
- 929 accomplishments, an assessment of the student intern's performance strengths and
- 930 weaknesses and review of the post-internship survey.
- 931 (7) Students participating in the student intern program may use their internship
- 932 experience towards the experience requirements that may be required in the
- 933 Nation's position descriptions and/or towards the requirements of the table of
- 934 equivalency as provided in article 5-6(b)(2).
- 935 (b) Promotions. Supervisors may reward an employee's performance achievements by
- 936 promoting the employee.
- 937 (1) Each entity, at the divisional level, shall develop a standard operating
- 938 procedure establishing how employees will fairly and consistently be selected for
- 939 promotions and shall submit the standard operating procedure to HRD. HRD
- 940 shall review and approve or deny all promotions based on procedural compliance
- 941 with the division's standard operating procedure.
- 942 (A) At a minimum, the entity and HRD shall ensure that the standard
- 943 operating procedure requires that a minimum of two (2) employees are
- 944 considered for each promotion.
- 945 (B) The entity shall require knowledge based testing be used to evaluate
- 946 candidates for a promotion. HRD shall assist entities in developing such
- 947 knowledge based testing.

948 (2) Supervisory Employees. Within six (6) months of a promoted employee
949 assuming supervisory responsibilities, he or she must successfully complete
950 supervisor training, which includes training on this Handbook.

951 (3) The salary and wage negotiations requirements in article 5-11 apply to
952 employee promotions.

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

956 **5-15. Employee Transfers.** Employee transfers must be approved by HRD for procedural
957 compliance and by the prospective transfer's employee supervisor and reviewing supervisor.

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

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

969 (c) Transferring employees are subject to the eligibility screening provided in article 5-
970 6(a).

971 (d) Transferring employees are not subject to an additional probationary period, but are
972 subject to the evaluation requirements for probationary employees as provided in article
973 5-13(d).

974 (e) Within ten (10) business days of the effective date of the transfer, the employee
975 supervisor accepting a transferring employee shall review with the employee the
976 employee's last twelve (12) months of employment record. At such time, the employee
977 supervisor shall provide notice that the employee's record is required to transfer with the
978 employee, which includes required terminations for accumulated corrective actions as
979 provided in article 12-6(c)(1)(A).

980 (f) The salary and wage negotiations requirements in article 5-11 apply to employee
981 transfers.

982 (g) If the supervisors within an entity wish to transfer employees internally within their
983 division without posting subject to article 5-3(b)(1), the entity, at the division level, shall
984 create a standard operating procedure establishing how employees will fairly and
985 consistently be selected for internal transfers and shall submit the standard operating
986 procedure to HRD.

987 **5-16. Interim Status Employees.** Employees, excluding at-will employees, may be assigned
 988 into a vacant position on an interim basis until the vacant position is filled, provided that such
 989 assignments must be approved by the current employee supervisor, the prospective employee
 990 supervisor and prospective reviewing supervisor and, for procedural compliance, also by the
 991 hiring representative. The current employee supervisor shall keep the interim status employee's
 992 position available for the maximum interim period provide in article 5-2(c) and, for that reason,
 993 unlike a normal transfer, the current employee superviosr may deny an interim transfer of his or
 994 her employee.

995 (a) Interim transfers are subject to the posting and maximum duration requirements found
 996 in article 5-2(c).

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

999 (c) When making interim transfers, supervisors may waive any hiring requirements
 1000 except the following, as applicable:

1001 (1) Tribal member only;

1002 (2) Certifications;

1003 (3) Licensing;

1004 (4) Background and security checks; and

1005 (5) Pre-employment drug screenings.

1006 (d) The employee supervisor may start the employee in the interim position only after all
 1007 approvals have been obtained as noticed to him or her by HRD.

1008 (e) The salary and wage negotiations pursuant to article 5-11 apply to employee interim
 1009 reassignments.

1010 (f) An interim transfer employee may not be transferred into the position he or she holds
 1011 on an interim basis as a regular status employee.

1012 (1) The only exception to this restriction is that an employee placed into an
 1013 interim position that is required to be held open (i.e. pending an appeal or a family
 1014 medical leave) in the same entity (based on divisional level) he or she is currently
 1015 employed in, may be transferred or promoted into the position when the position
 1016 is formally vacant (i.e. when the termination is upheld or the employee is
 1017 separated because he or she cannot return from family medical leave). This
 1018 exception is available because the transfer or promotion may not be completed
 1019 until the position is vacant.

1020 (2) In order to qualify for the exception, the interim employee must have
 1021 otherwise qualified for a transfer or promotion as provided in this Handbook.

1022 **5-17. At-Will Employees.** Supervisors may request to hire temporary at-will employees to fill
 1023 an emergency or temporary need or to employ youth workers, student interns or seasonal
 1024 workers, provided that such hiring requires the approval of the employee supervisor, reviewing
 1025 supervisor and, for procedural compliance, the hiring representative.

- 1026 (a) At-will employees taking temporary positions may not be employed for the Nation
1027 for a period exceeding six (6) months, with one (1) six (6) month extension available only
1028 in the event of a hiring freeze. The employee supervisor and HRD shall enforce end
1029 dates for temporary at-will employees. Political appointees are exempt from these
1030 timeframes and may serve for the full term of the Oneida Business Committee member
1031 that appointed them.
- 1032 (b) A supervisor is not required to post a position prior to selecting a short term at-will
1033 employee to fill the position.
- 1034 (c) Supervisors may not schedule any temporary at-will employee to begin work until all
1035 required approvals have been secured, all paperwork as may be required by HRD has
1036 been completed and the hiring representative has provided the supervisor with the earliest
1037 start date available.
- 1038 (d) Supervisors may request a sub-relief pool position to fill in for employees on
1039 vacation.
- 1040 (1) Examples of sub-relief positions include, but are not limited to, teachers,
1041 pharmacists, etc.
- 1042 (2) Sub-relief employees are at-will employees.
- 1043 (3) Supervisors shall review their list of sub-relief employees annually and shall
1044 notify HRD to remove any people who may have become regular status
1045 employees of the Nation.
- 1046 (e) HRD shall maintain a list of applicants interested in temporary work and sub-relief.
- 1047 (f) Hiring of temporary and sub-relief at-will employees must adhere to the Oneida and
1048 Indian preference policy as described in the Employment law and this Handbook.
- 1049 (g) At-will employees may not use payroll deductions to make purchases from tribal
1050 entities, except that payroll deductions are allowed for uniforms and other purchases
1051 required by the Nation for employment.
- 1052 (h) Temporary at-will employees and/or sub-relief at-will employees may not appeal the
1053 end dates of their temporary contracts and/or temporary service.
- 1054 (i) At-will employees may be terminated at any time the supervisor determines that the
1055 employee commits a prohibited behavior meriting corrective action and do not require
1056 accumulated corrective actions pursuant to article 12-6(c)(1)(A).
- 1057 (j) It is recommended that when severing at-will employment based on an employee's
1058 inability to perform the duties of the position for which the employee was hired, a
1059 prohibited behavior meriting corrective action in article 12-2(d)(8), that the employee is
1060 separated rather than terminated. This allows the employee to pursue a better position fit
1061 within the Nation's available positions.
- 1062 (k) At-will employees, excluding political appointees that are hired through the normal
1063 hiring process, do not have access to the appeal process provided in article 13.
- 1064 (l) The salary and wage negotiations pursuant to article 5-11 apply to temporary at-will
1065 employees.

1066 **5-18. Entity Re-organization.** The re-organization of an entity may not be considered to be an
1067 adverse employment action unless the entity fails to abide by its re-organization plan. An entity
1068 re-organization may include, but is not limited to, modifying job descriptions and moving
1069 employees to different/new positions within the entity. A supervisor may re-organize his or her
1070 entity, provided that:

- 1071 (a) He or she must work with the HRD to develop a re-organization plan;
- 1072 (b) He or she must have the approval of the highest level supervisor in the chain of
1073 command;
- 1074 (c) He or she shall complete the re-organization forms required by HRD and shall work
1075 with the Accounting Department to transfer the entity's budget as may be appropriate;
- 1076 (d) The salary and wage negotiations pursuant to article 5-11 apply to employees subject
1077 to position changes based on an entity's re-organization; and
- 1078 (e) The re-organization of the entity must be in the best interest of the Nation.

1079 **5-19. Organizational Wide Re-organization.** Any re-organization of the Nation's entire
1080 employment base must be approved by the Oneida Business Committee. Such organizational
1081 wide re-organizations may not be considered to be an adverse employment action unless the
1082 Nation fails to abide by the re-organization plan developed and approved by the Oneida Business
1083 Committee. An organizational wide re-organization may include, but is not limited to,
1084 modifying job descriptions and moving employees to different/new positions, and combining,
1085 eliminating or creating entities.

- 1086 (a) At the Oneida Business Committee's request, HRD shall work with the Oneida
1087 Business Committee to assist in creating an organizational wide re-organization plan.
- 1088 (b) The salary and wage negotiations pursuant to article 5-11 apply to employees subject
1089 to position changes based on an organizational wide re-organization.

1090 **VI. ANNUAL PERFORMANCE EVALUATIONS AND EMPLOYEE**
1091 **DEVELOPMENT**

1092 **6-1. Annual Performance Evaluations.** The purpose of the annual performance evaluation is
1093 to assess the employee's development in their current position and to provide goals that promote
1094 both the growth of the employee and the Nation.

1095 (a) Employee supervisors shall evaluate each of their employees annually in the same
1096 month as the employee's date of hire for his or her current position and shall meet with
1097 each employee to discuss the contents of the annual performance evaluation.

1098 (1) When evaluating employees having supervisory responsibilities, the employee
1099 supervisor shall request from HRD and consider the report of the supervisor's
1100 accumulated evaluations from employees received under article 6-2. The
1101 reviewing supervisor shall then provide ten percent (10%) of the employee
1102 supervisor's performance evaluation score based on such evaluations.

1103 (A) For employee supervisors having three (3) or less employees, the
1104 reviewing supervisor performing the evaluation shall still request from
1105 HRD and review the report of the supervisor's accumulated evaluations
1106 from employees received under article 6-2. However, in such
1107 circumstances, the reviewing supervisor may not base any portion of the
1108 employee supervisor's performance evaluation score on such evaluations.

1109 (2) HRD shall provide all employee supervisors with a monthly notice of all
1110 employees requiring evaluations in the coming month.

1111 (3) HRD shall follow-up with all employee supervisors that have not turned in the
1112 required evaluations, including re-evaluations required under article 6-1(e), at the
1113 end of each month and shall include notice to the reviewing supervisor.

1114 (4) Employee supervisors having an employee on leave, modified duty, or
1115 suspension whom is up for his or her annual performance evaluation shall
1116 complete the said evaluation within two (2) weeks of the employee's return.

1117 (b) Each annual performance evaluation must review the following:

1118 (1) The employee's performance and competency strengths and weaknesses; and

1119 (2) An employee development plan, including improvement and development
1120 goals for the next review period based on a collaboration of the employee and
1121 employee supervisor. If an employee's evaluation score results in an
1122 unsatisfactory evaluation, the employee development plan must also include the
1123 following:

1124 (A) Specific and critical performance deficiencies;

1125 (B) Position performance standards;

1126 (C) Any other items that may be appropriate to include in the performance
1127 improvement plan, which may include, but are not limited to, referral to an

1128 Employee Assistance Program outside the corrective action process and
1129 required re-training.

1130 (c) Both the employee and the employee supervisor shall sign and date the annual
1131 performance evaluation.

1132 (d) The employee supervisor shall provide a copy of the signed annual performance
1133 evaluation to both the employee and HRD.

1134 (e) Employees who disagree with their annual performance evaluation may seek
1135 mediation with their employee supervisor at HRD.

1136 (f) All employees receiving an overall unsatisfactory score on their annual performance
1137 evaluation must be re-evaluated by their employee supervisor within ninety (90) days of
1138 their signed annual performance evaluation.

1139 (1) During the re-evaluation, the employee supervisor shall follow up on and
1140 reassess the employee development plan with the employee.

1141 (2) Employee's receiving a re-evaluation based on an initial unsatisfactory
1142 evaluation, must receive an annual evaluation score that is an average of the initial
1143 evaluation score and the re-evaluation score.

