



**LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA - REVISED**  
Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
September 19, 2018 9:00 a.m.

**I. Call to Order and Approval of the Agenda**

**II. Minutes to be Approved**

1. September 5, 2018 LOC Meeting Minutes (pg. 2)

**III. Current Business**

1. Comprehensive Policy Governing Boards, Committees, and Commissions Amendments (pg. 4)
2. Children's Code (pg. 81)

**IV. New Submissions**

1. Domestic Animals Law (pg. 94)
2. Oneida Food Service Code (pg. 114)

**V. Additions**

1. Oneida Personnel Commission Bylaws (pg. 116)

**VI. Administrative Updates**

1. Election Law E-poll Results (pg. 117)
2. Sanctions and Penalties Law E-Poll Results (pg. 172)

**VII. Executive Session**

**VIII. Recess/Adjourn**



## LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center

September 5, 2018

9:00 a.m.

**Present:** David P. Jordan, Daniel Guzman King, Jennifer Webster

**Excused:**, Ernest Stevens III, Kirby Metoxen

**Others Present:** Kristen Hooker, Maureen Perkins, Brandon Wisneski, Clorissa Santiago, Jennifer Falck, Evander Delgado, Leyne Orosco

### I. Call to Order and Approval of the Agenda

David P. Jordan called the September 5, 2018 Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster to approve the agenda; seconded by Daniel Guzman King. Motion carried unanimously.

### II. Minutes to be Approved (:37 -:56)

#### August 15, 2018 LOC Minutes

Motion by Jennifer Webster to approve the August 15, 2018 Legislative Operating Committee meeting minutes and forward to the Oneida Business Committee for consideration; seconded by Daniel Guzman King. Motion carried unanimously.

### III. Current Business

#### 1. Petition: G. Dallas- \$5000 Payment (:58-1:42)

Motion by Jennifer Webster to approve the Petition: G. Dallas Payment within 90 days statement of effect and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

#### 2. Petition: L. Dallas- Medicare Part B Premium Payment (1:44-2:23)

Motion by Jennifer Webster to approve the Petition: L. Dallas Medicare Part B Premium Payment statement of effect and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

#### 3. GTC Meetings Law (2:24-4:19)

Motion by Jennifer Webster to remove the GTC Meetings Law from the active files list and forward the memorandum to the Oneida Business Committee; seconded by Jennifer Webster. Motion carried unanimously.



**4. Comprehensive Policy Governing Boards, Committees, and Commissions (4:19-7:53)**

Motion by Daniel Guzman King to defer the Comprehensive Policy Governing Boards, Committees, and Commissions until we receive the fiscal impact statement; seconded by Jennifer Webster; Motion carried unanimously.

Subsequent motion by Jennifer Webster to have the LOC chair contact the Chief Financial Officer to find out who is not responding and give the LOC chair authority to contact the areas that are not responding; seconded by Daniel Guzman King. Motion carried unanimously,

**5. Election Law Amendments (7:54-10:28)**

Motion by Jennifer Webster to approve the memo in the public meeting packet, send the Election Law Amendments to a public meeting November 8, 2018, forward all the materials to the OBC for inclusion in the October 28, 2018 GTC meeting materials, and forward the Election Law Amendments to the finance office for a fiscal impact statement; seconded by Daniel Guzman King. Motion carried unanimously.

**IV. New Submissions**

**V. Additions**

**VI. Administrative Items**

**1. Memo regarding the August 27, 2018 GTC Action (10:32–12:08)**

Motion by Jennifer Webster to approve the memo and forward to the Oneida Business Committee: seconded by Daniel Guzman King. Motion carried unanimously.

**VII. Executive Session**

**VIII. Adjourn**

Motion by Daniel Guzman King to adjourn the September 5, 2018 Legislative Operating Committee meeting at 9:12 a.m.; seconded by Jennifer Webster. Motion carried unanimously.



Legislative Operating Committee  
September 19, 2018

# Comprehensive Policy Governing Boards, Committees and Commissions Amendments

<b>Submission Date:</b> 9/6/17	<b>Public Meetings:</b> 6/21/18
<b>LOC Sponsor:</b> Jennifer Webster	<b>Emergency Enacted:</b> n/a <b>Expires:</b> n/a

**Summary:** *This item was carried over from the last two terms. Amendments were originally requested to: prohibit individuals from serving on multiple boards, committees and commissions at one time; set term limits; and prohibit Tribal employees from serving on tribal boards, committees and commissions.*

**9/6/17 LOC:** Motion by Jennifer Webster to add Comprehensive Policy Governing Boards, Committees, and Commissions Amendments to the active files list with Jennifer Webster as the sponsor; seconded by Ernest Stevens III. Motion carried unanimously.

**9/6/17:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Candice Skenandore, Maureen Perkins, Tani Thurner, Cathy Bachhuber. Drafting attorney provided an update on the status of Comprehensive Policy Governing Boards, Committees and Commissions amendments. Next steps will be: 1) pull the current draft back, 2) have work meetings with LOC for policy determinations, 3) conduct work meetings with boards, committees and commissions for input.

**9/21/17:** *Work Meeting.* Present: Jennifer Webster, Clorissa Santiago, Candice Skenandore, Jennifer Falck, Daniel Guzman King, Chad Wilson, Carol Silva, Gene Danforth, Mary Ann Krueheleg, Dakota Webster, Bonnie Pigman, Louis Powless, Lois Strong, Patricia Lassila, Raquel Hill, Laura Manthe, Lee Cornelius, Chaz Wheelock, Carol Elm. The purpose of this meeting was to collect input from members of boards, committees, and commissions on how to improve the currently effective law. Written comments will be accepted until October 11, 2017, and then all information will be compiled and brought back to the LOC.

**10/2/17:** *Work Meeting.* Present: Jennifer Webster, Clorissa Santiago, Candice Skenandore, Lee Cornelius, Stephen Webster, Brooke Doxtator. The purpose of this meeting was to collect input from the Oneida Nation Secretary's Office, and the Business Committee Support Office on how to improve the currently effective law.

**10/27/17:** *Work Meeting.* Present: Kirby Metoxen, Jennifer Webster, Cathy Bachhuber, Jennifer Falck, Daniel Guzman King, Candice Skenandore, Clorissa Santiago, Rosa Laster, Rae Skenandore. The purpose of this meeting was to go through the comments/suggestions collected from the boards, committees and commissions; BC Support Office and previous drafts to make policy considerations for the new proposed draft.

**11/1/17 LOC:** Motion by Kirby Metoxen approve the 60 day active files list update and continue development of all the items on the active files list; seconded by Ernie Stevens III. Motion carried unanimously.

*Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Ernest Stevens III, Clorissa Santiago, Candice Skenandore, Jennifer Falck, Maureen Perkins, Rae Skenandore. The purpose of this meeting was to continue going through the comments/suggestions collected from the boards, committees and commissions; BC Support Office and previous drafts to make policy considerations for the new proposed draft.

**2/2/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Kirby Metoxen, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Rosa Laster, Cathy Bachhuber. The LOC reviewed and discussed the first draft. Drafting attorney will update law to reflect revisions discussed. A LOC work meeting to discuss stipends will be scheduled, as well as a work meeting with all boards, committees, and commissions to review first draft.

**2/15/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Ernest Stevens III, Daniel Guzman King, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Rosa Laster, Cathy Bachhuber. The purpose of this meeting was to go over the current reality of stipends, and discuss how the LOC wants to proceed with stipends in the future, so that the resolution containing stipend information can be drafted. The conversation on stipends in regards to hearings will be continued at another work meeting, and the drafting attorney will begin drafting the resolution.

**2/22/18:** *Work Meeting.* Present: Jennifer Webster, Daniel Guzman King, Jennifer Falck, Clorissa Santiago, Dale Webster, Lois Strong, John Breuninger, Floyd Hill, Bonnie Pigman, Matt W. Denny, Vicki Cornelius, Raw Skenandore, Carol Silva, Brooke Doxtator, Carol L. Elm, Mark Powless, Dylan Benton, Maureen Perkins. The purpose of this meeting was to go over the members of the various boards, committees, and commissions opinion, comments, concerns, and suggestions on the proposed drafted amendments. The drafting attorney will take all comments and suggestions to the LOC for review and consideration.

**3/2/18:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Clorissa Santiago, Brandon Wisneski, Laura Laitinen-Warren, Lisa Summers. The LOC reviewed and considered all comments received from the boards, committees, and commissions. The drafting attorney will make all revisions the LOC determined were necessary.

**3/16/18:** *Work Meeting:* Present: David P. Jordan, Jennifer Webster, Daniel Guzman, Ernest Stevens III, Clorissa Santiago, Brandon Wisneski, Cathy Bachhuber, Rosa Laster. LOC reviewed revisions made based on the last LOC work session and directed changes be made, and that the draft be e-pollled on March 21, 2018, so that the LOC may direct that the legislative analysis be completed.

**3/21/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Brooke Doxtator, Tony Doxtator, Victoria Krueger. The purpose of this work meeting was to discuss the requirement in the current draft that all BCC members have an official Oneida email, that is different than their employee email address, if applicable. The goal was to obtain an IT perspective on this issue from MIS, and to discuss the realities, challenges, and timelines this requirement will result in. The group will meet again to discuss this issue in a couple weeks, once the various MIS departments have an opportunity to meet further.

**4/2/18 LOC:** Motion by Daniel Guzman King to accept the draft of the Comprehensive Policy Governing Boards, Committees, and Commissions amendments and direct that a legislative analysis be completed; seconded by Jennifer Webster Motion Carried unanimously.

- 4/11/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Brooke Doxtator, Tony Doxtator, Stephen Webster, James Sommerfeldt, Jesse Kujawa, Chad Mrotek. The purpose of this work meeting was to discuss the questions and concerns regarding the provision of the law that says an email address must be provided to every BCC member, and discussion on how to implement this matter.
- 4/25/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Jennifer Falck. LRO staff met to review and discuss the legislative analysis.
- 5/2/18 LOC:** Motion by Ernest Stevens III to accept the legislative analysis and defer to a work meeting; seconded by Jennifer Webster. Motion carried.
- 5/2/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Jennifer Falck, David P. Jordan, Jennifer Webster, Ernest Stevens III. The LOC reviewed the legislative analysis and made policy considerations that the drafting attorney will now incorporate into the draft.
- 5/16/18 LOC:** Motion by Kirby Metoxen to approve the public meeting packet and forward the Comprehensive Policy Governing Boards, Committees, and Commissions amendments to a public meeting to be held on June 21, 2018; seconded by Daniel Guzman King. Motion carried unanimously.
- Subsequent motion by Kirby Metoxen to forward the Comprehensive Policy Governing Boards, Committees, and Commission amendments to the Finance Office for a fiscal analysis; seconded by Jennifer Webster. Motion carried unanimously.
- 6/6/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski. The purpose of this work meeting was to have the LOC review and discuss the drafted resolution determining stipend amounts for members of boards, committees, and commissions, and to determine a definition for stipends to be included in the law.
- 6/20/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Ernest Stevens III, Kirby Metoxen, Jennifer Falck, Clorissa Santiago, Brandon Wisneski. The purpose of this work meeting was to review and prepare for the upcoming public meeting.
- 6/21/18:** Public Meeting was held.
- 6/28/18:** Public Comment Period Closed.
- 7/18/18 LOC:** Motion by Kirby Metoxen to accept the public meeting comments and the public meeting comment review memorandum and defer the item to a work meeting; seconded by Ernest Stevens III. Motion carried unanimously.
- 7/18/18:** *Work Meeting.* Present: David P. Jordan, Ernest Stevens III, Kirby Metoxen, Daniel Guzman, Brandon Stevens, Jennifer Falck, Clorissa Santiago, Brandon Wisneski. The purpose of this work meeting was to review and consider all public meeting comments, and determine what revisions are necessary to the draft.
- 8/13/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Clorissa Santiago, Brandon Wisneski, Kristen Hooker, Laura Laitinen-Warren, Maureen Perkins. The purpose of this work meeting was to address a recent request for an amendment to the Law, and determine if this change should be made before adoption is considered.
- 8/15/18 LOC:** Motion by Kirby Metoxen to approve the public meeting memo for the amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions and defer the adoption packet until a fiscal impact statement is received from the Finance Office; seconded by Jennifer Webster. Motion carried unanimously.

**8/28/18:** *Work Meeting.* Present: Jennifer Webster, Kirby Metoxen, Clorissa Santiago, Brandon Wisneski, Jennifer Falck. The purpose of this work meeting was to review comments that were recently received regarding special meetings.

**9/5/18 LOC:** Motion by Daniel Guzman King to defer the Comprehensive Policy Governing Boards, Committees, and Commissions until we receive the fiscal impact statement; seconded by Jennifer Webster; Motion carried unanimously.

Subsequent motion by Jennifer Webster to have the LOC chair contact the Chief Financial Officer to find out who is not responding and give the LOC chair authority to contact the areas that are not responding; seconded by Daniel Guzman King. Motion carried unanimously.

**Next Steps:**

- Approve the adoption packet for the amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee  
FROM: David P. Jordan, LOC Chairperson   
DATE: September 26, 2018  
RE: Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions

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Please find the following attached backup documentation for your consideration of the amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions:

1. Resolution: Amendments to the Comprehensive Policy Governing, Boards, Committees, and Commission
2. Statement of Effect: Amendments to the Comprehensive Policy Governing, Boards, Committees, and Commission
3. Comprehensive Policy Governing Boards, Committees, and Commissions Amendments Legislative Analysis
4. Comprehensive Policy Governing Boards, Committees, and Commissions Amendments (Redline)
5. Comprehensive Policy Governing Boards, Committees, and Commissions Amendments (Clean)
6. Comprehensive Policy Governing Boards, Committees, and Commissions Amendments Fiscal Impact Statement

#### *Overview*

This resolution adopts proposed amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions. The amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions will:

- Amend the name of this law from “Comprehensive Policy Governing Boards, Committees, and Commissions” to “Boards, Committees, and Commissions law;”
- Provide guidelines for the creation of a board, committee, or commission [1 O.C. 105.4];
- Update the information required to be included on an application and the process for submitting an application [1 O.C. 105.5];
- Revise how vacancies on a board, committee, and commission are handled, and allow for an individual to remain in office until the member’s successor has been sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity [1 O.C. 105.6];
- Update the appointment selection process to provide for more efficient and effective selections [1 O.C. 105.7];

- Require that oaths of office be taken at Oneida Business Committee meeting and update the oath of office [1 O.C. 105.9];
- Expand the information that boards, committees, and commissions are required to include in their bylaws [1 O.C. 105.10];
- Provide a process for electronic polling, if a board, committee, or commission decides to use electronic polling [1 O.C. 105.11];
- Expand the reporting requirements of boards, committees, and commissions to include requirements regarding standard operating procedures, quarterly reports to the Oneida Business Committee, and annual and semi-annual reports to the General Tribal Council [1 O.C. 105.12];
- Provide detailed information on what stipends or compensation is available for members of boards, committees, and commissions, and state that Oneida Business Committee shall set specific stipend amounts by resolution [1 O.C. 105.13];
- Address how confidential information is handled by boards, committees, and commissions, including the addition of a requirement for board, committee, and commission members to be provided an official Oneida e-mail address to conduct business of the board, committee, and commission on [1 O.C. 105.14];
- Simplify the information provided in the law regarding conflicts of interest clarify that due to the potential for a real or perceived conflict of interest to exist, political appointees shall not serve on an appointed or elected board, committee, or commission [1 O.C. 105.15];
- Require that the dissolution of a board, committee, or commission be noticed to the board, committee, or commission [1 O.C. 105.17]; and
- Provide greater detail on how violations of this law may be enforced [1 O.C. 105.18].

Additional minor changes are made to the draft to update the language and ensure compliance with drafting style and formatting requirements.

Throughout the development of the amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions the Legislative Operating Committee has focused on improving collaboration and public outreach.

The Legislative Operating Committee held two (2) work meetings specifically for all boards, committees, and commissions of the Nation to attend for the purpose of sharing ideas and concerns regarding the law. Twelve (12) of the eighteen (18) boards, committees, and commissions of the Nation participated during the legislative process and provided valuable input that was used in the development of the amendments. The boards, committees, and commissions that participated in the legislative process included: Environmental Resource Board, Oneida Police Commission, Oneida Nation Commission on Aging, Oneida Nation School Board, Oneida Election Board, Oneida Land Claims Commission, Oneida Trust Enrollment Committee, Oneida Veterans Affairs Committee, Oneida Gaming Commission, Oneida Pow-wow Committee, Oneida Land Commission, Oneida Library Board.

The Legislative Operating Committee held additional work meetings with the Business Committee Support Office, Records Management Department, and the Management Information System Department.

In accordance with the Legislative Procedures Act, a public meeting on the proposed amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions was held on June 21, 2018. Thirteen (13) people attended the public meeting with eight (8) people providing oral comments. The public comment period closed on June 28, 2018. The Legislative Operating Committee received two (2) submissions of written comments during the public comment period. All comments public comments received were accepted, reviewed, and considered by the Legislative Operating Committee on July 18, 2018. Any changes made based on those comments have been incorporated into this draft.

Overall, two hundred and eighty one (281) comments were collected from those individuals directly impacted by the amendments to the Comprehensive Policy Governing Boards, Committees, through various work meetings, the public meeting, and the public comment period.

**Requested Action**

Approve the Resolution: Amendments to the Comprehensive Policy Governing, Boards, Committees, and Commission.

# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

**BC Resolution # \_\_\_\_\_**

**Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions**

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**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 Comprehensive Policy Governing Boards, Committees, and Commissions (“the Law”) was adopted by the Oneida Business Committee through resolution BC-05-14-97-F and amended by resolutions BC-09-27-06-E, and BC-09-22-10-C; and

**WHEREAS,** the purpose of the Law is to govern boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions; and

**WHEREAS,** the amendments to this Law change the name from “Comprehensive Policy Governing Boards, Committees, and Commissions” to “Boards, Committees, and Commissions law”; and

**WHEREAS,** the amendments to this Law provide guidelines for the creation of a board, committee, or commission; and

**WHEREAS,** the amendments to this Law update the information required to be included on an application and the process for submitting an application; and

**WHEREAS,** the amendments to this Law revise how vacancies on a board, committee, and commission are handled, and allow for an individual to remain in office until the member’s successor has been sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity; and

**WHEREAS,** the amendments to this Law update the appointment selection process to provide for more efficient and effective selections; and

**WHEREAS,** the amendments to this Law require that oaths of office be taken at Oneida Business Committee meeting, and provide for an updated oath of office; and

**WHEREAS,** the amendments to this Law expand the information that boards, committees, and commissions are required to include in their bylaws; and

BC Resolution # \_\_\_\_\_

**Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions**  
Page 2 of 3

- 44 **WHEREAS,** the amendments to this Law provide a process for electronic polling, if a board,  
45 committee, or commission decides to use electronic polling; and  
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- 47 **WHEREAS,** the amendments to this Law expand the reporting requirements of boards, committees,  
48 and commissions to include requirements regarding standard operating procedures,  
49 quarterly reports to the Oneida Business Committee, and annual and semi-annual reports  
50 to the General Tribal Council; and  
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- 52 **WHEREAS,** the amendments to this Law provide detailed information on what stipends or  
53 compensation is available for members of boards, committees, and commissions, and  
54 state that Oneida Business Committee shall set specific stipend amounts by resolution;  
55 and  
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- 57 **WHEREAS,** the amendments to this Law address how confidential information is handled by boards,  
58 committees, and commissions, including the addition of a requirement for board,  
59 committee, and commission members to be provided an official Oneida e-mail address to  
60 conduct business of the board, committee, and commission on; and  
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- 62 **WHEREAS,** the amendments to this Law simplify the information provided in the law regarding  
63 conflicts of interest and clarify that due to the potential for a real or perceived conflict of  
64 interest to exist, political appointees shall not serve on an appointed or elected board,  
65 committee, or commission; and  
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- 67 **WHEREAS,** the amendments to this Law provide additional notice requirements for the dissolution of  
68 a board, committee, or commission; and  
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- 70 **WHEREAS,** the amendments to this Law provide greater detail on how violations of this Law may be  
71 enforced; and  
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- 73 **WHEREAS,** the amendments to this Law make other minor drafting revisions and updates; and  
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- 75 **WHEREAS,** a public meeting on the proposed amendments to this Law was held on June 21, 2018, in  
76 accordance with the Legislative Procedures Act, and the public comments were reviewed  
77 and accepted by the Legislative Operating Committee on July 18, 2018 ; and  
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- 79 **NOW THEREFORE BE IT RESOLVED,** that the Oneida Business Committee sets forth the following in  
80 regards to the implementation of this resolution:  
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- 82 1. *Informational Bylaws Meetings.* Section 105.10-1(a) of the Law requires that all existing boards,  
83 committees, and commissions of the Nation comply with the bylaw format prescribed in the Law  
84 and present bylaws for adoption within a reasonable time after adoption of this Law. Within thirty  
85 (30) days, the Legislative Reference Office shall provide at least two (2) informational bylaw  
86 meetings with the various boards, committees, and commissions of the Nation. The purpose of  
87 the informational bylaws meetings will be for the Legislative Reference Office to:
    - 88 a. provide an update on the revised bylaw requirements as a result of the amendments to  
89 the Law;
    - 90 b. provide a template for the development of revised bylaws; and
    - 91 c. offer assistance to boards, committees, and commissions in the development and  
92 drafting of updated bylaws.
  - 93 2. *Official Oneida Nation E-Mail Addresses.* Section 105.14-3 of the Law requires that each  
94 member of a board, committee, or commission be provided an official Oneida e-mail address  
95 upon election or appointment for the purpose of conducting business of the entity electronically.

BC Resolution # \_\_\_\_\_

**Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions**  
Page 3 of 3

96 The Management Information System Department shall have six (6) months from the adoption of  
97 the Fiscal Year 2019 budget to provide an official email address to all members of a board,  
98 committee, or commission of the Nation.

- 99 3. *Oneida Business Committee's Political Appointees.* Due to the potential for a real or perceived  
100 conflict of interest to exist, section 105.15-3 of this Law requires that an individual who serves as  
101 a political appointee to an Oneida Business Committee member shall not simultaneously serve  
102 on an appointed or elected board, committee, or commission.

103 a. *Current Political Appointees on Elected Boards, Committees, and Commissions.* All  
104 political appointees of the Oneida Business Committee that are currently simultaneously  
105 serving on an elected board, committee, or commission of the Nation shall be allowed to  
106 complete his or her term.

107 b. *Political Appointee Job Descriptions.* The Nation's Human Resources Department shall  
108 update the job descriptions for Oneida Business Committee political appointee positions  
109 to include a reference to the requirement that a political appointee of an Oneida Business  
110 Committee member shall forgo serving on an elected or appointed board, committee, or  
111 commission of the Nation.

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113 **BE IT FINALLY RESOLVED**, that the amendments to the Comprehensive Policy Governing Boards,  
114 Committees, and Commissions are hereby adopted and shall be effective October 10, 2018.  
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## Statement of Effect

*Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions*

### Summary

This resolution adopts amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions.

*Submitted by: Clorissa N. Santiago, Staff Attorney, Legislative Reference Office*

*Date: September 19, 2018*

### *Analysis by the Legislative Reference Office*

The Legislative Procedures Act (“the LPA”) was adopted by the General Tribal Council through resolution GTC-01-07-13-A for the purpose of providing a process for the adoption of laws of the Nation. [1 O.C. 109.1-1]. This resolution adopts amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions, which comply with all processes and procedures required by the LPA, including the development of a legislative analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. [1 O.C. 109.6, 109.7, 109.8].

The Comprehensive Policy Governing Boards, Committees, and Commissions was adopted by the Oneida Business Committee for the purpose of governing boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions. [1 O.C. 105.1-1].

The amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions will:

- Amend the name of this law from “Comprehensive Policy Governing Boards, Committees, and Commissions” to “Boards, Committees, and Commissions law;”
- Provide guidelines for the creation of a board, committee, or commission [1 O.C. 105.4];
- Update the information required to be included on an application and the process for submitting an application [1 O.C. 105.5];
- Revise how vacancies on a board, committee, and commission are handled, and allow for an individual to remain in office until the member’s successor has been sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity [1 O.C. 105.6];
- Update the appointment selection process to provide for more efficient and effective selections [1 O.C. 105.7];
- Require that oaths of office be taken at Oneida Business Committee meeting and update the oath of office [1 O.C. 105.9];

- Expand the information that boards, committees, and commissions are required to include in their bylaws [1 O.C. 105.10];
- Provide a process for electronic polling, if a board, committee, or commission decides to use electronic polling [1 O.C. 105.11];
- Expand the reporting requirements of boards, committees, and commissions to include requirements regarding standard operating procedures, quarterly reports to the Oneida Business Committee, and annual and semi-annual reports to the General Tribal Council [1 O.C. 105.12];
- Provide detailed information on what stipends or compensation is available for members of boards, committees, and commissions, and state that Oneida Business Committee shall set specific stipend amounts by resolution [1 O.C. 105.13];
- Address how confidential information is handled by boards, committees, and commissions, including the addition of a requirement for board, committee, and commission members to be provided an official Oneida e-mail address to conduct business of the board, committee, and commission on [1 O.C. 105.14];
- Simplify the information provided in the law regarding conflicts of interest clarify that due to the potential for a real or perceived conflict of interest to exist, political appointees shall not serve on an appointed or elected board, committee, or commission [1 O.C. 105.15];
- Require that the dissolution of a board, committee, or commission be noticed to the board, committee, or commission [1 O.C. 105.17]; and
- Provide greater detail on how violations of this law may be enforced [1 O.C. 105.18].

Additional minor changes are made to the draft to update the language and ensure compliance with drafting style and formatting requirements.

In accordance with the LPA, a public meeting on the proposed amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions was held on June 21, 2018. Thirteen (13) people attended the public meeting with eight (8) people providing oral comments. The public comment period closed on June 28, 2018. The Legislative Operating Committee received two (2) submissions of written comments during the public comment period. All comments public comments received were accepted, reviewed, and considered by the Legislative Operating Committee on July 18, 2018. Any changes made based on those comments have been incorporated into this draft.

### ***Conclusion***

Adoption of this resolution would not conflict with any of the Nation's laws.



## Amendments to Comprehensive Policy on Boards, Committees and Commissions Legislative Analysis

### SECTION 1. EXECUTIVE SUMMARY

REQUESTER: LOC	SPONSOR: Jennifer Webster	DRAFTER: Clorissa Santiago	ANALYST: Brandon Wisneski
<b>Intent of the Amendments</b>	When added to the Active Files list in 2013, the original intent of the amendments was to prohibit individuals from serving on multiple boards, committees and commissions at one time; set term limits; and prohibit Tribal employees from serving on tribal boards, committees and commissions. Over time, the intent has changed. The current intent of the amendments is set new standards for entity bylaws, update reporting requirements, update the appointment process to increase feedback from entities and BC members, set a procedure for the creation of new entities, create a standard e-poll process, require official email addresses for members of entities, prohibit the BC's political appointees from serving on entities, set new limitations and requirements for stipends, and allow the Business Committee to set stipend amounts by resolution, among other changes.		
<b>Purpose</b>	To govern the procedures regarding boards, committees and commissions of the Nation, including appointment and election, creation of bylaws, maintenance of official records, and compensation. <i>[see Boards, Committees and Commissions, 1 O.C. 105.1-1]</i>		
<b>Affected Entities</b>	Anyone serving on a Board, Committee or Commission of the Nation. Anyone applying to serve on a Board, Committee, or Commission of the Nation. Political appointees, such as legislative assistants. This law references the duties of the Business Committee Support Office, the Nation's Secretary, the Nation's Chairperson, the Oneida Election Board, Management Information Service (MIS) Department, and Records Management Department. This law does not apply to the Oneida Business Committee, Standing Committees or Tribal corporations.		
<b>Affected Legislation</b>	Election law, Removal law, Conflict of Interest law, Code of Ethics, Computer Resources Ordinance, Social Media Policy, Travel and Expense Policy, Oneida Nation Gaming Ordinance, and bylaws of all boards, committees and commissions of the Nation.		
<b>Enforcement/Due Process</b>	A member of an entity that violates this law may be subject to sanctions and penalties in accordance with any laws and policies of the Nation governing sanctions and penalties. A member of an elected entity may be subject to removal pursuant to the Removal Law. A member of an appointed entity may be subject to termination of appointment by the Oneida Business Committee. <i>[see Boards, Committees and Commissions, 1 O.C. 105.17]</i>		
<b>Public Meeting</b>	A public meeting was held on June 21, 2018.		

### 1 SECTION 2. LEGISLATIVE DEVELOPMENT

- 2 A. The Comprehensive Policy Governing Boards, Committees and Commissions was first adopted by  
3 the Oneida Business Committee on August 2, 1995, and was most recently amended by the Business  
4 Committee on September 27, 2006.

- 5 **B.** These amendments set new standards for entity bylaws, update reporting requirements, update the  
 6 appointment process to increase feedback from entities and BC members, set a procedure for the  
 7 creation of new entities, create a standard e-poll process, require official email addresses for members  
 8 of entities, prohibit the BC’s political appointees from serving on entities, set new limitations and  
 9 requirements for stipends, and allow the Business Committee to set stipend amounts by resolution,  
 10 among other changes.
- 11 **C.** The following chart lists the Boards, Committees and Commissions of the Nation that are governed  
 12 by this law. This law does not apply to the Oneida Business Committee, Standing Committees of the  
 13 Nation, or Tribal Corporations.

ELECTED	APPOINTED
<ul style="list-style-type: none"> <li>▪ Oneida Election Board</li> <li>▪ Oneida Gaming Commission</li> <li>▪ Oneida Land Claims Commission</li> <li>▪ Oneida Land Commission</li> <li>▪ Oneida Nation Commission on Aging (ONCOA)</li> <li>▪ Oneida Nation School Board</li> <li>▪ Trust Enrollment Committee</li> </ul>	<ul style="list-style-type: none"> <li>▪ Anna John Resident Centered Care Community Board (AJRCC)</li> <li>▪ Environmental Resource Board (ERB)</li> <li>▪ Oneida Community Library Board</li> <li>▪ Oneida Nation Arts Board</li> <li>▪ Oneida Police Commission</li> <li>▪ Oneida Pow Wow Committee</li> <li>▪ Oneida Nation Veterans Affairs Committee (ONVAC)</li> <li>▪ Pardon and Screening Forgiveness Committee</li> <li>▪ Personnel Selection Committee*</li> <li>▪ Southeastern WI Oneida Tribal Services Advisory Board (SEOTS)</li> </ul>

15 *\*Note: On August 27, 2018, GTC rescinded the dissolution of the Personnel Commission. It is*  
 16 *expected that the re-established Personnel Commission will be subject to this law.*  
 17

18 **SECTION 3. CONSULTATION AND OUTREACH**

- 19 **A.** The Business Committee Support Office, Records Management, Management Information Services  
 20 (MIS) Department and representatives from the following Boards, Committees and Commissions  
 21 were consulted in the development of this law: Environmental Resource Board, Police Commission,  
 22 Oneida Nation Commission on Aging, Oneida Nation School Board, Oneida Election Board, Oneida  
 23 Land Claims Commission, Trust Enrollment Committee, Oneida Veterans Affairs Committee,  
 24 Gaming Commission, Pow-wow Committee, Land Commission, Oneida Library Board. All boards,  
 25 committees and commissions were invited to participate in two work meetings scheduled outside of  
 26 normal business hours to meet their needs.
- 27 **B.** The Election Law, Removal Law, Conflict of Interest Law, Code of Ethics, Computer Resources  
 28 Ordinance, Social Media Policy, Travel and Expense Policy, and Oneida Nation Gaming Ordinance  
 29 were reviewed in drafting this analysis. In addition, the following bylaws were reviewed: Oneida  
 30 Election Board, Oneida Land Claims Commission, Oneida Land Commission, ONCOA, Oneida  
 31 Nation School Board, Trust Enrollment Committee, Anna John Resident Centered Care Community  
 32 Board, Finance Committee, Arts Board, Audit Committee, Environmental Resource Board, Oneida  
 33 Community Library Board, ONVAC, Pardon and Forgiveness Screening Committee, Police  
 34 Commission, Pow-wow Committee and Southeastern WI Oneida Tribal Services Advisory Board  
 35 (SEOTS).  
 36

37 **SECTION 4. PROCESS**

- 38 A. Thus far, this law has followed the process set forth in the Legislative Procedures Act (LPA).
- 39 B. The law was originally added to the Active Files List on April 3, 2013 and has been carried over from  
40 the previous two terms. The law was re-added to the Active Files List on September 17, 2014 and  
41 again on September 6, 2017.
- 42 C. At the time this legislative analysis was developed, the following work meetings were held/scheduled  
43 regarding the most recent efforts to develop this law and legislative analysis:
- 44     ▪ September 6, 2017: LOC work meeting.
  - 45     ▪ September 21, 2017: LOC, BC Support Office, and representatives from the following Boards,  
46         Committees and Commissions: Election Board, Environmental Resource Board, Land Claims  
47         Commission, Police Commission, ONCOA, and Trust Enrollment. In addition, the Oneida Nation  
48         School Board submitted written comments.
  - 49     ▪ October 2, 2017: BC Support Office
  - 50     ▪ October 27, 2017: LOC work meeting.
  - 51     ▪ February 2, 2018: LOC work meeting.
  - 52     ▪ February 22, 2018: LOC, BC Support Office, and representatives from the following Boards,  
53         Committees and Commissions: Election Board, Gaming Commission, Land Commission, Library  
54         Board, ONCOA, ONVAC, Police Commission, Pow-wow Committee, and Trust Enrollment. In  
55         addition, Environmental Resource Board submitted written comments.
  - 56     ▪ March 2, 2018: LOC work meeting.
  - 57     ▪ March 21, 2018: BC Support Office and Oneida Management Information Services (MIS)
  - 58     ▪ April 11, 2018: BC Support Office and MIS
  - 59     ▪ May 2, 2018: LOC work meeting.
  - 60     ▪ June 6, 2018: LOC work meeting.
  - 61     ▪ June 20, 2018: LOC work meeting.
  - 62     ▪ July 18, 2018: LOC work meeting.
  - 63     ▪ August 13, 2018: LOC work meeting.
- 64

65 **SECTION 5. CONTENTS OF THE LEGISLATION**

- 66 A. *Title.* The title of the law has been changed from “Comprehensive Policy on Boards, Committees and  
67 Commissions” to “Boards, Committees and Commissions.”
- 68 B. *Creation of an Entity.* This new provision outlines a standard procedure for the creation a new  
69 board, committee or commission. Boards, committees or commissions must be created by adoption of  
70 a law or resolution by the Oneida Business Committee (OBC) or General Tribal Council (GTC). The  
71 law or resolution must include the purpose, powers and responsibilities of the entity. The Oneida  
72 Business Committee is responsible for drafting the initial bylaws when a new entity is created. This is  
73 because a newly created board will not have any members. Once board members are appointed, they  
74 may revise their bylaws in accordance with this law [*see Boards, Committees and Commissions, 1*  
75 *O.C. 105.4*].
- 76 C. *Applications.* The application form to serve on a board, committee or commission must be approved  
77 by the Oneida Business Committee. The application form must include a conflict of interest  
78 disclosure. A statement has been added to the application form explaining attendance requirements.  
79 The intent is to ensure applicants are aware of these requirements when they apply. Application  
80 materials will be made available in the Business Committee (BC) Support Office.

- 81       ▪ *Background Investigation Application.* For entities that require a background check, an additional  
82 application form will now be required. This background application form will include social  
83 security number and any other information required to conduct a background investigation. The  
84 background investigation application will not be shared with the Oneida Business Committee,  
85 entity or Election Board. The intent is to keep this personal information separate from the main  
86 application materials. Currently, only Oneida Gaming Commission and Oneida Police  
87 Commission require background checks [see *Boards, Committees and Commissions, 1 O.C.*  
88 *105.5-1(b)*].
- 89       ▪ Completed applications must be submitted by 4:30 p.m. on the deadline date. Applications may  
90 be mailed as long as they are postmarked by the deadline date and received by the Business  
91 Committee Support Office within 5 business days of the deadline [see *Boards, Committees and*  
92 *Commissions, 1 O.C. 105.5-2*].

93 **D. Vacancies.** This section describes the process for filling vacancies.

- 94       ▪ *Appointments to Fill Vacancies on Elected Entities.* Individuals appointed to fill a vacancy on an  
95 elected entity will be considered an appointed official for the purposes of this law. This means  
96 that the appointed official may have their appointment terminated by the OBC, regardless of  
97 whether they serve on an elected board. [see *Boards, Committees and Commissions, 1 O.C.*  
98 *105.6-1*].
- 99       ▪ *Serve until Successor Appointed.* A new provision was added to allow members to remain in  
100 office until their successor has been sworn in. This provision was added to ensure that entities can  
101 still maintain a quorum while they wait for new appointments to be processed [see *Boards,*  
102 *Committees and Commissions, 1 O.C. 105.6-2(a)(1)*].
- 103       ▪ *Resignations.* Previously, officials could resign by delivering a resignation letter to the entity’s  
104 chairperson or by verbally resigning during a meeting. The process for resignation letters has  
105 been changed to require officials to submit their letter to both the entity’s chairperson and to the  
106 BC Support Office. This is to ensure that the BC Support Office is aware of resignations as soon  
107 as they occur, so that vacancies can be posted and filled in a timely manner [see *Boards,*  
108 *Committees and Commissions 1 O.C. 105.6-2(d)*]
- 109       ▪ Entities must notify the BC Support Office of vacancies as soon as they learn the position will  
110 become vacant [see *Boards, Committees and Commissions, 1 O.C. 105.6-3*]. This section also  
111 specifies when the BC Support Office must post notice of vacancies [see *Boards, Committees and*  
112 *Commissions, 1 O.C. 105.6-4*]. Notice of vacancies will be posted by the BC Support Office in all  
113 official media outlets of the Nation, as determined by the Oneida Business Committee. This  
114 currently includes the Kalihwisaks and the Nation’s website [see *Boards, Committees and*  
115 *Commissions, 1 O.C. 105.6-5*].

116 **E. Appointment to an Entity.** This section describes the process for appointment to an entity.

- 117       ▪ *Current Process.* Under current law, all applications are delivered to the Nation’s chairperson.  
118 The chairperson selects an applicant “within a reasonable time” and the appointment is voted on  
119 by the Oneida Business Committee. Currently, the chairperson is under no obligation to consult  
120 with OBC members prior to making an appointment, and there is no timetable for when the  
121 appointment must be made.
- 122       ▪ *Proposed Process.* In this proposed law, the appointment process has been modified to provide  
123 individual OBC members and the entity’s chairperson an opportunity to review applications and  
124 offer recommendations. In addition, this law requires the BC Support Office to place

125 appointments on the executive session portion of the agenda for the next BC meeting, to ensure a  
 126 speedier appointment process. During executive session of the next BC meeting, all OBC  
 127 members will have an opportunity to discuss the applicants and select an appointee by consensus  
 128 [see *Boards, Committees and Commissions, 1 O.C. 105.7-1*].

129 **Notification of an Appointment.** After an appointment  
 130 is approved by the Business Committee, the Nation’s  
 131 Chairperson will notify the Secretary of the appointment.  
 132 The Secretary will then notify the applicant [see *Boards,*  
 133 *Committees and Commissions, 1 O.C. 105.7-2*].

134 **Declining an Appointment.** This new provision  
 135 describes how an individual can decline their  
 136 appointment before taking the oath of office. Individuals  
 137 can decline their appointment by delivering a letter to the  
 138 BC Support Office. In addition, failure to take the oath  
 139 of office within thirty (30) days of appointment will also  
 140 be considered declining the appointment. Oaths of office  
 141 are administered during OBC meetings, which are held  
 142 twice monthly. Therefore, appointees will have at least  
 143 two opportunities to take the oath. In addition, a new  
 144 provision has been added later in this law to allow for  
 145 oaths of office by video conference. If an individual  
 146 declines their appointment, the OBC will select another  
 147 applicant from the original posting rather than re-post  
 148 the vacancy [see *Boards, Committees and Commissions,*  
 149 *1 O.C. 105.7-3*].

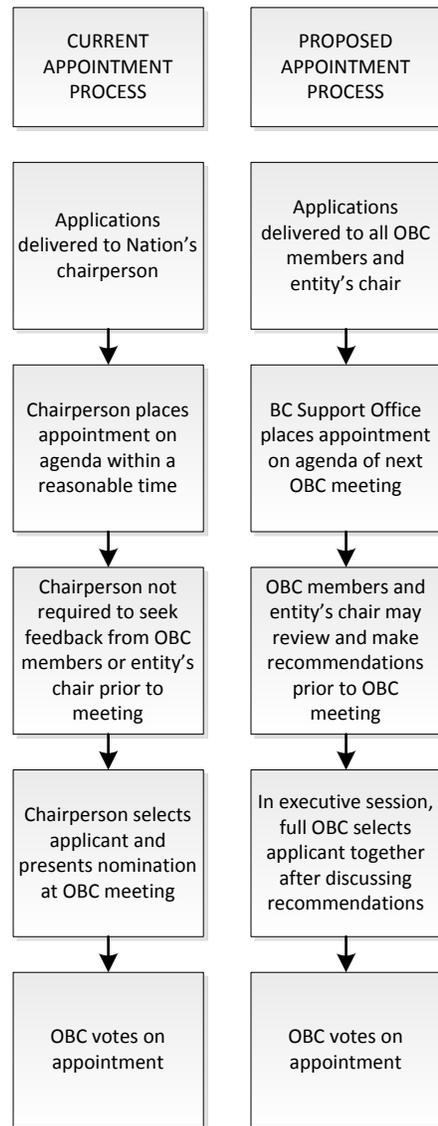
150 **Termination of Appointment.** Appointed members,  
 151 including individuals appointed to fill vacancies on  
 152 elected entities, may have their appointment terminated  
 153 by a 2/3 majority vote of the BC. Termination of  
 154 appointment is final and cannot be appealed [see  
 155 *Boards, Committees and Commissions, 1 O.C. 105.7-4*].

156 **F. Election to an Entity.** Candidates for an elected entity must  
 157 be nominated at a caucus or petition to be placed on the  
 158 ballot. Vacancies may be filled by appointment, per each  
 159 entity’s bylaws. The election process is governed by the  
 160 Election Law [See *Boards, Committees and Commissions, 1 O.C. 105.8*].

161 **G. Oath of Office.** This section lists the oath of office and the procedure for changing the oath.

- 162 **Revised Oath.** Minor revisions have been made to the wording of the oath to reflect the change  
 163 from Oneida Tribe to Oneida Nation and to make it easier to recite. Specifically, “and with the  
 164 strictest confidentiality” has been changed to “and will strictly maintain confidential  
 165 information.”
- 166 **Video Conference.** A provision has been added that allows members to take their oath by video  
 167 conference with permission of the Secretary. Members of the SEOTS Board, who reside in the  
 168 Milwaukee area, are an example of members who may benefit from this provision.

**Chart 2. Appointment Comparison**



- 169       ▪ *Electronic Copies.* The BC Support Office may now store electronic copies of the signed oath,  
170       rather than keep original paper copies [*See Boards, Committees and Commissions, 1 O.C. 105.9*]
- 171 **H. Bylaws.** Bylaws are the documents that provide a framework for the operation and management of an  
172       entity. This law outlines the format that entities must follow for developing their bylaws. These are  
173       the minimum requirements for what must be included. Entities may add additional information to  
174       their bylaws if they choose. Bylaws must be organized in the following manner:
- 175       ▪ *Article I: Authority.* This section includes the following new provisions: Establishment, which  
176       cites the law or resolution that established the entity. Authority, which will state the purpose of  
177       the entity and the authority delegated to the entity. Termination or Removal, which identifies  
178       causes for termination or removal from the entity. Trainings and Conferences, which describes  
179       trainings and/or conferences the entity deems necessary to serve on the entity [*See Boards,*  
180       *Committees and Commissions, 1 O.C. 105.10-3(a)*].
- 181       ▪ *Article II: Officers.* This section lists the duties and responsibilities of the entity’s chairperson,  
182       vice chairperson, and any additional officers. It also describes the procedure for selecting officers  
183       and whether the entity has the authority to hire personnel. A new provision on budgetary and  
184       travel sign-off authority has been added to identify which members of the entity have sign-off  
185       authority on behalf of the entity. All travel requests must be approved by majority vote during a  
186       meeting of the entity [*See Boards, Committees and Commissions, 1 O.C. 105.10-3(b)*].
- 187       ▪ *Article III: Meetings.* This section identifies when and where regular, emergency and joint  
188       meetings will be held and how meetings will be noticed [*See Boards, Committees and*  
189       *Commissions, 1 O.C. 105.10-3(c)*].
- 190               ○ *Justification for Emergency Meetings.* Within 72 hours of an emergency meeting, the  
191               entity must provide the Nation’s Secretary with notice of the meeting, the reason for the  
192               meeting, and an explanation for why the matter could not wait for a regular meeting. This  
193               is a new provision.
- 194               ○ *Joint Meetings.* A new provision has been added regarding whether joint meetings will be  
195               held between the entity and the Oneida Business Committee.
- 196               ○ *Voting and E-Poll.* The Voting section has been revised to include whether the entity will  
197               allow e-polls and under what circumstances the entity’s chairperson is allowed to vote.
- 198       ▪ *Article IV: Expectations.* This is a new section which sets expectations for behavior of members  
199       of an entity. Entities must prohibit violence and the use of alcohol and illegal drugs when acting  
200       in an official capacity. Entities must also list expectations regarding how official business of the  
201       entity may be posted on social media. A conflict of interest section has also been added, which  
202       lists any additional conflict of interests that may be unique to that entity. This section will also  
203       describe how conflicts of interest will be handled and mitigated [*See Boards, Committees and*  
204       *Commissions, 1 O.C. 105.10-3(d)*].
- 205       ▪ *Article V: Stipends and Compensation.* This new section will list all of the stipends members are  
206       eligible to receive and the requirements for collecting each stipend [*See Boards, Committees and*  
207       *Commissions, 1 O.C. 105.10-3(e)*].
- 208       ▪ *Article VI: Records and Reporting.* This section describes the procedure and format for agenda  
209       items, meeting minutes, attachments and the entity’s relationship with the OBC Liaison. New  
210       revisions to this section include identifying a reasonable timeframe that the entity will submit  
211       minutes to the BC Support Office, and identifying how records of meeting attachments will be  
212       kept [*See Boards, Committees and Commissions, 1 O.C. 105.10-3(f)*].

