

Oneida Nation

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Oneida, WI 54155

BC Resolution # 04-25-18-H

Transition Plan for the Transfer of Hearing Authority from the Personnel Commission to the Judiciary – Trial Court

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Oneida Business Committee dissolved the Personnel Commission on April 11, 2018, through resolution BC-04-11-18-A in an effort to consolidate employment related grievance hearings into the Judiciary to increase consistency in hearing processes, efficiency, and reduce overall costs to the Oneida Nation; and
- WHEREAS,** this consolidation of hearing authority to the Judiciary is consistent with the General Tribal Council's previous actions of adopting a Judiciary law, approving amendments to the Constitution which adopted Article V, Judiciary, establishing "a judiciary to exercise the judicial authority of the Oneida Nation," and adopting resolution GTC-03-19-17-A which designated the Oneida Judiciary as the judiciary authorized pursuant to Article V of the Constitution; and
- WHEREAS,** resolution BC-04-11-18-A required the Legislative Operating Committee to develop and present emergency legislative amendments to fully address the impact of this resolution by the April 25, 2018, Oneida Business Committee meeting for consideration of adoption; and
- WHEREAS,** through resolutions BC-04-25-18-D, BC-04-25-18-E, BC-04-25-18-F, and BC-04-25-18-G, the Oneida Business Committee adopted emergency amendments to the Personnel Policies and Procedures, the Employee Protection Policy, the Military Service Employee Protection Policy, and the Oneida Judiciary Rules of Civil Procedures; and
- WHEREAS,** the emergency amendments to the above mentioned legislation replace any reference to the Personnel Commission which refer to actions affecting employees involving adverse employment actions for which a hearing is authorized with a reference to the Judiciary – Trial Court, thereby transferring the hearing authority to the Judiciary – Trial Court; and
- WHEREAS,** the Oneida Business Committee wanted to provide a plan for the process of transitioning cases from the Personnel Commission to the Judiciary – Trial Court.

NOW THEREFORE BE IT RESOLVED, that the Judiciary Trial Court shall utilize prior decisions of the Personnel Commission as precedent in its hearing and decision-making process and hearing procedures shall follow those set forth in the Rules of Civil Procedure. Provided that, in circumstances where the Personnel Policies and Procedures may conflict with the Rules of Civil Procedure, the deadlines in the Personnel Policies and Procedures shall govern.

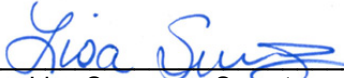
NOW THEREFORE BE IT FURTHER RESOLVED, the following processes shall be used to transfer matters to the Judiciary.

1. All active cases for which at least one hearing has been held are transferred to the Judiciary Trial Court effective immediately.
 - a. The employee shall, by close of business on May 11, 2018, file a notice with the Judiciary Trial Court stating either they wish to maintain the current hearing body or have their case assigned to a judicial officer of the Trial Court and the Trial Court shall begin the hearing from the beginning, or at the request of the employee, continue the existing hearing with the judicial officer replacing the hearing body.
 - b. In all circumstances, the Judiciary shall receive active case files and hearing records for active cases and begin management of the case.
2. All cases which have been accepted, but no hearing is yet been conducted or no hearing officers selected, shall be transferred to the Judiciary Trial Court and a judicial officer of the Trial Court assigned.
3. All cases which have been concluded and for which no appeal time remains, shall be transferred to the Records Management Department which will work with the Judiciary to assist in managing those records.
4. All matters filed, but for which no determination has been made regarding acceptance shall be immediately forwarded to the Judiciary Trial Court.

The Personnel Commission administration shall deliver a complete record of all decisions of the Personnel Commission to the Judiciary and a copy to Records Management Department.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 6 members were present at a meeting duly called, noticed and held on the 25th day of April, 2018; that the forgoing resolution was duly adopted at such meeting by a vote of 5 members for, 0 members against, and 0 members not voting; and that said resolution has not been rescinded or amended in any way.



Lisa Summers, Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."