1144 **6-2. Employee Evaluations of Supervisors.** All employees must be given the opportunity to
1145 anonymously evaluate their employee supervisor through the Nation's supervisor evaluation
1146 program. When an employee supervisor provides an employee with his or her annual self-
1147 performance evaluation materials, the employee supervisor shall provide the employee with the
1148 supervisor evaluation forms created by HRD.

1149 (a) The supervisor evaluation forms must include:

1150 (1) Instructions for completing the evaluation of his or her employee supervisor;

1151 (2) Instructions for delivering the evaluation, either electronically or in hard copy
1152 form, to HRD; and

1153 (3) The due date for completing the evaluation of his or her supervisor, which the
1154 employee supervisor shall enter.

1155 (A) The supervisor evaluation due date must be prior to the date the
1156 employee supervisor has scheduled for his or her evaluation of the
1157 employee and must provide the employee a minimum of five (5) business
1158 days to complete the supervisor evaluation.

1159 (b) HRD may not accept any supervisor evaluations received after the due date provided
1160 by the employee supervisor.

1161 **6-3. Conflict of Interest Renewal Form.** Each year at the time of each employee's annual
1162 review, employee supervisors shall require that each employee complete an updated conflict of
1163 interest form. The employee supervisor shall collect all employees' updated conflict of interest
1164 forms and shall forward them to HRD to be placed in each employee's employee file.

1165 **VII. COMPENSATION AND BENEFITS**

1166 **7-1. Tribal Compensation Plan.** Employees’ compensation is based on the compensation plan
 1167 created by HRD with required collaboration with entities, including, but not limited to, each
 1168 entity’s upper management. The compensation plan must be approved by the Oneida Business
 1169 Committee pursuant to Section 300.6-1 of the Employment law. Also, pursuant to Section
 1170 300.6-1(a) of the Employment law, wage and salary adjustments and benefits available to
 1171 employees are dependent upon available funding allocations.

1172 (a) In order to remain competitive with the local market in filling positions, HRD shall
 1173 review, adjust and approve all wage and salary charts of the Nation as needed, but not
 1174 less than once every three (3) years.

1175 (b) HRD shall work with supervisors to create grading placements for each position
 1176 within the Nation. To ensure earning equity within the Nation’s same or similar
 1177 positions, when negotiating Employee’s wage/salary, employee supervisors shall place
 1178 employees correctly in the bottom third, middle third or top third of the position’s grade
 1179 based upon the employee’s education, experience, licensing and certification. The
 1180 placement standards within each grade are as follows:

Grade Placement	Requirements
Top Third: Master	<ul style="list-style-type: none"> — Employees who have achieved all job requirements and have longevity in the position for ten (10) or more years. — Reserved for employees who have made significant, ongoing contributions over time. — Employees that may be considered subject matter experts.
Middle Third: Proficient	<ul style="list-style-type: none"> — 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. — 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.
Bottom Third: Developing	<ul style="list-style-type: none"> — 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.

1181 (c) HRD, through the Nation’s budgeting process, and by no later than February of each
 1182 year, shall make recommendations for the organization-wide issuance of the following
 1183 based upon market trends:
 1184

1185 (1) Cost of living adjustments where a cost of living adjustment is an adjustment
 1186 to employees’ compensation in order to counteract the effect of inflation and must

- 1187 consider the Consumer Price Index from the Bureau of Labor Statistics for the
 1188 nearest area in the state of Wisconsin, provided that HRD may also consider other
 1189 tools it deems appropriate;
- 1190 (2) Wage/salary adjustments where a wage/salary adjustment is a fluctuation in a
 1191 position's and/or employee's compensation based on market trends or other
 1192 employment driven policies such as retention;
- 1193 (3) Merit based increases where a merit based increase is an increase in an
 1194 employee's compensation based on performance as reflected in the employee's
 1195 annual performance evaluation;
- 1196 (4) Bonuses where a bonus is a lump sum of money given to an employee in
 1197 excess of an employee's wage or salary requirements; and
- 1198 (5) Incentives where incentives are measures taken by the Nation to encourage
 1199 and/or recognize strong employee performance and/or years of service and may
 1200 include, but are not limited to, gifts, gift cards and social functions.
- 1201 (d) Cost of Living Adjustments. If offered, cost of living adjustments must be offered
 1202 organization-wide. When cost of living adjustments are provided, HRD shall adjust the
 1203 grades developed under article 7-1(a) to reflect the adjustment.
- 1204 (e) Wage/Salary Adjustments. All wage and salary adjustments, whether implemented
 1205 organization-wide or initiated by individual entities must remain within the grades and
 1206 placements as developed in article 7-1(a) and (b).
- 1207 (1) The Nation may institute wage and salary adjustments organization-wide
 1208 based on the approved compensation plan. Wage and salary adjustment that
 1209 increase a position's compensation must go into effect for all current employees
 1210 and new hires, whereas adjustments that decrease a position's compensation must
 1211 only go into effect for new hires.
- 1212 (2) Entities may also independently initiate wage and salary adjustments for
 1213 critical Employees and/or positions. Entities must develop and submit to HRD a
 1214 standard operation procedure for implementing wage and salary adjustments for
 1215 critical employees and/or positions prior to effectuating any such adjustments.
 1216 Entity supervisors shall submit all such adjustments to HRD for approval
 1217 indicating procedural compliance with the entity's standard operating procedure.
- 1218 (3) At any time that wage and salary adjustments are made, supervisors shall
 1219 evaluate each employee's placement within the position's grade and may request
 1220 assistance from HRD in performing such evaluation.
- 1221 (f) Merit Based Increases. Employees having one (1) or more years of continuous
 1222 service with the Nation and who receive at least a satisfactory score on their annual
 1223 evaluation are eligible to receive merit based increases. Merit based increases must be
 1224 awarded in conjunction with an employee's annual evaluation, provided that no merit
 1225 based increases may be awarded until the Nation's annual budget is approved by the
 1226 General Tribal Council. Employees at the top of their position's grade may not be

1227 awarded a merit based increase, but may be offered a lump sum of money as a
1228 performance reward in lieu of a merit based increased. Performance rewards may not
1229 exceed the annual value of the merit based increase the employee would have been
1230 eligible for if the employee was not at the top of the position's grade.

1231 (1) Merit based increases may be directed to be provided organization-wide based
1232 on the compensation plan. In such circumstances, the compensation plan must
1233 provide the dollar amount of the entity's budget that must be allocated to merit
1234 based increases based on the number of employees working for the entity.
1235 Entities shall then award the merit based increases in accordance with each
1236 entity's standard operation procedure, which must provide for merit based
1237 increases fairly for all levels of employment. Such standard operating procedures
1238 must be submitted to HRD along with the actual implementation of the merit
1239 based increases in order for HRD to ensure procedural compliance with the
1240 standard operating procedure.

1241 (2) Entities may also independently initiate merit based increases through their
1242 annual budgets. Entities must develop and submit to HRD a standard operation
1243 procedure for awarding merit based increases fairly to all levels of employment.
1244 Prior to implementation, merit based increases must be approved by HRD for
1245 procedural compliance with the standard operating procedure.

1246 (g) Bonuses and Incentives. Bonuses and incentives may be implemented organization-
1247 wide or initiated by individual entities. Bonuses and incentives may not be implemented
1248 until the annual budget is approved by the General Tribal Council. Supervisors shall
1249 require employees receiving incentives, other than social functions and years of service
1250 gifts, to sign an acknowledgment that the incentive is taxable income in accordance with
1251 accounting guidelines.

1252 (1) Bonuses and/or incentives may be directed to be provided organization-wide
1253 based on the compensation plan. In such circumstances, the compensation plan
1254 must provide the dollar amount of the entity's budget that must be allocated to
1255 bonuses and/or incentives based on the number of employees working for the
1256 entity. Entities shall then award the bonuses and/or incentives in accordance with
1257 each entity's standard operation procedure which must fairly provide for bonus
1258 and/or incentive distribution to all levels of employment. Such standard operating
1259 procedures must be submitted to HRD along with the actual implementation of
1260 the bonuses and/or incentives in order for HRD to ensure procedural compliance
1261 with the standard operating procedure.

1262 (2) Entities may also independently initiate bonuses and/or incentives through
1263 their annual budgets. Entities must develop and submit to HRD a standard
1264 operation procedure for fairly implementing bonuses and/or incentives to all
1265 levels of employment prior to implementation.

1266 (h) Direct reports to the Oneida Business Committee shall notify the Oneida Business
1267 Committee each time their entity implements any of the items contained in (e) through
1268 (g) of this sub-article, at which time the Oneida Business Committee shall consider
1269 implementing the same for the direct report based on the direct report's entity's standard
1270 operating procedure.

1271 **7-2. Compensation for Additional Duties.** Employee supervisors shall negotiate additional
1272 duty compensation when assigning duties to an employee, excluding at-will employees.
1273 Additional duties compensation is available for duties that are of a different nature from those
1274 the employee is already responsible for and/or specialized duties of the same nature but in excess
1275 of those the employee is already responsible for; further, such duties must be required because
1276 the entity has a vacant position, has been assigned additional responsibilities but has not hired
1277 additional employees and/or is pursuing a special project that was not previously the entity's
1278 responsibility or related to its area. For the purpose of this article, specialized duties are those
1279 tasks that require the employee to have particular training or formal education. In order to be
1280 eligible to receive additional duty compensation, the employee must retain responsibility for
1281 their original duties and assume additional responsibilities.

1282 (a) Additional duties compensation may exceed the maximum wage or salary of the
1283 employee's grade.

1284 (b) Additional duties compensation may be approved for additional duties assumed for at
1285 least four (4) pay periods and for a maximum period of one (1) year. Additional duties
1286 compensation approvals must include an effective date and an end date, provided that
1287 payment for additional duties may not begin until the fifth (5th) pay period following the
1288 effective date. HRD shall ensure that the employee receives retroactive payment for the
1289 initial four (4) pay periods of additional duties assignments and that additional duties
1290 compensation ceases effective upon the end date, provided that a supervisor may extend
1291 an end date within the one (1) year period.

1292 (c) When assigning additional duties, an employee supervisor may waive any position
1293 requirements except the following, as applicable:

- 1294 (1) Tribal member only;
- 1295 (2) Certifications;
- 1296 (3) Licensing;
- 1297 (4) Background and security checks; and
- 1298 (5) Additional drug screenings.

1299 (d) If an employee supervisor revises any position description following assignment of
1300 additional duties in order to incorporate the additional duties to the employee's existing
1301 duties, the employee must meet all eligibility and qualification requirements.

1302 (e) Supervisor's approving additional duties compensation shall create an additional
1303 duties performance agreement and must be signed by the employee, the employee
1304 supervisor and the reviewing supervisor. This agreement must be forwarded to HRD and
1305 approved for procedural compliance with this Handbook, specifically to ensure that the

1306 duties assigned meet qualify for additional duties compensation. HRD has the final say
 1307 as to which duties qualify for additional duties compensation. At a minimum, the
 1308 additional duties performance agreement must contain the following:

- 1309 (1) The specific responsibilities and duties that the employee is assuming;
- 1310 (2) The agreed upon percentage of additional duties compensation; and
- 1311 (3) The start and end dates of additional duties compensation.

1312 (f) Unless an entity develops its own standard operating procedure for negotiating
 1313 additional duties compensation, supervisors must negotiate additional duties
 1314 compensation based on the following:

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

1315 *If more than one (1) employee is assuming one (1) positions duties, the additional duties percentages must be
 1316 divided between the employees, but may not exceed the maximum range according to this table.

1317 **7-3. Compensation for Travel Time.** Time spent traveling on an airplane, train or car is
 1318 compensable time if the said travel is part of the employee’s position responsibilities.

- 1319 (a) Travel from home to work and work to home is considered portal to portal travel and
 1320 is not compensable.
- 1321 (b) Employees required to drive as a part of the responsibilities of their position, must be
 1322 certified to drive a tribal vehicle or their own personal vehicle.
- 1323 (c) Employees’ time spent traveling from work site to work site is compensable. An
 1324 example of work site to work site travel would be a casino employee whose normal work
 1325 site is IMAC being asked to go to West Mason Street casino location to complete his or
 1326 her shift.
- 1327 (d) Employees are eligible for workers compensation while on travel.