- 213           ○ *Audio Recording Requirement.* All entities will now be required to audio record their  
214           meetings.
- 215           ■ *Article VII: Amendments.* This section describes how entities may revise their bylaws, with the  
216           approval of the Oneida Business Committee or General Tribal Council [*See Boards, Committees*  
217           *and Commissions, 1 O.C. 105.10-3(g)*].
- 218 **I. *Electronic Polling (E-Poll).*** This new provision outlines the process for conducting an electronic  
219 poll, or “e-poll.” Entities may use e-polls if approval of an action is needed before their next meeting.
- 220           ■ *E-Poll Process.* E-polls must be sent from an official email address of the entity by the chair or  
221           designee, include a deadline for response of no greater than 24 hours, and follow the formatting  
222           requirements described in this section. Members will vote by responding to the e-poll from an  
223           official address of the entity. Responses from personal email addresses will not be accepted. In  
224           order for an e-poll to be valid, a majority of the members of the entity must respond to the e-poll.  
225           This is similar to requiring a quorum for an in-person meeting. If a majority vote in support of  
226           the e-poll, then the action will be approved. Copies of all e-poll results must be placed on the  
227           entity’s next meeting agenda to be entered into the record [*see Boards, Committees and*  
228           *Commissions, 1 O.C. 105.11*].
- 229 **J. *Reporting Requirements.*** This law describes reporting requirements for minutes, standard operating  
230 procedures and reports to the Oneida Business Committee and General Tribal Council. Several new  
231 provisions have been added:
- 232           ■ *Minutes.* Actions taken by an entity are valid once the action has been approved by a vote. For  
233           example, if an entity passes a motion, that motion is valid immediately. Entities have the option  
234           of adding a requirement to their bylaws that minutes must be approved before the actions become  
235           valid [*See Boards, Committees and Commissions, 1 O.C. 105.12-1*].
- 236           ■ *Standard Operating Procedures.* Entities will now be required to submit all standard operating  
237           procedures to the BC Support Office to be kept on file.
- 238           ■ *Quarterly Reports to Oneida Business Committee.* Entities must submit quarterly reports to the  
239           Oneida Business Committee. At least one member of each entity must attend the BC Meeting  
240           where their quarterly report is being presented. Quarterly reports will contain the following  
241           information: Contact information, number and type of meetings, the topics of any emergency or  
242           special meetings, accomplishments, goals, budget status, requests to the Business Committee and  
243           any other information deemed appropriate by the entity [*See Boards, Committees and*  
244           *Commissions, 1 O.C. 105.12-3*].
- 245           ■ *Annual and Semi-Annual Reports to GTC.* Entities must submit annual and semi-annual reports  
246           to the General Tribal Council. The Business Committee will set the format for these reports.
- 247           ○ *Complaints.* New provisions were added that require entities to include the number of  
248           substantiated complaints against members of the entity in their annual and semi-annual  
249           reports. A substantiated complaint is a complaint that has been found valid by the BC or  
250           Judiciary. The proposed Sanctions and Penalties law will set a standard procedure for  
251           complaints.
- 252           ■ *Failure to Submit Reports.* A new provision was added specifying that if an entity does not  
253           submit reports on time, OBC may place a hold on all stipends for that entity until the reports are  
254           received [*See Boards, Committees and Commissions, 1 O.C. 105.12-5*].

- 255 **K. *Stipends, Reimbursement and Compensation.*** This law describes the procedures for how stipends  
256 will be paid for meetings, hearings, and other expenses [*see Boards, Committees and Commissions, 1*  
257 *O.C. 105.13*].
- 258 ■ *Stipend Amount Set by Resolution.* Rather than put the stipend amounts within the law, the  
259 Oneida Business Committee will now set stipend amounts in a separate resolution. The BC may  
260 adjust those amounts by amending the resolution. The purpose of this change is to allow for  
261 greater flexibility in adjusting stipends. It also ensures that stipend amounts for all of the Nation’s  
262 boards, committees and commissions are accurately documented in one place. At the time this  
263 analysis was written, the LOC plans to draft a resolution setting stipend amounts and include the  
264 resolution in the adoption packet for this law.
  - 265 ■ *Gift Card Option.* Entities will now have the option of paying stipends in the form of cash or gift  
266 cards, such as Oneida Retail cards.
  - 267 ■ *Requirements for Regular and Emergency Meeting Stipends.* In order to receive a stipend,  
268 meetings must have an established quorum and last at least one hour. In addition, there is a new  
269 requirement that members must be physically present for the entire meeting to earn the stipend. If  
270 members arrive late or leave early, they will not earn a stipend.
    - 271 ○ *Appointed Members:* Appointed members may only receive one meeting stipend per  
272 month, regardless of the number of meetings held. This is consistent with current law  
273 [*See Boards, Committees and Commissions, 1 O.C. 105.13-3(a)*].
    - 274 ○ *Elected Members:* Elected members may receive two meeting stipends per month,  
275 regardless of the number of meetings held. This is a change from current law, which  
276 previously allowed elected boards to receive stipends for any number of meetings per  
277 month. [*See Boards, Committees and Commissions, 1 O.C. 105.13-3(b)*].
  - 278 ■ *Requirements for Joint Meeting Stipends.* Members of entities can receive a stipend for attending  
279 a duly called joint meeting with the Oneida Business Committee. The joint meeting must have an  
280 established quorum, last at least one hour, and members must be physically present for the entire  
281 meeting. Business Committee members are full-time employees and do not receive meeting  
282 stipends [*See Boards, Committees and Commissions, 1 O.C. 105.13-4*].
    - 283 ○ *Examples:* Trust Enrollment Committee, Land Commission and Land Claims  
284 Commission are examples of entities that hold joint meetings with the Business  
285 Committee.
  - 286 ■ *Stipends for Oneida Judiciary Hearings.* A member of an entity will receive a stipend for  
287 attending an Oneida Judiciary hearing if that member is required to attend by subpoena [*See*  
288 *Boards, Committees and Commissions, 1 O.C. 105.13-5*].
  - 289 ■ *Hearings of an Entity:* Members may receive stipends for conducting hearings administered by  
290 the entity. Entities may only receive one stipend for each hearing, regardless of the length of the  
291 hearing. Members may not receive additional stipends for continuations of a hearing or to draft  
292 decisions [*See Boards, Committees and Commissions, 1 O.C. 105.13-6*].
    - 293 ○ *Boards with Hearing Authority:* The following entities currently exercise hearing  
294 authority: Election Board, Police Commission, School Board, Trust Enrollment  
295 Committee, Pardon and Forgiveness Screening Committee, and Gaming Commission.  
296 Environmental Resource Board and Land Commission have transferred hearing body  
297 authority to the Judiciary.

- 298       ▪ *Other Stipends:* Stipends for any other activity will be set by the OBC in the resolution setting  
299 stipend amounts. Examples of such activities include Pow-wow Committee working at Pow-  
300 wows and Election Board conducting elections or conducting hand counts at GTC meetings [*See*  
301 *Boards, Committees and Commissions, 1 O.C. 105.13-7*].
- 302       ▪ *Conferences and Training:* Members will receive stipends for attending conferences and training.  
303 Members will receive stipends for each full day of training required by law, bylaw or resolution.  
304 Members will not receive stipends for travel days. In addition, members are eligible for per diem  
305 per the Nation’s Travel and Expense policy. This is consistent with current law. This section  
306 removes the \$100 amount for the travel stipend. Instead, the amount of the stipend will be set by  
307 the OBC by resolution [*See Boards, Committees and Commissions, 1 O.C. 105.13-8*].
- 308 **L. Confidential Information.** This law requires members to maintain confidentiality in all information  
309 obtained through their position on the entity. Members cannot disclose confidential information  
310 without the written authorization of the Oneida Business Committee. After leaving an entity, a  
311 member must return all records. Members of an entity cannot use confidential information for  
312 personal gain [*See Boards, Committees and Commissions, 1 O.C. 105.14-1*].
- 313       ▪ *Official Email Address.* Members will now be provided an official email address for conducting  
314 business of the entity. Members cannot use personal or work email to conduct the entity’s  
315 business. Employees of the Nation will receive a separate email address. Members must follow  
316 the Nation’s computer and media related policies and sign an acknowledgment form provided by  
317 the Secretary. When a member leaves office, the Nation’s Secretary will direct MIS to disable the  
318 email address [*See Boards, Committees and Commissions, 1 O.C. 105.14-3*].
- 319 **M. Conflicts of Interest.** This law requires members to adhere to the Nation’s policies regarding  
320 conflicts of interest. It also requires members to disclose conflicts of interest as soon as they arise and  
321 submit an updated conflict of interest disclosure form to the Nation’s Secretary on an annual basis  
322 [*See Boards, Committees and Commissions, 1 O.C. 105.15-2*].
- 323       ▪ *Political Appointees.* Political appointees are no longer allowed to serve on boards, committees or  
324 commissions. There are currently ten political appointees in the organization: Chairperson’s  
325 Assistant, Chairperson’s Policy Advisor, Vice Chair’s Assistant, Treasurer’s Assistant,  
326 Secretary’s Assistant, and five Legislative Assistants [*See Boards, Committees and Commissions,*  
327 *1 O.C. 105.15-3*].
- 328       ▪ *Deleted Sections.* The current Comprehensive Policy includes a list of specifically prohibited  
329 activities covered under “conflicts of interest.” This draft deletes this list of prohibited activities,  
330 and instead, directs entities to follow the Nation’s laws and policies governing conflicts of  
331 interest [*see Comprehensive Policy on Boards, Committees and Commissions, 1 O.C. 105.13*].  
332 These laws include the Conflict of Interest Law and the Code of Ethics, which both apply to  
333 members of boards, committees and commissions. Members must also follow any conflict of  
334 interest provisions in their entity’s bylaws. The Conflict of Interest Law and Code of Ethics  
335 provide broad guidelines, while the deleted Conflict of Interest sections in this law provided more  
336 specific examples that fell within those guidelines.
- 337 **N. Use of the Nation’s Assets.** This law describes how entities will maintain bank accounts, execute and  
338 record transactions, and use Generally Accepted Accounting Principles for the Nation’s funds. Any  
339 evidence of noncompliance will be reported to the Internal Audit department [*See Boards,*  
340 *Committees and Commissions, 1 O.C. 105.16*].

341 **O. *Dissolution of an Entity.*** Entities can only be dissolved by GTC or OBC motion. A new requirement  
342 was added that within 5 business days of dissolving an entity, OBC will provide the entity with a  
343 written notice of the dissolution [*See Boards, Committees and Commissions, 1 O.C. 105.17-2*]. This  
344 law specifies that chairpersons and secretaries of dissolved entities are responsible for closing out  
345 business and forwarding records to the BC Support Office. The BC Support Office may use the  
346 assistance of Records Management or any other appropriate department [*See Boards, Committees and*  
347 *Commissions, 1 O.C. 105.17-3*].

348 **P. *Enforcement.*** Members who violate this law are subject to sanctions and penalties, removal pursuant  
349 to the Removal law, or termination of appointment to an appointed entity. A provision regarding  
350 disqualifying candidates for election was removed, because disqualification is addressed in the  
351 Election law [*See Boards, Committees and Commissions, 1 O.C. 105.18*].  
352

## 353 **SECTION 6. EFFECT ON EXISTING LEGISLATION**

354 **A. *Bylaws.*** The bylaws of every Board, Committee and Commission will need to be updated to conform  
355 with the new bylaw requirements in this law [*See Boards, Committees and Commissions, 1 O.C.*  
356 *105.10-3*].

357 **B. *References to the Other Laws of the Nation:*** The following laws of the Nation are referenced in this  
358 law. This law does not conflict with any of the referenced laws.

359     ▪ ***Election Law.*** The process for election of a member to an elected entity will be governed by the  
360 Election Law [*See Boards, Committees and Commissions, 1 O.C. 105.8-2*].

361     ▪ ***Removal Law.*** Removal of an official elected to an entity is governed by the Removal Law [*See*  
362 *Boards, Committees and Commissions, 1 O.C. 105.6-2(b)*]. Members who violate this law may be  
363 subject to Removal pursuant to the Removal Law [*See Boards, Committees and Commissions, 1*  
364 *O.C.105.17-1*].

365     ▪ ***Conflict of Interest Law.*** All members of an entity are required to follow the Nation's laws  
366 governing conflicts of interest [*See Boards, Committees and Commissions, 1 O.C.105.15-1*].

367     ▪ ***Code of Ethics.*** All members of an entity are required to follow the Nation's laws governing  
368 conflicts of interest. The Code of Ethics also includes conflict of interest provisions [*See Boards,*  
369 *Committees and Commissions, 1 O.C. 105.15-1*].

370     ▪ ***Computer Resources Ordinance.*** Members of an entity must sign an acknowledgment form  
371 indicating notice of the Nation's applicable computer and media related laws [*See Boards,*  
372 *Committees and Commissions, 1 O.C. 105.14-3(b)*].

373     ▪ ***Social Media Policy.*** The bylaws of each entity must identify expectations for the use of social  
374 media in regards to official business of the entity [*See Boards, Committees and Commissions, 1*  
375 *O.C. 105.10-3(d)(4)*].

376     ▪ ***Travel and Expense Policy.*** Members of an entity are eligible to be reimbursed for travel and per  
377 diem to attend a conference or training in accordance with the Nation's travel policies [*See*  
378 *Boards, Committees and Commissions, 1 O.C. 105.13-8*].

379     ▪ ***Oneida Nation Gaming Ordinance.*** Compensation of Gaming Commissioners is not subject to  
380 the this law [*see Oneida Nation Gaming Ordinance, 5 O.C. 501.6-1*].  
381

## 382 **SECTION 7. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR OBLIGATIONS**

383 **A. *Right to Appeal Termination of Appointment.*** After the OBC terminates an appointment, the  
384 termination is final and not subject to appeal. While appointed members have always served at the

385 discretion of the Business Committee, for clarity, the law now specifically states that appeals are not  
386 allowed. Note that this does not impact members who were elected to their positions, which is  
387 governed by the Removal Law.

388 **B. *Political Appointees.*** This law bans political appointees, such as legislative assistants, from serving  
389 on boards, committees and commissions. By accepting the position, political appointees will be  
390 knowingly giving up the right to serve on an entity as a condition of their employment. Any  
391 appointees currently serving on an entity will be allowed to finish their terms. *[See Boards,*  
392 *Committees and Commissions, 1 O.C. 105.15-3].*

393

## 394 **SECTION 8. ENFORCEMENT AND ACCOUNTABILITY**

395 **A.** Elected officials may be removed pursuant to the Removal Law and appointed officials may have  
396 their appointments terminated by the Oneida Business Committee *[See Boards, Committees and*  
397 *Commissions, 1 O.C. 105.18-1(b-c)].*

398 **B.** Any member of an entity who violates this law may be subject to sanctions and penalties. The LOC is  
399 currently developing a Sanctions and Penalties law *[See Boards, Committees and Commissions, 1*  
400 *O.C. 105.18-1(a)].*

401 **C.** Entities that fail to comply with reporting requirements in this law may have their stipends withheld  
402 until reports are submitted *[See Boards, Committees and Commissions, 1 O.C. 105.12-5].*

403

## 404 **SECTION 9. OTHER CONSIDERATIONS**

405 *The LOC may want to consider the following regarding implementation of this law:*

406 **A. *Bylaws.*** Boards, Committees and Commissions have been unable to update their bylaws for the last  
407 several years while this law has been on the LOC's Active Files List. Upon adoption of this law, all  
408 entities will need to update their bylaws to conform with the new standards *[See Boards, Committees*  
409 *and Commissions, 1 O.C. 105.10].* Entities will be expected to update their bylaws within a  
410 reasonable time after adoption of this law, rather than a specific deadline. All bylaws must be  
411 approved by the Oneida Business Committee. Entities, LOC and the BC should expect to begin  
412 processing a large number of bylaws after passage. The LOC plans to assist entities with updating  
413 their bylaws by offering training sessions, bylaw templates, and additional assistance from LRO staff.

414 **B. *Stipend Processing.*** This law places several new requirements and limitations on how and when  
415 members may receive stipends. These new requirements will require enforcement. Enforcing these  
416 new provisions will require reviewing bylaws, entity and OBC meeting minutes, Judiciary subpoenas  
417 and other actions. Currently, stipend requests are sent directly to Accounting. The BC Support Office  
418 is in the process of taking over this responsibility and is well suited to this role given their familiarity  
419 with each of the boards. If possible, the BC Support Office should take over this role to coincide with  
420 the implementation of this law.

421 **C. *Current Political Appointees.*** This law bans political appointees from serving on boards, committees  
422 and commissions *[See Boards, Committees and Commissions, 1 O.C. 105.15-3].* At the time this  
423 analysis was drafted, two political appointees currently serve on an entity. Both serve on elected  
424 entities. These two individuals, and any other political appointees who may be serving at the time this  
425 law is adopted, will be permitted to serve out the remainder of their terms. This decision will be  
426 included in the adopting resolution for this law. The OBC should also consider working with Oneida  
427 Human Resources Dept. to update job descriptions for political appointees to include this ban.

428 **D. Audio Recording Requirement.** This law adds a new requirement for all entities to audio record their  
429 meetings. According to the BC Support Office, three entities currently audio record their meetings on  
430 a regular basis. The BC Support Office has recording equipment available to assist entities. It may be  
431 necessary for the BC Support Office to acquire additional audio recording equipment to implement  
432 this provision. The LOC may want to consider delaying the implementation date of this requirement  
433 in the adopting resolution to allow for any necessary planning, training or purchases.

434 **E. Email Addresses for BCC Members.** MIS, BC Support Office and Records Management have begun  
435 work to develop a process to provide and manage email addresses for member entities. Based on MIS  
436 research, the email address requirement will impact approximately 130 members. To allow for  
437 necessary planning to implement protocols, set budgets, and secure licenses to set up new email  
438 addresses, the LOC intends to delay implementation of the email requirement in the adopting  
439 resolution.

440 **F. Changes to Application Form.** The following changes must be made to the application form for  
441 boards, committees and commissions. The revised application forms must be approved by the  
442 Business Committee [see *Boards, Committees and Commissions, 1 O.C. 105.5-1*].

- 443     ▪ Add a statement to the application form explaining the attendance requirements of section  
444       105.11-3
- 445     ▪ Create an additional Background Investigation Application Form, to include social security  
446       number and any other information needed to conduct a background investigation. This form will  
447       only be provided to applicants applying to entities that require a background check. This includes  
448       the Gaming Commission and Police Commission.

449 **G. New Forms and Standard Operating Procedures:**

- 450     ▪ *Computer Resource Acknowledgment Form.* The Secretary must provide an acknowledgment  
451       form to be signed by each member upon receiving an email address. The Nation's Secretary and  
452       BC Support Office may want to consult with MIS regarding existing standard forms that could be  
453       used [see *Boards, Committees and Commissions 1 O.C. 105.14-3(b)*].
- 454     ▪ *Disabling Email Addresses.* The Secretary must direct MIS to disable the email address for  
455       members that leave office. The Nation's Secretary and BC Support Office may want to develop  
456       an SOP for this process [see *Boards, Committees and Commissions 1 O.C. 105.14-3(d)*].
- 457     ▪ *SOP for Background Check Application Forms.* Given the sensitive information on the new  
458       background check application forms, the Nation's Secretary and BC Support Office may want to  
459       create an SOP for how these forms will be securely stored and processed, if such an SOP does not  
460       already exist.

461

462 *The following is provided for information:*

463 **H. Current Stipends.** Under this law, stipend amounts will be set by Business Committee resolution  
464 [see *Boards, Committees and Commissions 1 O.C. 105.13-2*]. The OBC will periodically review and  
465 adjust these stipend amounts. Below is a depiction of current stipend amounts at the time this  
466 analysis was drafted. Whether to maintain or adjust the current stipend amounts a policy decision.

467

468

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470

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472 **Chart 4. Current Meeting Stipends for Appointed Boards.**

<b>NO STIPEND</b>
<ul style="list-style-type: none"> <li>▪ Oneida Nation Arts Board</li> </ul>
<b>\$50 PER MEETING</b>
<ul style="list-style-type: none"> <li>▪ Anna John Resident Centered Care Community Board (AJRCC)</li> <li>▪ Environmental Resource Board (ERB)</li> <li>▪ Oneida Community Library Board</li> <li>▪ Oneida Police Commission</li> <li>▪ Oneida Pow-wow Committee</li> <li>▪ Oneida Nation Veterans Affairs Committee (ONVAC)</li> <li>▪ Pardon and Screening Forgiveness Committee</li> <li>▪ Personnel Selection Committee*</li> </ul>
<b>\$75 PER MEETING</b>
<ul style="list-style-type: none"> <li>▪ Southeastern WI Oneida Tribal Services Advisory Board (SEOTS)</li> </ul>

473 **Source: 2018 Semi-Annual Report to General Tribal Council**

474 \*Note – On August 27, 2018, GTC rescinded the dissolution of the Personnel Commission.

475

476 **Chart 5. Current Meeting Stipends for Elected Boards.**

<b>\$50 PER MEETING</b>
<ul style="list-style-type: none"> <li>▪ Land Commission</li> <li>▪ Land Claims Commission</li> </ul>
<b>\$75 PER MEETING</b>
<ul style="list-style-type: none"> <li>▪ Oneida Nation Commission on Aging (ONCOA)</li> <li>▪ Oneida Nation School Board</li> </ul>
<b>\$100 PER MEETING FOR CHAIR, \$75 PER MEETING FOR MEMBERS</b>
<ul style="list-style-type: none"> <li>▪ Trust Enrollment Committee</li> </ul>
<b>\$100 PER MEETING</b>
<ul style="list-style-type: none"> <li>▪ Oneida Election Board</li> </ul>
<b>FULL TIME SALARY – NO MEETING STIPENDS</b>
<ul style="list-style-type: none"> <li>▪ Oneida Gaming Commission*           <ul style="list-style-type: none"> <li>○ Gaming Commissioners are full-time officials. Compensation of Gaming Commissioners is not subject to the Comprehensive Policy on Boards, Committees and Commissions [see Oneida Nation Gaming Ordinance 5 O.C. 501.6-11].</li> <li>○ “Pro-Tem” Commissioners, appointed as needed to participate in hearings when full-time commissioners recuse themselves, receive \$150 per hearing.</li> </ul> </li> </ul>

477 **Source: 2018 Semi-Annual Report to General Tribal Council.**

478

- 479
- 480 ▪ **Summary of Current Meeting Stipends.** Currently, there are variations in stipends from board to board based on BC and entity actions over the years.
  - 481 ○ *Appointed.* Members of appointed entities receive \$50 per meeting, with the exception of
  - 482 SEOTS, which reports that it receives \$75 per meeting, and Oneida Arts Board, which is a
  - 483 volunteer board that does not accept stipends.

- 484 ○ *Elected.* Members of elected entities receive between \$50 to \$100 per meeting. An exception
- 485 is the Oneida Gaming Commission, whose members receive a full-time salary.
- 486 ■ **Hearing Stipends.** Entities with hearing body authority receive stipends for conducting hearings.
- 487 Hearing stipend amounts are typically the same as meeting stipends.
- 488 ■ **Conferences and Training Stipends.** Members currently receive a \$100 stipend for each full day
- 489 spent attending a conference or training, not including travel days.
- 490 ■ **Other Stipends.** In addition, certain entities receive stipends for other activities:
- 491 ○ Oneida Election Board members receive \$10 per hour for conducting elections and caucuses.
- 492 They also receive a \$100 stipend for conducting hand counts at General Tribal Council
- 493 meetings.
- 494 ○ Oneida Pow-wow Committee members receive \$25 per hour, not to exceed \$200 per day, for
- 495 planning, preparation and working Oneida Pow-wows.

I. **Proposed Stipend Amounts.** At the time this analysis was drafted, the LOC intends to propose an increase in stipend amounts for boards, committees and commissions. Below are the stipend amounts that the LOC proposes to set by resolution upon adoption of this law. For additional information, see the proposed stipend resolution included in the adoption materials for this law.

**Chart 6. Proposed Meeting Stipends for Appointed Boards.**

Appointed Entity	Current Stipend Amount	Proposed Stipend Amount
Oneida Nation Arts Board	None	\$75 per meeting
Anna John Resident Centered Care Community Board (AJRCC)	\$50 per meeting	\$75 per meeting
Oneida Community Library Board	\$50 per meeting	\$75 per meeting
Environmental Resource Board	\$50 per meeting	\$75 per meeting
Oneida Nation Veterans Affairs Committee (ONVAC)	\$50 per meeting	\$75 per meeting
Personnel Selection Committee*	\$50 per meeting	\$75 per meeting
Oneida Police Commission	\$50 per meeting	\$75 per meeting
Oneida Pow-wow Committee	\$50 per meeting	\$75 per meeting
Pardon and Forgiveness Screening Committee	\$50 per meeting	\$75 per meeting
Southeastern Oneida Tribal Services Advisory Board (SEOTS)	\$75 per meeting	\$75 per meeting

- 502 ■ The LOC proposes to increase stipend amounts for appointed boards to \$75 per meeting.
- 503 Appointed boards are limited to one meeting stipend per month.
- 504 ■ For more information regarding proposed stipends, see proposed stipend resolution in the
- 505 adoption materials for this law.

510 **Chart 7. Proposed Meeting Stipends for Elected Boards.**

Elected Entity	Current Stipend Amount	Proposed Stipend Amount
Land Commission	\$50 per meeting	\$100 per meeting
Land Claims Commission	\$50 per meeting	\$100 per meeting
Oneida Nation Commission on Aging (ONCOA)	\$75 per meeting	\$100 per meeting
Oneida Nation School Board	\$75 per meeting	\$100 per meeting
Trust Enrollment Committee	\$100 per meeting for chairperson, \$75 per meeting for members	\$100 per meeting (all members)
Oneida Election Board	\$100 per meeting	\$100 per meeting

- 511     ▪ The LOC proposes to increase stipend amounts for elected boards to \$100 per meeting.
- 512     ▪ Upon adoption of this law, elected boards will be limited to two meeting stipends per month,
- 513       regardless of the number of meetings held.
- 514     ▪ Compensation of Oneida Gaming Commissioners is not subject to the Comprehensive Policy
- 515       on Boards Committees and Commissions [see *Oneida Nation Gaming Ordinance, 5 O.C.*
- 516       *501.6-11*].
- 517     ▪ For more information regarding proposed stipends, see proposed stipend resolution in the
- 518       adoption materials for this law.

520 **J. Sanctions and Penalties.** This law references sanctions and penalties. The Legislative Operating  
 521 Committee (LOC) is currently drafting a Sanctions and Penalties Law to increase accountability  
 522 among elected and appointed officials of the Nation. Currently, the only reprimand available for a  
 523 violation of this law is termination of appointment for appointed members, removal of elected  
 524 members, and in certain instances, withholding stipends. However, there may be instances of  
 525 misconduct that do not rise to the level of removal. In these cases, other sanctions such as verbal  
 526 warnings, written warnings, suspension or fines may be more appropriate. The proposed Sanctions  
 527 and Penalties law will create a formal complaint process and allow for corrective actions against  
 528 officials who violate laws, bylaws and SOPs of the Nation. At the time this analysis was drafted, the  
 529 LOC intends to present a Sanctions and Penalties Law to GTC for consideration once the draft is  
 530 complete and all legislative requirements are met. [See *Boards, Committees and Commissions, 1 O.C.*  
 531 *105.18-1(a)*].

533 **K.** Please refer to the fiscal impact statement for any fiscal impacts.

534

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**Title 1. Government and Finances – Chapter 105**  
**~~COMPREHENSIVE POLICY GOVERNING BOARDS, COMMITTEES AND~~**  
**COMMISSIONS**

**Laotiyanihsla'shúha katyohkwaya'tú'se'**  
*Their laws ————— of the groups we have*

105.1. Purpose and Policy	105.9. <del>Minutes</del> <u>Oath of Office</u>
105.2. Adoption, Amendment, Repeal	105.10. <del>Dissolution of Entities</del> <u>Bylaws</u>
105.3. Definitions	105.11. <u>Electronic Polling</u>
105.4. <u>Creation of an Entity</u> <del>Applications</del>	<u>105.12. Reporting Requirements</u>
105.5. <u>Applications</u>	<u>105.13. Stipends, Reimbursement and Compensation for Services</u>
<u>105.6. Vacancies</u>	105.14. Confidential Information
105.6. <del>Appointed Positions</del>	105.15. Conflicts of Interest
<del>105.7. Elected Positions</del> <u>Appointment to an Entity</u>	<u>105.16. Use of the Nation's Assets</u>
105.8. <del>By-Laws of Boards, Committees and Commissions</del> <u>Election to an Entity</u>	<u>105.17. Dissolution of an Entity</u>
	<u>105.18. Enforcement</u>

### 105.1. Purpose and Policy

105.1-1. It is the purpose of this ~~policy~~law to govern boards, committees, and commissions of the standard Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of ~~by-laws~~bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions. ~~This policy~~

(a) This law shall not apply to the Oneida Business Committee, or Standing Committees of the Oneida Business Committee.

(b) This law does not apply to Tribal corporations due to the corporate structure and autonomy of those entities.

105.1-2. It is the policy of the Nation to have consistent and standard procedures for choosing and appointing or electing the most qualified persons to boards, committees and commissions, for creation of ~~by-laws~~bylaws governing boards committees and commissions, and for the maintenance of information created by and for boards, committees and commissions.

### 105.2. Adoption, Amendment, Repeal

105.2-1. This ~~policy~~law was adopted by the Oneida Business Committee by resolution #~~BC-505-14-97-F~~ and amended by resolutions #~~BC-09-27-06-E~~ and #, BC-09-22-10-C, and BC-  
- - -

105.2-2. This ~~policy~~law may be amended ~~pursuant to the procedures set out in the Oneida Administrative Procedures Act~~ or repealed by the Oneida Business Committee or the Oneida General Tribal Council, ~~regardless of where the original adoption took place~~ pursuant to the procedures set out in the Legislative Procedures Act.

105.2-3. Should a provision of this ~~policy~~law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this ~~policy~~law which are considered to have legal force without the invalid portions.

~~105.2-4. Any policy, regulation, rule, resolution or motion, or portion thereof, which directly conflicts with the provisions of this policy is hereby repealed to the extent that it is inconsistent with or is contrary to this policy. Provided that meeting stipends for elected members of a~~

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~~board, committee or commission that are in effect on [adoption date of the amendments] shall remain unaffected, but prior exceptions to this policy for appointed entities shall be repealed to extent that meeting stipends are inconsistent with this policy.~~

105.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

105.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

### 105.3. Definitions

105.3-1. This section shall govern the definitions of words and phrases ~~as used herein~~within this law. All words not defined herein shall be used in their ordinary and everyday sense.

~~(a)~~(a) "Application" means the form by which a person seeks to be appointed to fill a vacancy on an entity.

(b) "Appointment" means the process by which a person is chosen to fill a vacancy on an entity by the Oneida Business Committee.

(c) "Business day" means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays recognized by the Nation.

(d) "Bylaws" means a document which provides a framework for the operation and management of a board, committee, or commission of the Nation chiefly for the government of its members and the regulation of its affairs.

(e) "Conference" means any training, seminar, meeting, or other assembly of persons which is not an assembly of the entity.

(f) "Confidential information" means all information or data, whether printed, written, or oral, concerning business or customers of the Nation, disclosed to, acquired by, or generated by a member of an entity in confidence at any time during their elected or appointed term or during their employment.

(g) "Conflict of interest" means any interest, real or apparent, whether it be personal, financial, political, or otherwise, in which an elected official, officer, political appointee, employee, contractor, or appointed or elected member, or their immediate family members, friends or associates, or any other person with whom they have contact, have that conflicts with any right of the Nation to property, information, or any other right to own and operate activities free from undisclosed competition or other violation of such rights of the Nation. In addition, conflict of interest also means any financial or familial interest an elected official, officer, political appointee, employee, contractor, or appointed or elected member or their immediate family members may have in any transaction between the Nation and an outside party.

(h) "Entity" means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose members are appointed by the Oneida Business Committee or elected by the ~~General Tribal Council~~Nation's membership.

~~(b) "Vacaney"~~(i) "E-poll" means any positionan electronic poll, which is the act of delivering an e-mail to all members of an entity, in order to seek a response which identifies a vote in favor of, opposing, or abstaining to an issue requiring approval by the entity.

(j) "Joint meeting" means a meeting with the Oneida Business Committee.

(k) "Nation" means the Oneida Nation.

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(l) "Per Diem" means the payment made by the Nation to offset the costs of being on any travel on behalf of the Oneida Nation.

(m) "Political appointee" means a person appointed by a member of the Oneida Business Committee to provide assistance with the Oneida Business Committee member's daily activities and operations.

(n) "Prohibited drugs" means marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substance included in Schedules I through V, as defined by Section 812 of Title 21 of the United States Code. This also includes prescription medication or over-the-counter medicine used in an unauthorized or unlawful manner.

(o) "Stipend" means the amount paid by the Oneida Nation to a person serving on a board, committee, or commission caused by resignation, end of term, removal, termination, or creation of a new position of the Nation in order to compensate the individual for his or her contribution of time, effort, and work for his or her board, committee, or commission for the betterment of the Nation.

~~(e) "Application" means any process by which a person proceeds to be appointed to a vacancy.~~

~~(d) "Appointment" means the process by which a person is chosen to fill a vacancy.~~

(e)(p) "Subcommittee" means a subgroup of an entity; which is comprised of fewer than all members of the entity; which is designated one (1) or more specific responsibilities on behalf of the entity.

(q) "Substantiated complaint" means a complaint or allegation in a complaint that was found to be valid by clear and convincing evidence.

(r) "Task Force or Ad Hoc" means a group of persons gathered to pursue a single goal, the accomplishment of which means the disbanding of the group. The goal is generally accomplished in a short time period, i.e. less than one year, but the goal itself may be long-term.

~~(f) "Conference" (s) "Vacancy" means any training, seminar, meeting, or other assembly position on any board, committee or commission caused by resignation, end of persons which is not term, removal, termination, or creation of a new position.~~

#### **105.4. Creation of an assembly Entity**

105.4-1. An entity of the entity Nation shall be created by a resolution or law adopted by the Oneida Business Committee or General Tribal Council.

~~(g) "Per Diem" means the payment made by 105.4-2. The law or resolution establishing the Tribe to offset entity shall state the costs of being out of town or to travel on behalf purpose of the Oneida Tribe of Indians of Wisconsin.~~

~~(h) "Stipend" means that amount paid by entity and all powers and responsibilities delegated to the entity.~~

105.4-3. The Oneida Business Committee shall be responsible for drafting the initial bylaws of the entity.

#### **105.5. Applications**

~~105.5-1. The Oneida Tribe of Indians of Wisconsin to persons serving on boards,~~

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~~committees and commissions of the Oneida Tribe of Indians of Wisconsin to offset the expenses of being a member on the board, committee or commission.~~

(i) ~~“Official” means any person appointed or elected to membership~~ Business Committee shall approve all applications to serve on an entity of the ~~Oneida Tribe.~~

**105.4 Nation. Applications**

~~105.4-1. All applications~~ application materials shall be ~~generated by~~ available in the ~~Tribal Secretary's~~ Business Committee Support Office and ~~approved~~ any other location specified by the ~~Oneida Business Committee~~ Support Office.

~~105.4-2. The content of~~ (a) All applications shall be as follows include:

(a) ~~questions designed to obtain the following information~~

- (1) ~~name~~
- (2) ~~address~~
- (3) ~~phone number~~
- (4) ~~enrollment number~~
- (5) ~~position applied for~~

(b) ~~applications may contain any other questions necessary to obtain information necessary to making an informed decision as to the qualifications of any individual to hold any vacancy.~~

(c) ~~Form A-1, attached, is the current approved application form in use and shall be placed in the Tribal Secretary's Office and other locations specified by the Tribal Secretary's Office.~~

(1) a statement explaining the attendance requirements of section 105.12-3; and

(2) a section regarding disclosures of conflicts of interest.

(b) An additional application form shall be required for those entities that require a background investigation. This background investigation application shall include the applicant's social security number and any other information required for a background investigation. The background investigation application shall be solely used for the background investigation and not included in the application materials that are then shared with the Oneida Business Committee, entity, and/or the Election Board.

~~105.5-2. 105.4-3.~~ Applications shall be filed with the ~~Tribal Secretary's office~~ Business Committee Support Office by 4:30 p.m. of the deadline date. Postmarked envelopes are accepted as filed if postmarked by the deadline date and received by the ~~Tribal Secretary's Office~~ Business Committee Support Office within five (5) business days of the deadline. ~~At the completion of the posted deadline for filing applications the Tribal Secretary shall notify by postcard all persons who have filed an application of the date the application was filed and whether it will be considered for the election or appointment. A tentative date for appointment will be placed on the post card with the instruction that this is a tentative date and further information can be requested by calling the Tribal Secretary's Office. Postcard information should be in substantially similar format as that in Figure 1.~~ Business Committee Support Office within five (5) business days of the deadline.

Your application was received on:

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~~Tentative date for appointment or election:~~

~~Your application 9 is 9 is not being considered.~~

~~For more information, call the Tribal Secretary's Office at 869-2214.~~

~~105.105.5-3. Eight (8) days after the posted deadline for filing applications the Business Committee Support Office shall notify all persons who have filed an application of the date his or her application was received and if his or her application met the deadline to be considered for the election or appointment.~~

~~105.5-4-4. Applications for elected positions shall be verified according to the Oneida Election Ordinance. Nation's laws and/or policies governing elections. Applications for appointed positions shall be verified by the Tribal Secretary's Business Committee Support Office as needed or as required in the by laws bylaws of the entity.~~

~~105.4-5-5. *Insufficient Applicants.* In the event that there are an insufficient number of applicants after the deadline date has passed for appointed positions, the Tribal Chairperson Oneida Business Committee may elect to:~~

- ~~(a) Include include within the pool of appointed persons late applications, or~~
- ~~(b) Repost repost for an additional time period. In the event of reposting, prior applicants will be considered to have filed applications within the deadline period.~~

## **105.56. Vacancies**

~~105.5-1. This section shall govern when vacancies occur, and where and when notice of the vacancies shall be posted.~~

~~105.5-2. The following vacancies shall be effective as listed herein.~~

~~105.6-1. The manner by which an individual fills a vacancy, either through election or appointment, shall determine that member's status as an appointed or elected official, despite the entity's classification as an appointed or elected entity pursuant to the entity's bylaws.~~

~~105.6-2. A position on an entity shall be considered vacant in the following situations:~~

- ~~(a) *End of Term.* A vacancy is effective as of 4:30 p.m. of the last day of the month in which the term ends as of the by laws of the entity.~~
  - ~~(1) Although a position is considered vacant once the term ends, the member of the entity may remain in office until the member's successor has been sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity.~~
- ~~(b) *Removal.* Removal is effective, under adopted pursuant to any law and approved procedures of the entity, when the final action has taken place. Where a final action is defined as/or policy of the Nation regarding removal.~~
  - ~~(1) failure to file a timely appeal,~~
  - ~~(2) denial of appeal, or~~
  - ~~(3) final written opinion is filed.~~
- ~~(c) *Termination of Appointment.* A termination is effective upon a two-thirds (2/3)~~

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majority vote of the Oneida Business Committee in favor of a member's termination of appointment.

(d) Resignation. A resignation is effective upon:

- (1) Deliverance of a letter to the ~~entity, or~~ Business Committee Support Office and to the Chairperson of the entity, or designee; or
- (2) Acceptance by motion of the entity of a verbal resignation.

~~(de) New Positions.~~ Vacancies on new entities are effective upon adoption of ~~by-laws~~ bylaws.

~~105.6-3. (e) Interim Positions.~~ Vacancies of interim positions are effective upon creation of interim positions by An entity shall notify the Oneida Business Committee Support Office as soon as the entity learns that a position has or ~~General Tribal Council.~~

~~105.5-3.~~ will become vacant. All notices of vacancy shall be sent to the entities for clarification or confirmation prior to notification to the Oneida Business Committee. ~~The following guidelines are minimum notice requirements:~~

~~(a) End of Term.~~ Entity should be notified 60 days prior to end of term by the Tribal Secretary.

~~(b) Removal or Resignation.~~ Entity should be notified as soon as final action is taken by the Oneida Business Committee or General Tribal Council to accept the resignation, or final action according to any Removal law of the Tribe.

~~105.5-4.~~ Notice of vacancies shall be by the Tribal Secretary's Office in the following locations:

~~(a) Tribal Secretary's Office~~

~~(b) The Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida Community Health Center, the South Eastern Wisconsin Oneida Tribal Services (SEOTS) building and the Highway 54 and E & EE Oneida One Stops.~~

~~(c) Kalihwisaks~~

~~(d) Minutes of the Oneida Business Committee, and~~

~~(e) Any reasonable location requested by the entity.~~

~~105.5-5.~~ The Tribal Secretary's Support Office shall forward the notice of vacancy to the Oneida Secretary. The Secretary shall request and receive approval from the Oneida Business Committee to post the notice of vacancy. The Business Committee ~~for approval and direction to post notice as set out in this section. The Tribal Secretary shall~~ Support Office shall post notice of vacancies at the following times:

~~(a) End of Term.~~ (a) End of Term. Automatically ~~thirtysixty (60)~~ thirtysixty (60) days prior to completion of the term.

~~(b) Removal.~~ Upon notice by Secretary, or other person authorized by No later than the ~~by laws~~ next Oneida Business Committee meeting following the effective date of the entity, to the Tribal Secretary's Office. ~~removal.~~

~~(c) Resignation.~~ Upon notice by No later than the Secretary, or other person authorized by next Oneida Business Committee meeting following the by laws ~~Business Committee~~ Support Office's receipt of notice of an effective resignation from the entity, ~~to the Tribal Secretary's Office.~~

~~(d) New Positions.~~ Upon one of the following conditions:

- (1) if not specified, immediately upon creation of entity or adoption of ~~by-~~

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~~laws~~bylaws, whichever is later, or

(2) upon date specified when creating the entity.

~~(e) Interim Members. Upon one of the following:~~

~~(1) upon completion of the term designated to hold in new entity, or~~

~~(2) upon completion of vacant term of the pre-existing entity~~

~~(f) Termination of appointment. At~~No later than the next Oneida Business Committee meeting following the effective date of the ~~termination of appointment.~~

### 105.6. Appointed Positions

~~105.6-1. All appointments-5. Notice of vacancies shall be made posted by the Business Committee Support Office in all official media outlets of the Nation, as determined by the Oneida Business Committee at regular or special Oneida Business Committee meetings. Provided that, no applicant may be appointed who fails to meet, as well as any other location deemed appropriate by the requirements set out in the entity's by laws~~Secretary.

### 105.7. Appointment to an Entity

~~105.6-2-7-1. Appointment Selection.~~ The following procedures shall be used to determine ~~who shall be~~how the applicant for an appointed position is selected:

(a) ~~Five (5)~~Eight (8) business days after ~~close of notice,~~the posted deadline for submitting an application, or within twenty-one (21) days of the posted deadline if the entity requires a background investigation to be completed as part of the application process, the Business Committee Support Office shall:

(1) deliver all applications shall be delivered to the Tribal Chairperson, along with a summary of qualifications to hold office, and the results of the background investigation if required, to each member of the Oneida Business Committee as well as the entity's Chairperson; and

~~(b) Within a reasonable time, the Tribal Chairperson shall:~~

(2) place the appointment for the entity on the next executive session portion of the agenda of a regular or special Oneida Business Committee meeting in which the appointment is intended to be made.

(b) Each member of the Oneida Business Committee shall review the application materials prior to executive session and be prepared to discuss and select an applicant for appointment.

(1) The entity's Chairperson may have until the executive session to review the application materials and provide the Oneida Business Committee a recommendation of an applicant for appointment.

(c) The Oneida Business Committee shall have a full and complete discussion of the merits and qualifications of the potential applicants, and any recommendation made by the Chairperson of the entity, during executive session. After completing a thorough discussion, the Oneida Business Committee shall:

(1) choose an applicant for appointment, or

(2) ask the ~~Tribal Secretary's Office~~ Oneida Nation's Secretary to re-notice the vacancy because of ineligible, unqualified, or under qualified applicants.

~~(e) Forward choice of applicants to all Council members prior to appointment:~~

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~~(1) Council members may accept the Tribal Chairperson's selected applicants, or~~  
~~(2) Reject an applicant.~~ (d) All appointments shall be made by majority vote the Oneida Business Committee during the open session of a quorum at any regular or special Oneida Business Committee meeting. The Oneida Business Committee shall not appoint an applicant who fails to meet the requirements set out in the entity's bylaws.

(e) During the open session of the 105.6-3. All appointments are official upon taking an oath at a regular or special Oneida Business Committee meeting and all rights and delegated authorities of membership in the entity shall vest upon taking the oath. The Tribal Secretary shall notify the chosen persons when they should appear for taking the oath. a member of the Oneida Business Committee may make a motion to appoint an individual. Oneida Business Committee members may:

(a) Originals (1) accept the selected applicant and vote to appoint the individual to the vacant position, or

(2) reject the selected applicant and vote to oppose the appointment of the signed oath shall be maintained individual.

(f) If the Oneida Business Committee rejects the selected applicant, the matter will be deferred to the next Oneida Business Committee meeting where another applicant may be recommended by the Tribal Secretary's Office. Oneida Business Committee, or the Oneida Business Committee may direct the vacancy to be re-posted. When a vacancy is re-posted under this section, all applications from the first posting shall be considered to have been filed within the deadline period.

(b) Copies 105.7-2. Notification of the oath shall be forwarded to the new member and the entity.

(c) Wording of oaths shall be approved by the Appointment. Once an individual is selected for appointment at an Oneida Business Committee and kept on file by the Tribal Secretary's Office.

(1) The following oath is the standard oath to be used unless a specific oath for the entity is pre-approved by the Oneida Business Committee:

I, ♦name♦, do hereby promise to uphold the laws and regulations of the Oneida Tribe of Indians of Wisconsin, the General Tribal Council, and the Tribal Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people with honor, respect, dignity, and sincerity and with the strictest confidentiality.

I will carry out the duties and responsibilities as a member of the ♦entity name♦, and all recommendations shall be made in the best interest of the Oneida Tribe as a whole.

(d) Revisions of oaths shall be approved by the Oneida Business Committee prior to usage.

(e) All oaths shall be sufficient to make the appointee aware of their duty to the Oneida Tribe and as members of the entity.

105.6-4. The Tribal meeting, the Nation's Secretary shall notify all applicants of the final status of their application.

(a) The Tribal Nation's Chairperson shall forward a list of all applicants to the Tribal Nation's Secretary and the final decision regarding the selection after the procedures in sec. 6-2 for selection of an applicant described in section 105.7-1 are completed. Provided that, the Tribal

(b) The Nation's Secretary shall include on the notice to the applicant selected for appointment

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the following paragraph:

~~“The Oneida Tribe of Indians of Wisconsin reports all income paid by the Oneida Tribe in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income.”~~

~~105.6 5. *Termination of Appointment.* Appointed members of entities serve at the discretion of the Oneida Business Committee. Upon the recommendation of the Tribal Chair, an appointed member of an entity may have his or her appointment terminated by the Oneida Business Committee by a two-thirds majority vote of the entire Oneida Business Committee.~~

~~105.7 **Elected Positions**~~

~~105.7 1. All elected positions, unless otherwise noted in the by laws of the entity, shall be nominated at a caucus called by the Oneida Election Board, or petition for ballot placement, in accordance with the Oneida Election Law. Provided that, when the Election Board notifies a petitioner or nominee that he or she is eligible to be placed on the ballot, the following paragraph shall be included:~~

~~“The Oneida Tribe of Indians of Wisconsin **Nation** reports all income paid by the **Tribe Oneida Nation** in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income.”~~

~~105.7-2. All other processes shall be as directed in the Oneida Election Law **3. *Declination of Appointment.* An individual who has been selected for appointment to an entity by the Oneida Business Committee may decline the appointment.**~~

~~(a) An individual may decline an appointment to an entity in the following ways:~~

~~(1) Delivery of an letter stating that the individual wishes to decline the appointment to the Business Committee Support Office; or~~

~~(2) The failure to take the oath of office within thirty (30) days of being selected for appointment by the Oneida Business Committee.~~

~~(b) The Business Committee Support Office shall notify the Oneida Business Committee if an individual declines an appointment to an entity. The Oneida Business Committee shall then use the original pool of applications for the vacancy posting and the process outlined in section 105.7-31 to select another applicant for appointment.~~

~~105.7-4. *Termination of Appointment.* An appointed member of an entity serves at the discretion of the Oneida Business Committee. Upon the recommendation of a member of the Oneida Business Committee or the entity, a member of an appointed entity may have his or her appointment terminated by the Oneida Business Committee.~~

~~(a) A two-thirds majority vote of the Oneida Business Committee shall be required in order to terminate the appointment of an individual.~~

~~(b) The Oneida Business Committee’s decision to terminate an appointment is final and not subject to appeal.~~

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### 105.8 Election to an Entity

105.8-1. All elected positions shall be nominated at a caucus called by the Oneida Election Board, or petition for ballot placement, in accordance with the Nation's laws and/or policies governing elections, except where an entity's bylaws allow for a vacancy to be filled by appointment.

(a) When the Election Board notifies a petitioner or nominee that he or she is eligible to be placed on the ballot, the following paragraph shall be included: "The Oneida Nation reports all income paid by the Nation in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

105.8-2. All other processes for the election of a member of an entity shall be as directed by the Nation's laws and/or policies governing elections.

### 105.9. Oath of Office

105.9-1. All appointed and elected positions are official upon taking an oath ~~at~~during a regular or special Oneida Business Committee meeting ~~and all~~. All rights and delegated authorities of membership in the entity shall vest upon taking the oath. The Nation's Secretary shall notify the chosen persons when they shall appear for taking the oath.

(a) The appointed or elected member shall appear in person at the Oneida Business Committee meeting to take his or her oath, except if granted permission by the Secretary to appear by video conferencing equipment.

105.9-2. The Oneida Business Committee shall approve wording of oaths. Any revisions of oaths shall be approved by the Oneida Business Committee prior to usage. Oaths shall be kept on file by the Business Committee Support Office.

105.9-3. ~~(a)~~ Originals of the signed oath, or electronic copies of the originals of the signed oath, shall be maintained by the ~~Tribal Secretary's~~ Business Committee Support Office.

~~(b)~~ Copies of the oath shall be forwarded to the new member of the entity and the entity.

105.9-4. ~~Wording of oaths shall be approved by the Oneida Business Committee and kept on file by the Tribal Secretary's Office.~~ The following oath is the standard oath to be used unless a specific oath for the entity is pre-approved by the Oneida Business Committee:

I, ~~♣~~[name ~~♣~~ de], hereby promise to uphold the laws and regulations of the Oneida ~~Tribe of Indians of Wisconsin~~ Nation, the General Tribal Council, and the ~~Tribal~~ Oneida Nation Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people with honor, respect, dignity, and sincerity and ~~with~~ will strictly maintain confidential information. I will carry out the strictest confidentiality duties and responsibilities as a member of the [entity name], and all recommendations shall be made in the best interest of the Oneida Nation as a whole.

~~I will carry out the duties and responsibilities as a member of the ~~♣~~entity name~~♣~~, and all recommendations shall be made in the best interest of the Oneida Tribe as a whole.~~

~~(d) Revisions of oaths shall be approved by the Oneida Business Committee prior to usage.~~

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~~(e)~~ 105.9-5. All oaths shall be sufficient to make the ~~appointee~~ appointed or elected member of an entity aware of their duty to the ~~Tribe~~ Nation and as members of the entity.

### ~~105.8. By-Laws of Boards, Committees and Commissions~~

#### ~~105.8~~ 10. Bylaws

~~105.10-1. By-Laws~~ All entities of ~~all Boards, Committees and Commissions~~ the Nation shall ~~have bylaws that~~ conform to ~~the requirements of this outline law.~~ Bylaws shall become effective upon approval of the Oneida Business Committee, unless where General Tribal Council approval is additionally required.

(a) All existing entities must comply with this format and present ~~by-laws~~ bylaws for adoption within a reasonable time after creation of the entity, or within a reasonable time after adoption of this ~~policy.~~ By-laws law.

(b) Bylaws must contain ~~this~~ at least the minimum information required by law, although more information is not prohibited.

~~105.8-2. Specifically excepted from this section are~~ (c) Exception. Task Forces and Ad Hoc Committees are excepted from the requirement to have bylaws. However, these entities must have, at minimum, mission or goal statements for completion of the task.

~~105.8-3. There~~ 10-2. Articles. Bylaws shall ~~be~~ contain, at a minimum, the following Articles:

- (a) Article I. Authority.
- (b) Article II. Officers.
- (c) Article III. Meetings.
- (d) Article IV. ~~Reporting~~ Expectations.
- (e) Article V. Stipends and Compensation.
- (f) Article VI. Records and Reporting.
- (g) Article VII. Amendments.

~~105.8-4~~ 10-3. Sections. Articles shall be divided into "~~Sections~~ sections" as set out.

(a) "Article I. Authority" ~~consists~~ shall consist of the following ~~information:~~

(1) Name. ~~All entities should list the~~ The full name of the entity. ~~In addition, there should be listed~~ shall be stated, along with any short name that will be officially used.

(2) Authority Establishment. This section ~~should~~ shall state the citation and name, if any, of the creation document.

~~(3)~~ (3) Authority. This section shall state the purpose for which the entity was created and what, if any, authority the entity is delegated.

(4) Office. There ~~should~~ shall be listed the official office or post box of the entity.

(5) Membership. The following information ~~should~~ shall be in this section:

- (A) Number of members on the entity;
- (B) ~~How~~ If members on the entity are elected or appointed; and how a member is elected or appointed;
- (C) How vacancies are filled; and
- (D) ~~The qualifications~~ Qualifications for membership on the entity.

(i) In order to qualify for membership on an entity, a person shall meet the minimum age requirements set forth for status as a

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qualified voter of the Nation, unless a law, policy, or directive sets forth a minimum age requirement.

(6) Termination or Removal. This section shall identify causes for termination or removal, if any, in addition to those already identified in laws and/or policies of the Nation.

(7) Trainings and Conferences. This section shall describe any trainings and/or conferences that the entity deems necessary for members to responsibly serve the entity, if any.

(b) "Article II. Officers" ~~consists~~shall consist of the following ~~information~~:

(1) ~~Chair~~Chairperson and Vice-Chair~~Chairperson~~. This section creates the chairperson and vice-chairperson positions of the entity. Other officer positions may also be created here.

(2) ~~Chair duties~~Responsibilities of the Chairperson. Because of the importance of this position, ~~those~~all duties and responsibilities of the chairperson, as well as limitations ~~should~~of the chairperson shall be specifically listed here.

(3) Responsibilities of the Vice-Chair~~duties~~Chairperson. Because of the importance of this position, ~~those~~all duties and responsibilities of the vice-chairperson, as well as limitations ~~should~~of the vice-chairperson shall be specifically listed here.

(4) Responsibilities of Additional Offices and Duties~~Officers~~. There ~~should~~may be additional sections as needed for every ~~office~~officer position created in subsection one (1) above. These sections shall state all duties and responsibilities of the officer, as well as any limitations of the officer.

(5) ~~How chosen~~. ~~There should be specifically set out~~Selection of Officers. This section shall identify how a member of the entity ~~will occupy~~shall be selected for an official officer position ~~as set out in this section~~the entity.

~~(6)~~(6) Budgetary Sign-Off Authority and Travel. This section shall identify the entity's varying levels of budgetary sign-off authority, the members that are authorized to sign-off at each level, and how the entity shall handle approving travel on behalf of the entity.

(A) An entity shall follow the Nation's policies and procedures regarding purchasing and sign-off authority.

(B) An entity shall approve a member's request to travel on behalf of the entity by majority vote at a regular or emergency meeting of the entity.

(7) Personnel. State entitiesThis section shall state the entity's authority for hiring personnel, if any, and the duties of such personnel.

(c) "Article III. Meetings" ~~consists~~shall consist of the following ~~information~~:

(1) Regular meetings. ThereThis section shall be listedidentify when and where regular meetings shall be held, and; how the entity shall provide notice of the meeting agenda, documents, and minutes ~~will be disbursed to the members~~.

(2) Emergency meetings. ThereThis section shall be listedidentify what constitutes an emergency meeting, how Emergencyemergency meetings shall be called ~~and noticed~~, and how the entity shall provide notice of the emergency meeting.

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~~(3)~~—(A) All bylaws shall include a provision requiring that within seventy-two (72) hours after an emergency meeting, the entity shall provide the Nation’s Secretary with notice of the meeting, the reason for the emergency meeting, and an explanation of why the matter could not wait for a regular meeting.

(3) *Joint Meetings.* This section shall identify if joint meetings shall be held, the frequency and location of joint meetings, and how the entity shall provide notice of the meeting agenda, documents, and minutes.

(4) *Quorum.* This section shall ~~list~~ identify how many members of an entity create a quorum.

(4) *Order of Business.* This section sets out how the agenda will be set up.

(5) *Voting.* This section ~~should list how~~ shall identify voting ~~shall be taken, what~~ requirements, such as, but not limited to:

(A) the percentages that shall be needed to pass different items;

(B) if, and when, the chairperson is allowed to vote;

(C) if the use of an e-poll is permissible; and

(D) if the use of and e-poll is permissible, who will serve as the Chairperson’s designee for the responsibility of conducting an e-poll, if a designee is utilized.

(d) ~~“Article IV. Reporting”~~ ~~consists~~ *Expectations* shall consist of the following information:

(1) *Behavior of Members.* This section shall identify the behavioral expectations and requirements of a member of the entity, and identify how the entity shall enforce these behavioral expectations.

(2) *Prohibition of Violence.* This section shall prohibit any violent intentional act committed by a member of the entity that inflicts, attempts to inflict, or threatens to inflict emotional or bodily harm on another person, or damage to property, and set forth any further expectations regarding the prohibition of violence.

(3) *Drug and Alcohol Use.* This section shall prohibit the use of alcohol and prohibited drugs for a member of an entity when acting in their official capacity, and set forth any further expectations regarding the use of prohibited drugs and alcohol.

(4) *Social Media.* This section shall identify expectations for the use of social media in regards to official business of the entity.

(5) *Conflict of Interest.* This section shall state any standards and expectations additional to those required by law of the Nation in regards to conflicts of interest and how they are handled, as well as requirements related to prohibited activities resulting from disclosed conflicts of interest, and means by which a party can alleviate or mitigate the conflict of interest.

(e) *“Article V. Stipends and Compensation”* shall consist of the following information:

(1) *Stipends.* This section shall include a comprehensive list of all stipends members are eligible to receive and the requirements for collecting each stipend, if any in addition to those contained in this law.

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(2) Compensation. This section shall include details regarding all other forms of compensation members are eligible to receive and the requirements for collecting such compensation, if any in addition to those contained in this law.

(f) "Article VI. Records and Reporting" shall consist of the following information:

(1) Agenda Items. Agenda items shall be maintained in an identified a consistent format as identified by this section.

(2) Minutes. Minutes shall be typed and in a consistent format designed to generate the most informative record of the meetings of the entity. This may include a summary of action taken by the entity. This section shall identify the format for minutes, and a reasonable timeframe by which minutes shall be submitted to the Business Committee Support Office.

(3) Attachments. Handouts, reports, memoranda, and the like may be attached to the minutes and agenda, or may be kept separately, provided that all materials can be identified to the meeting in which they were presented. This section shall identify how records of attachments shall be kept.

(4) Oneida Business Committee Liaison. Entities ~~will report to~~ shall regularly communicate with the Oneida Business Committee member who is their designated liaison. This ~~reporting section shall identify a~~ format and frequency for communication which may be as the liaison and entity agree to, but not less than that required in any law or policy on reporting developed by the Oneida Business Committee or Oneida General Tribal Council. ~~Reports shall be made within a reasonable time after a meeting is held, or as the Oneida Business Committee member liaison and entity agree. Provided that, the agreement~~ The purpose of the liaison relationship is to uphold the ability of the liaison to act as a support to that entity.

~~(e)~~ (5) Audio Recordings. An entity shall audio record all meetings. This section shall state how the entity shall audio record meetings, and how the entity shall maintain the audio records.

(A) Exception. Audio recordings of executive session portions of a meeting shall not be required.

(g) "Article ~~V~~VII. Amendments" consists of:

(1) Amendments to By-laws. ~~There should be described~~ Bylaws. This section shall describe how amendments to the ~~by-laws shall take place. Provided that, bylaws are made.~~ Any amendments to bylaws shall conform to the requirements of this and any other policy. ~~Provided further, that amendments are of the Nation. Amendments to bylaws shall be~~ approved by the Oneida Business Committee, in addition to the General Tribal Council when applicable, prior to implementation.

### 105.11. Electronic Polling

105.11-1. An entity may utilize an e-poll when approval of an action may be required before the next available meeting agenda of the entity.

105.11-2. Conducting an E-Poll. The Chairperson of the entity, or designee, shall e-mail the e-poll to all members of the entity. Requests for an e-poll shall be sent only from an official e-

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mail address of the entity. The e-poll's message shall include the following information:

(a) The e-mail subject line shall begin with "E-poll Request:" and include a short title describing the purpose of the request.

(b) The body of the e-poll shall contain the following elements:

(1) An executive summary of the reason for the request and why the request cannot be presented at the next available meeting of the entity;

(2) A proposed motion which shall be in bold and identified in a separate paragraph by the words "Requested Action;"

(3) All attachments in \*.pdf format, which are necessary to understand the request being made; and

(4) A deadline date for a response to be returned regarding the results of the electronic poll which shall be in bold and identified in a separate paragraph by the words "Deadline for Response."

(A) E-poll requests shall be open for response not less than one (1) hour and no more than twenty-four (24) hours.

(B) The time frame for responses shall be determined by the Secretary of the entity, or designee, based on urgency, scheduling, and any other pertinent factors.

### 105.11-3.

~~105.9~~ *Response to an E-Poll.* A response from a member of an entity shall be valid if received from an official e-mail address of the entity. No responses from unknown e-mails or personal e-mails shall be accepted. An e-poll request shall receive responses from a majority of members of the entity in order to be an official vote.

(a) E-polls that receive at least a majority of supporting votes by the deadline are considered to be approved.

(b) E-polls for which insufficient responses were received by the deadline are considered to have failed to receive support, and result in a denied request.

(c) E-polls that result in a denied request may be reconsidered by the entity at the next available meeting.

(d) The Chairperson, or designee, shall monitor all responses and deadline dates for responses.

105.11-4. *Entering an E-Poll in the Record.* Both approved and denied e-poll requests shall be placed on the next meeting agenda of the entity to be entered into the record. The agenda item shall contain the following information:

(a) Original e-poll request and all supporting documentation;

(b) A summary of the e-poll results identifying each member of the entity and his or her response; and

(c) A copy of any comment by a member of the entity if comments are made beyond a vote.

## 105.12. Reporting Requirements

### 105.12-1. Minutes

~~105.9-1~~ All minutes shall be submitted to the ~~Tribal Secretary's~~ Business Committee Support Office within a reasonable time after approval by the entity; as identified in the entity's bylaws.

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~~105.9-2.~~(a) Actions taken by an entity are valid ~~when~~ upon approval of the action by vote, unless the bylaws of the entity otherwise require minutes ~~are approved, provided that, minutes are~~ to be approved by the entity before the actions are valid.

(b) Minutes shall be filed according to this section, and any specific directions within approved ~~by laws~~ bylaws.

~~(c) 105.9-3.~~ No action or approval of minutes is required by the Oneida Business Committee on minutes submitted by an entity unless specifically required by the ~~by-laws~~ bylaws of that entity.

105.12-2. Standard Operating Procedures. All standard operating procedures established by an entity shall be submitted to the Business Committee Support Office, where they shall be kept on file.

105.12-3. Quarterly Reports to the Oneida Business Committee. Entities shall provide quarterly reports to the Oneida Business Committee in accordance with the quarterly reporting schedule approved by the Oneida Business Committee. All quarterly reports shall be approved by official entity action before they are submitted. The quarterly reports shall not contain any information that conflicts with any law, resolution, or policy of the Nation. At least one (1) member of the entity shall attend the Oneida Business Committee meeting where the quarterly report is an agenda item. Quarterly reports shall follow a format prescribed by the Oneida Business Committee and contain the following information:

(a) Contact Information. The name of the entity, the member submitting the report, the Oneida Business Committee liaison; and a list of the members and their titles, term expiration dates and contact information.

(b) Meetings. When and how often the entity is holding meetings and whether any emergency meetings have been held.

(1) If emergency meetings were held, the report shall indicate the basis of the emergency for each meeting.

(c) Accomplishments. Details of what the entity has accomplished that ~~entity~~ quarter, including any special events held during the reporting period and any travel by the members and/or staff.

(d) Goals. Details of both ~~105.9-4. In the event of dissolution~~ entity's long term goals, the entity's goals for the next quarter, and projected quarterly activities.

(e) Budget. The amount of ~~an~~ the entity's budget, the status of the budget at that quarter, the amount of each stipend a member may be eligible to receive, how the budget is being utilized by the entity, ~~all files and documents are~~ and projected budgetary uses for the next quarter.

(f) Requests. Details of any requests to the Oneida Business Committee.

(g) Other. And any other information deemed appropriate by the entity, as well as any other information required ~~to be forwarded to the Tribal Secretary's Office for proper storage and disposal~~ by a law or policy of the Nation.

~~105.10. Dissolution of~~ 12-4. Annual and Semi-Annual Reports to the General Tribal Council.  
Entities

~~105.10-1. All entities of the Tribe shall be dissolved according to this section. Provided that other specific directions may be included within by laws.~~

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~~105.10 2. A task force or ad hoc committee dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the materials generated by a task force or ad hoc committee shall be forwarded to the Tribal Secretary's Office for proper disposal within two weeks of dissolution.~~

~~105.10 3. All other entities of the Tribe shall be dissolved only by motion of~~provide annual reports to the Oneida General Tribal Council or based on their activities during the previous fiscal year, and semi-annual reports based on their activities during the current fiscal year. All annual and semi-annual reports shall follow a format prescribed by the Oneida Business Committee. ~~Unless otherwise indicated, the materials generated by these entities shall be forwarded to the Tribal Secretary's Office for proper disposal within two weeks of dissolution.~~

~~105.10 4. All Chairpersons~~(a) Annual and Secretaries of dissolved entities~~semi-annual reports shall be responsible for closing out open business~~contain information on the number of substantiated complaints against all members of the entity.

~~(b) Each entity with oversight of a department shall also submit annual and forwarding materials~~semi-annual reports for each department the entity oversees.

~~105.11. 105.12-5.~~ Any failure to comply with the reporting requirements may result in the Oneida Business Committee placing a hold on the release of a stipend payment.

### **105.13. Stipends, Reimbursement and Compensation for Service**

~~105.13-1. Stipends~~ ~~105.11 1. Compensation~~ and reimbursement for expenses shall ~~be follow~~the procedures as set out in this section and according to procedures for payment as set out ~~in~~in this section and according to procedures for payment as set out by the Oneida Tribe of Indians of Wisconsin~~by the Nation.~~

~~105.11 2. The Oneida Tribe recognizes that persons serving on entities of the Tribe, whether elected or appointed, incur some expense. Therefore, the Tribe, in order to attract persons to serve on entities, shall pay stipends to these members in accordance with this section.~~

~~105.11 3. Meeting Stipends for Appointed Members. Except provided in sub (a) and unless otherwise declined by the entity through its bylaws, or declined by a member(s), appointed members serving on entities shall be paid a stipend of no more than \$50 per month when at least one (1) meeting is conducted where a quorum has been established in accordance with the duly adopted by laws of that entity. Provided that the meeting lasts for at least one (1) hour and that members collecting stipends must be present for at least one (1) hour of the meeting.~~

~~(a) Members serving on the Oneida Child Protective Board shall be exempt from the \$50 stipend per month limitation and shall receive a \$50~~105.13-2. The Oneida Business Committee shall set stipend for each meeting held in accordance with amounts by resolution.~~105.11 3.~~

~~105.11 4. Meeting Stipends for Elected Members. Unless otherwise declined by the entity through its bylaws, or declined by a member(s), elected members serving on entities shall be paid a minimum stipend of \$50 for each meeting which has established a quorum in accordance with the duly adopted by laws of that entity for at least one (1) hour, regardless of the length of the meeting. Members collecting stipends must be present for at least one (1) hour of the meeting, regardless of the length of the meeting.~~

~~105.11 5. The Oneida Business Committee shall periodically review the amounts provided for~~

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~~meeting~~ stipends and, based on the availability of funds, shall adjust those amounts accordingly by amending ~~this Policy~~ the resolution. Stipends are paid in the form of cash or cash equivalent, which may include, but is not limited to, gift cards.

105.13-3. Meeting Stipends. A member of an entity shall only receive a meeting stipend for a regular or emergency meeting where a quorum has been established in accordance with the duly adopted bylaws of that entity, that lasts for at least one (1) hour, and the member collecting the stipend is physically present for the entire meeting.

(a) Meeting Stipends for an Appointed Entity. An individual serving on an appointed entity shall be paid no more than one (1) meeting stipend per month.

(b) Meeting Stipends for an Elected Entity. An individual serving on an elected entity shall be paid no more than two (2) meeting stipends per month.

105.13-4. Joint Meeting Stipends. A member of an entity shall only receive a stipend for a joint meeting where a quorum has been established in accordance with the duly adopted bylaws of that entity, that lasts for at least one (1) hour, and the member collecting the stipend is physically present for the entire meeting.

(a) An individual shall receive a stipend for his or her attendance at a duly called joint meeting.

(1) A joint meeting stipend does not count towards the limitation on meeting stipends as provided for in section 105.13-3(a)-(b).

105.13-5. ~~105.11 6.~~ Oneida Judiciary Hearings. A member of an entity shall receive a Judiciary hearing stipend if the member's attendance at the Judiciary hearing is required by official subpoena.

105.13-6. Hearings of an Entity. A member of an entity that maintains hearing authority may obtain a hearing stipend for conducting hearings administered by the entity. A hearing consists of all functions related to the resolution of the matter notwithstanding the amount of time it takes to resolve the matter, including, but not limited to, any continuations of the hearing and decision drafting.

105.13-7. Other Stipends. The Oneida Business Committee shall determine if, and when, any other stipends are appropriate to compensate members of entities for their official actions. All possible stipends shall be included in the Oneida Business Committee resolution which sets stipend amounts.

105.13-8. Conferences and Training. A member of any entity, elected or appointed, shall be reimbursed in accordance with the ~~Tribal~~ Nation's policy for travel and per diem, for attending a conference or training. Provided that:

(a) A member shall be eligible for a ~~\$100~~ stipend for each full day the member is present at the conference or training, when attendance at the conference or training is required by law, bylaw or resolution.

(b) A member shall not be eligible for a conference and training stipend if that training is not required by law, bylaw or resolution.

(c) No stipend payments shall be made for those days spent traveling to and from the conference or training.

105.11-7. ~~13-9.~~ Business Expenses. All members of entities shall be eligible for reimbursement for normal business expenses naturally related to membership in the entity.

105.11-8 ~~13-10.~~ Task Force ~~members and members~~ Ad Hoc Subcommittees. Members of task

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force, ad hoc committees and subcommittees shall not be eligible for stipends unless specific exception is made by the Oneida Business Committee or the Oneida General Tribal Council.

#### **105.12~~14~~14. Confidential Information**

~~105.1214-1. The Oneida Tribe is involved in numerous business ventures and governmental functions where it is necessary that private information be kept in the strictest confidence to assure the continued success and welfare~~All members of the Tribe. ~~It is in the best interest of the Oneida Tribe that all officials~~an entity shall maintain in a confidential manner all information, ~~whether of historical, immediate, or future use or need.~~ obtained through their position on the entity. ~~The Oneida Tribe desires~~Nation requires that all ~~officials~~members of an entity who have access to the ~~Oneida Tribe's~~Nation's confidential information be subject to specific limitations in order to protect the interest of the ~~Oneida Tribe.~~ It is the intention of the Oneida TribeNation and ensure that no persons engaged in by the ~~Tribe~~Nation, nor their relatives or associates, benefit from the use of confidential information.

~~105.12-2. Confidential information means all information or data, whether printed, written, or oral, concerning business or customers of the Oneida Tribe, disclosed to, acquired by, or generated by officials in confidence at any time during their elected or appointed term or during their employment.~~

~~(a)105.12-3.~~ Confidential information shall be considered and kept as the private and privileged records of the ~~Oneida Tribe~~Nation and will not be divulged to any person, firm, corporation, or other entity except by direct written authorization of the Oneida Business Committee.

~~105.12-4. An official~~(b) A member of an entity will continue to treat as private and privileged any confidential information, and will not release any such information to any person, firm, corporation, or other entity, either by statement, deposition, or as a witness, except upon direct written authority of Oneida Business Committee, and the ~~Oneida Tribe~~Nation shall be entitled to an injunction by any competent court to enjoin and restrain the unauthorized disclosure of such information. Such restriction continues after termination of the relationship with the ~~Oneida Tribe~~Nation and the entity.

~~(c)105.12-5.~~ Upon completion or termination of his~~/~~or her elected or appointed term of membership in an entity, for any cause whatsoever, the ~~official~~member of the entity will surrender to the ~~Oneida Tribe~~Nation, in good condition, all records kept by the ~~employee~~member of the entity.

~~105.12-6:(d)~~ No ~~official~~member of an entity shall disclose confidential information acquired by reason of his~~/~~her other relationship or status with the ~~Oneida Tribe~~Nation for his~~/~~or her personal advantage, gain, or profit, or for the advantage, gain, or profit of a relative or associate.

105.14-2. Any records created or obtained while as an official of an entity are the property of the Nation and can only be removed or destroyed by approval from a majority vote of the entity at a duly called meeting. All removal or destruction of documents must be made in accordance with the Nation's laws and policies regarding open records and open meetings.

105.14-3. Official Oneida Nation E-mail Address. Each member of an entity shall be provided an official Oneida e-mail address upon election or appointment for the purpose of conducting business of the entity electronically.

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(a) If a member is also an employee of the Nation, he or she shall receive a separate e-mail address from his or her regular work e-mail address.

(b) A member of an entity shall sign an acknowledgment form provided by the Nation's Secretary indicating notice of the Nation's applicable computer and media related laws, policies and rules. The Nation's Secretary shall maintain a record of all such acknowledgment forms.

(c) A member of an entity shall not use any personal or work e-mail address to electronically conduct any business of the entity.

(d) Immediately upon receipt of notice of an entity vacancy, the Nation's Secretary shall instruct the Management Information Systems department to disable the e-mail address for the member having vacated the position.

### **105.15. Conflicts of Interest**

105.15-1. All members of an entity are required to adhere to the Nation's laws and policies governing conflicts of interest.

105.15-2. A member of an entity shall disclose a conflict of interest to the Nation's Secretary as soon as the conflict arises, and update a conflict of interest disclosure form with the Nation's Secretary on an annual basis.

(a) Upon receiving information of a potential conflict of interest, the Nation's Secretary shall request a determination from the Oneida Law Office whether further action must be taken by the Nation regarding the status of the official.

105.15-3. Due to the potential for a real or perceived conflict of interest to exist, political appointees shall not serve on an appointed or elected entity.

### **105.16. Use of the Nation's Assets**

#### ~~**105.13. Conflicts of Interest**~~

##### ~~*Subpart A. General*~~

~~105.13-1. The Oneida Tribe recognizes the ability of all persons to serve on entities of the Oneida Tribe. However, it is also recognized that the delegated authority and responsibilities of an entity may cause conflict with membership on other entities or employment.~~

~~105.13-2. It is the policy of the Oneida Tribe to request a candidate to disclose possible conflicts prior to election or appointment to allow the conflicts to be resolved in a timely manner.~~

~~105.13-3. Officials shall disclose and resolve conflicts of interest in a reasonable and timely manner. Failure to resolve conflicts shall result in removal from office for elected officials and may result in termination of appointment for appointed officials. Provided that, all applicants shall submit, with the application forms, a signed conflict of interest declaration disclosing all known conflicts.~~

~~105.13-4. This section sets forth specifically prohibited conflicts of interests. However, for any individual candidate or member on an entity, conflicts may arise within the by-laws of that entity or employment relationships.~~

~~105.13-5. No official shall act as a consultant, agent, representative for, or hold any position as an officer, director, partner, trustee, or belong as a member in a board, committee or~~

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~~commission, or the like without first disclosing such activity to determine possible conflicts of interest.~~

*~~Subpart B. Employment Interests~~*

~~105.13-6. No official shall hold office in an entity which has authority over the area in which the official is employed by the Oneida Tribe or elsewhere. The Oneida Tribe recognizes the ability of all persons to serve on entities of the Oneida Tribe, however, recognizes the conflict arising out of membership on an entity and employment in an area over which the entity has authority.~~

~~105.13-7. Employment is defined for this subpart as that area which the employee supervises or is supervised in regards to a specific subject matter.~~

~~105.13-8. Authority of an entity is defined for this subpart as that area over which the entity has subject matter jurisdiction delegated either by the Oneida Business Committee or Oneida General Tribal Council, and for which that authority may be regulatory, oversight, or otherwise.~~

*~~Subpart C. Financial Interests, Investments, and Gifts~~*

~~105.13-9. No official, or their immediate family, may have a financial interest in any transaction between the entity and an outside party where the official has a financial or familial relationship.~~

~~105.13-10. The following words are defined for the purposes of this subpart:~~

~~(a) "Financial interest" means any profit sharing arrangements, rebates, payments, commissions, or compensation in any form, and shall include any form of ownership, regardless of ability to control the activities of the business. Provided that, this shall not include ownership of shares which, other than in combination with others, cannot exert a controlling influence on the activities of the business and in relation to the outstanding shares, the ownership of shares represents a small part of the whole.~~

~~(b) "Transaction" means any activity wherein a provider of goods and/or services is compensated in any form.~~

~~(c) "Immediate family" means the mother, father, sister, brother, daughter, son, granddaughter, grandson, grandfather, grandmother and these relationships with any spouse.~~

~~105.13-11. As referred to in this Subpart, entity includes for the purposes of defining conflicts, the programs or enterprises over which the entity has delegated authority.~~

~~105.13-12. Officials shall avoid personal investment in any business with which the Oneida Tribe has or is expected to have a contractual or other business relationship. Notwithstanding the foregoing, however, an investment by an official in a business with which the Oneida Tribe has dealings is permissible if the Oneida Business Committee or other delegated authority determines in writing that:~~

~~(a) the investment is not made or cannot be considered to have been made on the basis of confidential information, and~~

~~(b) the investment cannot be expected to adversely affect or influence the official's judgement in the performance of any services or obligations on behalf of the Oneida Tribe.~~

~~105.13-13. Officials shall not use their relationship with the Oneida Tribe to exercise undue~~

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14 ~~influence to obtain anything which is not freely available to all prospective purchasers.~~

15 ~~105.13-14. No official~~16-1. Entities shall accept gifts, payments for personal gain, opportunities  
16 to invest, opportunities to act as an agent, a consultant, or a representative for actual or potential  
17 purchasers, sales sources, contractors, consultants, customers or suppliers, or accept any direct or  
18 indirect benefit from any actual or potential purchaser, sales source, contractor, consultant,  
19 customer, or supplier.

20 ~~105.13-15. No official shall accept any gift, entertainment, service, loan, promise of future~~  
21 ~~benefits or payment of any kind which the Oneida Business Committee or other delegated~~  
22 ~~authority determines adversely affects or influence his/her judgement in the performance of any~~  
23 ~~services, duties, obligations or responsibilities to the Oneida Tribe, or impairs confidence in the~~  
24 ~~Oneida Tribe.~~

25 ~~105.13-16. Notwithstanding the foregoing, however, officials may accept or provide business-~~  
26 ~~related meals, entertainment, gifts or favors when the value involved is insignificant and the~~  
27 ~~Oneida Business Committee or other delegated authority has determined that it clearly will not~~  
28 ~~place him/her under any obligation.~~

29  
30 *Subpart D. Competition With The Oneida Tribe*

31 ~~105.13-17. No official shall enter into competition with the Oneida Tribe in the purchase or sale~~  
32 ~~of any property, property rights or interests, without prior consent of the Oneida Tribe.~~

33 ~~105.13-18. An official may enter into competition with the Oneida Tribe where the activity~~  
34 ~~engaged is approved through an Oneida entrepreneur development program or other similar~~  
35 ~~Oneida program and does not otherwise violate this policy.~~

36  
37 *Subpart E. Use Of Tribal Assets*

38 ~~105.13-19. All~~maintain all bank accounts for ~~tribal~~the Nation's funds shall be maintained in the  
39 name of the Oneida ~~Tribe~~Nation. ~~and~~Bank accounts will be reflected on the Oneida  
40 ~~Tribe's~~Nation's books in accordance with Generally Accepted Accounting ~~Prøcedures~~Principles.

41 ~~105.13-20~~16-2. Each ~~official~~member of an entity shall comply with the system of internal  
42 accounting controls sufficient to provide assurances that:

- 43 (a) all transactions are executed in accordance with management's authorization; and  
44 (b) access to assets is permitted only in accordance with management's authorization;  
45 and  
46 (c)– all transactions are recorded to permit preparation of financial statements in  
47 conformity with ~~generally accepted accounting principles~~Generally Accepted Accounting  
48 Principles or other applicable criteria.

49 ~~105.13-21. Any records created or obtained while as an official of an entity of the Oneida Tribe~~  
50 ~~is/are the property of the Oneida Tribe and can only be removed or destroyed by approval from a~~  
51 ~~quorum of the entity at a duly called meeting. All removal or destruction of documents must be~~  
52 ~~made in accordance with the Open Records and Open Meetings law.~~

53  
54 *Subpart F. Disclosure*

55 ~~105.13-22. Each official shall disclose any outside activities or interests that conflict or suggest~~  
56 ~~a potential conflict with the best interests of the Oneida Tribe by completely filling out the~~  
57 ~~application for membership or informing the Oneida Business Committee or other designated~~  
58 ~~authority after election or appointment of a conflict arising during membership on an entity.~~

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~~Subpart G. Reporting~~

~~105.13-23. All conflicts or potential conflicts that arise during membership on an entity shall be immediately reported to the Tribal Secretary of the Oneida Tribe. Upon receiving information of a potential conflict of interest, the Tribal Secretary shall request a determination from the Oneida Law Office whether further action must be taken by the Oneida Tribe regarding the status of the official.~~

~~105.13-24.~~105.16-3. Any evidence of noncompliance with any policy regarding the use of tribal assets shall be immediately reported to the ~~internal audit staff.~~Internal Audit department. If the ~~internal audit staff~~Internal Audit department finds evidence of noncompliance they shall notify the Oneida Law Office ~~of the Oneida Tribe,~~ who will then make a determination of further action to be taken, if any.

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**105.17. Dissolution of an Entity**

105.17-1. Dissolution of a Task Force or Ad Hoc Committee. A task force or ad hoc committee dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the materials generated by a task force or ad hoc committee shall be forwarded to the ~~Subpart H. Business Committee Support Office for proper disposal within two (2) weeks of the dissolution.~~

105.17-2. Dissolution of an Entity. All other entities of the Nation shall be dissolved only by motion of the Oneida General Tribal Council or the Oneida Business Committee.

105.17-3. Notice of Dissolution. Within five (5) business days of the Oneida General Tribal Council or the Oneida Business Committee taking official action to dissolve an entity, the Oneida Business Committee shall provide the entity written notice of the dissolution.

105.17-4. Management of Records and Materials. All chairpersons and secretaries of dissolved entities shall be responsible for closing out open business of the entity and forwarding all materials and records to the Business Committee Support Office for proper storage and disposal within two (2) weeks of dissolution. The entity shall not alter or destroy any records. The Business Committee Support Office may utilize the assistance of the Records Management Department and/or any other appropriate department for the storage and disposal of the records and materials.

(a) The entity may request the Oneida Business Committee to grant a one (1) week extension of the time allowed to close out open business of the entity and forward all materials and records to the Business Committee Support Office.

92

**105.18. Enforcement And Penalties**

~~105.13-25. Officials~~105.18-1. Any member of an entity found to be in violation of this policy~~law~~ may be ~~removed~~subject to:

(a) sanctions and penalties in accordance with any laws or policies of the Nation governing sanctions and/or penalties;

(b) removal pursuant to ~~the Removal Law~~any laws or policies of the Nation's governing removal, if the individual is a member of an elected entity; or ~~have their~~

(c) termination of appointment ~~terminated~~by the Oneida Business Committee, if the individual is a member of an appointed entity.

~~105.13-26. Candidates for appointment or election to office found in violation of this policy may be disqualified from taking office.~~

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*End.*

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- Adopted - BC-~~8-208-02~~-95-A
- Amended - BC-~~505~~-14-97-F
- Emergency Amendments - BC-04-12-06-JJ
- Amended - BC-~~909~~-27-06-E (permanent adoption of emergency amendments)
- Amended – BC-09-22-10-C
- Amended – BC- - - -

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**Title 1. Government and Finances – Chapter 105**  
**BOARDS, COMMITTEES AND COMMISSIONS**  
**Laotiyaniʼhslaʼshúha katyohkwayaʼtúʼseʼ**  
*Their laws of the groups we have*

105.1. Purpose and Policy	105.10. Bylaws
105.2. Adoption, Amendment, Repeal	105.11. Electronic Polling
105.3. Definitions	105.12. Reporting Requirements
105.4. Creation of an Entity	105.13. Stipends, Reimbursement and Compensation
105.5. Applications	105.14. Confidential Information
105.6. Vacancies	105.15. Conflicts of Interest
105.7. Appointment to an Entity	105.16. Use of the Nation's Assets
105.8. Election to an Entity	105.17. Dissolution of an Entity
105.9. Oath of Office	105.18. Enforcement

1  
2 **105.1. Purpose and Policy**  
3 105.1-1. It is the purpose of this law to govern boards, committees, and commissions of the  
4 Nation, including the procedures regarding the appointment and election of persons to boards,  
5 committees and commissions, creation of bylaws, maintenance of official records, compensation,  
6 and other items related to boards, committees and commissions.

7 (a) This law shall not apply to the Oneida Business Committee, or Standing Committees  
8 of the Oneida Business Committee.

9 (b) This law does not apply to Tribal corporations due to the corporate structure and  
10 autonomy of those entities.

11 105.1-2. It is the policy of the Nation to have consistent and standard procedures for choosing  
12 and appointing or electing the most qualified persons to boards, committees and commissions,  
13 for creation of bylaws governing boards committees and commissions, and for the maintenance  
14 of information created by and for boards, committees and commissions.  
15

16 **105.2. Adoption, Amendment, Repeal**

17 105.2-1. This law was adopted by the Oneida Business Committee by resolution BC-05-14-97-F  
18 and amended by resolutions BC-09-27-06-E, BC-09-22-10-C, and BC-\_\_-\_\_-\_\_-\_\_.

19 105.2-2. This law may be amended or repealed by the Oneida Business Committee or the  
20 General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

21 105.2-3. Should a provision of this law or the application thereof to any person or circumstances  
22 be held as invalid, such invalidity shall not affect other provisions of this law which are  
23 considered to have legal force without the invalid portions.

24 105.2-4. In the event of a conflict between a provision of this law and a provision of another  
25 law, the provisions of this law shall control.

26 105.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.  
27

28 **105.3. Definitions**

29 105.3-1. This section shall govern the definitions of words and phrases used within this law. All  
30 words not defined herein shall be used in their ordinary and everyday sense.

31 (a) "Application" means the form by which a person seeks to be appointed to fill a  
32 vacancy on an entity.

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- 33 (b) "Appointment" means the process by which a person is chosen to fill a vacancy on an  
34 entity by the Oneida Business Committee.
- 35 (c) "Business day" means Monday through Friday from 8:00 a.m. to 4:30 p.m.,  
36 excluding holidays recognized by the Nation.
- 37 (d) "Bylaws" means a document which provides a framework for the operation and  
38 management of a board, committee, or commission of the Nation chiefly for the  
39 government of its members and the regulation of its affairs.
- 40 (e) "Conference" means any training, seminar, meeting, or other assembly of persons  
41 which is not an assembly of the entity.
- 42 (f) "Confidential information" means all information or data, whether printed, written, or  
43 oral, concerning business or customers of the Nation, disclosed to, acquired by, or  
44 generated by a member of an entity in confidence at any time during their elected or  
45 appointed term or during their employment.
- 46 (g) "Conflict of interest" means any interest, real or apparent, whether it be personal,  
47 financial, political, or otherwise, in which an elected official, officer, political appointee,  
48 employee, contractor, or appointed or elected member, or their immediate family  
49 members, friends or associates, or any other person with whom they have contact, have  
50 that conflicts with any right of the Nation to property, information, or any other right to  
51 own and operate activities free from undisclosed competition or other violation of such  
52 rights of the Nation. In addition, conflict of interest also means any financial or familial  
53 interest an elected official, officer, political appointee, employee, contractor, or appointed  
54 or elected member or their immediate family members may have in any transaction  
55 between the Nation and an outside party.
- 56 (h) "Entity" means a board, committee or commission created by the General Tribal  
57 Council or the Oneida Business Committee whose members are appointed by the Oneida  
58 Business Committee or elected by the Nation's membership.
- 59 (i) "E-poll" means an electronic poll, which is the act of delivering an e-mail to all  
60 members of an entity, in order to seek a response which identifies a vote in favor of,  
61 opposing, or abstaining to an issue requiring approval by the entity.
- 62 (j) "Joint meeting" means a meeting with the Oneida Business Committee.
- 63 (k) "Nation" means the Oneida Nation.
- 64 (l) "Per Diem" means the payment made by the Nation to offset the costs of being on  
65 travel on behalf of the Oneida Nation.
- 66 (m) "Political appointee" means a person appointed by a member of the Oneida Business  
67 Committee to provide assistance with the Oneida Business Committee member's daily  
68 activities and operations.
- 69 (n) "Prohibited drugs" means marijuana, cocaine, opiates, amphetamines, phencyclidine  
70 (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substance  
71 included in Schedules I through V, as defined by Section 812 of Title 21 of the United  
72 States Code. This also includes prescription medication or over-the-counter medicine  
73 used in an unauthorized or unlawful manner.
- 74 (o) "Stipend" means the amount paid by the Oneida Nation to a person serving on a  
75 board, committee, or commission of the Nation in order to compensate the individual for  
76 his or her contribution of time, effort, and work for his or her board, committee, or  
77 commission for the betterment of the Nation.

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78 (p) "Subcommittee" means a subgroup of an entity; which is comprised of fewer than all  
79 members of the entity; which is designated one (1) or more specific responsibilities on  
80 behalf of the entity.

81 (q) "Substantiated complaint" means a complaint or allegation in a complaint that was  
82 found to be valid by clear and convincing evidence.

83 (r) "Task Force or Ad Hoc" means a group of persons gathered to pursue a single goal,  
84 the accomplishment of which means the disbanding of the group. The goal is generally  
85 accomplished in a short time period, i.e. less than one year, but the goal itself may be  
86 long-term.

87 (s) "Vacancy" means any position on any board, committee or commission caused by  
88 resignation, end of term, removal, termination, or creation of a new position.

#### 90 **105.4. Creation of an Entity**

91 105.4-1. An entity of the Nation shall be created by a resolution or law adopted by the Oneida  
92 Business Committee or General Tribal Council.

93 105.4-2. The law or resolution establishing the entity shall state the purpose of the entity and all  
94 powers and responsibilities delegated to the entity.

95 105.4-3. The Oneida Business Committee shall be responsible for drafting the initial bylaws of  
96 the entity.

#### 98 **105.5. Applications**

99 105.5-1. The Oneida Business Committee shall approve all applications to serve on an entity of  
100 the Nation. All application materials shall be available in the Business Committee Support Office  
101 and any other location specified by the Business Committee Support Office.

102 (a) All applications shall include:

103 (1) a statement explaining the attendance requirements of section 105.12-3; and

104 (2) a section regarding disclosures of conflicts of interest.

105 (b) An additional application form shall be required for those entities that require a  
106 background investigation. This background investigation application shall include the  
107 applicant's social security number and any other information required for a background  
108 investigation. The background investigation application shall be solely used for the  
109 background investigation and not included in the application materials that are then  
110 shared with the Oneida Business Committee, entity, and/or the Election Board.

111 105.5-2. Applications shall be filed with the Business Committee Support Office by 4:30 p.m. of  
112 the deadline date. Postmarked envelopes are accepted as filed if postmarked by the deadline date  
113 and received by the Business Committee Support Office within five (5) business days of the  
114 deadline.

115 105.5-3. Eight (8) days after the posted deadline for filing applications the Business Committee  
116 Support Office shall notify all persons who have filed an application of the date his or her  
117 application was received and if his or her application met the deadline to be considered for the  
118 election or appointment.