1328 **7-4. On-Call Compensation.** Employees holding positions that are supported by on-call
 1329 services may receive on-call compensation as approved by the employee supervisor. Prior to an
 1330 entity’s offering on-call compensation, the entity shall develop a standard operating procedure
 1331 based on available industry standards which establishes the conditions under which such
 1332 compensation may be offered and the compensation rate.

- 1333 (a) Exempt (salaried) employees are not eligible for on-call compensation, but may,
 1334 with the employee supervisor’s approval, use flex time during the work week to
 1335 accommodate for any time they are required to be on-call.

1336 (b) If the employee must remain on site when the employee is on-call or so close to
 1337 work site the employee cannot use their own personal time effectively, this is considered
 1338 hours worked.

1339 (c) Employees on-call are required to be drug and alcohol free while on-call.

1340 **7-5. Shift Differentials.** Entities that operate outside the Nation's normal business day may
 1341 offer employees shift differentials in order to incentivize working shifts that are difficult to fill.
 1342 A shift differential is an increased rate of compensation when working outside of the Nation's
 1343 normal business day. If an entity chooses to offer a shift differential, the amount of increased
 1344 compensation must be the same for all employees and the entity shall develop a standard
 1345 operating procedure establishing what rate is to be offered and for which shifts. The standard
 1346 operating procedure must be submitted to HRD for approval to ensure compliance herewith.

1347 **7-6. Lead Compensation.** Employee supervisors may approve lead compensation for wage
 1348 earning employees that do not have current supervisory responsibilities and that the employee
 1349 supervisor has designated to provide guidance to employees in his or her absence.

1350 (a) Lead duties may not include disciplining, hiring employees or approving employee's
 1351 work hours.

1352 (b) Supervisors wishing to designate leads shall develop a standard operating procedure
 1353 outlining leads' responsibilities and lead compensation available, provided that it may not
 1354 exceed two dollars (\$2.00) per hour; the said standard operating procedure must be
 1355 reviewed and approved by HRD for compliance with this Handbook.

1356 **7-7. Positions Earning Tips.** Tips earned by an employee are considered to be part of his or
 1357 her compensation. Entities with positions having tip earning capacity shall develop a standard
 1358 operating procedure outlining how any tips earned will be dispersed to employees (i.e. whether
 1359 each employee keeps all tips earned in his or her own capacity or whether there is a tip pool).

1360 **7-8. Overtime Compensation.** Any and all overtime compensation must be kept to a minimum
 1361 and requires approval of the employee supervisor and reviewing supervisor prior to overtime
 1362 hours being incurred. For the purposes of this article, overtime is classified as any hours worked
 1363 by non-exempt (wage earning) employees in excess of forty (40) hours per week and is not
 1364 inclusive of paid time off used.

1365 (a) In case of overtime hours that may need to be incurred when a supervisor is not
 1366 available for the required approvals, employees may incur overtime without supervisor
 1367 approval in order to fulfill a business need.

1368 (b) The Nation shall pay all employees eligible for overtime at a rate of 1.5 the
 1369 employee's hourly pay. HRD shall maintain and make available to all supervisors, a list
 1370 of each entity's salary earning employees, as salaried employees are not eligible for
 1371 overtime compensation.

1372 (c) If required to maintain efficiency of the Nation's business or to complete required
 1373 regulatory functions, supervisors may require employees to work overtime hours.

1374 (d) Employees shall report all overtime hours incurred to his or her employee supervisor.

1375 **7-9. Speaker and/or Presenter Compensation.** An employee whom is offered compensation
 1376 by a third party for participating in an event as a speaker and/or presenter as related to his or her
 1377 position's duties must either:

1378 (a) Request paid time off to attend the event for which the employee will speak and/or
 1379 present and keep the compensation offered by the third party; or

1380 (b) Collect his or her normal compensation from the Nation for the time spent speaking
 1381 and/or presenting as related to his or position's duties and forward the compensation
 1382 provided by the third party to the Nation's Accounting Department to be added to the
 1383 employee's entity's budget as income.

1384 (c) Employees receiving compensation, including gifts and gift cards, equal or less than
 1385 fifty dollars (\$50.00) in value are exempt from this requirement.

1386 **7-10. Snow and Ice Removal Compensation and Work Week.** Employees engaged in snow
 1387 and ice removal must be compensated consistently as provided below.

1388 (a) When snowstorms are forecasted within a work week, supervisors may send
 1389 employees home on non-snow days to save on wages and so that the employees are able
 1390 to be prepared to shift from the normal work week schedule to perform snow and ice
 1391 removal.

1392 (1) Employees engaged in snow and ice removal shall be prepared to adjust their
 1393 workweek schedule at any time that snow and/or ice removal becomes necessary.

1394 (2) If a supervisor sends employees home and flexes their time in anticipation of a
 1395 weather event, and the said weather event does not transpire, the supervisor shall
 1396 allow employees to make up hours flexed outside of the employee's regularly
 1397 scheduled times, including Saturdays, in order to minimize the likelihood that
 1398 employees are unable to work a full work week because of weather event
 1399 preparation.

1400 (b) Non-salary employees that are called in and report for snow and/or ice removal and
 1401 are dismissed before having worked one (1) hour are guaranteed to receive a minimum of
 1402 one (1) hour of compensation at their regular rate of pay.

1403 (c) Non-salary employees earn at their regular rate of pay for their regularly scheduled
 1404 shift and earn at their regular rate of pay plus two dollars (\$2.00) for each hour worked
 1405 outside of their regularly scheduled shift.

1406 (1) For purposes of determining overtime compensation in accordance with
 1407 article 7-7, the two dollar (\$2.00) per hour rate increase for non-salary employees
 1408 working outside of their regularly scheduled shift must be applied to the base rate
 1409 of pay before increasing the rate by time and a half.

1410 (d) Employees engaged in snow and/or ice removal must comply with the Wisconsin
 1411 Department of Transportation's rest requirements.

1412 **7-11. Premium Pay.** The Nation shall pay non-salaried employees working during times of the
 1413 year that are strong in traditions, but not recognized as official holidays premium pay, at a rate

1414 determined by HRD with collaboration with supervisors not to exceed four dollars (\$4.00) per
 1415 hour. The said rate must be added to the base hourly rate, inclusive of overtime pay.

1416 (a) Premium pay is only available to non-salaried employees as follows:

1417 (1) For Christmas Eve, a maximum of four (4) hours worked between 12:01 p.m.
 1418 and 11:59 p.m.;

1419 (2) For New Year's Eve Day from 5:00 p.m. to 11:59 p.m.; and

1420 (3) For Easter Sunday from 12:00 a.m. to 11:59 p.m.

1421 (b) Supervisors shall ensure that premium pay is included in their entity's budget through
 1422 the budgeting process.

1423 **7-12. Paid Holidays.** HRD shall distribute and post on Employee Self-Service a calendar of
 1424 paid holidays observed by the Nation for the upcoming year no later than November 1st of the
 1425 current year.

1426 (a) The Nation observes the following paid holidays:

1427 (1) New Year's Day;

1428 (2) Good Friday (half day);

1429 (3) Oneida Code Talkers Day (observed the Friday prior to Memorial Day);

1430 (4) Memorial Day;

1431 (5) Independence Day;

1432 (6) Labor Day;

1433 (7) Veteran's Day;

1434 (8) Thanksgiving Day;

1435 (9) Indian Day (observed the day after Thanksgiving);

1436 (10) Christmas Eve (half day);

1437 (11) Christmas Day; and

1438 (12) Floater Holidays for all Employees Working Outside of the Nation's Regular
 1439 Business Day. The Nation is offering floating holidays to employees working
 1440 outside of the standard work day in order to recognize those employees for
 1441 working evenings, weekends and holidays. Floating holidays provide employees
 1442 alternate days to take the holiday pay offered by the Nation which would allow
 1443 such employees the ability to spend "floating holiday" days at home with friends
 1444 and family the same way employees working standard business days are able to
 1445 spend the Nation's recognized holidays. Employees that work outside of the
 1446 Nation's regular business day may take a floating holiday for any and/or all
 1447 holiday(s) recognized by the Nation which would allow the employee to take the
 1448 holiday pay provided on a different day (i.e. the employee's birthday or a holiday
 1449 that is not recognized by the Nation, like Hanukah).

1450 (A) Wage earning employees taking a floating holiday that are required to
 1451 work on a holiday recognized by the Nation will continue to receive
 1452 holiday worked pay at one half the employee's regular rate. The holiday

1453 pay that the employee would normally also receive on that day is
 1454 transferred to the day selected by the employee for the floating holiday.

1455 (i) If a wage earning employee did not take a floating holiday and
 1456 was required to work an eight (8) hour shift on Christmas day, the
 1457 employee would be compensated for twenty (20) hours, eight (8)
 1458 of which are based on his normal rate of pay, four (4) of which are
 1459 based on holiday worked pay and the remaining eight (8) of which
 1460 are holiday pay.

1461 (ii) If a wage earning employee took a floating holiday to take
 1462 holiday pay on the employee's birthday instead of on Christmas
 1463 day and worked eight (8) hours on Christmas day, the employee
 1464 would be compensated for twelve (12) hours on his paycheck that
 1465 covered his Christmas day shift and would receive his eight (8)
 1466 hours of holiday pay on his paycheck that covered his birthday.

1467 (B) Salaried employees working for an entity that qualifies for floating
 1468 holidays may also float the holiday pay offered, although the salaried
 1469 employee is not eligible for holiday worked pay.

1470 (C) Prior to offering employees a floating holiday, the entity shall create a
 1471 standard operating procedure to govern the approval process for such
 1472 requests and the standard operating procedure must be submitted to and
 1473 approved by HRD.

1474 (D) If an employee elects to take a floating holiday in lieu of one (1) of the
 1475 holidays recognized by the Nation, the employee is not eligible for holiday
 1476 pay on the holiday recognized by the Nation that has been substituted for
 1477 the floating holiday.

1478 (b) Paid holidays falling on a Saturday will be observed the preceding Friday and paid
 1479 holidays falling on a Sunday will be observed on the following Monday. Entities that do
 1480 not operate under the Nation's standard business day and are open on the weekends shall
 1481 observe the Holiday on the actual calendar day.

1482 (c) Full-time employees must receive eight (8) hours of paid holiday time and part-time
 1483 employees will receive four (4) hours of paid holiday time. For positions earning tips,
 1484 holiday pay shall be based on the position's average hourly earnings for the previous
 1485 thirty (30) calendar day period.

1486 (d) The following employees are not eligible for paid holidays:

- 1487 (1) Employees on a leave of absence;
- 1488 (2) Employees on investigative leave;
- 1489 (3) Laid-off employees;
- 1490 (4) Temporary at-will employees; and
- 1491 (5) Employees on suspension over the course of a holiday.

1492 (e) In order to be eligible to receive compensation for the paid holiday, employees must
1493 work their scheduled days immediately preceding and following the paid holiday
1494 recognized by the Nation, provided that approved paid time off meeting the notice
1495 requirements in article 7-13(g)-(i) is not considered a scheduled day.

1496 (f) Non-salary employees working on paid holidays must receive both the holiday pay at
1497 their compensation rate as well as holiday worked pay, which is one half of the
1498 employee's regular compensation rate.

1499 **7-13. Paid Time Off (PTO).** Employees accrue PTO based on years of continuous service,
1500 provided that temporary employees are not eligible to accrue PTO.

1501 (a) PTO accrual rates for full-time employees are as follows:

1502 (1) 0-3 years of service – 144 hours annually

1503 (2) 4-7 years of service – 184 hours annually

1504 (3) 8-15 years of service – 240 hours annually

1505 (4) 16 + years of service – 296 hours annually

1506 (b) Part-time employees accrue time off based on the hours worked as a ratio of full-time
1507 hours.

1508 (c) Once an employee reaches 280 hours of accrued PTO, he or she ceases to accrue
1509 PTO. Employee supervisors shall notify employees in danger of reaching the accrual cap
1510 when the employee reaches 200 hours of accrued PTO.

1511 (d) Trade back of accrued PTO for cash is not permitted unless expressly authorized by
1512 an Oneida Business Committee resolution, provided that, even if authorized by an Oneida
1513 Business Committee resolution, employees may not trade in more than eighty (80) hours
1514 of accrued PTO in one (1) year.

1515 (e) Upon resignation, separation or termination, the Nation shall pay out the said
1516 employee, excluding at-will employees, for any unused accrued PTO.