119 105.5-4. Applications for elected positions shall be verified according to the Nation's laws  
120 and/or policies governing elections. Applications for appointed positions shall be verified by the  
121 Business Committee Support Office as needed or as required in the bylaws of the entity.

122 105.5-5. *Insufficient Applicants.* In the event that there are an insufficient number of applicants

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123 after the deadline date has passed for appointed positions, the Oneida Business Committee may  
124 elect to:

- 125 (a) include within the pool of appointed persons late applications, or  
126 (b) repost for an additional time period. In the event of reposting, prior applicants will  
127 be considered to have filed applications within the deadline period.

128

129 **105.6. Vacancies**

130 105.6-1. The manner by which an individual fills a vacancy, either through election or  
131 appointment, shall determine that member's status as an appointed or elected official, despite the  
132 entity's classification as an appointed or elected entity pursuant to the entity's bylaws.

133 105.6-2. A position on an entity shall be considered vacant in the following situations:

134 (a) *End of Term*. A vacancy is effective as of 4:30 p.m. of the last day of the month in  
135 which the term ends.

136 (1) Although a position is considered vacant once the term ends, the member of  
137 the entity may remain in office until the member's successor has been sworn in by  
138 the Oneida Business Committee in an effort to prevent a discontinuation of  
139 business or a loss of quorum for the entity.

140 (b) *Removal*. Removal is effective, pursuant to any law and/or policy of the Nation  
141 regarding removal.

142 (c) *Termination of Appointment*. A termination is effective upon a two-thirds (2/3)  
143 majority vote of the Oneida Business Committee in favor of a member's termination of  
144 appointment.

145 (d) *Resignation*. A resignation is effective upon:

146 (1) Deliverance of a letter to the Business Committee Support Office and to the  
147 Chairperson of the entity, or designee; or

148 (2) Acceptance by motion of the entity of a verbal resignation.

149 (e) *New Positions*. Vacancies on new entities are effective upon adoption of bylaws.

150 105.6-3. An entity shall notify the Business Committee Support Office as soon as the entity  
151 learns that a position has or will become vacant. All notices of vacancy shall be sent to the  
152 entities for clarification or confirmation prior to notification to the Oneida Business Committee.

153 105.6-4. The Business Committee Support Office shall forward the notice of vacancy to the  
154 Secretary. The Secretary shall request and receive approval from the Oneida Business  
155 Committee to post the notice of vacancy. The Business Committee Support Office shall post  
156 notice of vacancies at the following times:

157 (a) *End of Term*. Automatically sixty (60) days prior to completion of the term.

158 (b) *Removal*. No later than the next Oneida Business Committee meeting following the  
159 effective date of the removal.

160 (c) *Resignation*. No later than the next Oneida Business Committee meeting following  
161 the Business Committee Support Office's receipt of notice of an effective resignation  
162 from the entity.

163 (d) *New Positions*. Upon one of the following conditions:

164 (1) if not specified, immediately upon creation of entity or adoption of bylaws,  
165 whichever is later, or

166 (2) upon date specified when creating the entity.

167 (e) *Termination of appointment*. No later than the next Oneida Business Committee

168 meeting following the effective date of the termination.

169 105.6-5. Notice of vacancies shall be posted by the Business Committee Support Office in all  
170 official media outlets of the Nation, as determined by the Oneida Business Committee, as well as  
171 any other location deemed appropriate by the Secretary.

172  
173 **105.7. Appointment to an Entity**

174 105.7-1. *Appointment Selection.* The following procedures shall be used to determine how the  
175 applicant for an appointed position is selected:

176 (a) Eight (8) business days after the posted deadline for submitting an application, or  
177 within twenty-one (21) days of the posted deadline if the entity requires a background  
178 investigation to be completed as part of the application process, the Business Committee  
179 Support Office shall:

180 (1) deliver all applications, along with a summary of qualifications to hold office,  
181 and the results of the background investigation if required, to each member of the  
182 Oneida Business Committee as well as the entity's Chairperson; and

183 (2) place the appointment for the entity on the next executive session portion of  
184 the agenda of a regular or special Oneida Business Committee meeting in which  
185 the appointment is intended to be made.

186 (b) Each member of the Oneida Business Committee shall review the application  
187 materials prior to executive session and be prepared to discuss and select an applicant for  
188 appointment.

189 (1) The entity's Chairperson may have until the executive session to review the  
190 application materials and provide the Oneida Business Committee a  
191 recommendation of an applicant for appointment.

192 (c) The Oneida Business Committee shall have a full and complete discussion of the  
193 merits and qualifications of the potential applicants, and any recommendation made by  
194 the Chairperson of the entity, during executive session. After completing a thorough  
195 discussion, the Oneida Business Committee shall:

196 (1) choose an applicant for appointment, or

197 (2) ask the Oneida Nation's Secretary to re-notice the vacancy because of  
198 ineligible, unqualified, or under qualified applicants.

199 (d) All appointments shall be made by the Oneida Business Committee during the open  
200 session of a regular or special Oneida Business Committee meeting. The Oneida Business  
201 Committee shall not appoint an applicant who fails to meet the requirements set out in the  
202 entity's bylaws.

203 (e) During the open session of the regular or special Oneida Business Committee  
204 meeting, a member of the Oneida Business Committee may make a motion to appoint an  
205 individual. Oneida Business Committee members may:

206 (1) accept the selected applicant and vote to appoint the individual to the vacant  
207 position, or

208 (2) reject the selected applicant and vote to oppose the appointment of the  
209 individual.

210 (f) If the Oneida Business Committee rejects the selected applicant, the matter will be  
211 deferred to the next Oneida Business Committee meeting where another applicant may be  
212 recommended by the Oneida Business Committee, or the Oneida Business Committee

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213 may direct the vacancy to be re-posted. When a vacancy is re-posted under this section,  
214 all applications from the first posting shall be considered to have been filed within the  
215 deadline period.

216 105.7-2. *Notification of Appointment.* Once an individual is selected for appointment at an  
217 Oneida Business Committee meeting, the Nation's Secretary shall notify all applicants of the  
218 final status of their application.

219 (a) The Nation's Chairperson shall forward a list of all applicants to the Nation's  
220 Secretary and the final decision regarding the selection after the procedures for selection  
221 of an applicant described in section 105.7-1 are completed.

222 (b) The Nation's Secretary shall include on the notice to the applicant selected for  
223 appointment the following paragraph: "The Oneida Nation reports all income paid by the  
224 Oneida Nation in whatever form. The Internal Revenue Service of the United States  
225 considers stipends paid to members of boards, committees, and commissions to be  
226 income which may be offset by expenses related to that income. You will receive an  
227 income report which is also forwarded to the Internal Revenue Service, it is also your  
228 responsibility to keep documentation of expenses related to this income."

229 105.7-3. *Declination of Appointment.* An individual who has been selected for appointment to  
230 an entity by the Oneida Business Committee may decline the appointment.

231 (a) An individual may decline an appointment to an entity in the following ways:

232 (1) Delivery of an letter stating that the individual wishes to decline the  
233 appointment to the Business Committee Support Office; or

234 (2) The failure to take the oath of office within thirty (30) days of being selected  
235 for appointment by the Oneida Business Committee.

236 (b) The Business Committee Support Office shall notify the Oneida Business Committee  
237 if an individual declines an appointment to an entity. The Oneida Business Committee  
238 shall then use the original pool of applications for the vacancy posting and the process  
239 outlined in section 105.7-1 to select another applicant for appointment.

240 105.7-4. *Termination of Appointment.* An appointed member of an entity serves at the  
241 discretion of the Oneida Business Committee. Upon the recommendation of a member of the  
242 Oneida Business Committee or the entity, a member of an appointed entity may have his or her  
243 appointment terminated by the Oneida Business Committee.

244 (a) A two-thirds majority vote of the Oneida Business Committee shall be required in  
245 order to terminate the appointment of an individual.

246 (b) The Oneida Business Committee's decision to terminate an appointment is final and  
247 not subject to appeal.

248

249 **105.8 Election to an Entity**

250 105.8-1. All elected positions shall be nominated at a caucus called by the Oneida Election  
251 Board, or petition for ballot placement, in accordance with the Nation's laws and/or policies  
252 governing elections, except where an entity's bylaws allow for a vacancy to be filled by  
253 appointment.

254 (a) When the Election Board notifies a petitioner or nominee that he or she is eligible to  
255 be placed on the ballot, the following paragraph shall be included: "The Oneida Nation  
256 reports all income paid by the Nation in whatever form. The Internal Revenue Service of  
257 the United States considers stipends paid to members of boards, committees, and  
258 commissions to be income which may be offset by expenses related to that income. You  
259 will receive an income report which is also forwarded to the Internal Revenue Service, it  
260 is also your responsibility to keep documentation of expenses related to this income."

261 105.8-2. All other processes for the election of a member of an entity shall be as directed by the  
262 Nation's laws and/or policies governing elections.

263

264 **105.9. Oath of Office**

265 105.9-1. All appointed and elected positions are official upon taking an oath during a regular or  
266 special Oneida Business Committee meeting. All rights and delegated authorities of membership  
267 in the entity shall vest upon taking the oath. The Nation's Secretary shall notify the chosen  
268 persons when they shall appear for taking the oath.

269 (a) The appointed or elected member shall appear in person at the Oneida Business  
270 Committee meeting to take his or her oath, except if granted permission by the Secretary  
271 to appear by video conferencing equipment.

272 105.9-2. The Oneida Business Committee shall approve wording of oaths. Any revisions of  
273 oaths shall be approved by the Oneida Business Committee prior to usage. Oaths shall be kept on  
274 file by the Business Committee Support Office.

275 105.9-3. Originals of the signed oath, or electronic copies of the originals of the signed oath,  
276 shall be maintained by the Business Committee Support Office. Copies of the oath shall be  
277 forwarded to the new member of the entity and the entity.

278 105.9-4. The following oath is the standard oath to be used unless a specific oath for the entity is  
279 pre-approved by the Oneida Business Committee: I, [name], hereby promise to uphold the laws  
280 and regulations of the Oneida Nation, the General Tribal Council, and the Oneida Nation  
281 Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida  
282 people with honor, respect, dignity, and sincerity and will strictly maintain confidential  
283 information. I will carry out the duties and responsibilities as a member of the [entity name], and  
284 all recommendations shall be made in the best interest of the Oneida Nation as a whole.

285 105.9-5. All oaths shall be sufficient to make the appointed or elected member of an entity  
286 aware of their duty to the Nation and as members of the entity.

287

288 **105.10. Bylaws**

289 105.10-1. All entities of the Nation shall have bylaws that conform to the requirements of this  
290 law. Bylaws shall become effective upon approval of the Oneida Business Committee, unless  
291 where General Tribal Council approval is additionally required.

292 (a) All existing entities must comply with this format and present bylaws for adoption  
293 within a reasonable time after creation of the entity, or within a reasonable time after

- 294 adoption of this law.
- 295 (b) Bylaws must contain at least the minimum information required by law, although  
296 more information is not prohibited.
- 297 (c) *Exception.* Task Forces and Ad Hoc Committees are excepted from the requirement  
298 to have bylaws. However, these entities must have, at minimum, mission or goal  
299 statements for completion of the task.
- 300 105.10-2. *Articles.* Bylaws shall contain, at a minimum, the following Articles:
- 301 (a) Article I. Authority.
- 302 (b) Article II. Officers.
- 303 (c) Article III. Meetings.
- 304 (d) Article IV. Expectations.
- 305 (e) Article V. Stipends and Compensation.
- 306 (f) Article VI. Records and Reporting.
- 307 (g) Article VII. Amendments.
- 308 105.10-3. *Sections.* Articles shall be divided into "sections" as set out.
- 309 (a) "Article I. Authority" shall consist of the following:
- 310 (1) *Name.* The full name of the entity shall be stated, along with any short name  
311 that will be officially used.
- 312 (2) *Establishment.* This section shall state the citation and name, if any, of the  
313 creation document.
- 314 (3) *Authority.* This section shall state the purpose for which the entity was  
315 created and what, if any, authority the entity is delegated.
- 316 (4) *Office.* There shall be listed the official office or post box of the entity.
- 317 (5) *Membership.* The following information shall be in this section:
- 318 (A) Number of members on the entity;
- 319 (B) If members on the entity are elected or appointed, and how a member  
320 is elected or appointed;
- 321 (C) How vacancies are filled; and
- 322 (D) Qualifications for membership on the entity.
- 323 (i) In order to qualify for membership on an entity, a person shall  
324 meet the minimum age requirements set forth for status as a  
325 qualified voter of the Nation, unless a law, policy, or directive sets  
326 forth a minimum age requirement.
- 327 (6) *Termination or Removal.* This section shall identify causes for termination or  
328 removal, if any, in addition to those already identified in laws and/or policies of  
329 the Nation.
- 330 (7) *Trainings and Conferences.* This section shall describe any trainings and/or  
331 conferences that the entity deems necessary for members to responsibly serve the  
332 entity, if any.
- 333 (b) "Article II. Officers" shall consist of the following:
- 334 (1) *Chairperson and Vice-Chairperson.* This section creates the chairperson and  
335 vice-chairperson positions of the entity. Other officer positions may also be  
336 created here.
- 337 (2) *Responsibilities of the Chairperson.* Because of the importance of this  
338 position, all duties and responsibilities of the chairperson, as well as limitations of

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- 339 the chairperson shall be specifically listed here.  
 340 (3) *Responsibilities of the Vice-Chairperson.* Because of the importance of this  
 341 position, all duties and responsibilities of the vice-chairperson, as well as  
 342 limitations of the vice-chairperson shall be specifically listed here.  
 343 (4) *Responsibilities of Additional Officers.* There may be additional sections as  
 344 needed for every officer position created in subsection one (1) above. These  
 345 sections shall state all duties and responsibilities of the officer, as well as any  
 346 limitations of the officer.  
 347 (5) *Selection of Officers.* This section shall identify how a member of the entity  
 348 shall be selected for an official officer position in the entity.  
 349 (6) *Budgetary Sign-Off Authority and Travel.* This section shall identify the  
 350 entity's varying levels of budgetary sign-off authority, the members that are  
 351 authorized to sign-off at each level, and how the entity shall handle approving  
 352 travel on behalf of the entity.  
 353 (A) An entity shall follow the Nation's policies and procedures regarding  
 354 purchasing and sign-off authority.  
 355 (B) An entity shall approve a member's request to travel on behalf of the  
 356 entity by majority vote at a regular or emergency meeting of the entity.  
 357 (7) *Personnel.* This section shall state the entity's authority for hiring personnel,  
 358 if any, and the duties of such personnel.  
 359 (c) "Article III. Meetings" shall consist of the following:  
 360 (1) *Regular meetings.* This section shall identify when and where regular  
 361 meetings shall be held, and how the entity shall provide notice of the meeting  
 362 agenda, documents, and minutes.  
 363 (2) *Emergency meetings.* This section shall identify what constitutes an  
 364 emergency meeting, how emergency meetings shall be called, and how the entity  
 365 shall provide notice of the emergency meeting.  
 366 (A) All bylaws shall include a provision requiring that within seventy-two  
 367 (72) hours after an emergency meeting, the entity shall provide the  
 368 Nation's Secretary with notice of the meeting, the reason for the  
 369 emergency meeting, and an explanation of why the matter could not wait  
 370 for a regular meeting.  
 371 (3) *Joint Meetings.* This section shall identify if joint meetings shall be held, the  
 372 frequency and location of joint meetings, and how the entity shall provide notice  
 373 of the meeting agenda, documents, and minutes.  
 374 (4) *Quorum.* This section shall identify how many members of an entity create a  
 375 quorum.  
 376 (5) *Order of Business.* This section sets out how the agenda will be set up.  
 377 (6) *Voting.* This section shall identify voting requirements, such as, but not  
 378 limited to:  
 379 (A) the percentages that shall be needed to pass different items;  
 380 (B) if, and when, the chairperson is allowed to vote;  
 381 (C) if the use of an e-poll is permissible; and  
 382 (D) if the use of and e-poll is permissible, who will serve as the  
 383 Chairperson's designee for the responsibility of conducting an e-poll, if a

- 384                   designee is utilized.
- 385           (d) "Article IV. Expectations" shall consist of the following information:
- 386               (1) *Behavior of Members*. This section shall identify the behavioral expectations
- 387               and requirements of a member of the entity, and identify how the entity shall
- 388               enforce these behavioral expectations.
- 389               (2) *Prohibition of Violence*. This section shall prohibit any violent intentional act
- 390               committed by a member of the entity that inflicts, attempts to inflict, or threatens
- 391               to inflict emotional or bodily harm on another person, or damage to property, and
- 392               set forth any further expectations regarding the prohibition of violence.
- 393               (3) *Drug and Alcohol Use*. This section shall prohibit the use of alcohol and
- 394               prohibited drugs for a member of an entity when acting in their official capacity,
- 395               and set forth any further expectations regarding the use of prohibited drugs and
- 396               alcohol.
- 397               (4) *Social Media*. This section shall identify expectations for the use of social
- 398               media in regards to official business of the entity.
- 399               (5) *Conflict of Interest*. This section shall state any standards and expectations
- 400               additional to those required by law of the Nation in regards to conflicts of interest
- 401               and how they are handled, as well as requirements related to prohibited activities
- 402               resulting from disclosed conflicts of interest, and means by which a party can
- 403               alleviate or mitigate the conflict of interest.
- 404           (e) "Article V. Stipends and Compensation" shall consist of the following information:
- 405               (1) *Stipends*. This section shall include a comprehensive list of all stipends
- 406               members are eligible to receive and the requirements for collecting each stipend,
- 407               if any in addition to those contained in this law.
- 408               (2) *Compensation*. This section shall include details regarding all other forms of
- 409               compensation members are eligible to receive and the requirements for collecting
- 410               such compensation, if any in addition to those contained in this law.
- 411           (f) "Article VI. Records and Reporting" shall consist of the following information:
- 412               (1) *Agenda Items*. Agenda items shall be maintained in a consistent format as
- 413               identified by this section.
- 414               (2) *Minutes*. Minutes shall be typed and in a consistent format designed to
- 415               generate the most informative record of the meetings of the entity. This may
- 416               include a summary of action taken by the entity. This section shall identify the
- 417               format for minutes, and a reasonable timeframe by which minutes shall be
- 418               submitted to the Business Committee Support Office.
- 419               (3) *Attachments*. Handouts, reports, memoranda, and the like may be attached to
- 420               the minutes and agenda, or may be kept separately, provided that all materials can
- 421               be identified to the meeting in which they were presented. This section shall
- 422               identify how records of attachments shall be kept.
- 423               (4) *Oneida Business Committee Liaison*. Entities shall regularly communicate
- 424               with the Oneida Business Committee member who is their designated liaison.
- 425               This section shall identify a format and frequency for communication which may
- 426               be as the liaison and entity agree to, but not less than that required in any law or
- 427               policy on reporting developed by the Oneida Business Committee or Oneida
- 428               General Tribal Council. The purpose of the liaison relationship is to uphold the

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429 ability of the liaison to act as a support to that entity.

430 (5) *Audio Recordings*. An entity shall audio record all meetings. This section  
431 shall state how the entity shall audio record meetings, and how the entity shall  
432 maintain the audio records.

433 (A) *Exception*. Audio recordings of executive session portions of a  
434 meeting shall not be required.

435 (g) "Article VII. Amendments" consists of:

436 (1) *Amendments to Bylaws*. This section shall describe how amendments to the  
437 bylaws are made. Any amendments to bylaws shall conform to the requirements  
438 of this and any other policy of the Nation. Amendments to bylaws shall be  
439 approved by the Oneida Business Committee, in addition to the General Tribal  
440 Council when applicable, prior to implementation.

441

#### 442 **105.11. Electronic Polling**

443 105.11-1. An entity may utilize an e-poll when approval of an action may be required before the  
444 next available meeting agenda of the entity.

445 105.11-2. *Conducting an E-Poll*. The Chairperson of the entity, or designee, shall e-mail the e-  
446 poll to all members of the entity. Requests for an e-poll shall be sent only from an official e-mail  
447 address of the entity. The e-poll's message shall include the following information:

448 (a) The e-mail subject line shall begin with "E-poll Request:" and include a short title  
449 describing the purpose of the request.

450 (b) The body of the e-poll shall contain the following elements:

451 (1) An executive summary of the reason for the request and why the request  
452 cannot be presented at the next available meeting of the entity;

453 (2) A proposed motion which shall be in bold and identified in a separate  
454 paragraph by the words "Requested Action;"

455 (3) All attachments in \*.pdf format, which are necessary to understand the  
456 request being made; and

457 (4) A deadline date for a response to be returned regarding the results of the  
458 electronic poll which shall be in bold and identified in a separate paragraph by the  
459 words "Deadline for Response."

460 (A) E-poll requests shall be open for response not less than one (1) hour  
461 and no more than twenty-four (24) hours.

462 (B) The time frame for responses shall be determined by the Secretary of  
463 the entity, or designee, based on urgency, scheduling, and any other  
464 pertinent factors.

465 105.11-3. *Response to an E-Poll*. A response from a member of an entity shall be valid if  
466 received from an official e-mail address of the entity. No responses from unknown e-mails or  
467 personal e-mails shall be accepted. An e-poll request shall receive responses from a majority of  
468 members of the entity in order to be an official vote.

469 (a) E-polls that receive at least a majority of supporting votes by the deadline are  
470 considered to be approved.

471 (b) E-polls for which insufficient responses were received by the deadline are considered  
472 to have failed to receive support, and result in a denied request.

473 (c) E-polls that result in a denied request may be reconsidered by the entity at the next

474 available meeting.

475 (d) The Chairperson, or designee, shall monitor all responses and deadline dates for  
476 responses.

477 105.11-4. *Entering an E-Poll in the Record.* Both approved and denied e-poll requests shall be  
478 placed on the next meeting agenda of the entity to be entered into the record. The agenda item  
479 shall contain the following information:

480 (a) Original e-poll request and all supporting documentation;

481 (b) A summary of the e-poll results identifying each member of the entity and his or her  
482 response; and

483 (c) A copy of any comment by a member of the entity if comments are made beyond a  
484 vote.

485

### 486 **105.12. Reporting Requirements**

487 105.12-1. *Minutes.* All minutes shall be submitted to the Business Committee Support Office  
488 within a reasonable time after approval by the entity, as identified in the entity's bylaws.

489 (a) Actions taken by an entity are valid upon approval of the action by vote, unless the  
490 bylaws of the entity otherwise require minutes to be approved by the entity before the  
491 actions are valid.

492 (b) Minutes shall be filed according to this section, and any specific directions within  
493 approved bylaws.

494 (c) No action or approval of minutes is required by the Oneida Business Committee on  
495 minutes submitted by an entity unless specifically required by the bylaws of that entity.

496 105.12-2. *Standard Operating Procedures.* All standard operating procedures established by an  
497 entity shall be submitted to the Business Committee Support Office, where they shall be kept on  
498 file.

499 105.12-3. *Quarterly Reports to the Oneida Business Committee.* Entities shall provide quarterly  
500 reports to the Oneida Business Committee in accordance with the quarterly reporting schedule  
501 approved by the Oneida Business Committee. All quarterly reports shall be approved by official  
502 entity action before they are submitted. The quarterly reports shall not contain any information  
503 that conflicts with any law, resolution, or policy of the Nation. At least one (1) member of the  
504 entity shall attend the Oneida Business Committee meeting where the quarterly report is an  
505 agenda item. Quarterly reports shall follow a format prescribed by the Oneida Business  
506 Committee and contain the following information:

507 (a) *Contact Information.* The name of the entity, the member submitting the report, the  
508 Oneida Business Committee liaison; and a list of the members and their titles, term  
509 expiration dates and contact information.

510 (b) *Meetings.* When and how often the entity is holding meetings and whether any  
511 emergency meetings have been held.

512 (1) If emergency meetings were held, the report shall indicate the basis of the  
513 emergency for each meeting.

514 (c) *Accomplishments.* Details of what the entity has accomplished that quarter, including  
515 any special events held during the reporting period and any travel by the members and/or  
516 staff.

517 (d) *Goals.* Details of both the entity's long term goals, the entity's goals for the next  
518 quarter, and projected quarterly activities.

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519 (e) *Budget*. The amount of the entity's budget, the status of the budget at that quarter,  
520 the amount of each stipend a member may be eligible to receive, how the budget is being  
521 utilized by the entity, and projected budgetary uses for the next quarter.

522 (f) *Requests*. Details of any requests to the Oneida Business Committee.

523 (g) *Other*. And any other information deemed appropriate by the entity, as well as any  
524 other information required by a law or policy of the Nation.

525 105.12-4. *Annual and Semi-Annual Reports to the General Tribal Council*. Entities shall  
526 provide annual reports to the Oneida General Tribal Council based on their activities during the  
527 previous fiscal year, and semi-annual reports based on their activities during the current fiscal  
528 year. All annual and semi-annual reports shall follow a format prescribed by the Oneida Business  
529 Committee.

530 (a) Annual and semi-annual reports shall contain information on the number of  
531 substantiated complaints against all members of the entity.

532 (b) Each entity with oversight of a department shall also submit annual and semi-annual  
533 reports for each department the entity oversees.

534 105.12-5. Any failure to comply with the reporting requirements may result in the Oneida  
535 Business Committee placing a hold on the release of a stipend payment.

536

### 537 **105.13. Stipends, Reimbursement and Compensation**

538 105.13-1. Stipends and reimbursement for expenses shall follow the procedures as set out in this  
539 section and according to procedures for payment as set out by the Nation, unless otherwise  
540 declined by the entity through its bylaws, or declined by a member.

541 105.13-2. The Oneida Business Committee shall set stipend amounts by resolution. The Oneida  
542 Business Committee shall periodically review the amounts provided for stipends and, based on  
543 the availability of funds, shall adjust those amounts accordingly by amending the resolution.  
544 Stipends are paid in the form of cash or cash equivalent, which may include, but is not limited to,  
545 gift cards.

546 105.13-3. *Meeting Stipends*. A member of an entity shall only receive a meeting stipend for a  
547 regular or emergency meeting where a quorum has been established in accordance with the duly  
548 adopted bylaws of that entity, that lasts for at least one (1) hour, and the member collecting the  
549 stipend is physically present for the entire meeting.

550 (a) *Meeting Stipends for an Appointed Entity*. An individual serving on an appointed  
551 entity shall be paid no more than one (1) meeting stipend per month.

552 (b) *Meeting Stipends for an Elected Entity*. An individual serving on an elected entity  
553 shall be paid no more than two (2) meeting stipends per month.

554 105.13-4. *Joint Meeting Stipends*. A member of an entity shall only receive a stipend for a joint  
555 meeting where a quorum has been established in accordance with the duly adopted bylaws of  
556 that entity, that lasts for at least one (1) hour, and the member collecting the stipend is physically  
557 present for the entire meeting.

558 (a) An individual shall receive a stipend for his or her attendance at a duly called joint  
559 meeting.

560 (1) A joint meeting stipend does not count towards the limitation on meeting  
561 stipends as provided for in section 105.13-3(a)-(b).

562 105.13-5. *Oneida Judiciary Hearings*. A member of an entity shall receive a Judiciary hearing  
563 stipend if the member's attendance at the Judiciary hearing is required by official subpoena.

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564 105.13-6. *Hearings of an Entity.* A member of an entity that maintains hearing authority may  
565 obtain a hearing stipend for conducting hearings administered by the entity. A hearing consists of  
566 all functions related to the resolution of the matter notwithstanding the amount of time it takes to  
567 resolve the matter, including, but not limited to, any continuations of the hearing and decision  
568 drafting.

569 105.13-7. *Other Stipends.* The Oneida Business Committee shall determine if, and when, any  
570 other stipends are appropriate to compensate members of entities for their official actions. All  
571 possible stipends shall be included in the Oneida Business Committee resolution which sets  
572 stipend amounts.

573 105.13-8. *Conferences and Training.* A member of any entity, elected or appointed, shall be  
574 reimbursed in accordance with the Nation's policy for travel and per diem, for attending a  
575 conference or training. Provided that:

576 (a) A member shall be eligible for a stipend for each full day the member is present at the  
577 conference or training, when attendance at the conference or training is required by law,  
578 bylaw or resolution.

579 (b) A member shall not be eligible for a conference and training stipend if that training is  
580 not required by law, bylaw or resolution.

581 (c) No stipend payments shall be made for those days spent traveling to and from the  
582 conference or training.

583 105.13-9. *Business Expenses.* All members of entities shall be eligible for reimbursement for  
584 normal business expenses naturally related to membership in the entity.

585 105.13-10. *Task Force and Ad Hoc Subcommittees.* Members of task force, ad hoc committees  
586 and subcommittees shall not be eligible for stipends unless specific exception is made by the  
587 Oneida Business Committee or the Oneida General Tribal Council.  
588

#### 589 **105.14. Confidential Information**

590 105.14-1. All members of an entity shall maintain in a confidential manner all information  
591 obtained through their position on the entity. The Nation requires that all members of an entity  
592 who have access to the Nation's confidential information be subject to specific limitations in  
593 order to protect the interest of the Nation and ensure that no persons engaged in by the Nation,  
594 nor their relatives or associates, benefit from the use of confidential information.

595 (a) Confidential information shall be considered and kept as the private and privileged  
596 records of the Nation and will not be divulged to any person, firm, corporation, or other  
597 entity except by direct written authorization of the Oneida Business Committee.

598 (b) A member of an entity will continue to treat as private and privileged any  
599 confidential information, and will not release any such information to any person, firm,  
600 corporation, or other entity, either by statement, deposition, or as a witness, except upon  
601 direct written authority of Oneida Business Committee, and the Nation shall be entitled to  
602 an injunction by any competent court to enjoin and restrain the unauthorized disclosure of  
603 such information. Such restriction continues after termination of the relationship with the  
604 Nation and the entity.

605 (c) Upon completion or termination of his or her elected or appointed term of  
606 membership in an entity, for any cause whatsoever, the member of the entity will  
607 surrender to the Nation, in good condition, all records kept by the member of the entity.

608 (d) No member of an entity shall disclose confidential information acquired by reason of

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609 his other relationship or status with the Nation for his or her personal advantage, gain, or  
610 profit, or for the advantage, gain, or profit of a relative or associate.

611 105.14-2. Any records created or obtained while as an official of an entity are the property of the  
612 Nation and can only be removed or destroyed by approval from a majority vote of the entity at a  
613 duly called meeting. All removal or destruction of documents must be made in accordance with  
614 the Nation's laws and policies regarding open records and open meetings.

615 105.14-3. *Official Oneida Nation E-mail Address*. Each member of an entity shall be provided  
616 an official Oneida e-mail address upon election or appointment for the purpose of conducting  
617 business of the entity electronically.

618 (a) If a member is also an employee of the Nation, he or she shall receive a separate e-  
619 mail address from his or her regular work e-mail address.

620 (b) A member of an entity shall sign an acknowledgment form provided by the Nation's  
621 Secretary indicating notice of the Nation's applicable computer and media related laws,  
622 policies and rules. The Nation's Secretary shall maintain a record of all such  
623 acknowledgment forms.

624 (c) A member of an entity shall not use any personal or work e-mail address to  
625 electronically conduct any business of the entity.

626 (d) Immediately upon receipt of notice of an entity vacancy, the Nation's Secretary shall  
627 instruct the Management Information Systems department to disable the e-mail address  
628 for the member having vacated the position.

629

### 630 **105.15. Conflicts of Interest**

631 105.15-1. All members of an entity are required to adhere to the Nation's laws and policies  
632 governing conflicts of interest.

633 105.15-2. A member of an entity shall disclose a conflict of interest to the Nation's Secretary as  
634 soon as the conflict arises, and update a conflict of interest disclosure form with the Nation's  
635 Secretary on an annual basis.

636 (a) Upon receiving information of a potential conflict of interest, the Nation's Secretary  
637 shall request a determination from the Oneida Law Office whether further action must be  
638 taken by the Nation regarding the status of the official.

639 105.15-3. Due to the potential for a real or perceived conflict of interest to exist, political  
640 appointees shall not serve on an appointed or elected entity.

641

### 642 **105.16. Use of the Nation's Assets**

643 105.16-1. Entities shall maintain all bank accounts for the Nation's funds in the name of the  
644 Oneida Nation. Bank accounts will be reflected on the Oneida Nation's books in accordance with  
645 Generally Accepted Accounting Principles.

646 105.16-2. Each member of an entity shall comply with the system of internal accounting  
647 controls sufficient to provide assurances that:

648 (a) all transactions are executed in accordance with management's authorization; and

649 (b) access to assets is permitted only in accordance with management's authorization;  
650 and

651 (c) all transactions are recorded to permit preparation of financial statements in  
652 conformity with Generally Accepted Accounting Principles or other applicable criteria.

653 105.16-3. Any evidence of noncompliance with any policy regarding the use of tribal assets shall

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654 be immediately reported to the Internal Audit department. If the Internal Audit department finds  
 655 evidence of noncompliance they shall notify the Oneida Law Office, who will then make a  
 656 determination of further action to be taken, if any.

657

### 658 **105.17. Dissolution of an Entity**

659 105.17-1. *Dissolution of a Task Force or Ad Hoc Committee.* A task force or ad hoc committee  
 660 dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the  
 661 materials generated by a task force or ad hoc committee shall be forwarded to the Business  
 662 Committee Support Office for proper disposal within two (2) weeks of the dissolution.

663 105.17-2. *Dissolution of an Entity.* All other entities of the Nation shall be dissolved only by  
 664 motion of the Oneida General Tribal Council or the Oneida Business Committee.

665 105.17-3. *Notice of Dissolution.* Within five (5) business days of the Oneida General Tribal  
 666 Council or the Oneida Business Committee taking official action to dissolve an entity, the  
 667 Oneida Business Committee shall provide the entity written notice of the dissolution.

668 105.17-4. *Management of Records and Materials.* All chairpersons and secretaries of dissolved  
 669 entities shall be responsible for closing out open business of the entity and forwarding all  
 670 materials and records to the Business Committee Support Office for proper storage and disposal  
 671 within two (2) weeks of dissolution. The entity shall not alter or destroy any records. The  
 672 Business Committee Support Office may utilize the assistance of the Records Management  
 673 Department and/or any other appropriate department for the storage and disposal of the records  
 674 and materials.

675 (a) The entity may request the Oneida Business Committee to grant a one (1) week  
 676 extension of the time allowed to close out open business of the entity and forward all  
 677 materials and records to the Business Committee Support Office.

678

### 679 **105.18. Enforcement**

680 105.18-1. Any member of an entity found to be in violation of this law may be subject to:

681 (a) sanctions and penalties in accordance with any laws or policies of the Nation  
 682 governing sanctions and/or penalties;

683 (b) removal pursuant to any laws or policies of the Nation's governing removal, if the  
 684 individual is a member of an elected entity; or

685 (c) termination of appointment by the Oneida Business Committee, if the individual is a  
 686 member of an appointed entity.

687 *End.*~~688~~

690

691 Adopted - BC-08-02-95-A

692 Amended - BC-05-14-97-F

693 Emergency Amendments - BC-04-12-06-JJ

694 Amended - BC-09-27-06-E (permanent adoption of emergency amendments)

695 Amended - BC-09-22-10-C

696 Amended - BC-\_\_-\_\_-\_\_-\_\_

697

698

# FINANCE ADMINISTRATION

## Fiscal Impact Statement



# MEMORANDUM

DATE: September 11, 2018

FROM: Rae Skenandore, Financial Management Analyst

TO: Lawrence Barton, Chief Financial Officer  
RaLinda Ninham-Lamberies, Assistant Chief Financial Officer

RE: **Fiscal Impact of the Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions**

## I. Estimated Fiscal Impact Summary

<b>Law:</b> Boards, Committees, and Commissions Law		Draft 3
<b>Implementing Agency</b>	Business Committee Support Office Management Information Systems Legislative Reference Office	
<b>Estimated time to comply</b>	Approximately six months	
<b>Estimated Impact</b>	<b>Current Fiscal Year</b>	<b>Ten Year Estimate</b>
<b>Total Estimated Fiscal Impact</b>	Approximately \$ 58,200	Approximately \$582,000

## II. Background

### Legislative History

This Law was adopted by the Oneida Business Committee by resolution BC-05-14-97- F and amended by resolutions BC-09-27-06-E, BC-09-22-10-C, BC-2-24-16-C. A public meeting was held on June 21, 2018.

### Summary of Content

A summary of the amendments is as follows;

- Amend the name of this Law from "Comprehensive Policy Governing Boards, Committees, and Commissions" to "Boards, Committees, and Commissions Law;"
- Provide guidelines for the creation of a Board, Committee, or Commission;

- Update the information required to be included on an application and the process for submitting an application;
- Revise how vacancies on a Board, Committee, and Commission are handled, and allow for an individual to remain in office until the member's successor has been sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity;
- Update the appointment selection process to provide for more efficient and effective selections;
- Require that oaths of office be taken at Oneida Business Committee meeting and update the oath of office;
- Expand the information that Boards, Committees, and Commissions are required to include in their bylaws;
- Provide a process for electronic polling, if a Board, Committee, or Commission decides to use electronic polling;
- Expand the reporting requirements of Boards, Committees, and Commissions to include requirements regarding standard operating procedures, quarterly reports to the Oneida Business Committee, and annual and semi-annual reports to the General Tribal Council;
- Provide detailed information on what stipends or compensation is available for members of Boards, Committees, and Commissions, and state that Oneida Business Committee shall set specific stipend amounts by resolution;
- Address how confidential information is handled by Boards, Committees, and Commissions, including the addition of a requirement for Board, Committee, and Commission members to be provided an official Oneida e-mail address to conduct business of the Board, Committee, and Commission;
- Specify the information provided in the Law regarding conflicts of interest.
- This Law bans political appointees from serving on Boards, Committees and Commissions.
- Appointed members may be terminated by a 2/3 majority vote of the Business Committee. Terminations are final and cannot be appealed.
- Require that the dissolution of a Board, Committee, or Commission be noticed to the Board, Committee, or Commission and;

- Provide greater detail on how violations of this Law may be enforced. Entities that fail to comply with reporting requirements in this Law may have their stipends withheld until reports are submitted.

### **Boards, Committees, and Commissions**

There are currently 14 Boards, Committees, and Commissions that are subject to this Law. They include the following;

#### **Elected**

Oneida Election Board  
 Oneida Gaming Commission  
 Oneida Land Claims Commission  
 Oneida Land Commission  
 Oneida Nation Commission on Aging (ONCOA)  
 Oneida Nation School Board  
 Trust Enrollment Committee

#### **Appointed**

Anna John Resident Centered Care Community Board (AJRCC)  
 Environmental Resource Board (ERB)  
 Oneida Community Library Board  
 Oneida Nation Arts Board  
 Oneida Police Commission  
 Oneida Pow-Wow Committee  
 Oneida Nation Veterans Affairs Committee (ONVAC)  
 Pardon and Screening Forgiveness Committee  
 Personnel Selection Committee\*  
 Southeastern WI Oneida Tribal Services Advisory Board (SEOTS)

\* The Personnel Commission (PC) was dissolved per BC resolution 04-11-18-A. GTC rescinded the dissolution of the Personnel Commission on August 27, 2018. The 2018 budget for the Personnel Commission was \$393,253. The Personnel Selection Committee has been funded from the PC budget since it was dissolved in April. As of July 2018, there was no budget submitted for this area. It is assumed that the reinstated Personnel Commission is subject to this Law and a budget needs to be developed for this area that includes the new stipend amounts.

### **Creation of New Entities**

The Law provides for the creation of a new Board, Committee or Commission by adoption of a Law or by the Oneida Business Committee (OBC) or General Tribal Council (GTC) resolution. However, the Legislative Procedures Act only requires the adoption of Laws to have a Fiscal Impact Statement.

### **E-Poll**

It is unclear how many Boards, Committees, or Commissions currently use e-polls. This has the potential to decrease the number of “emergency” meetings needed.

## Meetings & Stipends

The amount of stipends paid was removed from the Law and placed into a separate resolution. Therefore, the analysis needs to include the Law and the separate resolution. Below is a summary of relevant changes:

- To receive a stipend, members must be physically present for the entire meeting.
- Appointed entities only receive one (1) regular meeting stipend of \$75 per month. All appointed entities currently have either no stipend being paid or a payment of \$50.
- Elected entities only receive two (2) regular meeting stipends of \$100 per month. Current elected entities receive stipends ranging from \$50 - \$100.
- Special meetings was removed from the list of acceptable meetings that receive stipend compensation.
- Emergency Meetings require the Oneida Business Committee Secretary's office be noticed within 72 hours with justification for the emergency.
- Joint Oneida Business Committee Meetings was added to the list of acceptable meetings that receive compensation. Trust Enrollment Committee, Land Commission and Land Claims Commission all hold joint meetings with the Business Committee. However, it is not a requirement for all entities.
- Boards, Committees, and Commissions are now required to be present for quarterly reports at the Business Committee meetings. However, the Law and the stipend resolution are silent on compensation for this requirement.
- Judicial hearings are compensated at \$50.
- Hearing entities receive \$50 stipends as compensation.
- Miscellaneous Stipends are included for the Pow-wow Committee (\$25) per hour not to exceed two hundred dollars (\$200) per day, Election activities (\$10) per hour, and for the election Board members (\$100) for attendance at General Tribal Council meeting.
- A member of the Personnel Selection Committee shall receive a stipend of twenty-five dollars (\$25) for up to four (4) hours of participating in interviews and/or job description pre-screens conducted by the Human Resource Department, and a stipend of fifty dollars (\$50) for more than four (4) hours of participating in interviews and/or job description pre-screens conducted by the Human Resource Department. It is assumed that this will also be applied to the reconstituted Personnel Commission.
- Stipend of one hundred dollars (\$100) per day will be paid for attendance at an approved conference or training.
- Stipend requests are currently sent directly to the Oneida Accounting Department. To enforce the Laws new requirements and restrictions, it is proposed that the Business Committee Support office take over administration and processing of

this function. It is unclear how this may impact the processing of stipend payments to the individuals.

#### **Other**

- The Law requires all entities to audio record their meetings. It is not known how many currently record their meetings or if additional equipment will be needed.
- It is a requirement for members to be provided an official Oneida e-mail.

### **III. Methodology and Assumptions**

A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.

Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.

The analysis was completed based on the information provided as of the date of this memo.

### **III. Executive Summary of Findings**

Key items that have the potential for a fiscal impact:

- It would be a prudent fiscal practice to include a fiscal impact statement with the creation of new entities being adopted by resolution.
- E-Polls may decrease the number of “emergency” meetings needed.
- A review of the Annual and Semi-annual reports show that for the most part, the Boards Committees, and Commission are already averaging within the required number of meetings in the Law.
- The majority of the fiscal impact is due to the increase in the stipend amounts.
- Because of the variability in the number of hearings required for personnel related issues and hiring’s, this impact is indeterminate.
- It appears that the other miscellaneous stipends remain at status quo.
- The requirement for members to be provided an official Oneida Nation e-mail will have a minimal impact on the expenses of the Management Information Services.

- There are no other apparent startup, personnel, office, or documentation costs associated with this legislation.
- The timing of this legislation will impact the 2019 budget.

**III. Financial Impact**

Approximately \$ 58,200 fiscal impact primarily due to adjusting stipend amounts.

**IV. Recommendation**

Finance does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## BC Resolution # \_\_\_\_\_ Boards, Committees, and Commissions Law Stipends

1  
2  
3 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe  
4 recognized by the laws of the United States of America; and  
5

6 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and  
7

8 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,  
9 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and  
10

11 **WHEREAS,** the Boards, Committees, and Commissions law ("the Law") was adopted by the Oneida  
12 Business Committee through resolution BC-5-14-97-F and amended by resolutions BC-  
13 09-27-06-E, BC-09-22-10-C, and most recently BC-\_\_-\_\_-\_\_-\_\_.; and  
14

15 **WHEREAS,** the Law provides stipends paid by the Oneida Nation to a person serving on a board,  
16 committee, and commission of the Nation in order to compensate the individual for his or  
17 her contribution of time, effort, and work for the boards, committee, or commission for the  
18 betterment of the Nation; and  
19

20 **WHEREAS,** the Law requires the Oneida Business Committee to set stipend amounts by resolution;  
21 and  
22

23 **WHEREAS,** the Oneida Business Committee shall periodically review the amounts provided for  
24 stipends and, based on the availability of funds, shall adjust those amounts accordingly  
25 by amending this resolution; and  
26

27 **NOW THEREFORE BE IT RESOLVED,** that the Oneida Business Committee sets forth the following  
28 stipend amounts allowed to be paid to a member of a board, committee, or commission of the Nation:  
29

30 1. *Meetings of a Board, Committee, or Commission of the Nation.* A member of a board, committee,  
31 or commission of the Nation shall receive a stipend for attending a duly called meeting of the  
32 board, committee, or commission in accordance with the Law.

33 a. *Appointed Boards, Committees, and Commissions.* A member of an appointed board,  
34 committee, or commission of the Nation shall receive a stipend of seventy-five dollars  
35 (\$75) for a duly called meeting of the board, committee, or commission for up to one (1)  
36 meeting per month.

37 i. Appointed boards, committees, and commissions of the Nation include the  
38 following:

- 39 1. Anna John Resident Centered Care Community Board;
- 40 2. Oneida Community Library Board;
- 41 3. Environmental Resource Board;
- 42 4. Oneida Nation Arts Board;
- 43 5. Oneida Nation Veterans Affairs Committee;

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6. Personnel Selection Committee;
  7. Oneida Police Commission;
  8. Oneida Pow-wow Committee;
  9. Pardon and Forgiveness Screening Committee; and
  10. Southeastern Oneida Tribal Services Advisory Board.
- b. *Elected Boards, Committees, and Commissions.* A member of an elected board, committee, or commission of the Nation shall receive a stipend of one hundred dollars (\$100) for a duly called meeting of the boards, committee, or commission for up to two (2) meetings per month.
- i. Elected boards, committees, and commissions of the Nation include the following:
    1. Oneida Nation Commission on Aging;
    2. Oneida Election Board;
    3. Oneida Land Claims Commission;
    4. Oneida Land Commission;
    5. Oneida Nation School Board;
    6. Oneida Trust Enrollment Committee; and
    7. Oneida Gaming Commission;
      - a. Although the Oneida Gaming Commission is an elected commission of the Nation, the Oneida Nation Gaming Ordinance provides that the compensation of Oneida Nation Gaming Commissioners is not subject to the Nation's Boards, Committees, and Commissions law.
2. *Joint Meetings with the Oneida Business Committee.* A member of a board, committee, or commission of the Nation shall receive a stipend for attending a duly called joint meeting between the board, committee, or commission and the Oneida Business Committee in accordance with the Law.
- a. *Appointed Boards, Committees, and Commissions.* A member of an appointed board, committee, or commission of the Nation shall receive a stipend of seventy-five dollars (\$75) for a duly called joint meeting.
  - b. *Elected Boards, Committees, and Commissions.* A member of an elected board, committee, or commission of the Nation shall receive a stipend of one hundred dollars (\$100) for a duly called joint meeting.
3. *Oneida Judiciary Hearings.* A member of a board, committee, or commission of the Nation shall receive a stipend of fifty dollars (\$50) for attending a hearing of the Oneida Judiciary if the member's attendance at the hearing is required by official subpoena.
4. *Hearings of a Board, Committee, or Commission of the Nation.* A member of a board, committee, or commission of the Nation shall receive a stipend of fifty dollars (\$50) for conducting an official hearing of the board, committee, or commission.
5. *Miscellaneous Stipends.* The Oneida Business Committee shall have the discretion to determine any other stipends deemed appropriate.
- a. *Pow-wow Activities.* A member of the Oneida Pow-wow Committee shall receive a stipend of twenty-five dollars (\$25) per hour for services he or she provides during each Pow-wow, not to exceed two hundred dollars (\$200) per day, contingent upon available budgeted funds.
  - b. *Election Activities.* A member of the Oneida Election Board shall receive a stipend of ten dollars (\$10) per hour for services he or she provides during an election including, but not limited to, managing the polling site, recounts, and lot drawings.
  - c. *General Tribal Council Meetings.* A member of the Oneida Election Board shall receive a stipend of one hundred dollars (\$100) for attendance and service provided at a General Tribal Council meeting of the Nation.

- 95                   d. *Interviews and Job Selection Pre-Screening.* A member of the Personnel Selection  
96                   Committee shall receive a stipend of twenty-five dollars (\$25) for up to four (4) hours of  
97                   participating in interviews and/or job description pre-screens conducted by the Human  
98                   Resource Department, and a stipend of fifty dollars (\$50) for more than four (4) hours of  
99                   participating in interviews and/or job description pre-screens conducted by the Human  
100                   Resource Department.  
101                 6. *Conferences and Training.* A member of a board, committee, or commission of the Nation shall  
102                   receive a stipend of one hundred dollars (\$100) per day for attendance at a conference or training  
103                   that is required by law, bylaw, or resolution.  
104

105 **BE IT FINALLY RESOLVED**, that this resolution hereby adopted and shall be effective October 10, 2018.



## **Statement of Effect**

### *Boards, Committees, and Commissions Law Stipends*

#### **Summary**

This resolution sets forth specific stipend amounts allowed to be paid to a member of a board, committee, or commission of the Nation.

*Submitted by: Clorissa N. Santiago, Staff Attorney, Legislative Reference Office*

*Date: September 19, 2018*

#### **Analysis by the Legislative Reference Office**

The Boards, Committees, and Commissions law (“the Law”) was adopted by the Oneida Business Committee for the purpose of governing boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions. [1 O.C. 105.1-1].

Stipends are paid by the Oneida Nation to a person serving on a board, committee, or commission of the Nation in order to compensate the individual for his or her contribution of time, effort, and work for his or her board, committee, or commission for the betterment of the Nation. [1 O.C. 105.3-1(n)].

The Law requires that the Oneida Business Committee set stipend amounts by resolution. [1 O.C. 105.13-2]. Through this resolution the Oneida Business Committee sets forth the specific amounts for the various stipends a member of a board, committee, or commission may be eligible to receive.

#### **Conclusion**

Adoption of this resolution would not conflict with any of the Nation’s laws.



## Legislative Operating Committee September 19, 2018

# Children's Code

<b>Submission Date:</b> 9/17/14	<b>Public Meeting:</b> 5/4/17
<b>LOC Sponsor:</b> Kirby Metoxen	<b>Adopted:</b> 7/26/17

**Summary:** *The OBC adopted the Children's Code pursuant to BC Resolution 07-26-17-J and directed that the LOC 1) provide a final implementation plan to the OBC on 9/13/17; 2) provide the OBC with quarterly reports starting after 9/13/17; and 3) conduct a review 1 year after implementation. The Code will become effective 15 months after the adoption of the FY2018 Budget.*

**9/6/17 LOC:** Motion by Jennifer Webster to add Children's Code to the active files list with Kirby Metoxen as the sponsor; seconded by Ernest Stevens III. Motion carried unanimously.

Motion by Daniel Guzman King to accept the Children's Code Implementation Plan as information and forward to the Oneida Business Committee as information; seconded by Ernest Stevens III. Motion carried unanimously.

**9/7/17:** *Work Meeting.* Present: Clorissa Santiago, Candice Skenandore, Michelle Gordon, Jennifer Berg-Hargrove, Heather Lee, Tsyoshaht Delgado, George Skenandore, Veronica Bruesch. The purpose of this meeting was to continue drafting a proposed memorandum of understanding.

**9/12/17 OBC:** *Executive Session.* Children's Code Implementation Plan was discussed with the OBC during Executive Session.

**9/13/17 OBC:** Motion by Lisa Summers to accept the Children's Code Implementation Plan as information, seconded by Ernest Stevens III. Motion carried unanimously.

EXECUTIVE SESSION: Motion by Trish King to accept the update and changes as information, seconded by Ernest Stevens III. Motion carried unanimously.

EXECUTIVE SESSION: Motion by Lisa Summers to direct the negotiating team, composed of representatives from the Law Office, Governmental Services, and Intergovernmental Affairs & Communications, to begin negotiations with Outagamie County, seconded by Kirby Metoxen. Motion carried unanimously.

**9/19/17:** *Presentation and Meeting with Wisconsin Department of Children and Families Secretary Eloise Anderson.* Present: Eloise Anderson (Secretary of DCF), Brad Wassink (Assistant Deputy Secretary of DCF), Stephanie Lozano (DCF Tribal Liaison), Tehassi Hill, Patricia King, Jennifer Webster, Ernest Stevens III, Daniel Guzman King, Tana D. Aguirre, Nate King, Jennifer Falck, Candice Skenandore, Clorissa Santiago, Jennifer Berg-Hargrove, Heather Lee, George Skenandore, Tsyoshaht Delgado, Jennifer Hill-Kelly, Melinda Danforth, Jessica Wallenfang. Presentation of the Children's Code was given, followed by discussion.

**9/25/17:** *Work Meeting with OBC.* Present: Clorissa Santiago, Candice Skenandore, Jennifer Falck, David P. Jordan, Jennifer Webster, Daniel Guzman King, Kirby Metoxen, Brandon Stevens, Tehassi Hill,

Melinda J. Danforth, Rosa Laster, Lisa Liggins, Laura Laitinen-Warren. Discussion was held regarding talking points regarding the Children's Code in relation to the FY 2018 Budget meeting.

**11/1/17 LOC:** Motion by Kirby Metoxen approve the 60 day active files list update and continue development of all the items on the active files list; seconded by Ernie Stevens III. Motion carried unanimously.

**12/20/17LOC:** Motion by Kirby Metoxen to approve the Children's Code Quarterly Update and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

**12/27/17OBC:** Motion by David P. Jordan to accept the 1<sup>st</sup> quarter update regarding Children's Code, seconded by Jennifer Webster. Motion carried unanimously.

**1/2/18:** *Work Meeting.* Present: Clorissa Santiago, George Skenandore, Jennifer Berg-Hargrove, Tana D. Aguirre, Nate King, Michelle Gordon. The 161 Subcommittee met to discuss how to move the 161 agreement negotiations forward. Michelle has made contact with individuals from Brown County and is waiting for a reply, George has made contact with individuals from Outagamie County and is waiting for a reply. George and Michelle have decided on a date of January 15, 2018, to wait for replies, before Nate and Tana will step in and assist with contacting the counties. Michelle and Jennifer will work on further developing the MOA this week. 161 Subcommittee will meet again on February 6, 2018.

**2/6/18:** *Work Meeting.* Present: Clorissa Santiago, George Skenandore, Jennifer Berg-Hargrove, Tana D. Aguirre, Nate King, Michelle Gordon. The 161 Subcommittee met to provide updates on the progress of the 161s. A draft memorandum of understanding has been completed. An initial negotiation meeting has been scheduled with Outagamie County for February 7, 2018. The group is still waiting to hear back from Brown County, but will take more official action to set up a meeting with Brown County if we do not hear back from Brown County within the next 30 days. 161 group discussed the possibility of designing a transition plan with the counties to better outline the relationship for the first year of implementation. The next implementation goal will be to work on the memorandum of understanding with OPD.

**2/7/18:** 161 Subcommittee members, Michelle Gordon, George Skenandore, Jennifer Berg-Hargrove, met with representatives from Outagamie County to begin negotiations on the 161 Agreement and memorandum of understanding.

**3/16/18:** *Work Meeting:* Present: David P. Jordan, Jennifer Webster, Daniel Guzman, Ernest Stevens III, Clorissa Santiago, Brandon Wisneski, Cathy Bachhuber, Rosa Laster. LOC discussed the upcoming Children's Code quarterly update and some pressing concerns.

**3/21/18:** EPOLL Conducted for Children's Code Implementation Quarterly Update.

**3/28/18 OBC:** Motion by Jennifer Webster to accept the Children's Code Implementation quarterly update, seconded by David P. Jordan. Motion carried unanimously.

**4/2/18 LOC:** Motion by Daniel Guzman King to enter into the record [Children's Code Implementation quarterly update E-Poll]; seconded by Jennifer Webster. Motion carried unanimously.

**5/1/18:** *Work Meeting.* Present: Clorissa Santiago, George Skenandore, Jennifer Berg-Hargrove, Nate King. The 161 Subcommittee met to provide updates on the progress of the 161s and discuss the various challenges in the implementation of this law.

**6/20/18 LOC:** Motion by Jennifer Webster to accept the Children's Code Implementation Quarterly Update and forward to the Oneida Business Committee for consideration; seconded by Kirby Metoxen. Motion carried unanimously.

**6/27/18 OBC:** Motion by Kirby Metoxen to accept the Children's Code Implementation quarterly update, seconded by Lisa Summers. Motion carried unanimously.

Motion by Lisa Summers to send the Children's Code Implementation quarterly update to the July Business Committee Work Session to address the specific items that have been requested for the Business Committee to follow through with, seconded by Jennifer Webster. Motion carried unanimously.

**8/1/18:** *Work Meeting.* Present: Hon. Robert Collins II, Hon. Marcus Zielinski, Patricia Degrand, Katrina Mungo, Jennifer Berg-Hargrove, Heather Lee, Michelle Gordon, Mike Hoelt, Clorissa Santiago

Kristen Hooker. The purpose of this work meeting was to discuss in detail the progress of the implementation of the Children's Code.

**Next Steps:**

- Accept the Children's Code Implementation Quarterly Update and forward to the Oneida Business Committee.



TO: Oneida Business Committee  
FROM: David P. Jordan, LOC Chairperson   
DATE: September 26, 2018  
RE: Children's Code Implementation Quarterly Update

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The Children's Code was adopted by the Oneida Business Committee (OBC) through resolution BC-07-26-17-J with the purpose of providing for the welfare, care, and protection of Oneida children through the preservation of the family unit, by assisting parents in fulfilling their responsibilities as well as facilitating the return of Oneida children to the jurisdiction of the Nation, and acknowledging the customs and traditions of the Nation when raising an Oneida child. Oneida Business Committee resolution BC-07-26-17-J requires the Children's Code to become effective four hundred and fifty-five (455) calendar days after the adoption of the Fiscal Year 2018 budget.

On July 26, 2017, the OBC directed that a full implementation plan be submitted to the OBC, with quarterly reports submitted thereafter, and a one (1) year review of the Children's Code itself as it relates to the full implementation.

On September 13, 2017, the OBC reviewed and accepted the Children's Code Implementation plan. This implementation plan is to be used as a guideline for the affected entities to prepare for the successful implementation of the Children's Code. This implementation plan is not exhaustive, and the OBC can modify the effective date of the Children's Code and implementation plan as it deems necessary to successfully implement the Children's Code.

On October 8, 2017, the General Tribal Council adopted the Fiscal Year 2018 budget through resolution GTC-10-08-17-A. In accordance with Oneida Business Committee resolution BC-07-26-17-J, the Children's Code will become effective on January 6, 2019.

The Oneida Business Committee reviewed and accepted the first Children's Code Implementation Quarterly Update on December 27, 2017, the second quarterly update on March 28, 2018, and the third quarterly update on June 27, 2018.

This memorandum serves as the fourth quarterly update to the OBC on the implementation of the Children's Code.

## ONEIDA FAMILY COURT

### *Accomplishments*

In accordance with the approved implementation plan, the Oneida Family Court (OFC) was able to complete the following by the time of this fourth quarterly report:

- *Training of OFC Current Workload.*

- Although both OFC Judges have prior experience with child support, divorce, legal custody, physical placement, and visitation matters, and have been hearing those cases, Judge Zelenski is currently handling most of the caseload so that Judge Collins can focus on Children's Code implementation.
- Both judges and the current clerk have been providing training to the new clerk, who started employment on July 23, 2018.
- Prior to the effective date of the Children's Court, the entire OFC staff will be taking on the current workload duties of the court.
- *Development of Training on the Children's Code.*
  - Training on the Children's Code and Threats, Vulnerability, and Protective Capacity have been developed and will be presented to the OFC staff by Judge Collins in December 2018. As the Children's Code is scheduled to go into effect in January 2019, the court does not want to leave a large gap in between training and the effective date of the law.
- *Family Court Brochures and Instruction Forms.*
  - OFC has developed brochures covering the four (4) components of the Children's Code:
    - Children in need of protection or services (CHIPS);
    - Juvenile guardianship;
    - Termination of parental rights (TPR); and
    - Adoption.
  - The newly created Children's Code brochures will be added to the other brochures and FAQs addressing the OFC's current caseload.
  - OFC has created a one (1) page instruction form for all the petitions and motions associated with the Children's Code.
- *Outreach with County Courts.*
  - On August 2, 2018, the OFC reached out to the District VIII Court Administrator's Office and the chief judges in Brown and Outagamie counties with information on the Nation's Children Code and a request to pass that information along to the circuit court judges and commissioners in both counties. The judges and commissioners were invited to contact the OFC with questions and/or concerns.
- *Adoption Records Retention.*
  - The OFC will maintain adoption files and will look to scan in any files that are moved off-site.
- *Guardian Ad Litem Training.*
  - The OFC has developed an agenda for a guardian ad litem (GAL) training focused on the Children's Code and two sessions will be held on October 17-19, 2018 and November 28-30, 2018.

- Both training sessions are filled and the court is maintaining a waiting list in case anyone informs the court that they will not be attending.
- Individuals that are approved to take guardian ad litem appointments in the current case load will also be offered opportunities to be certified to work on Children's Code cases separate from the two training sessions previously referenced.
- *Development of Forms and Guides.*
  - Over sixty-two (62) various court forms and documents that will be necessary for the implementation of the Children's Code at the OFC have been developed, including:
 

<ul style="list-style-type: none"> <li>▪ Notice of Emergency Custody Hearing</li> <li>▪ Temporary Physical Custody Request</li> <li>▪ Order for Temporary Physical Custody</li> <li>▪ Petition for Child in Need of Protection or Services</li> <li>▪ Dispositional Order- Protection or Services</li> <li>▪ Motion to Terminate Dispositional Order</li> <li>▪ Order Terminating Dispositional Order</li> <li>▪ Request for Jurisdiction (Parent or Guardian)</li> <li>▪ Request for Jurisdiction (Child)</li> <li>▪ Motion to Change Placement</li> <li>▪ Notice of Change in Placement</li> <li>▪ Notice of Emergency Change in Placement (In-Home to Out-of-Home)</li> <li>▪ Order for Change in Placement (In-Home to In-Home)</li> <li>▪ Order for Change in Placement (In-Home to Out-of-Home)</li> <li>▪ Order for Change in Placement (Out-of-Home to In-Home)</li> <li>▪ Order for Change in Placement (Out-of-Home to Out-of-Home)</li> <li>▪ Motion to Revise Dispositional Order</li> <li>▪ Order for Revision of Dispositional Order</li> <li>▪ Motion to Extend Dispositional Order</li> <li>▪ Order for Extension of Dispositional Order (In-Home)</li> <li>▪ Order for Extension of Dispositional Order (Out-of-Home)</li> <li>▪ Stipulation for Consent Decree (In-</li> </ul>	<ul style="list-style-type: none"> <li>▪ Notice and Motion to Revoke Trial Reunification</li> <li>▪ Order for Trial Reunification</li> <li>▪ Order for Extension of Trial Reunification</li> <li>▪ Order for Revocation of Trial Reunification</li> <li>▪ Permanency Plan Order</li> <li>▪ Petition for Appointment of Guardian</li> <li>▪ Dispositional Order Appointing Guardian</li> <li>▪ Motion to Revise Guardianship Order</li> <li>▪ Order on Motion to Revise Guardianship Order</li> <li>▪ Motion to Terminate Guardianship Order</li> <li>▪ Order for Investigation</li> <li>▪ Order on Motion to Terminate Guardianship Order</li> <li>▪ Petition for Termination of Parental Rights</li> <li>▪ Order Concerning Termination of Parental Rights (Voluntary)</li> <li>▪ Order Concerning Termination of Parental Rights (Involuntary)</li> <li>▪ Residual Rights Agreement (template)</li> <li>▪ Petition for Adoption</li> <li>▪ Order for Investigation</li> <li>▪ Adoption Order (Customary Adoption)</li> <li>▪ Adoption Order (Closed Adoption)</li> <li>▪ Certificate of Service by Mail (for Clerks to use with CHIPS Orders)</li> <li>▪ TPR Warnings</li> <li>▪ UCCJEA Affidavit</li> <li>▪ Voluntary TPR Questions (for Court)</li> </ul>
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- Home)
    - Stipulation for Consent Decree (Out-of-Home)
    - Consent Decree (In-Home)
    - Consent Decree (Out-of-Home)
    - Motion to Extend Consent Decree
    - Order on Motion to Extend Consent Decree
    - Motion to Revoke Consent Decree
    - Order on Motion to Revoke Consent Decree
    - Notice and Motion for Trial Reunification
    - Notice and Motion to Extend Trial Reunification
  - Hearing Checklists (for Court)
  - Child in Need of Protection or Services Dispositional Report
  - Treatment Plan and Conditions (includes a compilation of court ordered conditions that may be maintained by the Department and a list of available services)
  - Permanency Plan
  - Guardianship Court Report
  - Guardianship Revision Court Report
  - Guardianship Termination Court Report
  - Termination of Parental Rights Dispositional Report
  - Adoption Investigation Report
- *Communication with other Branches of the Judiciary.*
  - The Trial Court, Family Court, and Court of Appeals utilize a shared calendar to ensure that the two courtrooms are not double booked. The courts will meet to discuss any future issues.
- *Meeting with the Legal Resource Center.*
  - OFC has had two (2) meetings with the Legal Resource Center to discuss the court process and any concerns with the Legal Resource Center's implementation (the first meeting was with a clerk and the second with a judge).
  - The Legal Resource Center was also provided with a document summarizing the Children's Code timelines and mandates.
- *Meeting with ICW Department, Law Office, and Legislative Reference Office.*
  - On August 1, 2018, the OFC hosted a meeting to discuss the current status of the Children's Code implementation.
- *Meeting with CW Family Solutions.*
  - On August 8, 2018, the OFC met with Tami Walls and Dorothea Carson from CW Family Solutions, which is a program that offers supervised visitation and exchanges.
  - CW Family Solutions indicated that they would be willing to contract with the Indian Child Welfare Department to provide supervised visitation. This information was passed along to the ICW Department.

### **Goals**

In accordance with the approved implementation plan, the OFC has the following goals for the next quarter:

- *Training on the Children's Code.*
  - The Family Court staff is attending a Child Safety Decision Making Training on October 24, 2018.

- Complete internal training on the Children’s Code and Threats, Vulnerability, and Protective Capacity in December 2018.
- *Guardian Ad Litem Training.*
  - OFC will provide guardian ad litem trainings focused on the Children's Code on October 17-19, 2018 and November 28-30, 2018.
  - OFC will be available to provide opportunities for current guardians ad litem to be certified to work on Children's Code cases separate from the two training sessions previously referenced.
- *Preparation for Case Transfers.*
  - Resolution BC-07-26-17-J requires that at least sixty (60) days before the Children’s Code becomes effective the Legislative Operating Committee and the Indian Child Welfare Department shall hold a work meeting to discuss the number of cases seeking transfer to the Oneida Family Court. The Legislative Operating Committee will then provide this information to the OFC for planning purposes.
  - Once the OFC receives the memorandum from the Legislative Operating Committee regarding the potential number of case transfers, the court will make any necessary adjustments to the preparation that has already started for the upcoming child welfare caseload.
- *Meeting with ICW Department, Law Office, and Legislative Reference Office.*
  - A meeting between the OFC, ICW Department, Law Office, and Legislative Reference Office for the purpose of discussing the current status of the Children's Code implementation is tentatively scheduled for November 2018.

### ***Challenges and Barriers to Implementation***

The following matter may serve as a challenge or barrier for the OFC in their efforts to implement the Children’s Code:

- *Guardians Ad Litem.*
  - Although the OFC has made efforts to recruit individuals to attend the training sessions and is hopeful that people will sign up to take cases after the training sessions have occurred, a lack of participation of guardians ad litem may be a potential barrier.
  - The OFC will provide updates to the Oneida Business Committee if there are any future issues.

## ONEIDA INDIAN CHILD WELFARE DEPARTMENT

### ***Accomplishments***

In accordance with the approved implementation plan, the Indian Child Welfare Department (ICW) was able to complete the following in time for the third quarterly report:

- *Hiring of Paralegal.*
  - The paralegal position for ICW was filled on July 1, 2018.

- *Training.*
  - Training for current and new staff continues, both internally through a newly developed orientation and through our partnership with Wisconsin Child Welfare Professional Development System (WCWPDS).
- *Involvement in the Development of 161 Agreements and Memorandums of Understanding.*
  - ICW continues to be involved in the development of 161 Agreements and memorandums of understanding with both Outagamie and Brown counties.
- *Intake Phone Line.*
  - Acquired an Intake phone line to be used for emergency contacts, and provided this information to both Brown and Outagamie counties.
- *Memorandum of Understanding with the Oneida Police Department.*
  - ICW has worked in conjunction with the Oneida Police Department (OPD) on finalizing a memorandum of understanding with OPD.
  - On August 2, 2018 edits were finalized on the OPD memorandum of understanding, and the memorandum of understanding was sent to Police Commission by the OPD Police Chief for final approval.
- *Review of Court Documents and Forms.*
  - The OFC has provided ICW with all created court forms and documents. Starting on September 5, 2018, ICW began holding weekly reviews of the legal documents and is drafting clarifying questions and proposed edits for the OFC.
- *Meeting with ICW Department, Law Office, and Legislative Reference Office.*
  - On August 1, 2018 a meeting between the OFC, ICW, Law Office, and Legislative Reference Office was held for the purpose of discussing the current status of the Children's Code implementation.
- *Guardian Ad Litem Training.*
  - ICW will participate in providing information during the trainings for the guardian ad litem that will be held on October 17-19, 2018 and November 28-30, 2018.
- *Training and Development of Standards.*
  - ICW has continued to assess and determine the best structure, policy and process development to support the successful implementation of the Children's Code.

### **Goals**

In accordance with the approved implementation plan, ICW has the following goals for the next quarter:

- *Hiring of Additional Staff.*
  - ICW currently has a vacant Parenting Coordinator position that needs to be filled.
- *Training of Staff and Development of Standards.*
  - ICW would like to continue training all ICW staff, and also develop the necessary internal policies, procedures, and standards to address issues related to the implementation of the Children's Code.

- ICW will form work groups that can be dedicated to reviewing standards regarding safety, initial assessments, and on-going case management.
  - ICW hopes to have all internal standards adopted in the near future.
- *161 Agreements and Memorandums of Understanding with Brown and Outagamie County.*
  - ICW hopes to finalize a 161 Agreement and memorandum of understanding with Outagamie County that will detail the relationship, roles, payment for placements, communication, and responsibilities of ICW and Outagamie County.
  - ICW hopes to begin negotiations with Brown County for a 161 Agreement and memorandum of understanding.
- *Memorandum of Understanding with OPD.*
  - ICW and OPD hope to finalize the memorandum of understanding that will detail the relationship, roles, communication, and responsibilities of the two departments.
- *Meeting with OFC, Law Office, and Legislative Reference Office.*
  - A meeting between the OFC, ICW Department, Law Office, and Legislative Reference Office for the purpose of discussing the current status of the Children's Code implementation is tentatively scheduled for November 2018.
- *Children's Code Court Documents and Forms.*
  - ICW will work with the OFC to finalize all court documents and forms that will be used for the Children's Code.
- *Database Access.*
  - ICW still has to determine database access and what the department will need to properly manage cases.
  - ICW will not be able to determine the best solution to database access until ICW gains experience and knowledge operating with current database access.

### ***Challenges and Barriers to Implementation***

The following matters have served as a challenge or barrier for ICW in their efforts to implement the Children's Code:

- *Loss of a Parenting Program Coordinator.*
  - ICW has lost a Parenting Program Coordinator, and will now have to fill that position.
- *161 Agreement and Memorandums of Understanding.*
  - The process for securing 161 Agreements and memorandums of understanding with both Outagamie County and Brown County has moved forward much slower than anticipated. This has been due to process on both the Nation's and the Counties' sides.
- *The Unknown.*
  - Throughout the implementation process, a barrier that has challenged the ICW are the unknown matters that needed to be addressed that were not planned for during

the development of the implementation plan, such as additional processes and documentation that will need to be developed, and technical assistance.

- *Time Management.*
  - ICW has been challenged by time management and work loads.
  - ICW still has to maintain all current day to day responsibilities and duties, but also has to prioritize the implementation of the Children's Code, and prepare to take on a larger role and more responsibilities once the Children's Code is implemented.

### **Concerns**

ICW has the following concerns for the implementation of the Children's Code:

- *Effective Date of the Children's Code.*
  - The Oneida Business Committee adopted the Children's Code through resolution BC-07-26-17-J, which required the law to become effective four hundred and fifty-five (455) calendar days after the adoption of the Fiscal Year 2018 budget. The Fiscal Year 2018 budget was adopted by the General Tribal Council through resolution GTC-10-08-17-A on October 8, 2017. This means the Children's Code will become effective on January 6, 2019.
  - ICW is concerned that because of the delays in hiring, delays in training and development, and the delays in the negotiations of the various memorandums of agreement and 161 Agreements, ICW will not be prepared to implement the Children's Code by January 6, 2019.
- *Legal Representation.*
  - ICW has concerns that the department will need more time and commitment from its legal representation in the future in order for the Children's Code to be successful.
- *Increasing Child Welfare Cases.*
  - ICW previously predicted that the current drug epidemics will result in increased cases and trends.
  - Although caseloads have increased, all workers currently have a manageable case load.
  - The trends in increasing caseloads will have to continue to be monitored and assessed.

### **Requests of the Oneida Business Committee**

ICW requests the following assistance from the Oneida Business Committee regarding the implementation of the Children's Code:

- *Supportive Services.*
  - Once the Children's Code is fully implemented and ICW is operating independently, there may be a future need for supportive services if it is determined there was a loss of resources.
- *Understanding.*

- ICW asks the Oneida Business Committee for support and understanding that the implementation of the Children's Code is a very involved and complicated process, and although it is taking time to complete, ICW is approaching the implementation of this law with great care and thoughtfulness in order to ensure the successful implementation.

## 161 AGREEMENT NEGOTIATION TEAM

The OBC reviewed the draft 161 Agreement and on September 13, 2017, the OBC made a motion to accept the update and changes to the draft 161 agreement as information, and directed the negotiating team composed of representatives from the Law Office, Governmental Services, and Intergovernmental Affairs & Communications, to begin negotiations with Outagamie County followed by Brown County.

### *Accomplishments*

The 161 Agreement Negotiation Team has completed the following in time for the third quarterly report:

- *Outagamie County Negotiations.*
  - Negotiations with Outagamie County for a memorandum of agreement and a 161 Agreement have been ongoing.
  - Outagamie County Corporation Counsel reviewed both agreements on September 7, 2018.
  - ICW had contact with Outagamie County to discuss final edits and revisions to the agreements on September 10, 2018, based on questions and clarifications that were requested by Outagamie County.
  - The MOU and 161 Agreement will be ready for formal approval from both the Oneida Business Committee and Outagamie County soon.
- *Brown County Negotiations.*
  - A copy of the proposed 161 Agreement and memorandum of understanding has been provided to Brown County.
  - Discussions and negotiations regarding the matters will be scheduled for the near future.

### *Goals*

In accordance with the approved implementation plan, the 161 Agreement Negotiation Team has the following goals for the next quarter:

- *Outagamie County Negotiations.*
  - Schedule a meeting between leadership in the Nation and leadership in Outagamie County for the final approval and signing of the agreements.
  - The 161 Agreement Negotiation Team is interested in pursuing a formal signing ceremony between the two governments to formally recognize the agreement and the importance of providing support and caring for children and families.
- *Brown County Negotiations.*

- Successfully negotiate and secure a 161 Agreement and memorandum of understanding with Brown County.

### Requested Action

Accept the Children's Code Quarterly Update.



**Oneida Nation**  
Oneida Business Committee  
Legislative Operating Committee  
PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



## AGENDA REQUEST FORM

- 1) Request Date: September 13, 2018
- 2) Contact Person(s): Jeff Mears  
Dept: Environmental Health & Safety  
Phone Number: 869-4555 Email: jmears@oneidanation.org
- 3) Agenda Title: Amendments and updates to Domestic Animal Code
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
Amendments and updates to the code include, Violations, Enforcement and Appeals, Procedure at Hearing/Trial, Restitution, Citations, and Viscous and Dangerous Dog sections.

List any supporting materials included and submitted with the Agenda Request Form

- 1) draft changes document
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_
- 4) \_\_\_\_\_

- 5) Please list any laws, policies or resolutions that might be affected:  
\_\_\_\_\_
- 6) Please list all other departments or person(s) you have brought your concern to:  
Oneida Police Department, Environmental Resources Board
- 7) Do you consider this request urgent?  Yes  No  
If yes, please indicate why:  
Dogs bites are public health and safety issue

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:  
Jeffrey Mears

Digitally signed by Jeffrey Mears  
Date: 2018.09.13 13:03:51 -05'00'

*Please send this form and all supporting materials to:*

**LOC@oneidanation.org**  
*or*  
**Legislative Operating Committee (LOC)**  
P.O. Box 365  
Oneida, WI 54155  
Phone 920-869-4376

**September 13, 2018**

**To: Legislative Operating Committee**

**From: Jeff Mears  
Environmental, Health, Safety & Land Division**

**Re: Support for Oneida Domestic Animal Ordinance Amendments**

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To LOC,

We are writing to you in support of moving forward with making necessary changes to our Oneida Domestic Animal Ordinance. We have previously met as a team and discussed several changes we believe need to be made and have agreed to commit ourselves to championing these changes. The Domestic Animal Ordinance is needed to protect public health and safety.

Please contact us with any questions.

Jeff Mears  
Environmental, Health, Safety & Land Division

Vanessa Miller  
Environmental, Health, Safety & Land Division

Steve Linskens  
Environmental, Health, Safety & Land Division

Richard VanBoxtel  
Oneida Police Department

Michelle Meyers  
Oneida Community Health

Chad Wilson  
Environmental Resources Board

### Title 3. Health and Public Safety - Chapter 304

#### DOMESTIC ANIMALS

#### Kátse?na Olihwá'ke

#### *matters concerning the pet animals*

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#### 304.1. Purpose and Policy

304.1-1. *Purpose.* The purpose of this law is to:

- (a) protect the health, safety, and welfare of the community by requiring certain basic measures to prevent the spread of disease carried by domestic animals;
- (b) set minimum standards for the treatment of animals;
- (c) prohibit certain species of animals from being brought onto the Reservation;
- (d) regulate the keeping of livestock on lots zoned residential within the Reservation; and
- (e) establish consequences for damages caused by domestic animals.

304.1-2. *Policy.* It is the policy of the Nation to protect the health, safety, and welfare of the community by:

- (a) requiring certain basic measures to prevent the spread of disease carried by domestic animals;
- (b) establishing requirements for licensing domestic animals, and
- (c) regulating the types of animals may be kept as domestic animals.

#### 304.2. Adoption, Amendment, Repeal

304.2-1. This law was adopted by Oneida Business Committee by resolution BC-03-13-96-B and amended by resolutions BC-06-22-11-G and BC-06-28-17-B.

304.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

304.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity does not affect other provisions of this law which are considered to have legal force without the invalid portions.

304.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

304.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.

#### 304.3. Definitions

304.3-1. This section governs the definitions of words and phrases used within this law. All words not defined herein are to be used in their ordinary and everyday sense.

(a) "District Quarantine" means a rabid or otherwise diseased Domestic Animal is suspected or known to be within a discernible area and all such animals reasonably suspected of being infected are subject to enforced isolation for a period of time to limit or prevent the spread of disease or infection and during which time said animals are tested for diseases, including rabies.

(b) "Domestic animals" means dogs, cats, ferrets, rabbits, guinea pigs, turtles, birds, pigeons, hamsters, non-venomous reptiles, amphibians, and arachnids, and all other animals commonly owned as household pets, provided that domestic animals specifically excludes exotic animals as identified in section 304.8-2.

(c) “Fine” means a monetary punishment issued to a person violating this law and/or the rules created pursuant to this law.

(d) “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

(d) “Livestock” means any equine (i.e. horse, donkey, etc.), bovine (i.e. cow, steer, heifer, etc.), sheep, goat, pig, or domestic fowl, including game fowl raised in captivity.

(e) “Nation” means the Oneida Nation.

(f) “Owner” means any person who owns, harbors, keeps, controls or acts as a caretaker for an animal. Absent evidence of alternative adult ownership, this law presumes that domestic animals are owned by the adult homeowner or renter.

(g) “Penalty” means a punishment, other than a fine, imposed on a person violating this law and/or the rules created pursuant to this law and may include, but is not limited to, the confiscation of wildlife with return of the same at the discretion of the Judiciary and restitution.

(h) “Reservation” means all the property within the exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

(i) “Quarantine” means the act of keeping an animal in enforced isolation for a period of time to limit or prevent the spread of disease or infection and during which time said animal is tested for diseases, including rabies.

(j) “Tribal member” means an enrolled member of the Nation.

#### **304.4. Jurisdiction**

304.4-1. *Personal Jurisdiction.* This law applies to:

(a) All Tribal members; the Nation’s entities and corporations; and members of other federally-recognized tribes.

(b) Individuals and businesses leasing, occupying or otherwise using fee land owned by the Nation or by individual Tribal members; and/or lands held in trust on behalf of the Nation or individual Tribal members.

(c) Individuals who have consented to the jurisdiction of the Nation or as otherwise consistent with federal law. For the purposes of this subsection, an individual shall be considered to have consented to the jurisdiction of the Nation:

(1) By entering into a consensual relationship with the Nation, or with the Nation’s entities, corporations, or Tribal members, including but not limited to contracts or other agreements; or

(2) By other facts which manifest an intent to consent to the authority of the Nation, including failure to raise an objection to the exercise of personal jurisdiction in a timely manner.

304.4-2. *Territorial Jurisdiction.* This law extends within the Reservation to all land owned by the Nation and individual Tribal member trust and/or fee land.

#### **304.5. Authority**

304.5-1. *Oneida Police Department.* Oneida Police Officers and Conservation Wardens shall:

(a) investigate complaints involving domestic animals;

(b) enforce the provisions of this law through appropriate means, including but not

limited to:

- (1) seizing any animal:
  - (A) taken, employed, used, or possessed in violation of this law; and/or
  - (B) mistreated, rabid or otherwise in danger or dangerous.
- (2) issuing citations consistent with the fine and penalty developed according to section 304.5-2.
- (3) using force, up to and including lethal force, to stop an immediate threat to public safety caused by an animal. Where lethal force is used, such execution shall be conducted in as humane manner as possible and, to the extent feasible, avoids damage to the animal's head.

304.5-2. *General Rulemaking Authority.* The Environmental, Health, ~~and Safety,~~ and Land Division and the Environmental Resource Board are hereby delegated joint rulemaking authority to establish and maintain:

- (a) A fine and penalty schedule;
- (b) A licensing fee schedule; and
- (c) Other rules as necessary to enforce and implement this law.

304.5-3. *Disease Investigation and Quarantine Rulemaking Authority.* The Environmental, Health, ~~and Safety,~~ and Land Division, the Emergency Management Coordinator and Comprehensive Health Division are hereby delegated joint rulemaking authority to establish rules related to disease investigations and quarantines.

304.5-4. *Issuance of Licenses.* The Environmental, Health, ~~and Safety,~~ and Land Division shall make all decisions related to the issuance of a license in accordance with this law.

### **304.6. Requirements for Dogs and Cats**

304.6-1. *License Required.* An annual license is required to keep any dog or cat over five (5) months of age.

- (a) The license year commences on January 1<sup>st</sup> and ends December 31<sup>st</sup>. To be eligible for a license, the owner shall provide the licensing fee and proof of current rabies vaccination.
- (b) The owner shall securely attach the tag to the animal's collar and shall require the animal wear the collar at all times, provided that this requirement does not apply to dogs or cats:
  - (1) hunting or actively involved in herding or controlling livestock if the animal is under control of its owner;
  - (2) within the owner's residence and/or securely confined in a fenced area; and/or
  - (3) being shown during a competition.

304.6-2. *Rabies Vaccinations Required.* Rabies vaccination is required for any dog or cat five (5) months of age or older.

304.6-3. *District Quarantine.* A district quarantine may be initiated in accordance with the quarantine rules and may be initiated by staff designated by the Environmental, Health, ~~and Safety,~~ Land Division, an Oneida Police Officer, an Oneida Conservation Warden and/or a Public Health Officer.

- (a) If an area is subject to a District Quarantine for rabies, all dogs and cats within the district shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is a public nuisance and may be impounded. All Oneida Police Officers and Oneida Conservation Wardens shall cooperate in the

enforcement of the Quarantine.

(b) An animal that is immunized against rabies as evidenced by a valid certificate of rabies vaccination or other evidence is exempt from the district quarantine provisions of this section.

304.6-4. *Dogs and Cats Running at Large.* It is unlawful for any dog or cat owner to permit the animal to be at any place except upon the premises of the owner, unless it is crated, penned, or on a leash under the control of a person physically able to control the animal. In addition, a nuisance dog or cat may be picked up by Oneida Police Officers or Oneida Conservation Wardens. For the purposes of this law, a nuisance dog or cat is one whose actions result in two (2) or more verified disturbances due to excessive barking and/or running loose or one (1) or more verified disturbance due to threatening behavior by a loose dog or cat.

(a) Stray dogs and cats shall be referred to the Oneida Police Department or Oneida Conservation Department.

(b) Whenever any Oneida Police Officer, Oneida Conservation Warden, or other person designated by the Chief of Police finds any dog or cat running at large, the officer/warden shall, if possible, pick up, and impound such animal.

(c) Whenever any impounded animal bears an identification mark, such as a collar with identification tags or license tag, the owner shall be notified as soon as reasonably possible.

304.6-5. *Limit on Number of Dogs and Cats.* Except as provided in (a), no more than three (3) dogs or three (3) cats; and a total of no more than five (5) dogs and cats combined; may be kept or possessed by a single residential household. For the purposes of this law, each residential lot, excluding residential lots designed as multi-family lots, constitutes a separate residential household. In cases of multi-family lots, each family unit within the lot constitutes a separate household.

(a) *Exception.* The limit on the number of dogs and cats a person may keep or possess does not apply to those persons who:

- (1) are eligible for any grandfather provisions included this law's adopting resolution(s);
- (2) keep or possess a litter of pups or kittens or a portion of a litter for a period not exceeding five (5) months from birth; and/or
- (3) reside on a farm.

### **304.7. Treatment of Animals**

304.7-1. *Food and Water.* No owner may refuse or neglect to provide an animal with a daily supply of food and water sufficient to maintain the animal in good health.

304.7-2. *Shelter.*

(a) *Minimum indoor standards of shelter:*

- (1) The ambient temperature shall be compatible with the health of the animal.
- (2) Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(b) *Minimum outdoor standards of shelter:*

- (1) *Shelter from Sunlight.* When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. "Caged" does not include farm fencing used to confine farm animals.

(2) Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

(3) If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a weather appropriate shelter of suitable size to accommodate the dog shall be provided.

(c) *Space Standards.* Minimum space requirements for both indoor and outdoor enclosures:

(1) The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

(2) Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns. Specifically, dog kennels shall meet the following space requirements where, if there are multiple dogs in the same kennel, the base kennel space requirement is based on the size of the largest dog and the additional kennel space requirements are based on the size of each additional dog kept in the kennel:

DOG SIZE (LBS)	REQUIRED BASE KENNEL SPACE	REQUIRED ADDITIONAL KENNEL SPACE PER ADDITIONAL DOG
1-35 lbs	80 Sq. Ft.	12 Sq. Ft.
36-75 lbs	100 Sq. Ft.	18 Sq. Ft.
76 lbs or more	120 Sq. Ft.	24 Sq. Ft.

(d) *Sanitation Standards.* Minimum standards of sanitation for both indoor and outdoor enclosures require excreta to be removed within twenty-four (24) hours of its deposit. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices.

304.7-3. *Mistreatment of Animals.* No person may treat any animal in a manner which causes harm, injury or death. This section does not apply to:

- (a) normal and accepted veterinary and/or care practices; or
- (b) teaching, research or experimentation conducted at a facility regulated under federal or applicable state law.

304.7-4. *Criminal Reporting.* In addition to taking civil action under this law, any employee of the Nation shall report animal mistreatment to the Oneida Police Department.

**304.8. Prohibited Animals**

304.8-1. *Prohibited Animals.* No person may bring into, keep, harbor, maintain, offer for sale or barter, act as a custodian, have custody or control of, or release to the wild on the Reservation an exotic animal.

304.8-2. *Exotic Animals.* The following orders and families, whether bred in the wild or in captivity, and any or all hybrids are defined as “Exotic Animals”. The animals listed in parentheses are intended to act as examples and are not to be construed as an exhaustive list or limit the generality of each group of animals, unless otherwise specified:

- (a) Class Mammalia.
  - (1) Order Chiroptera (Any bat species)
  - (2) Order Artiodactyla, (Hippopotamuses, giraffes, camels, deer) Excluding

domestic cattle, swine, sheep, goats, alpaca, and llama.

(3) Order Carnivora.

(A) Family Felidae. (Lions, tigers, cougars, leopards, ocelots, servals)  
Excluding domestic cats.

(B) Family Canidae (Wolves, wolf hybrids, coyotes, coyote hybrids, foxes, jackals) Excluding domestic dogs.

(C) Family Ursidae. (All bears)

(D) Family Mustelidae. (Weasels, skunks, martins, minks) Excluding ferrets.

(E) Family Procyonidae. (Raccoons, coatis)

(F) Family Hyaenidae. (Hyenas)

(G) Family Viverridae (Civets, genets, mongooses)

(4) Order Edentalia. (Anteaters, armadillos, sloths)

(5) Order Marsupialia. (Opossums, kangaroos, wallabies, sugar gliders)

(6) Order Perissodactyla. (Rhinoceroses, tapirs) Excluding horses, goats, and mules.

(7) Order Primates. (Lemurs, monkeys, chimpanzees, gorillas)

(8) Order Proboscidae. (Elephants)

(9) Order Rodentia. (Squirrels, beavers, porcupines, prairie dogs) Excluding guinea pigs, rats, mice, gerbils, and hamsters.

(b) Class Reptilia.

(1) Order Squamata.

(A) Family Helodermatidae. (Gila Monsters and Mexican beaded lizards)

(B) Family Varaidae. (Any monitor which will normally grow over two feet in length)

(C) Family Iguanidae. (Only green iguanas and rock iguanas, all others allowed)

(D) Family Boidae. (All species whose adult length may exceed eight (8) feet)

(E) Family Colubridae. (Boomsnakes and African twig snakes)

(F) Family Elapidae. (Coral snakes, cobras, mambas)

(G) Family Natricidae. (Only keelback snakes, all others allowed)

(H) Family Viperidae. (Copperheads, cottonmouths, rattlesnakes)

(2) Order Crocodylia. (Crocodiles, alligators, caimans, gavials)

(c) Class Aves.

(1) Order Falconiformes. (Eagles, hawks, vultures)

(2) Order Rheiformes. (Rheas)

(3) Order Struthioniformes. (Ostriches)

(4) Order Casuariiformes. (Cassowaries and emus)

(5) Order Strigiformes. (Owls)

(d) Class Arachnida.

(1) Order Scorpiones, Family Buthidae.

(A) Arabian fat-tailed scorpion – *Androctonus crassicauda*

(B) Arizona centruroides scorpion – *Centruroides exilicauda*

(C) Death stalker – *Leiurus quinquestriatus*

(D) Egyptian yellow scorpion – *Androctonus Amoreuxi*

- (E) Israeli black scorpion – *Hottentotta judaicus*
- (F) S.A. giant fat-tailed scorpion – *Parabuthus transvaalicus*
- (G) Sinai desert scorpion – *Androctonus bicolor*
- (H) Yellow desert scorpion – *Androctonus Australia*
- (2) Order Araneae, Family Theridadae.
  - (A) Argentina red widow spider – *Latrodectus coralinus*
  - (B) Brown widow spider – *Latrodectus geometricus*
  - (C) Red-black widow – *Lactrodectus hasselti*
  - (D) Red widow spider – *Lactrodectus bishop*
  - (E) Southern black widow spider – *Lactrodectus mactans*
  - (F) Western widow – *Lactrodectus Hesperus*
- (3) Order Araneae, Family Laxoscelidae, Brown recluse spider – *Loxosceles reclusa*
- (e) Class Chilopoda.
  - (1) Order Scolopendromorpha, Family Scolopendridae.
    - (A) Amazon giant banded centipede – *Scolopendra gigantea*
    - (B) Arizona tiger centipede – *Scolopendra viridis*
    - (C) Florida keys centipede – *Scolopendra alternans*
  - (f) Any Federal or State endangered or threatened species.