1517 (f) PTO may be used for any reason, provided that the request for PTO must be approved
1518 by the employee supervisor. Employee supervisors must approve all requests for PTO
1519 unless the request would interfere with the business of the Nation. When an employee
1520 supervisor denies a request for PTO, he or she shall provide justification supporting his or
1521 her assertion that granting the request would have interfered with the business of the
1522 Nation.

1523 (g) Employees requesting PTO shall comply with the following timelines for submitting
1524 the request to their employee supervisors:

1525 (1) For one (1) to two (2) days of PTO, no less than one (1) day in advance.

1526 (2) For three (3) to five (5) days of PTO, no less than one (1) week in advance.

1527 (3) For six (6) or more days of PTO, no less than two (2) weeks in advance.

1528 (h) In the case of an illness or unforeseen circumstances, an employee must notify his or
1529 her employee supervisor that he or she will be absent no less than fifteen (15) minutes
1530 prior to the employee's scheduled starting time. Employees may use PTO based the
1531 reduced notice requirements in this article a maximum of six (6) occurrences in a rolling

1532 twelve (12) month period. In such circumstances, the employee supervisor's approval is
1533 not required, provided that the reduced notice requirement must be satisfied. In
1534 circumstances where an employee is unable to provide any notice of an absence because
1535 the employee was medically incapacitated, as verified by a note from a health care
1536 provider, supervisors shall allow PTO to be taken without fulfilling the notice
1537 requirements. For purposes of calculating the allowable six (6) occurrences:

1538 (1) An employee may only use an occurrence without the potential of being
1539 subject to corrective action based on the entity's standards if the employee has
1540 available accrued PTO and meets the reduced notice requirements.

1541 (2) Leaving work in the middle of a workday based on illness or unforeseen
1542 circumstances remains subject to employee supervisor approval and may not be
1543 considered an occurrence.

1544 (3) Using multiple days of PTO for the same illness or unforeseen circumstance is
1545 considered one (1) occurrence so long as the employee:

1546 (A) Notices his or her employee supervisor that he or she may need
1547 additional days off of work based on the illness or unforeseen
1548 circumstances on the first day he or she calls in to work; and

1549 (B) Provides the employee supervisor with a note from health care
1550 provider or other verifiable written notice confirming that the employee
1551 required more than one (1) day off of work.

1552 (4) The use of multiple days of PTO for the same illness or unforeseen
1553 circumstance may be considered a separate occurrence for each day if the
1554 employee does not meet the requirements contained in article 7-12(h)(3).

1555 (i) Entities may develop their own standard operating procedures that deviate from the
1556 requirements contained in sub-articles (g) and (h). In regards to sub-article (h), unless
1557 excluded in subsection (1) below, entities may not provide employees with less than six
1558 (6) occurrences to use PTO with the reduced notice requirements in a rolling twelve (12)
1559 month period, and may not require greater than two (2) hours of notice for such call ins.
1560 Such standard operating procedures may include blackout dates deemed critical to
1561 business during which no PTO may be taken regardless of whether it is proposed to be
1562 taken pursuant to sub-article (g) or (h) above.

1563 (1) Entities that have service provider to service receiver ratios regulated by law
1564 (i.e. Oneida Airport Road Childcare Center or the Anna John Nursing Home),
1565 may develop separate standard operating procedures from those provided in sub-
1566 article (g) above for employees calling in with reduced notice based on illness or
1567 unforeseen circumstances. For these entities only, the entity's standard operating
1568 procedure may provide less than six (6) occurrences to call in with reduced notice
1569 in a rolling twelve (12) month period and may require greater than two (2) hours
1570 of notice for such call ins if the entity determines such deviations are required in
1571 order to maintain the employee ratios required by law.

1572 (j) Supervisors shall retain employee requests for PTO for a period of seven (7) years.
1573 **7-14. Donation of PTO Hours.** An employee, excluding temporary at-will employees, who
1574 accrue PTO, may donate such PTO to another employee, excluding temporary employees. In
1575 order to receive donated hours, the donee must have a medical emergency requiring a prolonged
1576 absence from work, which may include intermittent absences related to the same illness or
1577 condition, for which the donee has insufficient accrued PTO (less than 20 hours). Employees
1578 may not receive donated hours in any circumstance outside of a medical emergency and HRD
1579 must approve all donations of PTO for procedural compliance.

1580 (a) In order to receive donated PTO, the donee must provide his or her employee
1581 supervisor with documentation of the medical emergency from a health care provider.

1582 For the purposes of this article, a medical emergency is a major illness or medical
1583 condition; examples include, but are not limited to, cancer, heart attack, stroke and
1584 diabetes complications.

1585 (b) Donated hours of PTO are paid at the donee's rate of compensation.

1586 (c) Donated hours of PTO may only be used for the identified and documented medical
1587 emergency.

1588 (d) Employees who receive donated PTO may not trade back these hours for cash under
1589 any circumstances.

1590 (e) Employees may request donated PTO hours from individuals through the Nation's e-
1591 mail system, but may not include groups in such e-mail requests.

1592 **7-15. Health Insurance.** HRD shall provide employees information related to health insurance
1593 benefits during the new employee orientation pursuant to article 5-12(b)(4) and shall provide
1594 notice to employees at reasonable timeframes and each time the benefits provided are subject to
1595 change.

1596 **7-16. Retirement.** HRD shall provide employees information related to retirement benefits
1597 during the new employee orientation pursuant to article 5-12(b)(4) and shall provide notice to
1598 employees at reasonable timeframes and each time the benefits provided are subject to change.

1599 **7-17. Full-time and Part-time Determination.** For the purpose of determining benefits, an
1600 employee's status as full-time or part-time is determined based on the average hours worked per
1601 week by the employee during the previous six (6) month period.

1602 **VIII. WORK DAY STANDARDS**

1603 **8-1. Business Day.** The regular business day is from 8:00 a.m. to 4:30 p.m. with one (1) hour
 1604 provided for lunch, of which thirty (30) minutes are paid and thirty (30) minutes are unpaid.
 1605 Further, employees must work a minimum of 5.25 hours to receive the one (1) hour lunch break.

1606 (a) Entities may establish varying work day standards for the purposes of providing
 1607 services that extend beyond the regular business day (i.e. Oneida Bingo and Casino's
 1608 24/7 operations), provided that such standards must include appropriate break and/or
 1609 lunch periods that promote efficiency and must be submitted to HRD prior to becoming
 1610 effective.

1611 (b) All entities shall comply with applicable child labor laws regulating the employment
 1612 of persons under the age of eighteen (18).

1613 (c) All entities shall provide nursing mothers with lactation rooms and lactation breaks to
 1614 express milk during their work day.

1615 (1) Lactation rooms must consist of a private, non-bathroom place, that is
 1616 shielded from view and free from intrusion by employees or the public.

1617 (2) Lactation breaks are not required to be paid, unless the employee is using part
 1618 of an otherwise paid break to express milk, in which case she must be
 1619 compensated in the same way that other employees are compensated for normal
 1620 break times.

1621 (3) An employee may take a maximum of one (1) unpaid lactation break for each
 1622 three (3) hours worked, provided that the employee supervisor shall record all
 1623 unpaid lactation breaks taken by his or her employees in the timekeeping system
 1624 with a note indicating "LB Lactation Break/unpaid time."

1625 (d) Upon an entities receipt of notice of a blood drive sponsored by the Nation, it shall
 1626 notify employees of the said blood drive so they may schedule donation appointments.
 1627 Supervisors may provide employees with a paid donation break so long as the employee
 1628 has a pre-approved and scheduled donation appointment.

1629 (e) Supervisors may provide employees with a paid voting break in order to participate in
 1630 Oneida and national elections.

1631 **8-2. Time Keeping Standards.** Wage earning employees shall correctly use the Nation's
 1632 timekeeping system and follow all standard operating procedures established by their entity.
 1633 Start and end times may be rounded to the nearest quarter of an hour. Further, employees shall
 1634 clock in and out on their own behalf; it is strictly forbidden for employees to clock in or out on
 1635 another employee's behalf.

1636 (a) Regardless of salary status, salary positions must work a full work week in order to
 1637 receive full salary compensation. Salaried employees are eligible to request both full and
 1638 partial days off using PTO. A salaried employee requesting hours off in excess of his or
 1639 her accrued PTO must either be denied the request and required to either flex time in
 1640 order to take those hours off or to take time off without pay, provided that such time must
 1641 be taken in full workday increments.

1642 (b) Employees who do not report to work because of inclement weather or unforeseen
1643 circumstances will not be compensated for such time missed unless the employee elects
1644 to use PTO to cover the missed time based on the requirements provided in article 7-13.

1645 (c) Employee supervisors shall review, approve and correctly record in the Nation's
1646 timekeeping system all of their employees' time worked and time off. Should the
1647 employee supervisor suspect any errors in an employee's time keeping and/or
1648 compensation received based on time records, he or she shall report the suspected error to
1649 the Time and Attendance Department, which shall investigate the error and provide a
1650 response to the employee supervisor.

1651 (d) Supervisors may allow an employee to use flex time for his or her work schedule
1652 within a work week as defined as Sunday through Saturday, provided that hours may not
1653 be flexed outside of a single week.

1654 (e) Supervisors shall report any change in an employee's status to HRD. Examples of
1655 such changes may include, but are not limited to:

1656 (1) A change from full-time status to part-time status or vice versa;

1657 (2) A salaried employees modification of hours worked in a work week;

1658 (3) Any approved leave of absences;

1659 (4) Modified duties; and

1660 (5) Any time off granted without pay for periods extending longer than two (2)
1661 weeks.

1662 (f) The Time and Attendance Department shall retain all time and attendance records for
1663 a period of seven (7) years.

1664 (g) The Time and Attendance Department may create a standard operating procedure
1665 which establishes pay codes and comments required to be used by all entities in order for
1666 the Time and Attendance Department to monitor and achieve time and attendance
1667 procedural compliance.

1668 **8-3. Position Abandonment.** An employee that fails to show up for three (3) consecutive
1669 scheduled work days without making any communication with his or her supervisor is deemed to
1670 have abandoned his or her position, which amounts to a voluntary resignation.

1671 (a) It is understood that circumstances may arise in which an employee is unable to
1672 provide notice to supervisor for more than three (3) scheduled work days due to
1673 extenuating circumstances, like a medical emergency, but does not wish to abandon his
1674 or her position. Accordingly, prior to asserting that an employee has abandoned his or
1675 her position, the employee supervisor shall attempt to contact the employee via e-mail if
1676 available, otherwise via telephone where a call log is required.

1677 (b) If the employee supervisor is able to make contact with the employee and the
1678 employee is able to provide a note from a doctor confirming that a medical emergency
1679 prevented him or her from reporting to work and noticing his or her employee supervisor
1680 of the absence, the employee supervisor may not find position abandonment has
1681 occurred.

1682 (c) If the employee supervisor is unable to contact the employee, he or she shall
 1683 document that the employee has abandoned his or her position by sending a letter to the
 1684 employee's last known address via first class mail. The letter must include the following:

1685 (1) The dates the employee failed to show up to work or provide notice to his or
 1686 her employee supervisor of the absence;

1687 (2) The date the employee supervisor attempted and failed to contact the
 1688 employee; and

1689 (3) Notice that the Nation has accepted the employee's voluntarily resignation.

1690 **8-4. Work Day Changes for Emergencies.** Tribal emergency, incident and state of emergency
 1691 closures may be organization wide, at multiple locations or at a single location, and may be made
 1692 by the Emergency Management/Homeland Security Agency and/or the Oneida Police
 1693 Department.

1694 (a) In the event of an emergency closure, the party effectuating the closure shall provide
 1695 notice of the said closure to the Oneida Communications Department, which shall
 1696 provide notice to the appropriate parties, including HRD. Each entity, including HRD
 1697 shall provide the Oneida Communications Department with two (2) points of contact for
 1698 communication in the event of an emergency.

1699 (b) Supervisors shall notify their employees in the event of a closing and shall develop a
 1700 standard operating procedure for providing said notice.

1701 (c) In the event of an emergency closure, any timelines provided in these rules must be
 1702 extended for the same period of time as the emergency closure.