304.8-3. This section does not apply to:

(a) Individuals who are eligible for any grandfather provisions included this law's adopting resolution(s). (b) Zoological parks and/or sanctuary, educational or medical institution, and specially trained entertainment organizations who receive a permit from the Oneida Conservation Department to own, harbor or possess the animals.

(1) The Environmental, Health, ~~and~~ Safety, and Land Division may issue a permit under this section if:

- (A) the animals and animal quarters are kept in a clean and sanitary condition and maintained to eliminate objectionable odors; and
- (B) the animals are maintained in quarters so constructed as to prevent their escape.

(2) If approved by the Oneida Conservation Department, wildlife refuges/sanctuaries may release animals within the Reservation without applying for and receiving a permit as otherwise required under this Section.

304.8-4. *Seized Animals.* Any animal seized as a prohibited animal shall be held by the Oneida Conservation Department or its designee until that animal is identified to ascertain whether the animal is an "endangered or threatened species" pursuant applicable laws. At any time after such identification, the Oneida Conservation Department may seek an order from a hearing body as to the care, custody and control of the animal. The Oneida Conservation Department may also request the defendant to post a bond in an amount sufficient to satisfy the costs of holding, housing and/or caring for the animal. If the hearing body finds the animal has been taken, employed, used or possessed in violation of this section, the cost of holding the animal and any costs incurred in identifying the animals shall be assessed against the defendant.

304.8-5. *Notice of Release or Escape.* If an animal identified as prohibited under this section is released or escapes, the owner of the animal shall immediately notify the Oneida Conservation Department and/or the Oneida Police Department and shall be liable for any cost of recapture.

304.8-6. *Forfeiture of the Prohibited Animal.* Anyone found in violation of this section shall

forfeit or surrender the prohibited animal to the Oneida Conservation Department or designee. Upon such forfeiture or surrender, the Judiciary Trial Court may direct destruction or transfer of the animal to a qualified zoological, educational or scientific institution or qualified private propagator for safekeeping, with costs assessed against the defendant.

### **304.9. Regulation of Livestock**

304.9-1. Livestock may only be kept on land zoned residential if a conditional use permit is received from the Oneida Land Commission, however, not in excess of the following limitations:

- (a) One (1) large animal per one (1) acre. Examples of large animals include, but are not limited to horses, cows and pigs.
- (b) One (1) small animal per one-half (½) acre. Examples of small animals include, but are not limited to goats and sheep.
- (c) One (1) goat or sheep per recorded lot under one-half (½) acre when setback requirements can be met.

304.9-2. *Liability for Damage Caused by Livestock.* Any person whose livestock escapes from its normal confined area and becomes at large is responsible for any and all damage to persons and property caused by such livestock while it is away from its normal confined area.

304.9-3. *Hens.* A permit from the Oneida Conservation Department, based on the rules it shall develop, is required in order to keep an excess of four (4) hens. Roosters may not be kept.

- (a) Persons keeping hens shall keep them in the following manner:
  - (1) No person may keep a hen over eight (8) weeks of age in a principal structure.
  - (2) Hens shall be kept within a structure such as a coop or fenced area used exclusively to keep hens and shall provide at least four (4) square feet per chicken.
  - (3) No accessory structure used to keep hens may be located within twenty-five feet (25') of any principal structure which is not owned by the person licensed to possess the hens.
  - (4) No accessory structure used to keep hens may be located in a front or side yard.
- (b) In addition to compliance with the requirements of this section, no person may keep hens that cause any other nuisance associated with unhealthy condition, create a public health threat or otherwise interfere with the normal use of property or enjoyment of life by humans or animals.

### **304.10. Dangerous Animals**

304.10-1. *Classifying Dangerous Animals.* Owners of animals meeting the definition of a dangerous animal shall comply with the requirements contained in section 304.10-2 for harboring dangerous animals.

- (a) For the purposes of this law, an animal is presumed to be dangerous if it:
  - (1) approaches or chases a human being or domestic animal in a menacing fashion or apparent attitude of attack, without provocation; or
  - (2) bites, inflicts injury, attacks, or otherwise endangers the safety of a human being or domestic animal without provocation.
- (b) An animal may not be deemed a dangerous animal if it bites, attacked or menaces any person or animal to:
  - (1) defend its owner or another person from an attack by a person or animal;

- (2) protect its young or another animal;
- (3) defend itself against any person or animal which has tormented, assaulted or abused it; and/or
- (4) defend its owner's property against trespassers.

(c) An Oneida Police Officer or Oneida Conservation Warden may, in his or her discretion, declare an animal dangerous, provided that, a citation for a violation of this section may be issued without having previously received such a declaration.

(d) An owner of an animal declared to be dangerous may appeal such declaration in accordance with section 304.12-2. All requirements for harboring dangerous animals in section 304.10-2 except subsections (d)-(f) apply to the animal pending the outcome of the hearing unless specifically stayed by the Judiciary.

304.10-2. *Harboring Dangerous Animals.* No person may harbor or keep a dangerous animal within the Reservation unless all provisions of this section are complied with. Any animal that is determined to be a vicious animal in accordance with section 304.10-3 may not, under any circumstances, be kept or harbored within the Reservation.

(a) *Leash and Muzzle.* No person keeping or possessing a dangerous animal may permit such animal to go outside its kennel or pen unless the animal is securely leashed with a leash no longer than four feet (4') in length.

(1) No person may permit a dangerous animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person who is sixteen (16) years of age or older, competent to govern the animal and capable of physically controlling and restraining the animal is in physical control of the leash.

(2) The animal may not be leashed to inanimate objects such as trees, posts and buildings.

(3) A dangerous animal on a leash outside the animal's kennel must be muzzled in a humane way by a muzzling device sufficient to prevent the animal from biting persons or other animals. The Environmental, Health, ~~and~~ Safety and Land Division, with approval of the Environmental Resource Board, may provide a written exception excusing an otherwise dangerous animal from being muzzled. If such a written exception is issued, it shall be carried by the animal's owner at all times.

(b) *Confinement.* Except when leashed and muzzled as provided in subsection (a) above, all dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel that is located on the premises of the owner and constructed in a manner that does not allow the animal to exit the pen or kennel on its own volition.

(1) *Confinement Outdoors.* When constructed in an open yard, the pen or kennel shall, at a minimum, be constructed to conform to the requirements of this subsection.

(A) The pen or kennel shall be child-proof from the outside and animal-proof from the inside.

(B) A strong metal double fence with adequate space between fences (at least two feet (2')) shall be provided so that a child cannot reach into the animal enclosure.

(C) The pen, kennel or structure shall have secure sides and a secure top attached to all sides.

(D) A structure used to confine a dangerous animal shall be locked with a

key or combination lock when the animal is within the structure.

(E) The structure shall either have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than two feet (2')

(F) All structures erected to house dangerous animals shall comply with the requirements of all applicable laws and rules of the Nation.

(G) All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

(2) *Confinement Indoors.* No dangerous animal may be kept on a porch, patio or in any part of a house or structure on the premises of the owner that would allow the animal to exit the building on its own volition. No dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

(c) *Signs.* The owner of a dangerous animal shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of not less than two inches (2") high warning that there is a dangerous animal on the property. A similar sign is required to be posted on the kennel or pen of the animal. In addition, the owner shall conspicuously display a sign with a symbol warning children of the presence of a dangerous animal.

(d) *Spay and Neuter Requirement.* If declared dangerous by an Oneida Police Officer or Oneida Conservation Officer, the owner shall within thirty (30) days after the declaration shall provide the Environmental Resource Board with written proof from a licensed veterinarian that the animal has been spayed or neutered.

(e) *Liability Insurance.* If declared dangerous by an Oneida Police Officer or Oneida Conservation Officer, the owner of the dangerous animal shall present proof to the Environmental Resource Board that the owner has procured liability insurance in an amount not less than \$1,000,000 for any personal injuries inflicted by the dangerous animal. Whenever such a policy is cancelled or not renewed, the insurer shall so notify the Environmental Resource Board.

(f) *Microchipping.* If declared dangerous by an Oneida Police Officer or Oneida Conservation Officer, the owner of the dangerous animal shall provide proof to the Environmental Resource Board that the dangerous animal has had a microchip inserted for identification purposes within ten (10) calendars from the date the animal is declared dangerous.

(g) *Ongoing Notification Requirements.* After an animal has been declared dangerous, the owner shall have an ongoing duty to notify the Oneida Police Department:

(1) immediately if the dangerous animal is at large, is unconfined, has attacked another animal or has attacked a human being; and

(2) within twenty-four (24) hours if a dangerous animal has died, been sold or been given away. If the dangerous animal has been sold or given away, the owner shall also provide the name, address and telephone number of the new owner of the dangerous animal. If the dangerous animal is sold or given away to a person residing outside the Reservation or to a person or entity that falls outside of the jurisdiction of this law, the owner shall present evidence to the Oneida Police Department showing that he or she has notified the police

department or other law enforcement agency of the animal's new residence, including the name, address and telephone number of the new owner. The Oneida Police Department shall forward all such notifications to the Environmental Resource Board within a reasonable amount of time.

(h) *Waiver by the Environmental Resource Board.* Upon request of an owner, the Environmental Resource Board may waive any requirement specified in subsections (a)-(f) that the Environmental Resource Board deems to be unnecessary for a particular dangerous animal. The Environmental Resource Board may waive the provisions of subsections (a)-(f) for a law enforcement or military animal upon presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of the animal.

(i) *Euthanasia.* If the owner of an animal that has been designated a dangerous animal is unwilling or unable to comply with the regulations for keeping the animal in accordance with this section, he or she may have the animal humanely euthanized by an animal shelter, the humane society or a licensed veterinarian.

304.10-3. *Vicious Animals.* No person may bring or keep within the Reservation any animal that is a vicious animal under this section.

(a) *Declaration of Vicious Animal.* An Oneida Police Officer, Oneida Conservation Warden and/or the Judiciary Trial Court may declare an animal to be a vicious animal if the animal:

- (1) Is a dangerous animal in noncompliance with the requirements under Section 304.10-2;
- (2) Has killed a domestic animal or pet without provocation on public or private property;
- (3) Without provocation, has inflicted substantial bodily harm on a person on public or private property where substantial bodily harm means bodily injury that causes a laceration that requires ~~stiches~~ medical care, any fracture of a bone, a concussion, a loss or fracture of a tooth or any temporary loss of consciousness, sight or hearing;
- (4) Is suspected to be owned, trained or harbored for the purpose of dog fighting; and/or
- (5) Has been declared to be a vicious animal and/or ordered to be destroyed in any other jurisdiction.

(b) *Mandatory Hearing.* The owner of an animal declared to be a vicious animal shall attend a mandatory pre-hearing with the Judiciary Trial Court, the date for which shall be included on the declaration of vicious animal. At the pre-hearing it may be determined that mandatory attendance at Judiciary Trial Court hearing is also required if restitution is appropriate. The pre-hearing and any hearings are subject to the requirements contained in section 304.12-2.

- (1) All requirements for harboring dangerous animals in section 304.10-2 except subsections (d)-(f) apply to the said animal pending the outcome of the Judiciary Trial Court's pre-hearing and/or hearing.
- (2) At the pre-hearing, the Judiciary Trial Court may require the animal to be impounded pending the result of the hearing.
- (3) The Judiciary Trial Court may order a vicious animal to be destroyed if it finds it was so declared based on section 304.10-3(a)(3). If such an order is issued, the Judiciary Trial Court shall require the owner submit proof of

destruction within five (5) business days from a licensed veterinarian. If the owner does not satisfy these requirements, an Oneida Police Officer and/or an Oneida Conservation Warden shall seize the animal and enforce compliance at the cost of the owner.

(4) If the declaration of vicious animal is upheld upon appeal, the Judiciary Trial Court shall order the animal to be removed from the Reservation. Such order shall include the notification requirements contained in section 304.10-2(g) and provide the owner with a reasonable timeframe for removing the animal from the Reservation, provided that the timeframe may not exceed thirty (30) days after the date of the Judiciary Trial Court's decision.

(5) If the owner further appeals the determination of the Judiciary Trial Court to the Judiciary Court of Appeals, he or she shall submit the appeal within five (5) business days from the date of the Judiciary Trial Court's decisions, which is a shorter timeframe than required for all other appeals under this law. Upon an appeal to the Judiciary Court of Appeals, the requirement to order to remove the animal from the Reservation or any order to destroy an animal is stayed pending the outcome of the appeal.

(c) *Enforcement.* An Oneida Police Officer or Oneida Conservation Warden may make any inquiries deemed necessary to ensure compliance with this section and may seize an animal based on the owner's failure to comply.

(d) *Waiver.* The Judiciary may waive the provisions of this section for a law enforcement or military animal upon presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of the animal.

304.10-4. *Investigations for Suspected Domestic Animal Bites.* The owner shall notify the Oneida Police Department in the event the owner's cat or dog bites a human or another domestic animal.

- (a) The responding Oneida Police Officer or Oneida Conservation Warden shall:
- (1) Ascertain whether the domestic animal is properly licensed and has current vaccinations.
  - (2) Ensure all information provided is correct.
  - (3) Contact the Environmental, Health and Safety Division to notify them of the domestic animal bite.
  - (4) If the cat or dog has current rabies vaccinations, order the owner to:
    - (A) Quarantine the animal for ten (10) days; and
    - (B) Present the animal for examination by a veterinarian within twenty-four (24) hours of the bite, on the last day of quarantine and on one (1) day in between the first twenty-four (24) hours and the tenth (10<sup>th</sup>) day.
  - (5) If the cat or dog does not have current rabies vaccination, order the owner to:
    - (A) Quarantine the animal for ten (10) days or deliver the animal to an isolation facility at the owner's expense. If a home quarantine is ordered, the owner shall present the domestic animal for examination by a veterinarian within twenty-four (24) hours of the bite, on the last day of quarantine and on one (1) day in between the first twenty-four (24) hours and the tenth (10<sup>th</sup>) day; or
    - (B) Euthanize the animal and send the specimen for analysis at the owner's expense, if the animal has exhibited any signs of rabies.

(b) Upon expiration of a quarantine period, a veterinarian may extend the quarantine period. Upon expiration of all quarantine periods, if the veterinarian certifies that the animal has not exhibited any signs of rabies, the animal may be released from quarantine.  
 (c) If the veterinarian certifies that the animal has exhibited any signs of rabies the following shall occur:

- (1) If the animal has current rabies vaccinations, the Oneida Police Officer or Oneida Conservation Warden may order the animal to be euthanized and send the specimen for analysis, to be paid for by the Nation.
- (2) If the animal does not have current rabies vaccinations, the Oneida Police Officer or Oneida Conservation Warden may order the animal to be euthanized and send the specimen for analysis at the owner’s expense.

**304.11. Owner Liability for Domestic Animals**

304.11-1. Owners are liable for damages caused by their domestic animal(s).

- (a) *First Offense.* The owner is liable for the full amount of damages caused by the domestic animal.
- (b) *Subsequent Offenses.* The owner shall be liable for two (2) times the full amount of damages caused by the domestic animal if the owner knew or should have known that the domestic animal previously caused damages.

**304.12. Violations, Enforcement and Appeals**

**304.12-1 Citations**

(a) Action. An action in Tribal Court for a violation of the Domestic Animals law is commenced by service of a citation [declaration?]. A citation is a civil action and the forfeiture or penalty imposed by the law and subsequent rule(s) may be collected in an action in the name of the Nation.

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(b) Authority to Issue; Effect. A law enforcement or conservation officer may issue a citation to any person he or she has reasonable grounds to believe has committed a violation of the Domestic Animals law.

(c) Form of Citation.

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(1) The citation shall contain the name of the law enforcement or conservation officer.

**304.12-2.**

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(2) The citation shall contain substantially the following information:

A. The name, address and date of birth of the defendant.

B. The enrollment number or license number of the defendant, if applicable.

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C. In language that can be readily understood: the violation alleged, the law violated, the time and place of the occurrence of the violation, and a description of the violation.

D. A notice to appear at a date, time and place for the court appearance, and a statement as to whether the appearance is required.

E. Provisions for amount of deposit and stipulation in lieu of a court appearance, if applicable.

F. Notice that if the defendant does not make a deposit and fails to appear in court at the time fixed in the citation, the court may issue a default

judgment which may include any fine amount due, restitution/suspension of any rights, privileges, or licensures, or any other remedy authorized by law.

G. Notice that failure to satisfy a fine, restitution, or any other part of the judgment, may result in intercept of per capita, wage garnishment, revocation/suspension of any rights, privileges, licensures, or any other action authorized by law.

H. Any other pertinent information.

304.12-2. Amendments. A citation may be amended by a law enforcement or conservation officer prior to the initial appearance of the defendant. A copy of the amended citation shall be served in accordance with sec. 1.7. Otherwise, the citation may be amended, upon notice and an opportunity to be heard, at the discretion of the court. At trial, the court may amend a citation or complaint to conform to the evidence. If the court amends the citation or complaint to conform to the evidence, the court shall allow both parties an opportunity to present evidence with respect to the amended citation.

### **304.13. Commencement of Action**

304.13-1. Domestic Animals law violations are commenced when the citation is filed with or transmitted to the court. The commencement of such action does not preclude the exercise of prosecutorial discretion and case settlement.

304.13-2. The Oneida Tribal Judiciary has jurisdiction over a defendant when any of the following are met:

(a) Service. The defendant is served with a citation when one of the following occurs:

(1) By personal service of the citation upon the defendant.

(2) If by reasonable diligence the defendant cannot be served under par. 1., then by leaving a copy of the citation at the defendant's usual place of abode:

(A) In the presence of some competent member of the family at least 14 years of age, who shall be informed of the contents thereof; or

(B) In the presence of a competent adult, currently residing in the abode of the defendant, who shall be informed of the contents of the summons.

(3) If the defendant's post-office address is known or with reasonable diligence can be ascertained, then may be mailed to the defendant by 1<sup>st</sup> class mail.

(4) If with reasonable diligence the defendant cannot be served under pars. 1. Through 3., service may be made by publication in the Kalihwisaks a minimum of ten (10) days before the pretrial conference/initial appearance.

(b) The defendant voluntarily appears before the court.

(c) The court finds the defendant has acknowledged receipt of the citation.

(d) The law enforcement officer who serves the citation shall indicate the method of service of service on a copy of the documents filed or transmitted to the court.

(e) The court shall apply the doctrine of harmless error to clerical or scrivener errors.

### **304.14. Pretrial Conferences**

304.14-1. A pretrial conference may be scheduled before any hearing. Upon agreement of the parties, the parties may waive a pretrial conference. The prosecutor is authorized to enter into such agreement, and exercise any other form of prosecutorial discretion in the prosecution of a citation.

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304.14-2. If a defendant does not appear at the pretrial conference, the court may proceed to default judgment and order any other remedy/penalty authorized.

304.14-3. If the parties reach an agreement, the agreement shall be submitted to the court for the court's approval. If an agreement is not reached, or if the court does not approve an agreement, the court shall schedule the action for further proceedings.

**304.15. Discovery.** Neither party is entitled to discovery in any action pursuant to the Domestic Animals law, except that if the defendant moves for pretrial discovery within 20 days after the pretrial/initial appearance, in person or by an attorney, the court may order that the defendant be allowed to inspect documents, including lists of names and addresses of witnesses, if available.

#### **304.16. Procedure at Hearing/Trial.**

304.16-1. At hearing/trial the plaintiff may provide a prosecutor who is authorized or licensed to practice law and admitted to the court to practice. The plaintiff shall first offer evidence in support of the citation. The defendant may offer evidence after the plaintiff has rested. If the plaintiff and the defendant have offered evidence upon the citation, the parties may then respectively offer rebuttal testimony only. Both parties shall have the opportunity to question all witnesses.

304.16-2. Oath or affirmation.

(a) Before testifying, every witness shall be required to declare that he or she will testify truthfully, by oath or affirmation administered in a form approved by the court and meant to impress the witness with the duty to testify truthfully.

(b) The oath may be administered by the judge or his or her designee substantially in the following form: Under pains of penalty for perjury do you solemnly swear that the testimony you shall give in this matter shall be the truth, the whole truth and nothing but the truth.

(c) The assent to the oath or affirmation by the person making it may be manifested by the uplifted hand.

304.16-3. The standard of proof for a finding of responsibility/liability shall be evidence that is clear, is satisfactory, and convinces the judge to a reasonable certainty.

304.16-4. The court shall be bound by the rules of evidence, unless otherwise indicated.

304.16-5. If a defendant does not appear at trial, the court may enter a default judgment.

#### **304.17 Restitution**

304.17-1. The court, in addition to ordering any payment authorized by law, may order a defendant to make full or partial restitution under this section to any victim or, if the victim is deceased, to his or her estate if the court finds all of the following. [may need to suspend 60 day time frame or offer second hearing for this]:

(a) The defendant is found at fault of violating the Domestic Animals law and restitution is authorized.

(b) The violation resulted in damage to the property of or physical injury to a person other than the defendant.

304.17-2. Restitution ordered under this section is enforceable in a civil action by the victim named in the order to receive restitution. A court may not order a defendant to pay more than the amount specified by law.

304.17-3. If the violation resulted in damage to or loss or destruction of property, the restitution

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order may require that the defendant do one of the following:

(a) Return the property to the owner or owner's designee.

(b) If return of the property under par. (a) is impossible, impractical or inadequate, pay the owner or owner's designee, the reasonable repair or replacement cost or the greater of the following:

(1) The value of the property on the date of its damage, loss or destruction.

(2) The value of the property on the date judgment is rendered, less the value of any part of the property returned, as of the date of its return. The value of retail merchandise shall be its retail value.

304.17-4. If the violation resulted in physical injury, the restitution order may require that the defendant do one or more of the following:

(a) Pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric or psychological care and treatment.

(b) Reimburse the injured person for income lost as a result of the violation.

(c) If the injured person's sole employment at the time of the injury was performing the duties of a homemaker, pay an amount sufficient to reimburse the person for any payments made to another to perform those duties from the date of the injury and to ensure that the duties are continued until the person is able to resume performance of the duties.

304.17-5. The restitution order may require that the defendant do one or more of the following:

(a) Pay all special damages, but not general damages, including, but without limitation because of enumeration, the money equivalent of loss resulting from property taken, destroyed, broken or otherwise harmed and out-of-pocket losses, such as medical expenses, substantiated by evidence in the record, that could be recovered in a civil action against the defendant for his or her conduct in the commission of the violation.

(b) Pay an amount equal to the income lost, and reasonable out-of-pocket expenses incurred by the person against whom the violation was committed as a result of the commencement of the action or of cooperating in the investigation and prosecution of the violation.

(c) If justice so requires, reimburse any insurer, surety or other person who has compensated a victim for a loss otherwise compensable under this section.

304.17-6. If the court orders that restitution be paid to more than one person, the court may direct the sequence in which payments are to be made. The court shall order that all restitution to victims be made before restitution to other persons. If more than one defendant is ordered to make payments to the same person, the court may apportion liability between the defendants or specify joint and several liability. If the court specifies that 2 or more defendants are jointly and severally liable, the court shall distribute any overpayments so that each defendant, as closely as possible, pays the same proportion of the ordered restitution.

304.17-7. Restitution ordered under this section does not limit or impair the right of a victim to sue and recover damages from the defendant in a civil action. The fact that restitution was required or made is not admissible as evidence in that civil action and has no legal effect on the merits of the civil action. Any restitution made by payment or community service shall be set off against any judgment in favor of the victim in a civil action arising out of the facts or events that were the basis for the restitution. Where necessary, the court trying that civil action shall hold a separate hearing to determine the validity and amount of any setoff asserted by the defendant.

304.17-8.

(a) The court, in determining whether to order restitution and the amount thereof, shall consider all of the following:

- (1) The amount of loss suffered by any victim as a result of the violation.
- (2) The financial resources of the defendant.
- (3) The present and future earning ability of the defendant.
- (4) The needs and earning ability of the defendant's dependents.
- (5) Any other factors which the court deems appropriate.

(b) If the court finds that the conditions in sub. (a) are met, the court may hold the restitution hearing at the time of any appearance by the defendant before the court or may summon the defendant to appear to determine if restitution shall be ordered. The court shall give the victim or designee an opportunity to present evidence and arguments pertaining to the factor specified in par. (a) 1. The court shall give the defendant the opportunity to present evidence and arguments on the factors specified in par. (a). The victim or designee has the burden of demonstrating by the preponderance of the evidence the amount of loss sustained as a result of the violation. The defendant has the burden of demonstrating by the preponderance of the evidence the factors specified in par. (a) 2. to 5. When hearing evidence as to the factors specified in par. (a), the court may waive the rules of practice, procedure, pleading and evidence, except provisions relating to privileged communications and personal transactions or communication with a decedent or mentally ill person.

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**304.12-1. Citations.** Citations for the violation of this law and/or orders issued pursuant to this law may include fines, penalties and conditional and other orders in accordance with the schedule developed under section 304.5-2. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(a) Any order issued pursuant to this law that is not complied with may be physically enforced by Oneida Police Officers or Oneida Conservation Wardens at the Owner's expense.

(b) The Oneida Police Department, by means of Oneida Police Officers and Oneida Conservation Wardens, is authorized to take any appropriate action to prevent or remove a violation of this Law.

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**304.12-2. Hearing and Appeals of Contested Actions.** All citations, orders and declarations issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after the citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at which time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing, for all persons entering a plea contesting the fact that they committed the act for which a citation was issued. In addition to scheduling requested hearings, the Judiciary may also make conditional orders at the prehearing which are effective until the matter is resolved.

(a) *Community Service.* Community service may be substituted for monetary fines at the Judiciary's discretion, provided that, if so substituted, the Judiciary shall use the rate of

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one (1) hour per ten dollars (\$10.10) of the fine.

(b) *Allocation of Citation Revenue.* All citations shall be paid to the ~~Environmental Resource Board~~ Oneida Judiciary or its designee, the proceeds of which shall be contributed to General Fund.

(c) *Appealing the Decision of the Judiciary Trial Court.* Any person wishing to contest the determination of the Judiciary Trial Court may appeal to the Judiciary Court of Appeals in accordance with the Rules of Appellate Procedure.

(d) *Pursuing Payment of a Citation.* The ~~Environmental Resource Board~~ Oneida Judiciary may pursue payment from parties who have failed to make the required payments through the garnishment process contained in the Garnishment law and/or by attaching the judgment to Tribal member's per capita payment pursuant to the Per Capita law.

*End.*

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Adopted - BC-3-13-96-B  
Amended - BC-06-22-11-G  
Amended - BC-06-28-17-B



**Oneida Nation**  
Oneida Business Committee  
Legislative Operating Committee  
PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



## AGENDA REQUEST FORM

- 1) Request Date: 9/13/2018
- 2) Contact Person(s): Vanessa Miller  
Dept: EHSLD  
Phone Number: 920-869-4553 Email: vmiller@oneidation.org
- 3) Agenda Title: Amendments and updates Oneida Food Service Code
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
Amendments and updates to the code, including:  
1. Fee schedule updates  
2. Cottage food sales from home amendmets  
3. Requirement of credentialed Food Safety Manager

List any supporting materials included and submitted with the Agenda Request Form

- 1) \_\_\_\_\_ 3) \_\_\_\_\_
- 2) \_\_\_\_\_ 4) \_\_\_\_\_

- 5) Please list any laws, policies or resolutions that might be affected:  
\_\_\_\_\_
- 6) Please list all other departments or person(s) you have brought your concern to:  
Oneida License Department
- 7) Do you consider this request urgent?  Yes  No  
If yes, please indicate why:  
Food service requires public health protection input. Independent food sales is an interest of the community.

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:  
Vanessa Miller

Digitally signed by Vanessa Miller  
DN: cn=Vanessa Miller, o=Oneida Nation, ou, email=vmiller@oneidation.org, c=US  
Date: 2018.09.13 14:12:55 -05'00'

*Please send this form and all supporting materials to:*

**LOC@oneidation.org**  
*or*  
**Legislative Operating Committee (LOC)**  
P.O. Box 365  
Oneida, WI 54155  
Phone 920-869-4376

Environmental, Health, Safety & Land Division



A good mind. A good heart. A strong fire.

September 13, 2018

To: Legislative Operating Committee

From: Vanessa Miller  
Environmental, Health, Safety & Land Division

Tonya Webster  
Licensing

Re: Support for Oneida Food Service Code Amendments

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To Whom It May Concern:

We are writing to you in support of moving forward with making necessary changes to our Oneida Food Service Code. We have previously met as a team and discussed several changes we believe need to be made to the current food code, and have agreed to commit ourselves to championing these changes. We are motivated to commit our effort and prioritize our time to work on updating the Oneida Food Service Code, with the commitment to protecting public health and maintaining responsibility to the nation's core values.

Please contact us with any questions.

Kind Regards,

Vanessa Miller  
Sanitarian  
Environmental, Health, Safety & Land Division

Tonya Webster  
License Administrator  
License Department



**Oneida Nation**  
Oneida Business Committee  
Legislative Operating Committee  
PO Box 365 • Oneida, WI 54155-0365  
Oneida-nsn.gov



### AGENDA REQUEST FORM

- 1) Request Date: 9/19/18
- 2) Contact Person(s): Jennifer Falck  
Dept: LRO  
Phone Number: 869-4312 Email: jfalck@oneidanation.org
- 3) Agenda Title: Oneida Personnel Commission Bylaws
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
In response to action taken by the General Tribal Council, and at the  
direction of the Business Committee, the Oneida Personnel Commission  
bylaws require amendments.

List any supporting materials included and submitted with the Agenda Request Form

- 1) \_\_\_\_\_ 3) \_\_\_\_\_
- 2) \_\_\_\_\_ 4) \_\_\_\_\_

- 5) Please list any laws, policies or resolutions that might be affected:  
\_\_\_\_\_
- 6) Please list all other departments or person(s) you have brought your concern to:  
\_\_\_\_\_
- 7) Do you consider this request urgent?     Yes     No  
If yes, please indicate why:  
Business Committee set a deadline of 9/26/18

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:  
Jen Falck

Digitally signed by Jen Falck  
DN: cn=Jen Falck, o, ou, email=jfalck@oneidanation.org, c=US  
Date: 2018.09.17 13:36:27 -0500

*Please send this form and all supporting materials to:*

**LOC@oneidanation.org**  
*or*  
**Legislative Operating Committee (LOC)**  
P.O. Box 365  
Oneida, WI 54155  
Phone 920-869-4376

## September 5, 2018 Legislative Operating Committee E-Poll Approval of the Election Law Public Meeting Memorandum and Packet



### Good Afternoon Legislative Operating Committee,

This email serves as the e-poll for the approval of the Election law public meeting packet and memorandum to the General Tribal Council.

### Executive Summary

On September 5, 2018, the Legislative Operating Committee “approved the public meeting packet and forwarded the Election law amendments to a public meeting to be held on November 8, 2018; forwarded the memorandum and public meeting packet to the Oneida Business Committee for inclusion in the October 28, 2018, General Tribal Council meeting materials; and forwarded the Election law amendments to the Finance Office and directed that a fiscal analysis be completed.”

After the Legislative Operating Committee it was discovered that the Election law memorandum to General Tribal Council and the public meeting notice contained an error. Both the memorandum to General Tribal Council and the public meeting notice stated that the public comment period ended on November 15, 2018, which is an error because Veteran’s Day on November 12, 2018, was not taken into account in determining the five (5) business day period for the public comment period to be held open, as required by section 109.8-1(a) of the Legislative Procedures Act.

The memorandum to General Tribal Council and the public meeting notice have since been corrected to reflect that the public comment period shall stay open until the end of business on November 16, 2018, in accordance with the Legislative Procedures Act.

In order to have the Election law public meeting materials included in the October 28, 2018 General Tribal Council meeting materials, an e-poll is necessary to meet this deadline.

### Requested Action

Approve the public meeting packet and forward the Election law amendments to a public meeting to be held on November 8, 2018; forward the memorandum and public meeting packet to the Oneida Business Committee for inclusion in the October 28, 2018, General Tribal Council meeting materials; and forward the Election law amendments to the Finance Office and direct that a fiscal analysis be completed.

### Deadline for Response

**Wednesday, September 6, 2018, at 8:30 a.m.**

All supporting documentation has been attached to this email for your convenience.

### E-POLL RESULTS:

The e-poll was approved by David P. Jordan, Jennifer Webster, Daniel Guzman, and Kirby Metoxen. Ernest Stevens III did not respond to the e-poll.

From: David P. Jordan Sent: Wed 9/5/2018 2:21 PM  
To: LOC; Daniel P. Guzman; Ernest L. Stevens; Jennifer A. Webster; Kirby W. Metoxen  
Cc: Cathy L. Bachhuber; Fawn J. Bille; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Brandon M. Wisneski; Clorissa N. Santiago  
Subject: RE: E-POLL REQUEST: Approval of the Election Law Public Meeting Memorandum and Packet

approve

From: Jennifer A. Webster Sent: Wed 9/5/2018 2:39 PM  
To: LOC; Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Kirby W. Metoxen  
Cc: Cathy L. Bachhuber; Fawn J. Bille; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Brandon M. Wisneski; Clorissa N. Santiago  
Subject: RE: E-POLL REQUEST: Approval of the Election Law Public Meeting Memorandum and Packet

Approve,  
Jenny

From: Daniel P. Guzman Sent: Wed 9/5/2018 3:03 PM  
To: LOC; David P. Jordan; Ernest L. Stevens; Jennifer A. Webster; Kirby W. Metoxen  
Cc: Cathy L. Bachhuber; Fawn J. Bille; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Brandon M. Wisneski; Clorissa N. Santiago  
Subject: Re: E-POLL REQUEST: Approval of the Election Law Public Meeting Memorandum and Packet

Approve

From: Kirby W. Metoxen Sent: Wed 9/5/2018 5:04 PM  
To: LOC; Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Jennifer A. Webster  
Cc: Cathy L. Bachhuber; Fawn J. Bille; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Brandon M. Wisneski; Clorissa N. Santiago  
Subject: Re: E-POLL REQUEST: Approval of the Election Law Public Meeting Memorandum and Packet

Support

Sent from my Samsung Galaxy smartphone.



TO: General Tribal Council  
FROM: David P. Jordan, Legislative Operating Committee Chairman  
DATE: October 28, 2018  
RE: Election Law Amendments

### Background

At the November 12, 2017, Special General Tribal Council (GTC) Meeting, GTC passed a motion “to accept the information presented and for the Oneida Business Committee to take this information and the discussion to identify amendments to the Election Law for presentation to and action by the General Tribal Council during calendar year 2018.”

After the November 12, 2017, Special GTC meeting, the Legislative Operating Committee (LOC) added this item to its Active Files List on December 6, 2017. Since then, the LOC has drafted proposed amendments and has conducted a legislative analysis of the proposed amendments.

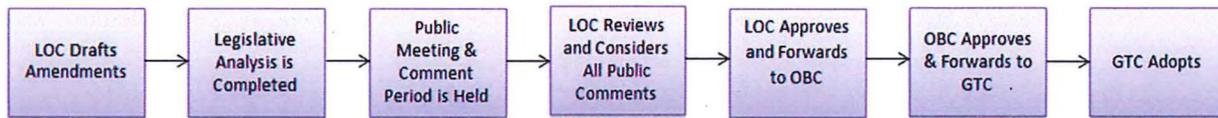
The Legislative Operating Committee will be holding a public meeting on the proposed Election law amendments on November 8, 2018, in an effort to obtain input from the community. Anyone can attend the public meeting to provide oral comments. Additionally, anyone can submit written comments during the public comment period, which ends at the close of business on November 16, 2018.

Public meeting and public comment periods are noticed in the Kalihwisaks and at the Oneida Register at [www.oneida-nsn.gov/government/register](http://www.oneida-nsn.gov/government/register). The public meeting materials are included with this memorandum and include:

- *Public Meeting Notice.* This notice contains details on when and where the public meeting will be held, a summary of the proposed amendments, when the public comment period will close, and how to submit written comments.
- *Legislative Analysis.* This document provides a plain language analysis of the proposed legislation including a statement of the legislation’s terms and substance, intent of the legislation, a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations.
- *Redline Draft.* This draft illustrates the proposed changes from the current law.
- *Clean Draft.* This draft provides the proposed amendments to the law as it would appear if the law is adopted by the General Tribal Council.

After the public meeting and the public comment period closes, the LOC will review and consider all comments that are received, and determine if any revisions to the proposed draft are necessary.

The proposed amendments to the Election law will ultimately come back to GTC for a vote on the adoption after all the legislative requirements are met. Below is a depiction of the legislative process:



Participation in the legislative process is highly encouraged.

**Requested Action**

Motion to accept the update on the Election law amendments as information.

# ONEIDA NATION PUBLIC MEETING NOTICE

LEGISLATIVE OPERATING COMMITTEE  
WWW.ONEIDA-NSN.GOV/GOVERNMENT

## Thursday, November 8, 2018, 12:15pm

Norbert Hill Center-Business Committee Conference Room  
N7210 Seminary Rd., Oneida, Wisconsin

### AMENDMENTS TO ELECTION LAW

The purpose of this law is govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations.



Some of the proposed amendments will:

1. Clarify the process for voters who require assistance [1 O.C. 102.16-3];
2. Require ballots from each polling location be kept separate [1 O.C. 102.16-8];
3. Shorten the voter registration form [1 O.C. 102.15-1];
4. Provide a more detailed procedure for handling spoiled ballots [1 O.C. 102.16-9];
5. Require an individual to present a photo ID to be allowed to vote during the election [1 O.C. 102.15-2];
6. Provide that tentative election results be posted within 24 hours of a recount [1 O.C. 102.18-9];
7. Update the timeframe for conducting recounts, and clarify how recounts are conducted [1 O.C. 102.18];
8. Clarify that only the first application submitted for multiple Oneida Business Committee or Judiciary positions will be accepted [1 O.C. 102.9-5];
9. Transfer hearing authority from the Election Board to the Judiciary [1 O.C. 102.9-8];
10. Reduce the number of Election Board members required to be at each polling site [1 O.C. 102.16-11 (a)];
11. Remove term limits from the Election Board [1 O.C. 102.4];
12. Clarify the process for submitting referendum questions [1 O.C. 102.7];
13. Update the caucus process [1 O.C. 102.13-1, 102.13-2];
14. Clarify and update language throughout the Law.

### PUBLIC COMMENTS PERIOD CLOSSES FRIDAY, NOVEMBER 16, 2018

During the Public Comment Period, all interested persons may submit written comments. Comments may be submitted to the Oneida Nation Secretary's Office or the Legislative Reference Office in person, by U.S. mail, interoffice mail, or e-mail.



-PUBLIC MEETING PACKETS ARE AVAILABLE AT-

[www.oneida-nsn.gov/Register/PublicMeetings](http://www.oneida-nsn.gov/Register/PublicMeetings) or contact Oneida Nation Legislative Reference Office located in the Norbert Hill Center, PO Box 365, Oneida, Wisconsin 54155  
Email: [LOC@oneidanation.org](mailto:LOC@oneidanation.org) Phone: 920-869-4376



## AMENDMENTS TO ELECTION LAW LEGISLATIVE ANALYSIS

### SECTION 1. EXECUTIVE SUMMARY

REQUESTER: GTC	SPONSOR: Jennifer Webster	DRAFTER: Clorissa N. Santiago	ANALYST: Brandon Wisneski
Intent of the Amendments	To update the Nation’s election process to require separation of ballots between each polling place, to require the Election Board to ensure voting equipment and ballots are secured and locked, to revise the recount process, to require election results and notices to be posted on the Nation’s website, to shorten the voter registration process on election day, to add more safeguards to spoiled ballot process, to require a public test of voting machines, to eliminate provisional voting for voters deemed ineligible, to clarify the process for candidate eligibility, to transfer the Election Board’s hearing authority to the Judiciary, to remove term limits for Election Board members, and to reduce the number of Election Board members required at each polling site, among other changes.		
Purpose	The purpose of the Election Law is to govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations <i>[see Election Law, 1 O.C. 102.1-1]</i> .		
Affected Entities	All qualified voters of the Oneida Nation, all elected officials of the Nation, all candidates for elected office, Election Board, Trust Enrollment Department, Oneida Police Department, Oneida Records Management Department, Zoning Department, the Nation’s Secretary, and the Business Committee Support Office		
Affected Legislation	Election Law, Zoning and Shoreland Protection Law, Open Records and Open Meetings Law, Comprehensive Policy Governing Boards, Committees and Commissions, Garnishment Law, Per Capita Law.		
Enforcement/Due Process	Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election <i>[see 102.19-1]</i> . Candidates deemed ineligible for the ballot by Election Board may appeal to the Judiciary <i>[see 102.9-8]</i> . Election Board members who violate the Election Law may be subject to removal in accordance with the Removal Law, termination of appointment if appointed to fill a vacancy, or sanctions and penalties in accordance with laws of the Nation <i>[see 102.4-12]</i> . A member who is removed from the Election Board shall be ineligible to serve on the Election Board for three (3) years from the time he or she is removed from the Election Board <i>[see 102.4-12(a)(1)]</i> .		
Public Meeting	A public meeting has not yet been held.		

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### SECTION 2. LEGISLATIVE DEVELOPMENT

- A. The Election Law was adopted by General Tribal Council (GTC) in 1993 in accordance with Article III, Section 5 of the Constitution. The Election law governs the procedures for the conduct of orderly elections of the Nation. The Election Law was most recently amended by GTC on April 23, 2017 to incorporate Constitutional Amendments into the law, including lowering the age of qualified voters from twenty-one (21) to eighteen (18).
- B. On November 12, 2017, GTC passed a motion to “accept the information presented and for the Oneida Business Committee to take this information and the discussion to identify amendments to the Election Law for presentation to and action by the General Tribal Council during calendar year

11 2018.” The meeting materials and discussion from this meeting included concerns regarding Election  
12 Board, recount process, recusal process and security of ballots and voting machines. In addition to the  
13 discussion from this meeting, other potential revisions to the law have been identified by the Election  
14 Board, Trust Enrollment Department, and a review of relevant Judiciary decisions.

- 15 C. As a result of this review, the following revisions to this law have been proposed by the Legislative  
16 Operating Committee (LOC): update the Nation’s election process to require separation of ballots  
17 between each polling place, require the Election Board to ensure voting equipment and ballots are  
18 secured and locked, revise the recount process, require election results and notices to be posted on the  
19 Nation’s website, shorten the voter registration process on election day, add more safeguards to  
20 spoiled ballot process, require a public test of voting machines, eliminate provisional voting for voters  
21 deemed ineligible, clarify the process for candidate eligibility, transfer the Election Board’s hearing  
22 authority to the Judiciary, remove term limits for Election Board members, and reduce the number of  
23 Election Board members required at each polling site, among other changes.

### 24 25 **SECTION 3. CONSULTATION AND OUTREACH**

- 26 A. The Legislative Operating Committee (LOC) held a work meeting with the Election Board on  
27 January 25, 2018 to discuss the board’s ideas for potential amendments. In addition, the LOC  
28 reviewed suggested amendments submitted by the Trust Enrollment Department.
- 29 B. The following documents were reviewed in the drafting of this analysis: The Nation’s Constitution,  
30 the Election Board’s bylaws and standard operating procedures, Election Board Final Election  
31 Reports, relevant Oneida Judiciary decisions, and the November 12, 2017 GTC Meeting minutes and  
32 materials.
- 33 C. The following laws were reviewed in the drafting of this analysis: Zoning and Shoreland Protection  
34 Law, Open Records and Open Meetings Law, and Comprehensive Policy Governing Boards,  
35 Committees and Commissions. In addition, the following Election Laws from other tribes were  
36 reviewed: Ho Chunk Election Code, Menominee Nation Election Code, Forest County Potawatomi  
37 Election Code, and Stockbridge Munsee Election Ordinance.