1703 (d) Critical entities may deviate from the closure requirements contained in this article so
 1704 long as the entity has developed and submitted to HRD its own emergency closure
 1705 standard operation procedure. The following is a list of the entities deemed to be critical:

1706 (1) Oneida Anna John Resident Care Center Community;

1707 (2) Oneida Child/Day Care – Departments;

1708 (3) Oneida Department of Public Works;

1709 (4) Emergency Management – Homeland Security Agency;

1710 (5) Oneida Enterprise Division;

1711 (6) Oneida Gaming Division;

1712 (7) Oneida Internal Security Department;

1713 (8) Oneida Police Department;

1714 (9) Oneida Surveillance Department;

1715 (10) Oneida Health Center; and

1716 (11) Oneida Tribal School System.

1717 **IX. LEAVES**

1718 **9-1. Family Medical Leave.** Family Medical Leave (FML) is an unpaid leave for qualifying
 1719 events which protects the employee's position and is available for all employees (excluding at-
 1720 will employees) and salaried elected officials of the Nation.

1721 (a) Employees are entitled to up to ninety (90) calendar days of FML in a rolling twelve
 1722 (12) month period in accordance with the qualifying events recognized by the Family and
 1723 Medical Leave Act, which includes the birth, adoption, and/or placement for adoption of
 1724 a child.

1725 (1) An employee may receive extended FML up to 180 calendar days if the FML
 1726 is to care for an immediate family member of the employee who is a military
 1727 member with a serious health condition as recognized by the Family and Medical
 1728 Leave Act and the United States Department of Labor.

1729 (A) Documentation from a health care provider must be provided to
 1730 support an FML extension.

1731 (B) Requests for extended FML beyond the initial ninety (90) days under
 1732 this article require approval from the employee supervisor, reviewing
 1733 supervisor and HRD where such approval is completely discretionary and
 1734 subject to the entity's needs.

1735 (b) Employees are not required to take all of the FML they are entitled to in a single
 1736 block of time; it may be taken on an intermittent or reduced schedule basis when
 1737 medically necessary.

1738 (1) Employees must provide documentation from a health care provider that
 1739 identifies the medical necessity of an intermittent or reduced scheduled FML.

1740 (2) Intermittent FML does not apply if the FML is for the birth, placement or
 1741 adoption of a child or if the FML is beyond the first 90 calendar days of FML the
 1742 Employee is entitled to.

1743 (c) Requests for the 90 calendar days of FML employees are entitled to pursuant to
 1744 article 9-1(a) require approval from the employee supervisor and HRD. Such approvals
 1745 are required only to verify that the request includes a valid qualifying event; provided that
 1746 if the request is based on a valid qualifying event, it may not be denied.

1747 (d) Employees eligible for FML based on a serious health condition shall have the
 1748 serious health condition verified by a health care provider. For the purposes of this
 1749 section, a health care provider includes, but is not limited to, the following persons
 1750 practicing in accordance with state and federal laws:

1751 (1) Doctors of medicine or osteopathy;

1752 (2) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors;
 1753 and

1754 (3) Nurse practitioners, physician assistants, and clinical social workers.

1755 (e) If an employee partakes in the Nation's insurance benefits at the time FML is
 1756 granted, the Nation shall continue to pay for its contribution to the employees insurance

1757 for medical, dental, vision and short and long term disability while the employee is on
1758 FML for a maximum of 180 calendar days. While the employee is on FML, the Nation
1759 will not pay individual benefits, including but not limited to, critical illness, whole life,
1760 voluntary term life, accident, and individual short term disability. In addition,
1761 employees' accrual of PTO is suspended while on FML.

1762 (f) If the FML was for an employee's own serious health condition, a release to return to
1763 work from the employee's health care provider must be provided to the employee
1764 supervisor and HRD before the employee may return to work.

1765 (1) If an employee is not able to return to work following FML, HRD shall, upon
1766 a supervisor's request, separate the employee from his or her employment with
1767 the Nation.

1768 (2) So long as an employee is able to return to work following a FML, his or her
1769 job must be made available upon return, unless a business need of the Nation has
1770 eliminated the position, in which case the employee must be placed within the
1771 closest comparable and available position for which the employee is eligible.

1772 (g) The following process must be followed when employees request FML:

1773 (1) The employee shall complete FML request form and shall submit it to his or
1774 her employee supervisor, along with supporting documentation from a health care
1775 provider.

1776 (A) To the extent possible, the employee shall provide the request to his
1777 or her employee supervisor no later than ten (10) business days from the
1778 date the employee intends to begin his or her FML.

1779 (B) If the employee is unable to complete the FML request form, the
1780 employee supervisor may complete it on behalf of the employee.

1781 (C) Upon receipt of an employee's request for FML, the employee
1782 supervisor shall provide notice of the request to the reviewing supervisor
1783 and shall forward the request to HRD.

1784 (2) HRD shall approve or deny all FML requests, provided that FML requests
1785 pursuant to article 9-1(a)(1) also require the employee supervisor's approval.

1786 (A) If an FML request is denied, HRD must provide written notice of the
1787 denial to the employee, the employee supervisor and the reviewing
1788 supervisor.

1789 (B) If the FML request is approved, HRD shall process the FML and
1790 provide written notices to the employee, the employee supervisor and the
1791 reviewing supervisor.

1792 (i) All written notices must include the approved dates of the FML,
1793 the starting and end date of the FML, and any instructions helpful
1794 to both the employee and the employee's supervisors (i.e.
1795 instructions for tracking intermittent FML).

1796 (ii) In addition, the notice to the employee must also include any
 1797 instructions for the employee only (i.e. instructions for making
 1798 payments for voluntary benefits) and any other applicable benefits
 1799 information.

1800 **9-2. Personal Leaves.** Employees, excluding at-will employees, may request to take leave for
 1801 personal reasons (i.e. educational leave), provided that personal leaves may not exceed one (1)
 1802 year.

1803 (a) An employee requesting personal leave shall submit his or her request to his or her
 1804 employee supervisor who shall then forward the request to the employee's reviewing
 1805 supervisor.

1806 (b) All requests for personal leave are subject to the approval of the employee's
 1807 employee supervisor and reviewing supervisor; said approvals are subject to the
 1808 supervisors' complete discretion based on the entity's needs. Employee supervisors must
 1809 notify the employee's reviewing supervisor of his or her decision regarding a request for
 1810 personal leave.

1811 (c) If the personal leave is approved by both the employee supervisor and the reviewing
 1812 supervisor, the employee supervisor shall provide a copy of the approved leave request
 1813 form to HRD for processing and record keeping.

1814 (d) If an employee partakes in the Nation's insurance benefits at the time personal leave
 1815 is granted, such coverage is suspended on the employee's last working day prior to taking
 1816 leave and is re-instated on the first day the employee returns to work following leave.
 1817 Employees' accrual of PTO is suspended while on personal leave.

1818 (e) So long as an employee is able to return to work following a personal leave, his or her
 1819 job must be made available upon return, unless a business need of the Nation has
 1820 eliminated the position, in which case the employee must be placed within the closest
 1821 comparable and available position for which the employee is eligible.

1822 (f) If an employee is not able to return to work following a personal leave, he or she must
 1823 be separated.

1824 **9-3. Military Leave.** The Military Service Protection Act governs all military leaves, the
 1825 following provisions also apply.

1826 (a) A military leave of absence is afforded to employees entering active duty without the
 1827 accrual of holiday pay or PTO during the said leave. The Nation shall maintain any
 1828 benefits accrued by the employee prior to such leave.

1829 (b) Leave for inactive duty training, examinations to determine fitness for duty and
 1830 funeral honors duty is afforded to employees and during such leave employees will
 1831 continue to accrue PTO and to be eligible for holiday pay. Further, the Nation shall pay
 1832 employees for any absences attributed to required reservist training, provided that; the
 1833 employee shall provide documentation from the military of such training dates. The
 1834 Nation shall deduct any pay an employee receives for partaking in reservist training from
 1835 the employee's pay for absent workdays incurred for such training.

1836 **9-4. Funeral/Bereavement Leave.**

1837 (a) An employee may take up to forty (40) hours of paid funeral/bereavement leave for
 1838 the death of an immediate family member, which the employee supervisor may not deny.
 1839 An employee that is primarily responsible for making funeral arrangements for the death
 1840 of someone outside of his or her immediate family may also take up to forty (40) hours of
 1841 paid funeral/bereavement leave, provided that such leave is at the discretion of his or her
 1842 employee supervisor.

1843 (1) Persons primarily responsible for making funeral arrangements are those
 1844 responsible for making major decisions including, but not limited to, the place of
 1845 the service, the date and time of the services, the type of service and/or burial.

1846 (2) The forty (40) hours of paid funeral/bereavement leave is not required to be
 1847 taken consecutively and may be split into different work weeks to the extent that
 1848 it is related to funeral services.

1849 (b) An employee, excluding at-will employees, may, at the employee supervisor's
 1850 discretion, take up to twenty-four (24) additional hours of unpaid funeral/bereavement
 1851 leave if the employee is assisting with funeral arrangements, which may include but are
 1852 not limited to, being a fire-keeper, coordinating meals, or being a pall-bearer, speaker or
 1853 singer.

1854 (c) An employee may take up to three (3) paid hours of funeral/bereavement leave for the
 1855 death of someone outside of his or her immediate family, provided that his or her
 1856 employee supervisor must approve such leave.

1857 **9-5. Jury Duty Leave.** The Nation shall pay employees for any work missed because of jury
 1858 duty.

1859 (a) In order to receive payment from the Nation for work missed because of jury duty,
 1860 the employee shall remit any jury duty pay received to the Nation as well as the
 1861 employee's notice to report for jury duty; the Nation may not pay an employee who fails
 1862 to meet this requirement for work missed because of jury duty.

1863 (b) The Nation may not consider overtime when determining an employee's pay while
 1864 serving on jury duty.

1865 **9-6. Parent Leave.** Employees, excluding volunteer and temporary at-will employees, who are
 1866 parents, guardians, or an immediate family member of the child may request to participate in
 1867 their children's educationally sanctioned events for a maximum of four (4) hours per employee
 1868 per month. Unused monthly parent leave hours do not accumulate.

1869 (a) For the purposes of this article, educationally sanctioned events include, but are not
 1870 limited to, school concerts, orientations, sporting events, field trips, parent-teacher
 1871 conferences, open houses, science fairs and the like. Educationally sanctioned events
 1872 exclude time children spend off of school for any reason, including but not limited to
 1873 weather closings, normally scheduled days off school and student suspensions and/or
 1874 expulsions.

1875 (b) Employees seeking to use parent leave hours must have the said leave approved by
1876 their employee supervisors and shall submit their request for approval no later than
1877 twenty-four (24) hours in advance of the requested parent leave.

1878 (1) Employee supervisors considering approval of parent leave may request
1879 verification of the employee's qualifying relationship to child and/or attendance at
1880 the event for which he or she requested the parent leave.

1881 (2) In order for an employee supervisor to deny an employee's request for parent
1882 leave, he or she shall justify that the denial was necessary to prevent an
1883 interference with the business of the Nation.

1884 (3) When considering an employee's request for parent leave, employee
1885 supervisors may require the requesting employee to flex the hours used for parent
1886 leave by making up the said hours at a time the employee is not normally
1887 scheduled to work.

1888 (c) Employees may not be paid overtime for any parent leave hours.

1889 **9-7. Color Guard Leave.** Employees that are honorably served veterans and are officially
1890 selected by the Oneida Nation Veterans Affairs Committee to perform veteran related
1891 government-to-government services may participate in said services with pay without using
1892 PTO, provided that such leave may not exceed five (5) calendar days for any single color guard
1893 leave.

1894 (a) Veteran related government-to-government services include, but are not limited to,
1895 funeral honors, dedications, flag raisings, color guard duties, ceremonial events.

1896 (b) Employees seeking to use color guard leave must have the said leave approved by
1897 their employee supervisor and shall submit their request for approval as soon as possible,
1898 but in no circumstances may the notice be less than twenty-four (24) hours in advance of
1899 the requested color guard leave.

1900 (c) In order for an employee supervisor to deny an employee's request for color guard
1901 leave, he or she shall justify that the denial was necessary to prevent an interference with
1902 the business of the Nation.

1903 **X. SAFETY AND HEALTH**

1904 **10-1. Safety and Health Policy.** The personal safety and health of each employee, customer
 1905 and client of the Nation is of primary importance. The prevention of injuries and illness is of
 1906 such importance that it will take precedence over operating productivity whenever necessary.
 1907 An incident report must be created for all employee injuries. Further, supervisors and employees
 1908 shall comply with all applicable requirements of the Drug and Alcohol Policy and Workers
 1909 Compensation Law.

1910 (a) Entities shall maintain a safety and health program conforming to the best practices
 1911 available, based on the entity's industry. To be successful, this program will work to
 1912 develop proper attitudes toward on-the-job injury and illness prevention on the part of all
 1913 employees and supervisors. This program will strive to develop a high level of
 1914 cooperation in safety and health matters between supervisors and employees and among
 1915 fellow employees.

1916 **10-2. Safety and Health Procedures.** All entities shall comply with the Nation's Safety Law.

1917 **10-3. Clean Air Rules for Tribal Buildings.** The Nation strives to provide a healthy work
 1918 environment within all buildings and vehicles of the Nation.

1919 (a) Smoking, which includes use of e-cigarettes, is expressly prohibited in all buildings
 1920 and vehicles of the Nation and within thirty (30) feet from all of the Nation's buildings
 1921 except as follows:

1922 (1) Smoking is permitted in all of the Nation's buildings housing gaming
 1923 activities. The Nation shall have separate ventilation for the non-smoking break
 1924 rooms. If separate break rooms are not available, employees may not smoke in
 1925 the break room and shall instead smoke outside.

1926 (2) Even if smoking is permitted in an employee's workplace, while working, he
 1927 or she may not smoke in the said building, other than in the smoking break room.

1928 (b) Receptacles for disposing of smoking materials must be placed a minimum of thirty
 1929 (30) feet from the main entrance of any of the Nation's buildings.

1930 (c) For specific cultural uses tobacco, sage, cedar and/or sweetgrass may be reasonably
 1931 burnt, provided that, employees working in shared work spaces may request that
 1932 employees within the same work space refrain from cultural burning.

1933 **10-4. Communicable Disease.** The Community/Public Health Department has the authority to
 1934 require isolation/quarantine of an employee if the existence of any communicable disease is
 1935 suspected or determined.

1936 (a) Employees are not entitled to compensation for time off required in the event
 1937 isolation, incubation, and/or quarantine is mandated by the Community/Public Health
 1938 Department, but may utilize PTO.

1939 (b) In the event isolation, incubation, and/or quarantine is mandated by the
 1940 Community/Public Health Department, employees shall provide a doctor's note
 1941 confirming that it is safe for them to return to the workplace.

1942 (c) Each case involving a potential communicable disease must be handled on an
 1943 individual basis and the confidentiality of the employee(s) must at all times be protected.
 1944 Information about the personal health of an employee shall be made available only to
 1945 persons specifically authorized to receive the said information, which may include, but is
 1946 not limited to, employees performing any required medical reporting and monitoring
 1947 recommended to protect employees' and customers' health and to avoid further exposure
 1948 to communicable diseases.

1949 **10.5. Reasonable Accommodations.** A reasonable accommodation is any adjustment to the
 1950 work environment that will allow the employee to continue employment for reasons such as
 1951 religion, disability, etc.

1952 (a) There are many accommodations an applicant, as well as an employee may request,
 1953 which include the following:

1954 (1) Religious Accommodations - which are any adjustments to the work
 1955 environment that will allow the employee to practice his or her religion. Flexible
 1956 scheduling, voluntary substitutions or job swaps, job reassignments or transfers
 1957 are examples of accommodating an employee's religious beliefs. For purposes of
 1958 this article, the term religion includes all aspects of religious observance and
 1959 practice, as well as belief.

1960 (2) Pregnancy Accommodations - which are any adjustments to the work
 1961 environment to accommodate women affected by pregnancy, childbirth, or related
 1962 medical conditions and shall be treated the same for all employment related
 1963 purposes, including hiring, transfer, job reassignments, receipt of benefits under
 1964 fringe benefit programs, etc. as pregnancy is a temporary condition. For purposes
 1965 of this article, the term pregnancy includes being pregnant, childbirth or other
 1966 medical conditions related to pregnancy.

1967 (3) Accommodations due to Disability - which is an impairment that substantially
 1968 limits one or more major life activities, a record of such an impairment, or being
 1969 regarded as having a disability. For purposes of this article, disability includes,
 1970 but is not limited to, physical, mental, cognitive, emotional, developmental
 1971 impairments, etc. or some combination of these.

1972 (b) It is the employee supervisor's responsibility to determine if they can reasonably
 1973 accommodate the employee without causing the entity or the Nation undue hardship.
 1974 Undue hardship exists if the accommodation:

1975 (1) Would require more than ordinary administrative costs be expended;

1976 (2) Diminishes efficiency in other jobs;

1977 (3) Infringes on other employees' job rights or benefits;

1978 (4) Impairs workplace safety;

1979 (5) Causes co-workers to carry the accommodated employee's share of work;
 1980 and/or

1981 (6) Conflicts with another law, rule, resolution or policy of the Nation.
 1982

1983 **XI. ENTITIES' RULEMAKING AUTHORITY**

1984 **11-1. Entities' Rulemaking Authority.** Entities may establish internal rules and standard
1985 operating procedures as they deem appropriate to effectively, safely and successfully complete
1986 their purpose, provided that:

1987 (a) All internal rules and standard operating procedures must include an effective date
1988 and be submitted to and approved by HRD for compliance with this Handbook;

1989 (b) In the event that there is a conflict between this Handbook and the rules and/or
1990 standard operating procedures created under this article, this Handbook governs;

1991 (c) Entities shall provide notice to their employees of the development and/or revision of
1992 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 7-13.

(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.

- 2032 (10) Failure to be courteous in dealing with fellow employees and/or the general
2033 public.
- 2034 (11) Failure to exercise proper judgment.
- 2035 (12) Failure to immediately report any work-related injuries to the immediate
2036 supervisor.
- 2037 (13) Giving preferential treatment to any person or entity.
- 2038 (14) Inappropriate dress or personal hygiene and/or failure to wear a name badge.
- 2039 (15) Reporting for work under the influence of alcohol or illegal controlled
2040 substances pursuant to the Drug and Alcohol Free Workplace Policy.
- 2041 (16) Use of alcohol or illegal controlled substances during work hours pursuant
2042 to the Drug and Alcohol Free Workplace Policy.
- 2043 (17) Using any entity or position for private gain.
- 2044 (18) Acceptance of gifts or gratuities for personal gain in the course of official
2045 employment duties.
- 2046 (19) Failure to follow any internal rules and/or standard operating procedures
2047 created pursuant to article 11.
- 2048 (c) Misuse of Property.
- 2049 (1) Theft of property, which includes, but is not limit to, theft, embezzlement,
2050 cheating, defrauding, pilfering, robbery, extortion, racketeering, swindling or
2051 conspiracy to commit such actions.
- 2052 (2) Unauthorized entry onto tribal land pursuant to the Public Use of Tribal
2053 Lands Law and/or unauthorized access to tribal property or land pursuant to any
2054 entity's rules and based upon the employee's position description.
- 2055 (3) Unauthorized or improper use of tribal property or equipment.
- 2056 (4) Unauthorized possession, removal or willful destruction of the property of the
2057 Nation or an employee.
- 2058 (5) Unauthorized use, lending, borrowing or duplicating of tribal keys.
- 2059 (d) Unsatisfactory Work Performance.
- 2060 (1) Failure or refusal to comply with health, safety and sanitation requirements.
- 2061 (2) Failure to provide accurate and complete information.
- 2062 (3) Falsifying records or giving false information.
- 2063 (4) Insubordination, which is the failure or refusal to carry out assignments or
2064 instructions.
- 2065 (5) Loafing, loitering, sleeping or engaging in personal business.
- 2066 (6) Negligence in the performance of assigned duties.
- 2067 (7) Unauthorized disclosure of confidential information or records.
- 2068 (8) Failure or refusal to satisfactorily perform the duties contained in the position
2069 description for which the employee was hired.
- 2070 **12-3. Employee Supervisor Responsibilities.** When an employee supervisor learns that one
2071 (1) of his or her employees has committed a prohibited behavior meriting corrective action under

2072 article 12-2, he or she shall initiate the appropriate corrective action. In all circumstances
2073 employee supervisors shall approach all corrective actions in an objective, fair and consistent
2074 manner.

2075 (a) An employee supervisor may learn of prohibited behavior by either:

2076 (1) Personally observing/experiencing the employee committing the prohibited
2077 behavior meriting corrective action; or

2078 (2) A report from an employee, customer or guest of the Nation that the employee
2079 has committed a prohibited behavior meriting corrective action, which the
2080 employee supervisor has considered and finds in his or her best discretion to be
2081 truthful.

2082 (b) Within ten (10) business days of the date the employee supervisor learns of prohibited
2083 behavior meriting corrective action, the employee supervisor shall:

2084 (1) Investigate the alleged prohibited behavior meriting corrective action through
2085 a meeting with the employee and, if applicable, witnesses to determine if
2086 corrective action is appropriate, provided that, an investigation is not required if
2087 the supervisor personally witnessed the prohibited behavior meriting corrective
2088 action.

2089 (A) If the employee is unavailable for a meeting with the employee
2090 supervisor for three (3) consecutive regularly scheduled workdays, and the
2091 employee supervisor is accordingly unable to complete the required
2092 investigation, the employee is considered to have abandoned his or her
2093 position, which amounts to a voluntary resignation.

2094 (B) If the prohibited behavior meriting corrective action is related to work
2095 performance as provided under article 12-2(d), the investigation must
2096 consider not only single incidents, but also patterns that may be indicative
2097 of an employee's overall poor performance, provided that the corrective
2098 action may only be issued if each of the following conditions has been
2099 met:

2100 (i) The employee was issued proper instructions;

2101 (ii) The employee received the required orientation;

2102 (iii) The employee received appropriate training to allow them to
2103 succeed in the position the employee was hired for, provided that,
2104 the Nation is not required to provide training to employees for
2105 essential requirements included in the position description for
2106 which the employee was hired; and

2107 (iv) The employee was aware of the essential requirements
2108 included in his or her position description, as may have been
2109 amended from time to time with notice to the affected employee.

2110 (2) If the employee supervisor finds that corrective action is appropriate, the
2111 employee supervisor shall issue a corrective action based on the recommended

2112 progressive order provided in article 12-6 and using the corrective action form
2113 provided by HRD.

2114 (A) An employee supervisor may deviate from the progressive corrective
2115 action order provided in article 12-6. In such circumstances he or she
2116 shall submit justification supporting that the deviation from the
2117 recommended order was merited based on the severity of the employee's
2118 infraction.

2119 (B) Prior to issuing a suspension or termination, employee supervisors
2120 shall consult with an EEO Officer and receive his or her written
2121 certification of procedural compliance with the corrective action process.
2122 The only exception to this requirement is for supervisors terminating an
2123 employee at a time outside of the Nation's normal business hours for
2124 criminal activity (i.e. theft), provided that, the supervisor still must attempt
2125 to contact an EEO Officer/Director prior to terminating. Employee
2126 supervisors may consult with an EEO Officer at any time throughout the
2127 course of the issuance of any corrective action.

2128 (C) The employee supervisor shall setup a meeting with the employee to
2129 discuss the corrective action to be issued with the employee. If the
2130 employee is unavailable for three (3) consecutive regularly scheduled
2131 shifts or if the ten (10) business day timeframe for the issuance of a
2132 corrective action will expire if not issued before a meeting can be
2133 scheduled, the employee supervisor shall:

2134 (i) Indicate that the employee was unavailable to sign the
2135 corrective action form on the corrective action form; and

2136 (ii) Deliver a copy of the corrective action to the employee via
2137 certified mail to the last available address provided in the
2138 employee's record.

2139 (D) During the meeting with the employee, the employee supervisor shall
2140 read the employee his or his right to appeal and when he or she may have
2141 the right to representation by an attorney or advocate as provided in the
2142 Employment law and article 13 of this Handbook.

2143 (E) The employee supervisor shall indicate on the corrective action form,
2144 before it is signed by the employee as required in this article, that the
2145 employee's due process rights were read to and acknowledged by the
2146 employee.

2147 (F) The employee supervisor shall require the employee to sign the
2148 corrective action form acknowledging his or her receipt of the corrective
2149 action. If the employee refuses to sign the corrective action form, the
2150 employee supervisor shall indicate on the said form that the employee has

2151 refused to sign and shall provide a copy of the said form to both the
2152 employee and the EEO Officer.