### 38 39 **SECTION 4. PROCESS**

- 40 A. Thus far, this law has followed the process set forth in the Legislative Procedures Act (LPA).
- 41 B. The law was added to the Active Files List on December 6, 2017.
- 42 C. At the time this legislative analysis was developed, the following work meetings were held/scheduled  
43 regarding the development of this law and legislative analysis:
- 44 ■ January 25, 2018: Work Meeting with Election Board
  - 45 ■ March 16, 2018: LOC Work Meeting
  - 46 ■ March 19, 2018: LOC Work Meeting
  - 47 ■ March 23, 2018: LOC Work Meeting
  - 48 ■ March 29, 2018: LOC Work Meeting
  - 49 ■ April 2, 2018: LOC Work Meeting
  - 50 ■ April 19, 2018: LOC Work Meeting
  - 51 ■ May 2, 2018: LOC Work Meeting
  - 52 ■ June 20, 2018: LOC Work Meeting
  - 53 ■ July 12, 2018: LOC Work Meeting
  - 54 ■ August 6, 2018: LOC Work Meeting
  - 55 ■ August 28, 2018: LOC Work Meeting

### 56 57 **SECTION 5. CONTENTS OF THE LEGISLATION**

- 58 A. *Election Board.* This section describes the composition and duties of the Election Board. The  
59 Election Board consists of nine (9) members elected by General Tribal Council (GTC). The Election

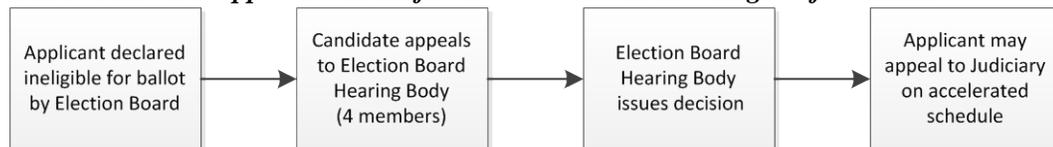
60 Board is responsible for conducting the elections of the Oneida Nation. The following revisions have  
61 been made to the Election Board:

- 62     ▪ **Term Limits.** This law eliminates term limits for members of the Election Board. Election  
63 Board members are elected by GTC. Currently, Election Board members are limited to two  
64 consecutive three-year terms. After serving two terms, Board members must sit out a term  
65 before they can run again [see *Election Law, 1 O.C. 102.4-2*]. Now, Election Board  
66 members may run for as many terms as they wish.
- 67     ○ **Comparison to other Oneida Boards, Committees and Commissions.** Most other entities  
68 of the Nation do not have term limits. For example, other elected entities such as Land  
69 Commission, Land Claims Commission, Gaming Commission and Trust Enrollment  
70 Committee do not have term limits. Currently, the only other elected board of the Nation  
71 with term limits is Oneida Nation Commission on Aging (ONCOA).
- 72     ○ **Comparison to Election Boards of other tribal nations:** Menominee Nation, Potawatomi  
73 Nation, Ho Chunk Nation and Stockbridge Munsee have appointed Election Boards  
74 which do not have term limits. However, the appointing body has control over who is  
75 appointed and for how long.
- 76     ○ **Advantages and Disadvantages of Term Limits:** Potential advantages of term limits are  
77 that they may bring new ideas and fresh perspectives to an elected body and give more  
78 individuals an opportunity to participate in public service. Potential disadvantages of term  
79 limits are that they deprive voters of the ability to elect the candidate of their choice and  
80 that the elected body loses experienced members and institutional knowledge.
- 81     ▪ **Recusal.** Election Board members must recuse themselves from any pre-election, election  
82 day and post-election activities if he or she is a petitioner, applicant or candidate in any  
83 election, or if there is otherwise a conflict of interest [see *102.4-3*].
- 84     ○ **Immediate Family:** A new provision has been added clarifying that Election Board  
85 members must recuse themselves if an immediate family member is a petitioner,  
86 applicant or candidate. This requirement was previously located in the Election Board's  
87 bylaws, but has been added directly into the law to strengthen and clarify this  
88 requirement [see *102.4-3(b)*].
- 89     ○ **Definition of Immediate Family Members.** An immediate family member is defined as:  
90 an individual's father, mother, grandparent, sister, brother, wife, husband, daughter, son,  
91 father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law,  
92 step-father, step-mother, step-sister, step-brother, step-daughter, step-son and any other  
93 these relations obtained through legal adoption [see *102.3(n)*].
- 94     ○ **Recusal for Judiciary.** Recusal provisions for members of the Nation's Judiciary are  
95 located in the Oneida Tribal Judiciary Canons of Judicial Conduct. The canons state that  
96 a judge shall withdraw from any matter where the judge has or could be perceived to  
97 have a conflict of interest. The canons go on to state that this includes personal,  
98 professional, or fiduciary relationships between the Judge or an immediate family  
99 member of the Judge [see *Oneida Tribal Judiciary Canons of Judicial Conduct 8 O.C.*  
100 *802, Section 2.2*].
- 101     ▪ **Securing Ballots and Voting Equipment.** A new provision has been added that requires the  
102 Election Board to ensure that election polling equipment and ballots are maintained in a  
103 locked and secured area when they are not being used for an Election. This is added to  
104 clarify that it is Election Board's responsibility to secure the equipment, and that failure to  
105 do so is a violation of this law [see *102.4-8(a)*].
- 106     ▪ **Standard Operating Procedures.** The Election Board will be required to develop and follow  
107 standard operating procedures (SOPs) regarding election activities and responsibilities. Any  
108 actions of the Election Board regarding their standard operating procedures must be  
109 presented to the Business Committee who shall then adopt or forward to the GTC for

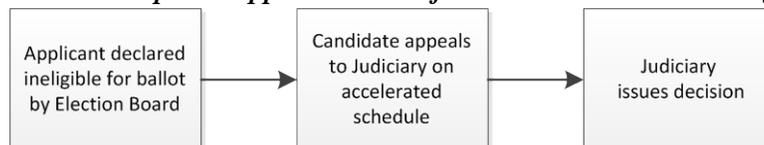
- 110 adoption. For more information regarding the Election Board’s current SOPs, see Section 9  
111 “Other Considerations” in this analysis. [see 102.4-8(b)].
- 112 ■ **Enforcement and Removal.** A new provision has been added regarding Enforcement, which  
113 replaces the previous “Removal” section. Election Board members who violate the Election  
114 Law may be subject to:
    - 115 ○ **Removal:** Election Board members who violate the Election Law may be removed in  
116 accordance with the Removal Law. A member who is removed from the Election Board  
117 will be prohibited from serving on the Election Board for three (3) years.
    - 118 ○ **Termination of Appointed Members.** Election Board members who were appointed to  
119 fill vacancies on the board may have their appointments terminated by the Oneida  
120 Business Committee in accordance with the Comprehensive Policy Governing Boards,  
121 Committees and Commissions.
    - 122 ○ **Sanctions and Penalties.** Election Board members may be subject to sanctions and  
123 penalties in accordance with laws of the Nation regarding sanctions and penalties. The  
124 Legislative Operating Committee (LOC) is currently drafting a Sanctions and Penalties  
125 Law to increase accountability among elected and appointed officials of the Nation,  
126 which will include members of the Election Board. At the time this analysis was drafted,  
127 the LOC intends to present a Sanctions and Penalties Law to GTC for consideration once  
128 the draft is complete and all legislative requirements are met.
  - 129 **B. General Elections.** This section explains that general elections will be held in accordance with the  
130 Constitution [see 102.5].
  - 131 **C. Special Elections.** This section describes the process for special elections. No changes have been  
132 made to the special election process.
  - 133 **D. Referendums.** This section describes the process for referendums. Referendum questions may be  
134 submitted by qualified voters at a caucus prior to an election. The following revisions have been  
135 made to the referendum process to ensure a streamlined process: [see 102.7]
    - 136 ■ **Standard Form.** A provision has been added requiring the Secretary to provide a standard  
137 form to submit referendum questions.
    - 138 ■ **Yes or No Questions.** In addition, referendum questions must be written in the form of a  
139 “yes or no” question. The intent is to ensure that the questions are written clearly for the  
140 voter to answer.
  - 141 **E. Primary Elections for Oneida Business Committee Positions.** This section describes the process  
142 for primary elections. No changes have been made to the primary election process [see 102.8].
  - 143 **F. Candidate Eligibility.** This section describes the requirements to be a candidate. The following  
144 revisions have been made to this section [see 102.9]:
    - 145 ■ **Applications.** This provision clarifies that all candidates, including those nominated at  
146 caucus, must fill out and turn in a completed application packet. Packets will be available in  
147 the BC Support Office. In addition, the Election Board’s current practice is to provide  
148 application packets at the caucus for those that have been nominated. The purpose of  
149 requiring the application form is to ensure that candidates meet the eligibility requirements  
150 for the office they are seeking [see 102.9-4].
    - 151 ■ **Proof of Minimum Eligibility Requirements.** Applicants will now be required to attach  
152 proof that they meet the minimum requirements for the position they are running for. The  
153 Election Board must include a list of the required documents on the application so that  
154 applicants are aware of what they need to submit. If an applicant does not submit the  
155 required documentation, they will be disqualified by the Election Board [see 102.9-4(d)]. If  
156 an applicant feels they were unfairly disqualified, they may appeal to the Judiciary.
      - 157 ○ **Example:** An example of required documentation is proof of residency for positions that  
158 require members to reside in Brown or Outagamie County or copies of degrees and  
159 transcripts for positions that require a degree.

- 160 ■ **Applying for More than One BC or Judiciary Position.** Under the current law, applicants  
161 cannot run for more than one Business Committee or Judicial position. For example, an  
162 applicant cannot file to run for both BC Chairperson and Councilperson in the same election.  
163 However, the current law doesn't state how the Election Board should handle this situation  
164 when it occurs. This has led to cases in the Oneida Judiciary, where the Judiciary noted: "the  
165 statute is silent as to whether a person has the opportunity to cure any defects and, if so, how  
166 much time is afforded to cure such defects. Furthermore, the statute says nothing about  
167 disqualifying a candidate from the election entirely who runs for more than one elective  
168 office" [see *Metoxen v. Election Board 17-AV-007*]. Therefore, the following new  
169 provisions have been added [see 102.9-5]:
  - 170 ○ **Include Restriction in Application Packet & Announce at Caucus.** The restriction on  
171 running for multiple BC or Judicial offices will be included in the application packet and  
172 read aloud at the caucus, to ensure that all potential candidates are aware before applying  
173 [see 102.9-5(a)].
  - 174 ○ **Process If an Applicant Applies For More Than One BC or Judiciary Position:** If an  
175 individual applies to run for more than one BC or Judiciary office, the Election Board  
176 will only accept the first application that the individual submitted. Any additional  
177 applications from that individual for other BC or Judicial offices will be rejected. The BC  
178 Support Office will be required to timestamp all applications in the order they are  
179 received, and the time stamp will be used to determine which application the individual  
180 filed first.
  - 181 ○ Currently, the Election Board reports that they attempt to contact the applicant to  
182 determine which office they want to run for. However, the Election Board has not always  
183 been able to reach applicants in time for the deadline. The purpose of this new process is  
184 to provide clear guidelines to applicants, the Election Board, and the Judiciary. It places  
185 responsibility on applicants to follow the law while ensuring that applicants are not  
186 disqualified from the ballot entirely.
- 187 ■ **Transfer of Hearing Authority to Judiciary.** This law removes the Election Board's hearing  
188 body authority and transfers it to the Judiciary. In the current law, when an applicant is  
189 found ineligible to be on the ballot by the Election Board, they can appeal that decision to a  
190 hearing body made up of four (4) members of the Election Board. Instead, applicants will  
191 now appeal directly to the Judiciary on an accelerated schedule [see 102.9-8].

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193 **Chart 1. Current Appeals Process for Candidates Found Ineligible for Ballot:**



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196 **Chart 2. Proposed Appeals Process for Candidates Found Ineligible for Ballot:**



- 197 ○ **Transfer of Hearing Body Authority.** GTC established a Judiciary through the adoption of  
198 the Judiciary Law by GTC on January 7, 2013 and the approval of Article V to the  
199 Nation's Constitution in 2015. Since that time, several boards, committees and  
200 commissions have transferred their hearing authority to the Judiciary, including  
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203 Environmental Resource Board (ERB) and Land Commission. The intent of transferring  
204 the Election Board’s hearing authority is to continue consolidating administrative and  
205 judicial hearing responsibilities in the Judiciary to increase consistency in the hearing  
206 process.

207 **G. Campaign Fines.** This section describes the restrictions on campaigning, campaign signs and  
208 campaign finance. The following revisions have been made to this section [see 102.11-1].

- 209     ▪ *Process for Fines.* Under the current law, the Election Board may issue fines for violating  
210 campaign finance or campaign sign restrictions. This law clarifies that any campaign fines  
211 must be paid to the Election Board within (90) ninety days after the fine is issued. The  
212 Election Board may seek to collect fines through garnishment and per capita process if not  
213 paid in 90 days. Fines will be placed into the Nation’s general fund [see 102.10-4 and  
214 102.11-4]
- 215     ▪ *Types of Campaign Fines:* In addition to fines for campaign finance violations and campaign  
216 sign violations, the Election Board may now impose fines for campaigning within two  
217 hundred eighty (280) feet of the voting area during an election.

218 **H. Campaign Signs and Campaigning.** This section describes restrictions on campaigning and  
219 placement of campaign signs. This includes restrictions on employees campaigning on work time  
220 and campaigning within 280 feet of a polling site.

- 221     ▪ *Removal of Campaign Signs.* A provision has been revised clarifying that the Zoning  
222 Administrator is responsible for removing any campaign signs that are not in compliance  
223 with the Election Law or Zoning and Shoreland Protection Law.

224 **I. Candidate Withdrawal from the Election.** This section describes the process for a candidate to  
225 withdraw from an election prior to the submission of the ballot, prior to the opening of the polls,  
226 after the opening of the polls, or after winning an election [see 102.12].

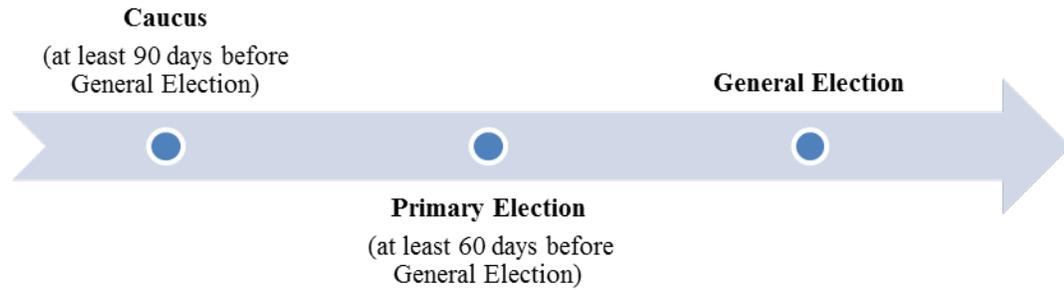
- 227     ▪ *Declining Office After Winning Election.* A provision has been added clarifying that if a  
228 candidate declines an office after winning an election and after taking the oath of office, it  
229 will be treated as a resignation. If a candidate declines an office after winning but before  
230 taking the oath of office, then the next highest vote-getter will be declared the winner [see  
231 102.12-6].

232 **J. Shortening Caucus and Primary Election Timeline.** Changes have been made to the election  
233 timelines to potentially shorten the length of the election season:

- 234     ▪ *Caucus Timeline.* In the current law, the caucus must be held at least ninety (90) days prior  
235 to the general election. Instead, the caucus will now be held at least seventy-five (75) days  
236 prior to the general election [see 102.13-1(a)].
- 237     ▪ *Primary Election Timeline.* In the current law, the primary election must be held on a  
238 Saturday at least sixty (60) days prior to the general election. Instead, the primary election  
239 will now be held on a Saturday at least thirty (30) days prior to the general election [see  
240 102.8-1].
  - 241         ○ Note that these deadlines refer to “at least,” or the minimum number of days prior to an  
242 election. This means that Election Board may hold the caucus or primary election more  
243 than seventy-five (75) or thirty (30) days before the election if more time is needed.
- 244     ▪ *Effect.* The effect of these changes will be to potentially shorten the length of the entire  
245 election season from a minimum of 90 days to 75 days, the length of time from the caucus to  
246 primary election from 30 days to 25 days, and the length of time from the primary election to  
247 the general election from 60 to 30 days.

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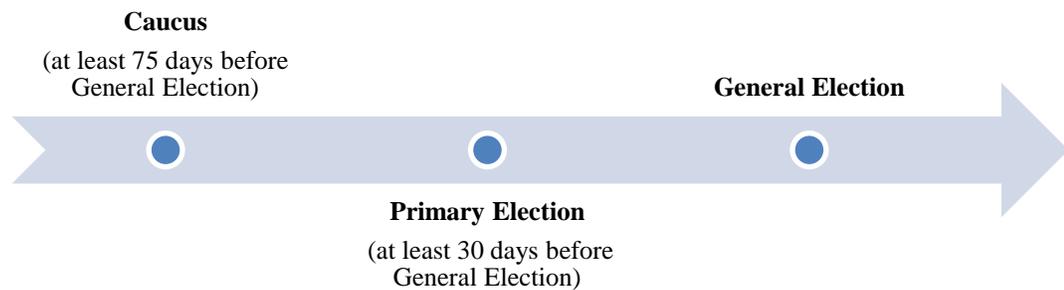
**Chart 3. Current Election Timeline:**



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**Chart 4. Proposed Election Timeline:**



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**K. Caucus Procedure.** The section describes the caucus process for selection of candidates.

- *Nominating Candidates by Motion.* More detail has been added to the law to reflect the current caucus process. The law clarifies that each position will be opened and closed for nomination by motion during the caucus: [see 102.13-2]
  - *Example:* A motion will be made to open nominations for the BC Chairperson position. Once all nominations have been made for BC Chairperson, nominations will be closed for that position. Then, a motion will be made to open nominations for BC Vice Chair position, and so on. The intent of this provision is to ensure an orderly caucus.
  - If a candidate is not present at the caucus, or arrives late and misses the position they wanted to be nominated for, they can still petition to be on the ballot instead. A petition to be on the ballot requires only 10 signatures.
- *Nominating Yourself.* A new provision has been added clarifying that an individual cannot nominate themselves at the caucus. They must be nominated by someone else. [see 102.13-2(b)(1)].

**L. Posting Election Notices & Tentative Results on the Nation's Website.** A provision has been added requiring election notices and tentative election results to be posted on the Nation's website, in addition to being posted to the prominent locations.

- **The prominent locations include:** the polling places, the Norbert Hill Center, the Oneida Community Library, the Oneida Community Health Center, the Southeastern Oneida Tribal Services (SEOTS) building, and all fuel stations operated by the Nation. The prominent locations have been revised to remove Tsyunhehkwa Retail store, which is now called Oneida Market and is located within an Oneida One Stop [see 102.3-2(u)].
- **Require Notices to be posted to Website.** Election notices must be posted in the prominent locations and the Nation's "official media outlets," which includes both the Nation's website and the Nation's newspaper [see 102.14]. Tentative Election results must be posted to the prominent locations and the Nation's website [see 102.17-2]. The purpose of requiring

284 results to be posted on the website is to ensure that tribal members and candidates receive  
285 election results quickly and conveniently.

286 **M. Shortened Voter Registration Form at Polling Site.** When voters sign-in at the polls on election  
287 day, they must fill out a voter registration form. This form has been shortened to only require  
288 name, date of birth and enrollment number. The requirement that voters write down their maiden  
289 name and current address has been removed. The intent of shortening this form is to speed up the  
290 line for voters on Election Day. The Election Board reports that name, date of birth and enrollment  
291 number are enough information to identify voters [see 102.15-1].

292 **N. Elimination of Provisional Ballots for Voters Ruled Ineligible.** Voters who are ruled ineligible to  
293 vote at the polls by election officials will no longer have the right to cast a ballot or challenge the  
294 decision of the election officials. An example of why a voter would be deemed ineligible to vote is  
295 failure to show a photo ID [see 102.15-5].

- 296 ■ **Current Process.** Currently, if a voter is deemed ineligible, they are still allowed to cast a  
297 ballot. However, the ballot is placed in a sealed envelope and signed by two Election Board  
298 members. The voter is then required to submit an appeal to the Election Board within two (2)  
299 business days in order to challenge the Election Board's decision. The Election Board then  
300 has five (5) business days to issue a final decision on the voter's eligibility. The Election  
301 Board will only count the ballot if the board determines the individual was, in fact, eligible  
302 to vote.

303 **O. Public Test of Voting Machines.** A new provision has been adding requiring a public test of the  
304 voting machines prior to each election. The Election Board will conduct this test no more than ten  
305 (10) days prior to election day, and the public test will be noticed in the Nation's newspaper and  
306 website. The test will be performed by running a group of pre-audited marked ballots through the  
307 machine to ensure that the machine records the correct, predetermined number. The intent of the  
308 public test is to increase voter confidence in the voting equipment [see 102.16-1].

- 309 ■ **Public Tests of Voting Machines in Wisconsin.** The public test is modeled after public tests  
310 held by Wisconsin municipalities to test their own voting machines under section 5.84(1) of  
311 Wisconsin Statutes. Examples of area municipalities that hold public tests of voting  
312 machines include the City of De Pere, City of Green Bay, and Village of Ashwaubenon.

313 **P. Voter Assistance.** The Election Law has been clarified to state that a voter with a disability or  
314 other impairment can request assistance from a member of the Election Board or any other  
315 qualified voter of their choosing. A qualified voter is an enrolled member of the Oneida Nation  
316 aged 18 or older. For example, a voter can request assistance from a family member or friend, as  
317 long as that person is a qualified voter. The purpose of this revision is to clarify that voters may be  
318 assisted by any qualified voter of their choosing, whether they are a member of the Election Board  
319 or not [see 102.16-4].

- 320 ■ **Qualified Voters Only.** The intent of limiting assistance to qualified voters is to restrict the  
321 voting area to qualified voters only, consistent with 102.16-8 of this law, which states that  
322 this restriction is in the interest of maintaining security of the ballots and the voting process

323 **Q. Separation of Milwaukee and Oneida Ballots.** A provision has been added to the law requiring  
324 ballots from each polling site to be kept separate. There are currently two polling sites, one in  
325 Oneida and one in Milwaukee. During the 2017 general election, the ballots from the manual  
326 count in Milwaukee were combined with the machine count in Oneida. During recounts, it was no  
327 longer possible to determine if a ballot came from the Milwaukee or Oneida count. By keeping the  
328 ballots separate throughout the election process, it will be easier to determine if there were  
329 irregularities at one of the polling sites [see 102.16-9(a)].

330 **R. Spoiled Ballots Procedure.** The process for spoiled ballots has been revised. Spoiled ballots will  
331 now be placed in a locked, sealed container marked "spoiled ballots." Previously, spoiled ballots  
332 were placed in a marked envelope. In addition, the voter will now be required to witness their

spoiled ballot being placed into the container. The purpose of these provisions is to increase voter confidence and to ensure that spoiled ballots are handled properly [see 102.16-10].

S. **Reducing Number of Election Board Members Required at the Polls.** The minimum number of Election Board members required to be present at each polling site on Election day to sign the election totals has been reduced from six (6) members to four (4) members. With the new voting machines, the Election Board reports that they are able to open and close the polls more efficiently, requiring less members to be present. The Election Board also reports that lowering the number of Board members required at each polling place may reduce the need for alternates. The Election Board suggests this may produce a cost savings [see 102.16-12].

T. **Recount Process.** Several revisions have been made to the recount process:

- **Extension of Deadline for Recount Requests.** A provision has been added regarding deadlines for a candidate to request a recount. Currently, candidates have five (5) business days after an election to request a recount. If a recount reverses the result of an election, the candidate who lost as a result of the recount will now have one (1) additional business day to request their own recount. This ensures that a candidate impacted by a recount will still have the opportunity to request their own recount [see 102.18-2(a)].

- **Require Election Board to Complete Recounts within Two (2) Business Days.** Upon receiving a recount request from the Nation’s Secretary, the Election Board will now have two (2) business days to complete a recount instead of five (5) days. The purpose of shortening the deadline is to get recount results out sooner, especially if the recount changes the result of the election and the losing candidate wishes to request their own recount [see 102.18-4].

- **Recounts Conducted By Hand and by Machine.** Currently, there is a discrepancy in the Election Law regarding whether the Election Board must conduct recounts by hand or by machine. A change has been made that will now require the Election Board to both hand count and machine count the ballots during a recount. The intent of this change is to increase voter confidence in the process and ensure an accurate count [see 102.18-7].

- **Posting Recount Results.** The Election Board will now be required to post the tentative recount results just like any other election results. The results will be posted in the prominent locations and the Nation’s official media outlets within 24 hours of the recount [see 102.18-9]. The intent of this change is to increase transparency of the recount process.

U. **Minor Drafting Changes.** Minor drafting changes have been made, such as changing “judge” to “Election judge” for clarity.

## SECTION 6. EFFECT ON EXISTING LEGISLATION

A. **References to Other Laws.** The following laws of the Nation are referenced in this law. This law does not conflict with any of the referenced laws.

- **Open Records and Open Meetings Law.** Among the duties of the Election Board Secretary is to keep a record of Election Board meetings and make them available to the Nation’s Secretary, other Election Board members, and the public as required by the Open Records and Open Meetings Law [see 102.4-9(c)].

- **Comprehensive Policy Governing Boards, Committees and Commissions.** Stipend rates for Election Board members will be set in accordance with the Comprehensive Policy Governing Boards, Committees and Commissions. At the time this analysis was drafted, Election Board members receive \$100 per meeting and \$10 per hour to conduct elections [see 102.4-10].

- **Personnel Policies and Procedures.** Employees of the Nation are not allowed to campaign during work hours. Employees that violate this provision will be subject to disciplinary action in accordance with the Nation’s Personnel Policies and Procedures [see 102.11-1(b)].

- **Zoning and Shoreline Law.** The Zoning Administrator shall remove any campaign signs that are not in compliance with this law, in accordance with the Zoning and Shoreline law [see 102.11-3].

- 383       ▪ *Garnishment Law and Per Capita Law.* If a fine issued by the Election Board is not paid by the  
384 deadline, the Election Board may seek to collect the money owed through the Nation's  
385 garnishment and/or per capita attachment process [see 102.10-4(b)].  
386

## 387 **SECTION 7. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR OBLIGATIONS**

388 **A. *Elimination of Provisional Voting.*** This law eliminates an existing right to challenge the decision of  
389 election officials if a voter is deemed ineligible to vote on election day. An example of why a person  
390 would be deemed ineligible to vote is failure to show a Photo ID.

- 391       ▪ ***Current Process:*** Under current law, if a voter is deemed ineligible to vote on election day, he or  
392 she may still fill out a ballot. This ballot is sealed in a numbered envelope and initialed by two  
393 Election Board members. The voter then has two (2) business days to mail a written appeal to  
394 Election Board. The Election Board will issue a final decision, and will only count the ballot if it  
395 is determined that the voter was, in fact, an eligible voter.
- 396       ▪ ***Proposed Process:*** Under this proposed law, if a voter is deemed ineligible to vote on election  
397 day, they cannot fill out a ballot and cannot challenge the decision of the Election officials.
- 398       ▪ ***Provisional Voting in State of Wisconsin.*** The Wisconsin Election Commission reports that for  
399 state elections, voters can receive a provisional ballot if they are unable or unwilling to provide  
400 proof of identification. Provisional ballots are not counted unless the voter provides the required  
401 information to the municipal clerk by 4:00 pm of the Friday following the election.
- 402       ▪ ***Provisional Voting in Other Tribes.*** There are examples of other tribes that allow versions of  
403 provisional ballots:
- 404       ○ ***Ho Chunk Nation:*** If the eligibility of a voter is questioned, the ballot of that voter will be  
405 enclosed in an envelope which will be endorsed with the voter's name, the reason for the  
406 challenge, and any refutation of the challenge. The Election Board will make the final  
407 determination of the eligibility of the voter and will count the votes of those determined  
408 eligible to vote [see *Ho Chunk Election Code 13(j)*].
  - 409       ○ ***Forest County Potawatomi:*** If the eligibility of a voter is questioned by the Election  
410 Board, the ballot of that voter shall be enclosed in an envelope which shall be endorsed  
411 with his or her name and the reason for the challenge. Challenges shall be made only on  
412 the basis of eligibility for voting membership in the Tribe as specified in Article VI,  
413 Section 5 of the Constitution of the Forest County Potawatomi Community. The  
414 eligibility of all challenged ballots must be determined by a majority of the Election  
415 Board before tallying any votes. If the voter is determined to be eligible that envelope  
416 will be opened and the ballot placed in the ballot box [see *Forest County Potawatomi*  
417 *Election Code 2.8*].
- 418       ▪ ***Conclusion:*** The LOC should be aware that removing provisional voting eliminates an existing  
419 right of voters of the Nation. Whether to allow provisional voting is a policy decision.  
420

## 421 **SECTION 8. ENFORCEMENT AND ACCOUNTABILITY**

- 422 **A. *Challenging an Election.*** Any qualified voter may challenge the results of an election by filing a  
423 complaint with the Judiciary within ten (10) calendar days after the election [see 102.19-1].
- 424 **B. *Challenging Election Board Decision Regarding Candidate Eligibility.*** An applicant found to be  
425 ineligible for a nominated or petitioned for position shall have two (2) business days to request a  
426 hearing with the Judiciary to review the eligibility status of the applicant [see 102.9-8].
- 427 **C. *Enforcement and Removal.*** Election Board members who violate the Election Law may be  
428 subject to removal in accordance with the Removal Law, termination of appointment if appointed  
429 to fill a vacancy, or sanctions and penalties in accordance with laws of the Nation [see 102.4-12].
- 430 **D. *Final Report.*** The Election Board is required to forward a Final Report to the Nation's Secretary  
431 after time has lapsed for recount requests, or challenges or after all recounts or challenges have  
432 been completed. The Final Report must include the following information: Total number of

433 persons voting; total votes cast for each candidate by subsection of the ballot; list of any ties and  
434 final results of those ties, including the method of resolution; list of candidates elected and  
435 position elected to; number of spoiled ballots; and cost of the election, including compensation  
436 paid to each Election Board member [see 102.19-2].  
437

## 438 **SECTION 9. OTHER CONSIDERATIONS**

439 **A. *New Voting Machines.*** The Election Board reports that they have purchased two (2) new DS200  
440 ballot machines. The Election Board reports that these machines include a regular maintenance  
441 schedule. For more information regarding these machines, contact the Election Board.

442 **B. *Election Board Standard Operating Procedures (SOPs).*** The Business Committee Support Office  
443 has worked with the Election Board to place their Standard Operating Procedures (SOPs) on the  
444 Nation’s website, so that all members have access to the processes by which an election is conducted.  
445 The Election Board’s SOPs include detailed instructions regarding ballots, the ballot box, testing  
446 voting machines, conducting elections, breaking a tie, conducting recounts and other-election related  
447 topics. The SOPs may be viewed by selecting “Oneida Election Board” at [www.oneida-nsn.gov/government/boards-committees-and-commissions/elected/](http://www.oneida-nsn.gov/government/boards-committees-and-commissions/elected/)

448 **▪ *What is an SOP?*** SOPs are the detailed, step-by-step instructions for how an entity implements a  
449 law or policy. The intent of an SOP is to ensure consistency in the process. Unlike laws, Election  
450 Board SOPs are developed by the Election Board.  
451

452 **C. *Sanctions and Penalties Law.*** The Legislative Operating Committee (LOC) is currently drafting a  
453 Sanctions and Penalties Law to increase accountability among elected and appointed officials of the  
454 Nation, which will include members of the Election Board. Currently, the only remedy for elected  
455 officials is the Removal Law. However, there may be instances of misconduct that do not rise to the  
456 level of removal. In these cases, other sanctions such as verbal warnings, written warnings,  
457 suspension or fines may be more appropriate. This new law will create a formal complaint process  
458 and allow for corrective actions against officials who violate laws, bylaws and SOPs of the Nation. At  
459 the time this analysis was drafted, the LOC intends to present a Sanctions and Penalties Law to GTC  
460 for consideration once the draft is complete and all legislative requirements are met.

461 **D. *Update Resolution Setting Fines for Election Violation.*** This law states that the Business Committee  
462 will pass a resolution specifying fines for violations of campaign finance restrictions [102.10-2(a)].  
463 The Business Committee passed a resolution setting fines for campaign sign violations [see BC-01-  
464 22-14-A]. However, this resolution did not specifically identify fines for campaign finance violations.

465 **▪ *Recommendation:*** The Business Committee should consider amending resolution BC-01-22-14-A  
466 to specify fines for campaign finance violations in accordance with this law.

467 **E. *New Forms or Procedures:***

468 **▪ *Updated Application:*** The Election Board will be required to update the application form to  
469 include:

470 **○** A list of required documents that applicants must submit to meet minimum eligibility  
471 requirements.

472 **○** A statement that applicants cannot apply to run for more than one Business Committee or  
473 Judiciary position.

474 **▪ *Updated Election Board SOPs:*** The Election Board will need to update their SOPs to comply  
475 with all amendments to this law.

476 **▪ *New Referendum Form:*** The Nation’s Secretary will be required to provide a standard  
477 referendum form at the caucus. The Nation’s Secretary and BC Support Office should develop  
478 this form.  
479

480 **F.** Please refer to the fiscal impact statement for any fiscal impacts.

481

Title 1. Government and Finances - Chapter 102

ELECTION

Onayote'a'ká· Tho Ni· Yót Tsi? Ayethiyataláko Tsi? Kayanl'hsla

People of the Standing Stone how it is we will appoint them the kind of laws we have

102.1. Purpose and Policy	102.12. <del>Candidate Withdrawal from the Election</del>
102.2. Adoption, Amendment, Repeal	102.13. <del>Selection of Candidates</del>
102.3. Definitions	102.714. <del>Notice of Polling Places</del>
102.4. Election Board	102.815. <del>Registration of Voters</del>
102.5. <del>General Election</del> <del>Candidate Eligibility</del>	102.916. <del>Election Process</del>
102.6. <del>Special Election</del>	102.10. <del>Tabulating and Securing Ballots</del>
102.7. <del>Referendums</del>	17. <del>102.11</del> <del>Election</del> <del>Outcome</del> <del>Outcomes</del> and Ties
102.8. <del>Primary Elections for Oneida Business Committee Positions</del>	102.12. <del>Elections</del> 18. <del>Recount Procedures</del>
102.9. <del>Candidate Eligibility</del>	102.19. <del>Challenges</del> <del>102.13</del> <del>Oneida Nation Constitution</del> and <del>By-law</del> <del>Declaration of Results</del>
102.10. <del>Campaign Financing</del>	102.20. <del>Constitutional</del> Amendments
102.11. <del>Campaign Signs and Campaigning</del>	

102.1. Purpose and Policy

102.1-1. It is the ~~policy~~ ~~purpose~~ of ~~the Nation that~~ this law shall govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations. Because of the desire for orderly and easily understood elections, there has not been an allowance made for write-in candidates on ballots.

102.1-2. ~~This law defines the~~ It is the policy of the Nation to have clearly defined duties and responsibilities of the Election Board members and other persons employed by the Oneida Nation in the conduct of elections. ~~This law~~ is intended to govern all procedures used in the election process.

102.2. Adoption, Amendment, Repeal

102.2-1. This law was adopted by the Oneida General Tribal Council by resolution GTC 07-06-98-A and amended by resolutions GTC-01-04-10-A, BC-02-25-15-C ~~and~~ GTC-04-23-17-A, ~~and GTC- - - -~~

102.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act. ~~Actions of the Election Board regarding amendments to this law and policies adopted regarding implementation of this law are to be presented to the Business Committee who shall then adopt or forward action(s) to the General Tribal Council for adoption.~~

102.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

102.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

102.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

102.3. Definitions

102.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

102.3-2(a) "Administrative offices" means the locations where the Oneida Business Committee conducts business.

(b) "Alternate" shall mean an individual appointed by the Business Committee to serve on the Election Board during an election and until election results have been certified.

102.3-3(c) "Applicant" shall mean a potential candidate who has not yet been officially

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35 approved for acceptance on a ballot.

36 ~~102.3-4.(d)~~ “Business day” shall mean Monday through Friday, 8:00 a.m. – 4:30 p.m.,  
37 excluding holidays of the Nation.

38 ~~102.3-5.(e)~~ “Campaigning” shall mean all efforts designed to influence members of the  
39 Nation to support or reject a particular candidate of the Nation including, without  
40 limitation, advertising, rallying, public speaking, or other communications with members  
41 of the Nation.

42 ~~102.3-6.(f)~~ “Candidate” shall mean a petitioner or nominee for an elected position whose  
43 name is placed on the ballot by the Election Board after successful application.

44 ~~102.3-7.(g)~~ “Clerk” shall mean ~~the election official~~ an Election Board member who  
45 identifies proper registration for the purpose of determining voter eligibility.

46 ~~102.3-8.(h)~~ “Close of business” shall mean 4:30 p.m. Monday through Friday.

47 ~~102.3-9.(i)~~ “Conflict of Interest” shall mean any interest, whether it be personal,  
48 financial, political or otherwise, in which a Nation elected official, employee, consultant,  
49 appointed or elected, member of any board, committee or commission, or their immediate  
50 relatives, friends or associates, or any other person with whom they have contact, that  
51 conflicts with any right of the Nation to property, information, or any other right to own  
52 and operate its enterprises, free from undisclosed competition or other violation of such  
53 rights of the Oneida Nation, or as defined in any law or policy of the Nation.

54 ~~102.3-10.(j)~~ “Constitution” means the Constitution and By-laws of the Oneida Nation.

55 ~~(k)~~ “Election” shall mean every primary and election.

56 ~~102.3-11.(l)~~ “Election Judge” shall mean an Election Board member who informs and  
57 advises the Election Board Chairperson of discrepancies, complaints and controversy  
58 regarding voter eligibility.

59 ~~(m)~~ “General election” shall mean the election held every three (3) years in July to elect  
60 the Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members  
61 of the Oneida Business Committee, and may include ~~contests~~ elections for other elected  
62 ~~boards, committees and commissions~~ positions.

63 ~~102.3-12. “Judge” shall mean the election official who informs and advises the Chairperson of~~  
64 ~~discrepancies, complaints and controversy regarding voter eligibility.~~

65 ~~102.3-13.(n)~~ “Immediate family member” means an individual’s father, mother,  
66 grandparent, sister, brother, wife, husband, daughter, son, father-in-law, mother-in-law,  
67 sister-in-law, brother-in-law, daughter-in-law, son-in-law, step-father, step-mother, step-  
68 sister, step-brother, step-daughter, step-son, and any of the these relations attained  
69 through legal adoption.

70 ~~(o)~~ “Judiciary” means the judicial system that was established by Oneida General Tribal  
71 Council resolution GTC-01-07-13-B to administer the judicial authorities and  
72 responsibilities of the Nation.

73 ~~102.3-14.(p)~~ “Lot drawing” shall mean the equal chance method used to select a  
74 candidate as the winner of an elected position, in the case of a tie between two (2) or  
75 more candidates.

76 ~~102.3-15.(q)~~ “Nation” means the Oneida Nation.

77 ~~102.3-16. “Nation’s newspaper” shall mean the Kalihwisaks, or any other newspaper operated by~~  
78 ~~the Nation for the benefit of transmitting news to members of the Nation, which is designated by~~  
79 ~~the Election Board as a source for election related news.~~

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80 102.3-17.(r) “Official media outlets” means the Oneida Nation’s website and the  
81 Kalihwisaks newspaper as identified by the Oneida Business Committee through  
82 resolution BC-03-22-17-B.

83 (s) “Oneida Police Officer” shall mean an ~~enrolled member of the Oneida Nation who is~~  
84 ~~a employed as a police officer on any police force~~ with the Oneida Police Department.

85 102.3-18.(t) “Private property” shall mean any lot of land not owned by the Nation, a  
86 residential dwelling or a privately owned business within the boundaries of the  
87 Reservation.

88 102.3-19.(u) “Prominent locations” shall mean the polling places, main doors of the  
89 Norbert Hill Center, main doors of the Oneida Community Library, ~~Tsyunhehkwa Retail~~  
90 ~~Store,~~ the Oneida Community Health Center, the South Eastern Oneida Tribal Services  
91 (SEOTS) building, and all ~~One Stop locations~~ fuel stations operated by the Nation.

92 102.3-20.(v) “Qualified voter” shall mean an enrolled member of the Nation who is  
93 eighteen (18) years of age or older as defined in Article III, Section 2 of the  
94 Constitution.

95 102.3-21.(w) “Rejected Ballots” shall mean those ballots which are rejected by the vote  
96 tabulating machine.

97 102.3-22.(x) “Spoiled Ballot” shall mean a ballot which contains a voter error or is  
98 otherwise marred and is not tabulated.

99 102.3-23.(y) “Teller” shall mean ~~the election official~~ an Election Board member in  
100 charge of collecting and storing of all ballots.

## 103 **102.4. Election Board**

### 104 ~~Section A-102.4-1. Establishment, Composition and Election~~

105 ~~102.4-1.~~ An Election Board is hereby created for the purpose of carrying out the provisions of  
106 this law and Article III, Sections 2 and 3 of the Oneida Nation Constitution.

107 102.4-2. Composition. The Election Board shall consist of nine (9) elected members. All  
108 members shall be elected to terms of three (3) years, ~~not to exceed two (2) consecutive terms.~~

109 102.4-3. Recusal. An Election Board member shall recuse himself ~~or~~ herself from participating  
110 as an Election Board member in any pre-election, election day, or post-election activities ~~while~~  
111 ~~he or she is a petitioner, applicant or candidate in any election or there is otherwise a conflict of~~  
112 ~~interest.~~ when:

113 (a) he or she is a petitioner, applicant or candidate in any election;

114 (b) a petitioner, applicant, or candidate in any election is an immediate family ~~102.4-4. Removal.~~  
115 ~~Removal of members shall be pursuant to the Oneida Removal Law. A member who is removed~~  
116 ~~from the Election Board shall be ineligible to serve on the Board for three (3) years from the time~~  
117 ~~he or she is removed from the Election Board.~~

118 102.4-5. member of the Election Board member; or

119 (c) there is otherwise a conflict of interest.

120 102.4-4. Vacancies. Any vacancy in an unexpired term shall be filled by appointment by the  
121 Oneida Business Committee for the balance of the unexpired term. The filling of a vacancy may  
122 be timed to correspond with the pre-election activities and the needs of the Election Board.

123 102.4-65. The Election Board shall identify members who shall serve as tellers, ~~judges~~ Election  
124 Judges and clerks in advance of an election.

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125 102.4-~~76~~ Election Board Alternates. The Oneida Business Committee may appoint or reappoint  
126 a sufficient number of alternates to the Election Board, as recommended by the Election Board,  
127 to assist with election day and pre-election activities.

128 102.4-~~87~~. The Election Board shall choose a Chairperson from amongst themselves as set out in  
129 the ~~By-laws~~bylaws of the Election Board, to preside over the meetings. This selection shall be  
130 carried out at the first meeting of the Election Board following an election. The Chairperson  
131 shall then ask the Election Board to select a Vice-Chairperson and a Secretary.

132  
133 ~~Section B-~~ 102.4-8. Duties of the Election Board

134 ~~102.4-9.~~ The Election Board shall have the following duties, along with other responsibilities  
135 listed throughout this law:

136 (a) The Election Board shall ensure that the election polling equipment and ballots are  
137 maintained in a locked and secured area when not in use for an election;

138 (b) The Election Board shall develop and adhere to standard operating procedures  
139 regarding election activities and responsibilities;

140 (1) Actions of the Election Board regarding standard operating procedures shall  
141 be presented to the Business Committee who shall then adopt or forward action(s)  
142 to the General Tribal Council for adoption.

143 (c) The Election Board shall assist individuals with disabilities through the voting  
144 process;

145 (d) The Election Board shall be in charge of all registration and election procedures; and  
146 (be) Upon completion of an election, the Election Board shall make a final report on the  
147 election results ~~as set out in this law.~~

148  
149 ~~Section C-~~ 102.4-9. Specific Duties of Officers and Election Board Members

150 . All Election Board members shall be required to attend all Election Board meetings.  
151 Additional specific~~102.4-10. Specific~~ duties of the Chairperson and other Election Board  
152 members, ~~in addition to being present at all Election Board meetings and assisting~~ include the  
153 ~~handicapped through the voting process, are as set out herein~~following:

154 (a) ~~Chairperson: Shall.~~ The Chairperson of the Election Board shall conduct the  
155 following duties:

156 (1) preside over meetings of the Election Board; shall select the hearing body for  
157 applicants found to be ineligible in accordance with 102.5-6 in the event of an  
158 appeal; shall

159 (2) oversee the conduct of the election; shall

160 (3) dismiss the alternates and Trust Enrollment Department personnel when their  
161 election day duties are complete; and shall post and report election results.

162 (4) post and report election results.

163 (b) ~~Vice-Chairperson: Shall.~~ The Vice-Chairperson shall preside over all meetings in the  
164 absence of the Chairperson.

165 (c) ~~Secretary: Shall.~~ The Secretary shall keep a record of the meetings and make them  
166 available to the Nation's Secretary, other Election Board members, and the public as  
167 required in the ~~Open Records~~Nation's laws and ~~Open Meetings Law~~policies governing  
168 open records and open meetings.

169 (d) ~~Clerks: Shall.~~ The clerks shall implement the requirements of identifying and

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170 registering all voters and determining voter eligibility. Clerks shall work in conjunction  
171 with the Trust Enrollment Department personnel in the registration process, and assist the  
172 Chairperson as directed in conducting the election. ~~Clerks cannot be currently employed~~  
173 ~~by the Trust Enrollment Department.~~

(1) Clerks shall not be currently employed by the Trust Enrollment Department.

175 (e) ~~Tellers:—Shall.~~ Tellers shall collect and keep safe all ballots; until the election is  
176 complete, as determined by this law.—~~Shall,~~ and shall assist the Chairperson in  
177 conducting the election.

178 (f) ~~Election Judges:—Shall.~~ Election Judges shall inform and advise the Chairperson of  
179 all aspects of the election conducted under this law. In case of disputes among Election  
180 Board members, or between members of the Nation and Election Board members, or any  
181 controversy regarding voter eligibility, the ~~Judge~~election judge(s) shall assist the  
182 Chairperson in making a determination. ~~The Judge(s) shall also ensure that all ballots of~~  
183 ~~voters whose eligibility may be in question, remain confidential.~~

#### 102.4-10.

##### Section D. Compensation Rates

186 ~~102.4-11. Election Board Stipend Rates.~~ Election Board members shall receive a stipend in  
187 accordance with the Nation's laws, policies, and resolutions governing boards, committees, and  
188 commissions. Election members are to be compensated at an hourly rate when conducting  
189 elections as provided for in the Election Board's bylaws as approved by the Oneida Business  
190 Committee. ~~The Election Board shall have a budget, approved through the Nation's budgeting~~  
191 ~~process.~~

192 ~~102.4-12~~11. Compensation of other Election Personnel. The Trust Enrollment Department  
193 personnel and Oneida Police Officer(s) shall be compensated at their regular rate of pay out of  
194 their respective budgets when performing official duties during an election in accordance with  
195 this law.

196 102.4-12. Enforcement. A member of the Election Board found to be in violation of this law  
197 may be subject to:

198 (a) removal pursuant to any laws and/or policies of the Nation's governing removal, if  
199 the Election Board member was elected to his or her position;

200 (1) A member who is removed from the Election Board shall be ineligible to  
201 serve on the Election Board for three (3) years from the time he or she is removed  
202 from the Election Board.

203 (b) termination of appointment by the Oneida Business Committee pursuant to any laws  
204 and/or policies of the Nation governing boards, committees, and commissions, if the  
205 Election Board member was appointed to his or her position by the Oneida Business  
206 Committee; and/or

207 (c) sanctions and penalties pursuant to any laws and/or policies of the Nation governing  
208 sanctions and/or penalties.

#### 102.5. General Elections

211 102.5-1. In accordance with Article III, Section 5 of the Constitution, general elections shall be  
212 held in the month of July on a date set by the General Tribal Council.

213 (a) The General Tribal Council shall set the election date at the January annual meeting,  
214 or at the first General Tribal Council meeting held during a given year.

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## **102.6. Special Elections**

102.6-1. Initiation of Special Elections. A special election may be initiated by a request or directive of the General Tribal Council or the Oneida Business Committee.

(a) A member of the Nation may make a request for a special election to the Oneida Business Committee or the General Tribal Council.

102.6-2. Matters subject to a special election include, but are not limited to, referendum questions, vacancies, and/or petitions. Matters subject to a special election may be placed on the ballot of a general election.

102.6-3. A special election shall follow the processes and procedures established for all other elections.

102.6-4. The date of a special elections shall be set by the Oneida Business Committee as recommended by the Election Board, or as ordered by the Judiciary in connection with an election challenge.

102.6-5. Notice of Special Elections. Notice of a special election shall be posted by the Election Board in the prominent locations, and placed in the Nation’s official media outlets not less than ten (10) calendar days prior to the special election.