2153 (c) Employee supervisors shall submit record of all corrective actions issued to
2154 employees to an EEO Officer.

2155 (d) If the prohibited behavior meriting corrective action rises to the level of a criminal
2156 action, the employee supervisor shall immediately report the behavior to local law
2157 enforcement and shall also issue a corrective action.

2158 **12-4. EEO Officer Responsibilities.** EEO Officers shall file, monitor, and report to employee
2159 records all corrective actions and further shall guide persons involved in the corrective actions
2160 process by:

2161 (a) Advising employee supervisors as to the corrective action process generally,
2162 including but not limited to, when employee actions merit corrective action, which
2163 corrective actions are available, the normal progression of corrective actions, and whether
2164 a situation may merit a deviation from the normal progression of corrective actions;

2165 (b) Making employees, employee supervisors and reviewing supervisors aware of their
2166 rights to appeal and when the employee may be entitled to representation of an attorney
2167 or advocate; and

2168 (c) Reviewing all corrective actions submitted by supervisors.

2169 (1) For suspensions and terminations, the EEO Officer shall ensure procedural
2170 compliance with the corrective action process prior to issuing the supervisor a
2171 written certification of procedural compliance, which allows the suspension or
2172 termination to be issued.

2173 (2) Should the EEO Officer suspect procedural non-compliance in regards to any
2174 corrective action, he or she shall forward the matter to the EEO Director.

2175 **12-5. EEO Director Responsibilities.** The EEO Director shall review EEO Officer's concerns
2176 of supervisor's non-compliance with corrective action requirements. If the EEO Director is not
2177 able to issue the written certificate of procedural compliance required for suspension and
2178 termination, he or she shall inform the supervisor that the suspension or termination may not be
2179 issued to the employee and shall provide the supervisor with the procedural requirements for
2180 issuing a suspension or termination and which corrective actions the supervisor has available in
2181 the given circumstance. If the EEO Director confirms procedural non-compliance as related to
2182 an issued written warning, he or she shall report the said non-compliance and/or negligence to
2183 the reviewing supervisor and may include a recommendation that the employee supervisor be
2184 issued a corrective action.

2185 **12-6. Progressive Corrective Actions.** Corrective actions employ a range of actions that are
2186 applied based on the nature and history of the prohibited behavior meriting corrective action. The
2187 ultimate goal of corrective actions, as applied through this Handbook, is to help employees
2188 contribute fully to the Nation's mission and goals. HRD shall create a corrective action
2189 checklist, which supervisors shall use when considering a corrective action. The checklist must
2190 encourage supervisors to use the other non-corrective action tools provided in article 12-7, to the

2191 extent applicable, prior to issuing a corrective action. The available corrective actions and the
 2192 normal progression of issuance is as follows, provided that any employee who breaches his or
 2193 her responsibility of trust and commits a crime of theft against the Nation while employed must
 2194 be disciplined to the full extent of law:

2195 (a) Written Warning. A written warning records an employee's prohibited behavior
 2196 meriting corrective action by defining the seriousness of the situation so that the behavior
 2197 may be addressed and avoided in the future. Written warnings may not be utilized as a
 2198 corrective action if the prohibited behavior meriting corrective action rises to the level of
 2199 a criminal or illegal act, in which case immediate termination is required.

2200 (b) Suspension. A suspension is the temporary removal of an employee from performing
 2201 his or her work duties and from receiving pay. When suspension is utilized as a
 2202 corrective action, the available suspension is limited to a maximum of forty (40)
 2203 consecutive working hours, which must be based upon the employee's normal work
 2204 schedule.

2205 (1) Suspensions may not be utilized as a corrective action if the prohibited
 2206 behavior meriting corrective action rises to the level of a criminal or illegal act, in
 2207 which case immediate termination is required.

2208 (2) If suspending a salaried employee, the suspension must be issued in full
 2209 workday increments. A salaried employee may only be suspended for serious
 2210 misconduct identified as the following prohibited behaviors meriting corrective
 2211 action in article 12-2: (b)(1)-(6) and (15)-(18); (c)(2)-(5) (where (c)(1) is excluded
 2212 because theft is criminal and requires termination pursuant to article 12-
 2213 6(c)(1)(B)); and (d)(1), (3), and (6)-(7).

2214 (c) Termination. A termination is the release of an employee from employment against
 2215 the employee's will.

2216 (1) Termination must be used as the corrective action under the following
 2217 circumstances:

2218 (A) The employee accumulates any three (3) corrective actions provided
 2219 under article 12-6 within any twelve (12) month period where the
 2220 termination itself constitutes the third corrective action; or

2221 (B) The employee has engaged in a prohibited action that rises to the level
 2222 of a criminal or otherwise illegal act.

2223 (2) At-will employees may be terminated at any time the supervisor determines
 2224 that the employee commits a prohibited behavior meriting corrective action and
 2225 do not require accumulated corrective actions pursuant to article 12-6(c)(1)(A).

2226 (3) If the employee supervisor determines that the terminated employee is likely
 2227 to create a potentially hostile and/or dangerous situation, he or she shall contact
 2228 the Internal Security Director or the Oneida Police Department for assistance.

2229 **12-7. Other Non-Corrective Action Tools Available.** Supervisors may use these tools outside
 2230 of the corrective action process by requesting an employee to participate in the employee

2231 assistance and/or alternative dispute resolution programs. Supervisors may also use these tools
 2232 as a required component of a corrective action. If used as a required component of a corrective
 2233 action and the employee does not satisfy the requirement, an additional corrective action may be
 2234 issued against the employee.

2235 (a) Referral to the Employee Assistance Program. If there appear to be signs of personal
 2236 problems during the work day that may have contributed to an employee's undesirable
 2237 behavior, an employee supervisor may refer the employee to the Employee Assistance
 2238 Program. If there is a conflict of interest between the employee and the counselors at the
 2239 Employee Assistance Program or if the employee would prefer to use the Employee
 2240 Resource Center, HRD may work with the employee and his or her employee supervisor
 2241 to see if the employee is eligible to seek assistance from the Employee Resource Center
 2242 as an alternative.

2243 (b) Alternate Dispute Resolution (ADR). ADR includes a variety of conflict intervention
 2244 processes and is facilitated by a neutral third party, the Continuous Improvement
 2245 Mediation Specialist (CIMS). The policy of ADR is to provide an alternative to normal
 2246 disciplinary actions which corrects undesired behaviors, improves employee performance
 2247 and develops a mutual understanding of expectations among employee supervisors and
 2248 employees. ADR may be a useful tool in situations where there appear to be signs of
 2249 conflict based problems during the work day that may have contributed to the undesired
 2250 behavior.

2251 (1) The types of ADR include, but are not limited to, the following:

2252 (A) Conflict Resolution, which is process that assists two (2) or more
 2253 parties find peaceful solutions to a disagreement through collective
 2254 negotiation.

2255 (B) Consensus Building, which is a process used to settle complex, multi-
 2256 party disputes in which members develop and agree to support a decision
 2257 in the best interest of the whole.

2258 (C) Mediation/Peacekeeping, which is a process using a mediator or
 2259 peacemaker to assist two (2) or more parties resolve disputes through
 2260 working out their own solutions to problems.

2261 (D) Employee/Supervisor Expectations, which is a clear documented
 2262 understanding of what is expected of an employee (e.g. reliability,
 2263 leadership, professionalism, safe working conditions, fair and constructive
 2264 feedback, etc.).

2265 (E) Win-Win Agreements, which is a negotiation process used to help
 2266 supervisors and employees clarify expectations and mutually commit
 2267 themselves to getting desired results.

2268 (F) Environmental Assessments, which is a process of estimating and
 2269 evaluating significant short-term and long-term effects of a program or
 2270 project on the quality of its location's environment.

2271 (2) Parties to ADR may select any mediator, provided that the parties must agree
2272 upon the mediator selected. HRD shall provide all parties referenced to ADR
2273 with a list of available mediators in the area, provided that the parties are not
2274 required to select a mediator from HRD's list. The parties are jointly responsible
2275 for all costs associated with selection of a mediator, provided that the Nation shall
2276 provide employees with mediators at no cost to employees should the parties
2277 agree to use such mediators. If choosing a mediator provided by the Nation, the
2278 parties may request the services be provided by any of the employee or
2279 management advocates.

2280 **XIII. RECONSIDERATION AND APPEAL OF CORRECTIVE ACTIONS**
 2281 **AND ADVERSE EMPLOYMENT ACTIONS**

2282 **13-1. Requesting Reconsideration of a Corrective Action and/or Adverse Employment**
 2283 **Action.** Prior to initiating a formal appeal of a corrective action and/or adverse employment
 2284 action, an employee shall request reconsideration of the said action with his or her reviewing
 2285 supervisor, provided that such requests must be made within ten (10) business days from the date
 2286 of the employee supervisor's action.

2287 (a) Upon receipt of a request for reconsideration of an employee supervisor's action, the
 2288 reviewing supervisor, or designee, shall investigate the matter and issue a decision to the
 2289 employee, with a copy to the employee supervisor and HRD's EEO Department within
 2290 ten (10) business days from the date of the employee's request for reconsideration.

2291 (b) In making a decision regarding a request for reconsideration, the reviewing
 2292 supervisor, or designee, shall take one (1) of the following actions and notify the
 2293 employee and employee supervisor of their decision in writing delivered in person and/or
 2294 by first class mail:

- 2295 (1) Uphold the employee supervisor's action;
 2296 (2) Modify the employee supervisor's action; or
 2297 (3) Overturn the employee supervisor's action.

2298 (c) In the event the reviewing supervisor, or designee, determines that reversal or
 2299 modification of the employee supervisor's action is required, he or she shall include an
 2300 explanation of the reversal or modification to the employee supervisor. In addition, the
 2301 reviewing supervisor, or designee, may issue the employee supervisor a corrective action
 2302 and/or require the employee supervisor to complete updated supervisor training.

2303 **13-2. Right to Appeal.** All employees, excluding at-will employees, who were subject to
 2304 discipline and disagree with the corrective action or allege that a supervisor's actions amount to
 2305 an adverse employment action, may appeal the action to the Judiciary's Trial Court based on the
 2306 Administrative Rules of Procedure. Any party disagreeing with the decision of the Trial Court
 2307 may appeal to the decision to the Judiciary's Appellate Court.

2308 **13-3. Appeal Authority.** Appeals of corrective actions are subject to the following levels of
 2309 appeal:

2310 (a) First Level of Appeal. The Trial Court shall hear employees' appeals of alleged
 2311 adverse employment actions and the following corrective actions: suspensions and
 2312 terminations. If the employee claims that the adverse employment action or corrective
 2313 action also amounted to a deprivation of an equal employment opportunity, it must be
 2314 included in this appeal as well.

2315 (1) An employee supervisor may not initiate a first level appeal in the event that
 2316 the reviewing supervisor overturns the employee supervisor's action.

2317 (2) In considering an appeal of a corrective action, the Trial Court may consider
 2318 previous corrective actions upon which the suspension or termination was based,

2319 provided that, the employee must demonstrate that he or she requested a
 2320 reviewing supervisor's reconsideration of such prior corrective actions in
 2321 accordance with article 13-1. When reviewing prior corrective actions, the Trial
 2322 Court shall only consider whether the corrective action was justified based on the
 2323 employee's behavior; procedural compliance may not be considered.

2324 (b) Second Level of Appeal. The Court of Appeals may hear any party's appeal of the
 2325 Trial Court's decision.

2326 **13-4. Attorneys and Advocates.** Employees appealing a supervisor's action who are being
 2327 heard by the Trial Court and/or the Appellate Court, have a right, but not a guarantee, to be
 2328 represented by an attorney or advocate. All representation costs are the employee's
 2329 responsibility, unless included in the award as compensatory damages pursuant to Section
 2330 300.10-2(1) of the Employment law. Employees subject to corrective action and/or potential
 2331 adverse employment actions or deprivation of an equal employment opportunity may contact an
 2332 employee representative for full explanation of the employee's and the Nation's rights and
 2333 responsibilities under the Employment law and this Handbook.

2334 **13-5. Employee's Responsibilities.** When appealing a supervisor's action, the employee is
 2335 responsible for timely filing the appeal and providing accurate and truthful information to all
 2336 parties involved in the appeal process.

2337 (a) Timely Filing a First Level Appeal. Any employee who wishes to appeal a
 2338 supervisor's action must file his or her appeal, in writing, to the Trial Court within in ten
 2339 (10) business days from the date the employee received the reviewing supervisor's
 2340 response in regards to the employee's request for reconsideration in accordance with
 2341 article 13-1. Appeals filed with the Trial Court are governed by the Rules of
 2342 Administrative Procedure.

2343 (b) Timely Filing a Second Level Appeal. If an employee wishes to file an appeal of the
 2344 Trial Court's decision , he or she must file their appeal with the Appellate Court in
 2345 accordance with the Rules of Appellate Procedure.

2346 (c) In making a determination, the Trial Court and/or the Judiciary's Appellate Court
 2347 shall take any one (1) of the following actions:

- 2348 (1) Uphold the decision/determination;
- 2349 (2) Modify the decision/determination; or
- 2350 (3) Overturn the decision/determination.

2351 **13-6. Holding Employee's Positions Pending Appeal.** A terminated employee's employee
 2352 supervisor shall hold the terminated employee's position vacant until the timeframes for
 2353 allowable appeals have lapsed. In order to address the vacancy, the employee supervisor may:

- 2354 (a) Fill the vacancy on an interim basis pursuant to article 5-17;
- 2355 (b) Hire a temporary at-will employee pursuant to article 5-18; or
- 2356 (c) Distribute the terminated employee's duties to existing employees, which may trigger
 2357 an obligation to negotiate additional duties compensation pursuant to article 7-2.

2358 **XIV. EMPLOYEE PROTECTION AND REPORTING A DEPRIVATION OF**
2359 **AN EEO AND/OR SEXUAL HARASSMENT**

2360 **14-1. Employee Protection.** The Nation shall protect employees providing information to
2361 guard the Nation from employees committing fraud, theft, or other criminal acts and to protect
2362 the Nation from other financial loss and unauthorized disclosure of confidential information from
2363 any and all employment related retaliations. The Nation and its employees receiving information
2364 pursuant to this article shall keep all employees' requests for protection confidential.

2365 **14-2. Providing Information Subject to a Request for Employee Protection.** Employees
2366 sharing or receiving information based on this article, are subject to the following requirements.

2367 (a) An employee providing information subject to a request for employee protection shall
2368 report such information to one (1) of the following authorized parties:

- 2369 (1) The employee's employee supervisor;
2370 (2) The employee's reviewing supervisor;
2371 (3) The Oneida Police Department;
2372 (4) The Nation's internal security department; or
2373 (5) HRD's EEO Department.

2374 (b) An employee providing information subject to a request for employee protection shall
2375 provide the authorized party with the following:

- 2376 (1) His or her employee number;
2377 (2) The name of the employee(s) that are the subject of the information
2378 disclosure;
2379 (3) A full written account of the employee's information, including dates and
2380 times and any supporting documentation that may be available.

2381 (c) Upon receipt of information provided pursuant to this article, the authorized party
2382 shall inform the employee that the information will be used to conduct an investigation
2383 and that the information will only be shared with entities' management/employees
2384 essential to conducting the investigation.

2385 (1) The authorized party receiving the information shall then share the
2386 employee's information, without sharing the identity of the employee subject to
2387 protection with entities' management/employees essential to conducting the
2388 investigation. The authorized party shall notify said entities that the investigation
2389 results must be returned to the authorized party within thirty (30) business days
2390 from the date the information is provided to the entity.

2391 (2) The entities provided with the information shall take appropriate action to
2392 conduct a thorough investigation and shall take any appropriate actions to address
2393 the findings of said investigation, which may include, but are not limited to:

2394 (A) Report of the conduct and investigation to the Oneida Business
2395 Committee, which must be presented in closed executive session, to
2396 request direction regarding appropriate action moving forward; and

2397 (B) Consultation with the Oneida Law Office to determine whether
2398 initiating a civil and/or criminal action is appropriate.

2399 (3) If HRD's EEO Department was not the authorized party the information was
2400 initially shared with, the authorized party shall provide the EEO Department with
2401 all of the information related to the shared information and the investigation upon
2402 completion of the investigation.

2403 **14-3. Reporting and Preventing Retaliation.** The EEO Department may conduct any
2404 investigations it deems necessary in order to assess whether an action amounts to retaliation.

2405 (a) The EEO Department shall review all actions taken and suspension and terminations
2406 proposed to be taken against an employee protected pursuant to this article for the
2407 duration of the employee's employment with the Nation. The EEO Department shall
2408 make a determination as to whether retaliation occurred within ten (10) business days of
2409 receipt of any of the following:

2410 (1) A protected employee's report of to the EEO Department of an action taken
2411 against him or her as retaliatory;

2412 (2) A request for a written certificate of procedural compliance required in order
2413 to issue a suspension or termination pursuant to article 12-3(b)(2)(B) regarding a
2414 protected employee; or

2415 (3) Notice of issuance of a written warning regarding a protected employee.

2416 (b) If the EEO Department determines that a suspension or termination amounts to
2417 retaliation, EEO Department shall deny supervisors of the written certificate of
2418 procedural compliance required in order to issue a suspension or termination pursuant to
2419 article 12-3(b)(2)(B) and shall provide an explanation of why the certificate was denied.

2420 (c) If the EEO Department determines that any supervisor's action amounts to retaliation,
2421 the EEO Officer shall issue a corrective action to all parties responsible for the retaliation
2422 in accordance with article 12.

2423 (1) In such circumstances, the EEO Officer assumes the responsibilities of the
2424 employee supervisor; the EEO Director assumes the responsibilities of the
2425 reviewing supervisor; and the review and approval of the EEO Department is not
2426 applicable since an EEO Officer is issuing the corrective action.

2427 (2) The EEO Officer shall provide notice of the corrective action issued to the
2428 retaliating employee's employee supervisor.

2429 **14-4. Reporting and Preventing Deprivation of EEOs and/or Sexual Harassment.**
2430 Employees that believe that they have been subject to or have witnessed another employee being
2431 subject to a deprivation of an EEO and/or sexual harassment may report the incident to HRD,
2432 provided that the report must be in writing and must be delivered either in person or by first class
2433 mail. The EEO Department may conduct any investigations it deems necessary in order to assess
2434 whether an action amounts to a deprivation of an EEO and/or sexual harassment.

2435 (a) The EEO Officer shall notify the employee supervisor of the employee that is the
2436 subject to the investigation that his or her employee is the subject of an on-going

2437 investigation. In addition, The EEO Officer shall notify the employee's employee
2438 supervisor of the results of the investigation and any corrective actions issued.

2439 (b) If the EEO Department determines that any supervisor's action amounts to a
2440 deprivation of an EEO or sexual harassment, the EEO Officer shall issue a corrective
2441 action to all parties responsible and, if appropriate, shall notify the relevant law
2442 enforcement agency(s).

2443 (1) In such circumstances, the EEO Officer assumes the responsibilities of the
2444 employee supervisor; the EEO Director assumes the responsibilities of the
2445 reviewing supervisor; and the review and approval of the EEO Department is not
2446 applicable since an EEO Officer is issuing the corrective action.

2447 (2) The EEO Officer shall provide notice of the corrective action issued to the
2448 employee's employee supervisor.

2449 (c) The EEO Officer shall notify the reporting employee when his or her investigation is
2450 complete. The EEO Officer shall keep actions taken confidential and may not disclose
2451 them to the reporting employee.

2452 **XV. EMPLOYEES ON HUBER**

2453 **15-1. Employees on Huber.** Employees on Huber shall report their Huber privileges to their
2454 employee supervisor. Upon notice, the employee supervisor shall contact HRD for the
2455 completion of an updated backgrounds check to determine if the employee's conviction affects
2456 his or her eligibility to remain employed with the Nation.

2457 (a) HRD shall notify the employee supervisor of the results of the background check as
2458 related to the employee's eligibility to remain employed with the Nation. If employment
2459 eligibility is affected the employee supervisor shall notify the employee.

2460 (1) If the employee is no longer eligible to remain employed with the Nation in
2461 his or her current position, he or she may request that HRD provide a list of the
2462 positions for which he or she remains eligible to work in and may request a
2463 transfer if one of the said positions is available, provided that the normal transfer
2464 process must be followed.

2465 (2) If the employee is no longer eligible to remain employed with the Nation in
2466 his or her current position and there are no positions available for which the
2467 employee is eligible, the employee supervisor shall separate the employee.

2468

XVI. EXITING EMPLOYEES

2469 **16-1. Mechanisms for Ending Tribal Employment.** Employees may cease to be employed by
2470 the Nation through resignation, separation or termination.

2471 (a) Separation and Termination. Separation is addressed in this Handbook in the
2472 following articles: 4-3(b)(3)(B); 5-6(a)(3)(E)(ii); 5-6(b)(4)(B); 5-13(b); 5-18(i); 7-13(e);
2473 9-1(f)(1); 9-2(f) and 15-1(a)(2). Termination is addressed in this Handbook in the
2474 following articles: 5-2(b); 5-6(a)(4); 5-13(a) and (b); 5-18(i); 7-13(e); 12-3(b)(2)(B); 12-
2475 4(c)(1); 12-5; 12-6 and 13.

2476 (b) Resignations. Employees wishing to resign from employment with the Nation shall
2477 submit a written resignation and/or communicate a verbal resignation to their employee
2478 supervisor, provided that a voluntary resignation may also occur via position
2479 abandonment as explained in article 8-3.

2480 (1) Employee Supervisors. Upon receipt of an employee's resignation, employee
2481 supervisors shall notify HRD of the employee's resignation.

2482 (A) Employee supervisors may not approve employees resigning to use
2483 PTO after the employee's physical last day of work in her or her position.

2484 (B) The resigning employee's employee supervisor shall collect all tribal
2485 property from the employee, which may include, but it not limited to,
2486 removing computer access, building access and document access.

2487 (2) HRD shall terminate the employee's benefits on the effective date of the
2488 resignation.

2489 (3) Rescinding Resignations. An employee may submit a request to rescind his or
2490 her resignation in writing prior to the effective date of the resignation. It is within
2491 the employee supervisor's discretion whether to approve or deny an employee's
2492 request to rescind a resignation, provided that, a resignation may not be rescinded
2493 if an employee has been hired as part of a succession plan under article 5-3(d) or
2494 5-15(a).

2495 (4) Rejecting Resignations. Employee supervisors may not accept an employee's
2496 resignation if the employee is under investigation or currently involved in the
2497 corrective action process. If an employee voluntarily resigns based on position
2498 abandonment in the course of a pending investigation or while in the process of
2499 being issued a corrective action, the relevant parties shall continue to investigation
2500 to the best of their ability and any required corrective actions shall be issued to the
2501 employee as provided in article 12.

2502 **16-2. Collection of Tribal Property.** On or before an employee's last day of work, the
2503 employee supervisor shall collect any tribal property in the employee's possession. If the
2504 employee refuses to return any tribal property in his or her possession, the employee supervisor
2505 shall contact the Oneida Policy Department to enforce the return of the tribal property.

2506 (a) As applicable to the employee's position, the employee supervisor shall:

2507 (1) Contact MIS to have the employee's computer access and login stripped;

- 2508 (2) Contact the Accounting Department to have the employee removed from all
2509 budgetary sign offs;
- 2510 (3) Contact the building coordinator to remove the employee's access to the
2511 building;
- 2512 (4) Collect the employee's name badge;
- 2513 (5) Contact the Kronos administrator to have the employee removed from
2514 Kronos; and
- 2515 (6) Allow the employee to collect his or her personal property, provided that in
2516 the event of a termination, the employee supervisor shall arrange for the employee
2517 to be escorted by a security guard or Oneida Police Officer.
- 2518 (b) Entities shall develop their own standard operating procedures for addressing exiting
2519 employees and shall either develop their own checklist for supervisors to use as a tool or
2520 shall direct their supervisor to use the exiting employee checklist available with HRD.
- 2521 **16-3.Exit Interviews.** Employee supervisor(s) shall conduct exit interviews with resigning
2522 employees using the exit interview form available with HRD. In the event the employee had
2523 more than one (1) employee supervisor, the exit interview team must include all of employee's
2524 available employee supervisors.