102.6-6. Emergency Cancellation of Special Elections. In the event of an emergency, the Election Board may reschedule the special election, provided that no less than twenty-four (24) hour notice of the rescheduled special election date is given to the voters, by posting notices in the prominent locations.

## **102.7. Referendums**

102.7-1. A qualified voter may submit a referendum question to be included on the ballot for a general or special election for the purpose of soliciting an opinion from the voters of that election on any issue directly affecting the Nation or its general membership.

102.7-2. The Nation’s Secretary shall develop and make available in the Business Committee Support Office a standard referendum form.

102.7-3. A referendum question shall be written in a manner that solicits a “yes” or “no” response.

102.7-4. The referendum form shall be presented to the Nation’s Secretary at the caucus prior to an election. Once received at a caucus, the referendum question shall be placed on the ballot of the next election.

102.7-5. The results of a referendum question in which a majority of the qualified voters who cast votes shall be binding on the Oneida Business Committee to present the issue for action and/or decision at General Tribal Council.

## **102.8. Primary Elections for Oneida Business Committee Positions**

102.8-1. There shall be a primary election for an Oneida Business Committee position whenever there are three (3) or more candidates for any officer position or sixteen (16) or more candidates for the at-large council member positions.

(a) The two (2) candidates receiving the highest number of votes cast for each officer position shall be placed on the ballot.

(b) The fifteen (15) candidates receiving the highest number of votes cast for the at-large council member positions shall be placed on the ballot.

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(c) Any position where a tie exists to determine the candidates to be placed on the ballot shall include all candidates where the tie exists.

102.8-2. The primary election shall be held on a Saturday at least thirty (30) calendar days prior to the election.

102.8-3. The Election Board shall cancel the primary election if the Oneida Business Committee positions did not draw the requisite number of candidates for a primary by the petitioning deadline set for the primary election.

102.8-4. In the event a candidate withdraws or is unable to run for office after being declared a winner in the primary, the Election Board shall declare the next highest primary vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 102.12-3 and 102.12-4 shall be followed, including the requirement to print a notice in the Nation's official media outlets if time lines allow.

## **102.9. Candidate Eligibility**

### Section A. Requirements

~~102.5-1. In~~102.9-1. All applicants shall meet the minimum eligibility requirements in order to become a candidate, in addition to any specific requirements and/or exceptions set out in duly adopted ~~by laws~~bylaws or other documents, ~~all applicants shall meet the minimum requirements set out in this section in order to become a candidate.~~

~~102.59-2.~~ Minimum Eligibility Requirements. In order to be eligible to be a candidate, applicants shall:

- (a) be an enrolled member of the Nation, as verified by membership rolls of the Nation;
- (b) be a qualified voter on the day of the election; and
- (c) provide proof of physical residency as required for the position for which they have been nominated or for which they have petitioned. Proof of residency may be through one (1) or more of the following:
  - (1) a valid Wisconsin driver's license;
  - (2) a bill or pay check stub showing name and physical address of the candidate from the prior or current month;
  - (3) another form of proof that identifies the candidate and that the candidate has physically resided at the address and identifies that address as the primary residence.

~~102.59-3.~~ Conflict of Interest. No applicant ~~may~~shall have a conflict of interest with the position for which they are being considered, provided that any conflict of interest which may be eliminated within thirty (30) calendar days of being elected shall not be considered as a bar to nomination or election.

~~102.59-4.~~ Applications and petitions where the ~~for~~ Candidacy. An applicant interested in being considered as a candidate for a position that was ~~not~~ not nominated ~~during~~at a caucus or will be petitioning for candidacy shall ~~be filed by presenting the information~~submit an application for candidacy to the Nation's Secretary, ~~or designated agent,~~ or the Business Committee Support Office.

(a) The application for candidacy shall be submitted in person during normal business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday, within five (5) business days after the caucus.

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305 (b) No mailed, internal Nation mail delivery, faxed or other delivery method shall be  
306 accepted.

307 102.5-5.(c) The Nation's Secretary or the Business Committee Support Office shall  
308 timestamp when an application for candidacy is received.

309 (d) Proof of Minimum Eligibility Requirements. At the time of submission, the  
310 application for candidacy shall include attached documentation verifying that the  
311 applicant meets the minimum eligibility requirements.

312 (1) The application for candidacy shall include a list of the required  
313 documentation for each office.

314 (2) An application that does not include attached documentation verifying the  
315 applicant meets the minimum eligibility requirements at the time of submission  
316 shall be disqualified.

317 102.9-5. An applicant for a position on the Oneida Business Committee or a position within the  
318 Judiciary shall only be eligible to apply for one (1) elective office or position per election.

319 (a) A statement of the ineligibility of an applicant to apply for more than one (1) elective  
320 office or position if applying for a position with the Oneida Business Committee or the  
321 Judiciary shall be included in the application materials as well as the notice for the  
322 caucus, and read verbally at the start of the caucus.

323 (b) If an applicant provides an application for candidacy or petition for candidacy for  
324 more than one position or office if applying for a position on the Oneida Business  
325 Committee or the Judiciary, then the application which was filed first shall be accepted  
326 while any other applications shall be disqualified.

327 (1) The Election Board should review the timestamps on the applications to  
328 determine which application shall be accepted.

329 102.9-6. The names of the candidates and the positions sought shall be a public record and  
330 made available to the public upon the determination of eligibility by the Election Board or the  
331 Election Board's designated agent designee.

332  
333 Section B102.9-7. Eligibility Review

334 ~~102.5-6. Applicants found to be ineligible shall have two (2) business days to request an appeal.~~  
335 ~~At least four (4) Election Board members shall constitute a hearing body. The Chairperson shall~~  
336 ~~select the hearing body. The hearing shall be held within two (2) business days of receipt of the~~  
337 ~~appeal. The applicant shall be notified by phone of time and place of the hearing. The decision~~  
338 ~~of the hearing body shall be sent via certified mail or hand delivery within two (2) business days~~  
339 ~~of the hearing. Any appeal from a decision of the Election Board hearing body shall be to the~~  
340 ~~Judiciary on an accelerated schedule.~~

341 102.5-7. The Election Board shall be responsible for reviewing the qualifications of applicants  
342 to verify eligibility. Any applicant found to be ineligible for a nominated or petitioned for  
343 position shall be notified by certified mail return receipt requested. The notice shall provide the  
344 following information:

345 (a) Position for which they were considered;

346 (b) ~~Qualification~~Qualifications of the position and citation of the source. ~~(Copies of~~  
347 source may be attached.);

348 (c) A brief summary explaining why the applicant was found to be ineligible.; and

349 (d) That the applicant has two (2) business days from notification to ~~make an appeal.~~

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350 ~~Appeals must be filed at the location designated~~ request a hearing on the ~~notice by hand~~  
351 ~~delivery. The location designated~~ ineligibility determination with the Judiciary.

352 102.9-8. Request for a Hearing on Ineligibility. An applicant found to be ineligible for a  
353 nominated or petitioned for position shall have two (2) business days to request a hearing with  
354 the Judiciary to review the eligibility status of the applicant. The Judiciary shall hear and decide  
355 a request for a hearing on ineligibility within two (2) business days after the request is filed. Any  
356 appeal to the appellate body of the Judiciary shall be on the Reservation. No mailed, internal  
357 Nation mail, faxed or other delivery method will be accepted filed within one (1) business day  
358 after the issuance of the lower body's decision and decided within two (2) business days after the  
359 appeal is filed.

360  
361 ~~Section C-~~ **102.10. Campaign Financing**

362 ~~102.5-8. Contributions:~~

363 ~~(a) Solicitation of Contributions by Candidates.~~

364 ~~(10-1) Candidates.~~ A candidate shall only accept contributions from individuals who are  
365 members of the Nation or individuals related by blood or marriage to the candidate. Candidates  
366 may

367 102.10-2. A candidate shall not accept contributions from any business, whether sole  
368 proprietorship, partnership, corporation, or other business entity.

369 ~~(2) Candidates~~ 102.10-3. A candidate shall not solicit or accept contributions in any office ~~or,~~  
370 business/ and/or facility of the Nation.

371 ~~(b) Fines. Violation~~ 102.10-4. Violations of Campaign Financing Restrictions. A violation of  
372 the ~~contribution~~ campaign financing restrictions shall result in a fine ~~imposed by the.~~

373 (a) The Election Board shall impose the fine in an amount specified in a resolution  
374 adopted by the Oneida Business Committee.

375 (b) Fines shall be paid to the Election Board within ninety (90) days after the fine is  
376 issued. If the fine is not paid by this deadline, the Election Board may seek to collect the  
377 money owed through the Nation's garnishment and/or per capita attachment process.

378 (c) Money received from fines shall be deposited into the General Fund.

379  
380 ~~102.5-9~~ **11. Campaign Signs and Campaigning:**

381 ~~(a)~~ 102.11-1. Restrictions on Campaigning. The following restrictions on campaigning apply to  
382 all candidates:

383 (a) No campaigning of any type shall be conducted within two hundred eighty (280) feet  
384 of the voting area during an election, excluding private property.

385 (b) Employees of the Nation shall not engage in campaigning for offices of the Nation  
386 during work hours.

387 (1) Enforcement. The Nation's employees shall be subject to disciplinary action  
388 under the Nation's laws and policies governing employment for political  
389 campaigning during work hours.

390 102.11-2. Placement of Campaign Signs. Placement of campaign signs shall be pursuant to the  
391 following restrictions:

392 ~~(1a)~~ (a) Campaign signs shall not be posted or erected on any property of the Nation except  
393 for private property with the owner ~~/ or~~ tenant's permission.

394 ~~(2b)~~ (b) No campaign sign shall exceed sixteen (16) square feet in area. A maximum of

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395 seven (7) such signs may be placed on a building or on a lot.

396 (3c) No campaign sign shall project beyond the property line into the public right of  
397 way.

398 ~~(b) Removal of campaign signs. 102.11-3. All campaign signs shall be removed within five (5)~~  
399 ~~business days after an election.~~

400 ~~(c) Employees of the Nation shall not engage in campaigning for offices of the Nation~~  
401 ~~during work hours. The Nation's employees shall be subject to disciplinary action under~~  
402 ~~the personnel policies and procedures for political campaigning during work hours.~~

403 ~~(d) Enforcement. of Sign Placement.~~ The Zoning Administrator shall ~~cause to be~~  
404 ~~removed~~remove any campaign signs that are not in compliance with this law, in accordance with  
405 the ~~Zoning and Shoreland Protection Law~~Nation's laws and policies governing zoning. The  
406 Zoning Administrator shall notify the Election Board of campaign sign violations.

407 ~~(e) Fines. Violation of the 102.11-4. Violations of Campaign Restrictions. A violation of the~~  
408 ~~restriction on campaigning within two hundred eighty (280) feet of the voting area during an~~  
409 ~~election, or~~ campaign sign restrictions shall result in a fine ~~imposed by the~~.

410 (a) The Election Board shall impose the fine in an amount specified in a resolution  
411 adopted by the Oneida Business Committee.

412  
413 *Section D. Candidate Withdrawal*

414 ~~102.5-10 Any candidate may withdraw his or her name from a ballot if submitted in writing by~~  
415 ~~the candidate prior to submission of the ballot for printing to any Election Board member,~~  
416 ~~excluding alternates.~~

417 ~~102.5-11 After printing of the ballot, any candidate may withdraw his or her name from the~~  
418 ~~election by submitting in writing a statement indicating they are withdrawing from the election~~  
419 ~~prior to the opening of the polls to any Election Board member, excluding alternates. This~~  
420 ~~statement shall be posted alongside any sample ballot printed prior to the election in the~~  
421 ~~newspaper or any posting at the polling places.~~

422 ~~102.5-12. Candidates withdrawing after opening of the polls shall request, in writing to the~~  
423 ~~Election Board members in charge of the polling place, to be removed from the ballot. The~~  
424 ~~written statement shall be posted next to any posted sample ballot.~~

425 (b) Fines shall be paid to the Election Board within ninety (90) days after the fine is  
426 issued. If the fine is not paid by this deadline, the Election Board may seek to collect the  
427 money owed through the Nation's garnishment and/or per capita attachment process.

428 (c) Money received from fines shall be deposited into the General Fund.

429 102.11-5. Removal of Campaign Signs. All campaign signs shall be removed within five (5)  
430 business days after an election.

431  
432 **102.5-13. Candidates** **12. Candidate Withdrawal from the Election**

433 102.12-1. A candidate may withdraw from the election at any time. A candidate withdrawing  
434 by any method listed hereinwithin this section shall be denied any position from which they have  
435 withdrawn regardless of the number of votes cast for that candidate. A written statement shall be  
436 considered the only necessary evidence of withdrawal and acceptance of denial of any position  
437 withdrawn from.

438 102.12-2. Withdrawal Prior to Submission of the Ballot. A candidate may withdraw his or her  
439 name from a ballot prior to submission of the ballot for printing if the withdrawal is submitted

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440 in writing by the candidate to any Election Board member, excluding alternates.

441 102.12-3. *Withdrawal Prior to the Opening of the Polls.* After the ballot is printed, a candidate  
 442 may withdraw his or her name from the election prior to the opening of the polls by submitting in  
 443 writing a statement indicating they are withdrawing from the election to any Election Board  
 444 member, excluding alternates.

445 (a) This written withdrawal statement shall be posted alongside any sample ballot printed  
 446 prior to the election in the official media outlets of the Nation or any posting at the  
 447 polling places.

448 102.12-4. *Withdrawal After Opening of the Polls.* A candidate may withdraw after the opening  
 449 of the polls by submitting a request to be removed from the ballot, in writing, to the Election  
 450 Board members in charge of the polling place.

451 (a) The written withdrawal statement shall be posted next to any posted sample ballot.

452 102.12-5-14. *Candidate Withdrawal After Winning an Election but Before the Oath is Taken.*

453 (a) In the event a candidate declines an office after winning an election, the Election  
 454 Board shall declare the next highest vote recipient the winner. This procedure shall be  
 455 repeated as necessary until a winner is declared.

456 (b) If all vote recipients decline or are otherwise unable to be declared the winner, then a  
 457 Special Elections special election shall be held.

458 102.12-6.

## 459 2.6-Selection of Candidates

460 Section A *Candidate Withdrawal After Taking an Oath of Office.* In the event a candidate  
 461 declines an office after winning an election and taking an oath of office, the withdrawal shall be  
 462 treated as a resignation of an official.

## 463 102.13. Selection of Candidates

464 102.13-1. *Setting of a Caucus*

465 102.6-1. The Election Board shall be responsible for calling a caucus before any election is held.

466 (a) The caucus for the general election shall be held at least ~~ninety (90)~~ seventy-five (75)  
 467 calendar days prior to the election date. ~~Caucuses~~

468 (b) A caucus for ~~other elections~~ a special election shall be held at least forty-five (45)  
 469 calendar days prior to the election date.

470 (c) In a general election year, caucuses shall be combined so that candidates for the  
 471 Oneida Business Committee and other elected ~~boards, committees and~~  
 472 ~~commissions~~ positions are nominated at the same caucus.

473 102.6-13-2. *Caucus Procedures.* The procedures for ~~the~~ a caucus shall be as follows:

474 (a) ~~Candidates~~ (a) Each position shall be opened and closed for nominations by motion  
 475 during the caucus. A nomination for a position shall only be accepted when a position is  
 476 open for nominations.

477 (1) Once nominations are closed for a particular position, an applicant may  
 478 petition to be on the ballot for that position.

479 (b) Once a position is opened for nominations a candidate shall be nominated for a  
 480 position from the floor.

481 (b) ~~Candidates~~ (1) An individual shall not nominate himself or herself for a  
 482 position during the caucus.

483 (c) A candidate present at the caucus ~~will~~ shall accept ~~or~~ decline their nomination at the  
 484

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caucus. ~~Candidates~~A candidate nominated at the caucus, but not present at the caucus to accept the nomination, shall be required to follow the petition process.

(e) Nominations shall consist of the following positions:

(1) Oneida Business Committee Chairperson;

(2) Oneida Business Committee Vice-Chairperson;

(3) Oneida Business Committee Treasurer;

(4) Oneida Business Committee Secretary;

(5) Oneida Business Committee Council Member; and

(6) Any other elected positions as required by ~~by laws or creating documents of a board, committee, or commission.~~bylaws, resolution, or law of the Nation.

Section B102.13-3. Petition

~~102.6-3. for Candidacy.~~ Any eligible member of the Nation may petition to be placed on a ballot ~~according to the following procedures for an election.~~ The procedure for a petition for candidacy shall be as follows:

(a) Each petitioner, not nominated at caucus, shall file a petition ~~containing endorsee's original signatures; photocopies shall not be accepted.~~

~~(b) Petitioners for candidacy. A petitioner~~ shall use an official petition form ~~as designated by this law and application for candidacy~~ which may be obtained in the Business Committee Support Office of the Nation's Secretary or from the mailing for that caucus.

(b) A petitioners shall obtain at least ten (10) signatures of qualified voters on the petition form. The petition form shall contain the original signatures of the qualified voters. Photocopies of signatures shall not be accepted.

(c) The petition form shall consist of each ~~endorsee's~~qualified voter's:

(1) printed name and address;

(2) date of birth;

(3) ~~Oneida Nation Enrollment Number~~enrollment number; and

(4) signature.

~~(d) Petitioners shall obtain not less than ten (10) signatures of qualified voters as defined under this law.~~

~~(e)~~(d) Petitions shall be presented to the Nation's Secretary, or ~~designated agent,~~the Business Committee Support Office during normal business hours, 8:00 a.m. to 4:30 p.m. Monday through Friday, but no later than prior to close of business five (5) business days after the caucus. The location to drop-off petitions shall be identified in the mailing identifying the caucus date.

~~(f)~~ The Nation's Secretary shall forward all petitions to the Election Board Chairperson the next business day following the close of petition submissions.

~~(g)~~(f) The Election Board shall ~~have~~forward the petitions to the Trust Enrollment Department ~~verify~~for verification of all signatures contained on the petition.

~~102.6-4. A person who runs for a position on the Oneida Business Committee, or a position on a judicial court or commission, shall not run for more than one (1) elective office or seat per election.~~

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530 **102.714. Notice of Polling Places**

531 102.714-1. The Election Board shall post a notice of the election in the prominent locations and  
532 on the official media outlets, stating the location of the polling places and the time the polls will  
533 be open. This notice shall also be posted in an easily visible position, close to the entrance of the  
534 Nation's businesses/ and/or facilities.

535 102.714-2. Polling Notice of the election and polling information shall be posted no less than ten  
536 (10) calendar days prior to the election, and shall remain posted until the poll closes on the day  
537 of the election.

538 102.714-3. Except for a Special Election special election, notice for the election shall be mailed  
539 to all Nation members of the Nation, stating the time and place of the election and a sample of  
540 the ballot, no less than ten (10) calendar days prior to the election, through a mass mailing. The  
541 Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than  
542 twenty (20) calendar days prior to the requested mailing.

543  
544 ~~102.7-4. Notice of the election shall be placed in the Nation's newspaper.~~

545  
546 **102.815. Registration of Voters**

547 Section A. Requirements

548 102.815-1. Voter Registration of Voters. All enrolled members of the Nation, who are eighteen  
549 (18) years of age or over, are qualified. Qualified voters of such shall physically register on the  
550 day of the election(s) as defined in Article III, Section at the polls by signing his or her name on  
551 an official Voter Registration Form containing the following information:

552 (a) name;

553 (b) date of birth; and

554 (c) enrollment number.

555 ~~102.15-2 of the Oneida Nation Constitution.~~

556  
557 Section B. Identification of Voters

558 102.8-2. All qualified voters ~~must~~shall present one of the following picture identifications in  
559 order to be able to vote:

560 (a) Oneida Nation I.D. identification card;

561 (b) Drivers License. Driver's license; or

562 (c) Other I.D. with identification card that contains a name and photo photograph.

563  
564 Section C. Registration Procedures

565 ~~102.8-3. Voters shall physically register, on the day of the election, at the polls.~~

566 102.8-4. 102.15-3. Trust Enrollment Department personnel shall be responsible for verifying  
567 enrollment with the Nation. Conduct The conduct of Trust Enrollment Department personnel is  
568 governed by the Election Officials Board members during the voting period.

569 102.8-5. ~~Every person who intends to vote must sign his/her name on an official Voter~~  
570 Registration Form containing the voter's following information:

571 (a) name and maiden name (if any);

572 (b) current address;

573 (c) date of birth; and

574 (d) enrollment number.

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575  
576 ~~Section D. Qualification~~ 15-4. Verification of Voter Eligibility  
577 ~~102.8-6.~~ Should a question or dispute arise as to the eligibility of a voter an individual being  
578 qualified to vote, ~~the Judges of the Election Officials appointed by the~~ an Election Board  
579 ~~Chairperson~~ member serving as an election judge shall meet with the Trust Enrollment  
580 Department personnel who are registering voters, to decide the voting member's eligibility  
581 currently being questioned, and shall make such decisions from the facts available, whether the  
582 applicant is, in fact, qualified and verifiable under ~~the Oneida Nation Constitution,~~ Article III  
583 Section 2; of the Constitution to vote in the Nation's elections.

584 ~~102.8-7~~ 15-5. Any voter denied eligibility shall not be allowed to vote in the election.  
585

### 586 102.16. Election Process

587 ~~, provided~~ 102.16-1. Public Test of Ballot Machines. No more than ten (10) days prior to an  
588 election, the Election Board shall publically test the ballot machines to ensure that the ballot  
589 machine correctly counts the votes cast for all offices and on all measures.

590 (a) Notice of the public test of the ballot machines shall be ~~placed in an envelope,~~  
591 ~~initialed by two (2) Election Officials, sealed and numbered.~~ The name of the  
592 voter posted in the Nation's official media outlets at least ten (10) days prior to the public  
593 test.

594 (b) All ballot machines shall be ~~written next to a numbered list which corresponds to the~~  
595 ~~numbered and sealed envelope. The voter shall~~ tested during the public test, no matter  
596 what polling location the ballot machines will ultimately be ~~required to mail a written~~  
597 ~~appeal to the Election Board at P.O. Box 413, Oneida, Wisconsin, 54155, postmarked~~  
598 ~~within two (2) business days of the election if they desire to challenge the decision made~~  
599 ~~by the Election Officials.~~ used for.

600 (b) The Election Board shall ~~make a final decision, within five (5) business days of~~  
601 ~~receiving the appeal and shall report this decision in the final report sent to the Oneida~~  
602 ~~Business Committee~~ conduct the test by processing a pre-audited group of marked ballots  
603 to ensure the machine properly records the predetermined number of votes on the test  
604 ballots.  
605

### 606 ~~102.9~~ 16-2. Election Process

#### 607 Section A. Polling Places and Times

608 ~~102.9-1. In accordance with Article III, Section 5 of the Oneida Nation Constitution, elections~~  
609 ~~shall be held in the month of July on a date set by the General Tribal Council. The General~~  
610 ~~Tribal Council shall set the election date at the January annual meeting, or at the first GTC~~  
611 ~~meeting held during a given year. Special~~ Location. Elections shall be ~~set in accordance with~~  
612 ~~102.12-6.~~

613 ~~102.9-2. Elections shall be held in an Oneida~~ facilities of the Nation facility(s) as determined by  
614 the Election Board.

615 ~~102.9~~ 16-3. Polling Time. Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m.  
616 All qualified voters in line to vote at 7:00 p.m. shall be allowed to vote.

617 (a) If a ballot counting machine is used, the ballot counting machine shall be prepared  
618 prior to 7:00 a.m. on the day of the election. The Election Judges shall open the polls  
619 only after four (4) members of the Nation verify, through signature on the tape, the ballot

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620 box is empty and the ballot counting machine printer tape has a zero (0) total count.

621 ~~102.9-4.~~102.16-4. *Voter Assistance.* A voter who requires assistance to complete the voting  
622 process, due to a disability or impairment, may request assistance from a member of the Election  
623 Board or from another qualified voter.

624 102.16-5. At least one (1) Oneida Police Officer shall be present during the time the polls are  
625 open, and until the counting of ballots is completed, and tentative results are posted.

626 ~~102.9-5~~16-6. The Election Board shall provide a voting area sufficiently isolated for each  
627 qualified voter, such that there is an area with at least two (2) sides and a back enclosure.

628 ~~102.9-6. No campaigning of any type shall be conducted within two hundred eighty (280) feet of~~  
629 ~~the voting area, excluding private property.~~

630 ~~102.9~~16-7. No one causing a disturbance shall be allowed in the voting area.

631 ~~102.9~~16-8. Election Board members may restrict the voting area to qualified voters only. This  
632 restriction is in the interest of maintaining security of the ballots and voting process.

633  
634 ~~Section B~~102.16-9. *Ballot Box*

635 ~~102.9-9.~~ All ballots being votes, shall be placed in a receptacle clearly marked "Ballot Box" and  
636 shall be locked until counting at the close of polls. Provided that, with electronic ballot counting,  
637 the ballots may be placed within the ballot counting machine as they are received.

638  
639 ~~Section C~~(a) *Ballots from each polling location shall remain separate.*

640 102.16-10. *Spoiled Ballots*

641 ~~102.9-10.~~ If a voter spoils his ~~or~~ her ballot, he ~~or~~ she shall be given a new ballot.

642 ~~102.9-11.~~(a) The spoiled ballot shall be marked "~~VOID~~void" and initialed by two (2)  
643 Election ~~Officials~~Board members and placed in ~~an envelope~~ a locked sealed container  
644 marked as "Spoiled Ballots." The voter who spoiled his or her ballot shall witness the  
645 spoiled ballot be marked as "void" and placed into the locked sealed container.

646 ~~102.9-12.~~(b) The Spoiled Ballot ~~envelopes~~ locked sealed containers shall be retained and  
647 secured for no less than fifteen (15) calendar days following finalization of any challenge  
648 of the election, at the Records Management Department.

649  
650 ~~Section D~~102.16-11. *Rejected Ballots*

651 ~~102.9-13.~~ Rejected Ballots are to be placed in a specially marked container and sealed.

652 (a) Computer rejected ballots shall be reviewed by the Election ~~Officials~~Board members  
653 to verify the authenticity of the ballot. Ballots rejected because of mutilation shall be  
654 added to the final computer total, provided that, a new ballot was not received as set out  
655 in ~~sections~~section 102.916-10 through 102.9-12governing spoiled ballots.

656 (b) Ballots rejected, either during the computer process or during a manual counting,  
657 shall be reviewed by the Election ~~Officials~~Board members to verify that they are  
658 authentic. If the Election ~~Officials~~Board members determine that the ballot is not an  
659 official ballot, or that it is an illegal ballot, the ballot shall be designated ~~"void,"~~ and  
660 placed in a sealed container marked "Void Ballots."

661  
662 ~~102.10. *Tabulating and Securing Ballots*~~

663 ~~Section A~~16-12. *Machine Counted Ballots*

664 ~~102.10-1.~~ When ballots are counted by machine, ~~at the close of polls the~~Election Judges shall

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665 generate from the ballot counting machine copies of the election totals from the votes cast at the  
666 close of the polls.

667 ~~102.10-2.~~(a) At least ~~six~~ four (4) Election Board members shall sign the election totals,  
668 which shall include the tape signed by the members of the Nation before the polls were  
669 opened per section 102.916-3(a).

670  
671 ~~Section B~~102.16-13. Manually Counted Ballots

672 ~~102.10-3.~~ When ballots are manually counted, ~~at the close of polls the~~Election Judges shall  
673 unlock the ballot box and remove the ballots at the close of the polls.

674 ~~102.10-4.~~(a) If the ballots need to be counted at a location other than the polling site, the  
675 ballots shall be secured in a sealed container for transportation to the ballot counting  
676 location. The sealed ballots shall be transported by an Oneida Police Officer with at least  
677 three (3) of the Election ~~Officials~~Board members for counting ~~and~~ tallying of ballots.

678 ~~102.10-5.~~(b) The sealed ballots shall be opened at the time of counting by the Election  
679 ~~Officials~~Board members and witnessed ~~and~~ monitored by an Oneida Police Officer.

680 ~~102.10-6.~~(c) Ballots must be counted by two (2) different Election ~~Officials~~Board  
681 members until two (2) final tallies are equal in back to back counting. Final tallies shall  
682 be verified by the Election Judges.

683  
684 ~~Section C~~102.16-14. Securing Ballots

685 ~~102.10-7.~~ The Election Judges shall place together all ballots counted and secure them together  
686 so that they cannot be untied or tampered with without breaking the seal. The secured ballots,  
687 and the election totals with the signed tape, if applicable, shall then be secured by the Election  
688 Judges in a sealed container in such a manner that the container cannot be opened without  
689 breaking the seals or locks, or destroying the container. The Oneida Police Officer shall then  
690 deliver, on the day of the election, the sealed container to the Records Management Department  
691 for ~~retaining~~retention.

692  
693 **102.1117. Election Outcome and Ties**

694 ~~Section A~~102.17-1. Election Results Announcement

695 ~~102.11-1.~~ The tentative results of an election shall be announced and posted by the Election  
696 Board within twenty-four (24) hours after the closing of the polls. Notices of election results  
697 shall contain the following statement:

698 "The election results posted here are tentative results. Final election results are forwarded by the  
699 Oneida Election Board to the Oneida Business Committee via a Final Report after time has  
700 lapsed for recount requests, or challenges or after all ~~recounts~~ or challenges have been  
701 completed, whichever is longer"

702 ~~102.1117-2.~~ The Election Board shall post, the tentative results of the election in the prominent  
703 locations, and publish in the tentative results on the Nation's ~~newspaper, the tentative results of~~  
704 an election website.

705  
706 ~~Section B. Tie~~

707 ~~102.1117-3.~~ Tie. In the event of a tie for any office, and where the breaking of a tie is necessary  
708 to determine the outcome of an election, the Election Board shall conduct an automatic recount

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709 of the votes for each candidate receiving the same number of votes. Any recount conducted shall  
710 be the only recount allowed for the tied candidates.

711 ~~102.11-4. For~~ 17-4. Ties of an Oneida Business Committee Position. For Oneida Business  
712 Committee positions, a run-off election between the candidates with the same number of votes  
713 shall be held if there remains a tie after the recount. Said run-off election shall be held within  
714 twenty one (21) calendar days after the recount.

715 102.17-5. Ties of Other Elected Positions. For all ~~other~~ elected positions other than the Oneida  
716 Business Committee, if there remains a tie after the recount, the Election Board shall decide the  
717 winner of the tied positions at least two (2) business days after, but no more than five (5)  
718 business days after the recount through a lot drawing, which shall be open to the public.

719 (a) The Election Board shall notify each of the tied candidates and the public of the date,  
720 time, and place of the drawing at least one (1) business day before the drawing. Notice to  
721 the tied candidates shall be in writing. Notice to the public shall be posted by the  
722 Election Board in the prominent locations.

723 (b) On the date and at the time and place the drawing was noticed, the Election Board  
724 Chairperson shall clearly write the name of each tied candidate on separate pieces of  
725 paper in front of any witnesses present. The pieces of paper shall be the same, or  
726 approximately the same, color, size, and type. The papers shall be folded in half and  
727 placed in a container selected by the Election Board Chairperson.

728 (c) The Election Board Chairperson shall designate an uninterested party to draw a name  
729 from the container. The candidate whose name is drawn from the container first shall be  
730 declared the winner. An Election Board member other than the Chairperson shall remove  
731 the remaining pieces of paper from the container and show them to the witnesses present.

732  
733 ~~Section~~ 102.18. Recount Procedures

734 ~~102.11-5.18-1. Eligibility for a Recount.~~ A candidate may request the Election Board to  
735 complete a recount, provided the margin between the requesting candidate's vote total and vote  
736 total for the unofficial winner was within two percent (2%) of the total votes for the office being  
737 sought or twenty (20) votes, whichever is greater.

738 102.18-2. Requesting a Recount. A candidate ~~requests~~ may request a recount by hand delivering  
739 a written request to the office of the Nation's Secretary; or ~~noticed designated agent~~ the Business  
740 Committee Support Office, within five (5) business days after the election.

741 (a) Requests shall be limited to one (1) request per candidate. \_

742 (b) The five (5) business day deadline for submitting a request for a recount may be  
743 extended for one (1) business day after the tentative results of a recount are announced,  
744 for a candidate who has not yet utilized his or her one (1) recount request, and who is  
745 directly impacted by a recount of the results which lead to a reversal in the results of the  
746 election.

747 102.18-3. The Nation's Secretary shall contact the Election Board Chairperson by the next  
748 business day after the request for recounts.

749 ~~102.11-6.18-4.~~ The Election Board shall ~~respond by~~ conduct the ~~close of~~ requested recount within  
750 two (2) business on the fifth (5<sup>th</sup>) day days after receiving the request ~~regarding the results of the~~  
751 recount. Provided that, no from the Nation's Secretary.

752 (a) No recount request need be honored where there have been two (2) recounts completed as a  
753 result of a request either as a recount of the whole election results, or of that sub-section.

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~~102.11-7. All recounts shall be conducted manually with, if possible, the original Election Officials and Oneida Police Officer present, regardless of the original type of counting process. Manual recounts may, at the discretion of the Election Officials, be of the total election results, or of the challenged sub-section of the election results.~~

~~102.11-8. The~~102.18-5. An Oneida Police Officer shall be responsible for picking up the locked, sealed container with the ballots from the Records Management Department and transporting it to the ballot recounting location.

~~102.11-9~~18-6. A recount shall be conducted by a quorum of the Election Board, including at least three (3) of the original Election ~~Officials.~~Board members. The locked, sealed ballots shall be opened by the Election Board Chairperson and an Oneida Police Officer shall witness the recount.

~~102.11-10. Recounting of ballots may be performed manually or by computer.~~18-7. All recounts shall be conducted both manually and by machine count with, if possible, the original Election Board members and Oneida Police Officer present. Recounts may, at the discretion of the Election Board members, be of the total election results, or of the challenged sub-section of the election results.

102.18-8. All ballots shall be counted until two (2) final tallies are equal in back to back counting and the total count of ballots reconciles with the total count from the ballot counting machine. Sub-sections of candidates may be recounted in lieu of a full recount.

(a) Manually counted ballots shall be recounted by the Election Board. Ballots shall be counted twice by different persons and certified by the Election Judges.

(b) Computer counted ballots shall be recounted twice and certified by the Election Judges. Prior to using an electronic ballot counting device, it shall be certified as correct either by the maker, lessor of the machine, or the Election Board.

~~Section D~~102.18-9. The Election Board shall post tentative results of the recount within twenty-four (24) hours of the recount being completed. The Election Board shall post the tentative results in the prominent locations, and publish on the Nation's website.

### **102.19. Challenges and Declaration of Results**

~~102.11-11~~19-1. *Challenges.* Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall hear and decide a challenge to any election within two (2) business days after the challenge is filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

(a) The person challenging the election results shall prove by clear and convincing evidence that the Election Law was violated or an unfair election was conducted, and that the outcome of the election would have been different but for the violation.

(b) If the Judiciary invalidates the election results, a ~~Special Election~~special election shall be ordered by the Judiciary for the office(s) affected to be held on a date set by the Judiciary for as soon as ~~the Election Law~~this law allows for a ~~Special Election~~special election.

~~102.11-12~~19-2. *The Final Report.* The Election Board shall forward a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts

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799 or challenges have been completed, whichever is longer. The Final Report shall consist of the  
800 following information:

- 801 (a) Total number of persons voting;  
802 (b) Total votes cast for each candidate by subsection of the ballot;  
803 (c) List of any ties and final results of those ties, including the method of resolution;  
804 (d) List of candidates elected and position elected to;  
805 (e) Number of spoiled ballots; and  
806 (f) Cost of the election, including the compensation paid to each Election Board member.

807 ~~102.11-13~~19-3. *Declaration of Results*. The Business Committee shall declare the official  
808 results of the election and send notices regarding when the swearing in of newly elected officials  
809 shall take place within ten (10) business days after receipt of the Final Report.

810 ~~102.11-14~~19-4. A candidate elected to the Oneida Business Committee shall resign  
811 from any salaried position effective prior to taking an Oneida Business Committee oath of  
812 office

813 ~~102.11-15~~19-5. Except in the event of an emergency, as determined by the Oneida Business  
814 Committee, a newly elected ~~officials~~official shall be sworn into office no later than thirty (30)  
815 calendar days after the official results of an election are declared by the Oneida Business  
816 Committee.

817 (a) If a newly elected official is not sworn in within thirty (30) calendar days, the seat  
818 shall be considered vacant and the Election Board shall declare the next highest vote  
819 recipient the winner. This procedure shall be repeated as necessary until a winner is  
820 declared.

821 (b) If all vote recipients decline or are otherwise unable to be declared the winner, then a  
822 ~~Special Elections~~special election shall be held.

823 ~~102.11-16~~19-6. The Election Board shall send notice to the Records Management Department to  
824 destroy the ballots thirty (30) calendar days after the election or after the final declaration of  
825 official election results occurs, whichever is longer.

826

827 **102.12. Elections** **20. Constitutional Amendments**

828 *Section A. Primary Elections; Business Committee*

829 ~~102.12-1~~20-1. ~~When a primary is required under 102.12-2, it shall be held on a Saturday at least~~  
830 ~~sixty (60) calendar days prior to the election.~~

831 ~~102.12-2. There shall be a primary election for Business Committee positions whenever there~~  
832 ~~are three (3) or more candidates for any officer positions or sixteen (16) or more candidates for~~  
833 ~~the at-large council member positions.~~

834 ~~(a) The two (2) candidates receiving the highest number of votes cast for each officer~~  
835 ~~position shall be placed on the ballot.~~

836 ~~(b) The fifteen (15) candidates receiving the highest number of votes cast for the at-large~~  
837 ~~council member positions shall be placed on the ballot.~~

838 ~~(c) Any position where a tie exists to determine the candidates to be placed on the ballot~~  
839 ~~shall include all candidates where the tie exists.~~

840 ~~102.12-3. The Election Board shall cancel the primary election if the Business Committee~~  
841 ~~positions did not draw the requisite number of candidates for a primary by the petitioning~~  
842 ~~deadline set for the primary.~~

843 ~~102.12-4. In the event a candidate withdraws or is unable to run for office after being declared a~~

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~~winner in the primary, the Election Board shall declare the next highest primary vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 102.5-11 and 102.5-12 shall be followed, including the requirement to print a notice in the Nation's newspaper if time lines allow.~~

*Section B. Special Elections*

~~102.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as defined in this law, may be placed on the same ballot as the subject matter of an election.~~

~~102.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business Committee as recommended by the Election Board or as ordered by the Judiciary in connection with an election challenge.~~

~~102.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent locations, and placed in the Nation's newspaper not less than ten (10) calendar days prior to the Special Election.~~

~~102.12-8. In the event of an emergency, the Election Board may reschedule the election, provided that no less than twenty four (24) hours notice of the rescheduled election date is given to the voters, by posting notices in the prominent locations.~~

*Section C. Referendums*

~~102.12-9. Registered voters may indicate opinions on any development, law or resolution, proposed, enacted, or directed by the Business Committee, or General Tribal Council, in a special referendum election.~~

~~(a) Referendum elections in which a majority of the qualified voters who cast votes shall be binding on the Business Committee to present the issue for action/decision at General Tribal Council.~~

~~(b) Referendum requests may appear on the next called for election.~~

~~(c) Referendum questions are to be presented to the Nation's Secretary, in writing, at the caucus prior to election, regarding issues directly affecting the Nation or general membership.~~

*Section D. Initiation of Special Elections*

~~102.12-10. Special Elections may be initiated by a request or directive of the General Tribal Council or the Oneida Business Committee.~~

~~102.12-11. Special Election may be requested by a member of the Nation to the Business Committee or General Tribal Council.~~

~~102.12-12. All Special Elections shall follow rules established for all other elections. This includes positions for all Boards, Committees and Commissions.~~

**102.13. Oneida Nation Constitution and By-law Amendments**

~~102.13-1. Pursuant to Article VI of the Oneida Nation Constitution, amendments to the Oneida Nation Constitution and By-laws may be initiated by the Oneida Business Committee or a petition of qualified voters.~~

102.20-2. Constitutional Amendments by the Oneida Business Committee. The requirements for the Oneida Business Committee's initiation of ~~Constitutional~~ amendments to the Constitution are

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889 as provided in the Constitution ~~and as~~ Additional requirements for constitutional amendments  
 890 by the Oneida Business Committee shall be further detailed in the supporting standard operating  
 891 procedures which the Oneida Business Committee shall adopt.

892 102.20-3. Constitutional Amendments by a Petition of Qualified Voters. Qualified voters may  
 893 petition to amend the ~~Oneida Nation~~ Constitution ~~and By-laws~~ by submitting a petition to ~~the~~  
 894 ~~Office of~~ the Nation's Secretary which includes the full text of the proposed amendments and  
 895 signatures that are equal in number to at least ten percent (10%) of all members qualified to vote.

896 (a) Qualified voters may request a petition form from the ~~Office of the~~ Nation's  
 897 Secretary or the Business Committee Support Office.

898 (b) When a petition form is requested, the Nation's Secretary, or his or her designee,  
 899 shall direct the Trust Enrollment Department to calculate the number of signatures  
 900 currently required for a petition submittal, which shall be ten percent (10%) of all  
 901 members qualified to vote on the date the petition form is requested from the ~~Office of~~  
 902 ~~the~~ Nation's Secretary or the Business Committee Support Office. When the Nation's  
 903 Secretary receives the calculation from the Trust Enrollment Department, the Nation's  
 904 Secretary shall provide the requester with the petition form and the number of signatures  
 905 that are currently required.

906 (c) Such petitions shall be circulated with all supporting materials and submitted a  
 907 minimum of ninety (90) days prior to the election at which the proposed amendment is to  
 908 be voted upon. If a petition includes supporting materials in addition to the petition form,  
 909 each qualified voter signing the petition shall also acknowledge that the supporting  
 910 materials were available for review at the time he or she signed the petition by initialing  
 911 where required on the petition form.

912 (d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment  
 913 Department for verification of signatures and to notify the Election Board to provide  
 914 notice that the petition may need to be placed on an upcoming ballot.

915 (e) If the petition is verified by the Trust Enrollment Department to contain signatures  
 916 from at least ten percent (10%) of all qualified voters, the Election Board shall make an  
 917 official announcement of the proposed amendments to the Oneida Nation Constitution at  
 918 least sixty (60) days prior to the election at which the proposed amendments are to be  
 919 voted on.

920 102.13-220-4. The Election Board shall place any proposed amendments to the Oneida Nation  
 921 Constitution that meet the requirements ~~contained in 102.13-1~~ of this law on the ballot at the next  
 922 general election. Provided that, the Oneida Business Committee or General Tribal Council may  
 923 order a special election be held to consider the proposed amendments. In such circumstances,  
 924 the Election Board shall place any proposed amendments to the Oneida Nation Constitution on  
 925 the ballot at the next special election.

926 102.13-320-5. The Election Board shall publish any proposed amendments to the Constitution by  
 927 publishing a sample ballot no less than ten (10) calendar days prior to the election, through a  
 928 mass mailing. The Trust Enrollment Department shall be notified, by the Election Board  
 929 Chairperson, no less than twenty (20) calendar days prior to the requested mailing. Copies of  
 930 such publications shall be prominently posted in each polling place ~~and~~ at administrative offices  
 931 of the Nation, and shall also be published in the official ~~Oneida~~ media outlets, ~~which the Oneida~~  
 932 ~~Business Committee shall identify by resolution. For the purposes of this section, Oneida~~  
 933 ~~administrative offices means the location where the Oneida Business Committee conducts~~

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934 ~~business.~~  
935 | 102.~~13-4~~20-6. The Election Board shall ensure that the ballot contains a statement of the purpose  
936 of the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall  
937 ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a  
938 true and impartial statement and is written in such a manner that does not create prejudice for or  
939 against the proposed amendment.  
940 | 102.~~13-5~~20-7. Pursuant to Article VI, Section 3 of the ~~Oneida Nation~~ Constitution, proposed  
941 amendments that are approved by sixty-five percent (65%) of the qualified voters that vote on  
942 that amendment shall become part of the Constitution ~~and By laws~~, and shall abrogate or amend  
943 existing provisions of the Constitution ~~and By laws~~ at the end of thirty (30) days after  
944 submission of the final election report.  
945 | 102.~~13-6~~20-8. If two (2) or more amendments approved by the voters at the same election  
946 conflict, the amendment receiving the highest affirmation vote prevails.  
947  
948

949 *End.*

950

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952 Adopted - June 19, 1993  
953 Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)  
954 | Presented for Adoption of 1997 Revisions - GTC-~~707~~-6-98-A  
955 Amended- October 11, 2008 (General Tribal Council Meeting)  
956 Amended-GTC-01-04-10-A  
957 Amended – BC-02-25-15-C  
958 | Amended – GTC-04-23-17-A  
959 Amended – GTC- - - -

## Title 1. Government and Finances - Chapter 102

### ELECTION

#### Onayote'a'ká· Tho Ni· Yót Tsi? Ayethiyataláko Tsi? Kayanl'hsla

*People of the Standing Stone how it is we will appoint them the kind of laws we have*

102.1. Purpose and Policy	102.11. Campaign Signs and Campaigning
102.2. Adoption, Amendment, Repeal	102.12. Candidate Withdrawal from the Election
102.3. Definitions	102.13. Selection of Candidates
102.4. Election Board	102.14. Notice of Polling Places
102.5. General Election	102.15. Registration of Voters
102.6. Special Election	102.16. Election Process
102.7. Referendums	102.17. Election Outcomes and Ties
102.8. Primary Elections for Oneida Business Committee Positions	102.18. Recount Procedures
102.9. Candidate Eligibility	102.19. Challenges and Declaration of Results
102.10. Campaign Financing	102.20. Constitutional Amendments

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#### 102.1. Purpose and Policy

102.1-1. It is the purpose of this law to govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations. Because of the desire for orderly and easily understood elections, there has not been an allowance made for write-in candidates on ballots.

102.1-2. It is the policy of the Nation to have clearly defined duties and responsibilities of the Election Board members and other persons employed by the Oneida Nation in the conduct of elections. This law is intended to govern all procedures used in the election process.

#### 102.2. Adoption, Amendment, Repeal

102.2-1. This law was adopted by the Oneida General Tribal Council by resolution GTC 07-06-98-A and amended by resolutions GTC-01-04-10-A, BC-02-25-15-C, GTC-04-23-17-A, and GTC-\_\_-\_\_-\_\_-\_\_

102.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

102.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

102.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

102.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

#### 102.3. Definitions

102.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Administrative offices" means the locations where the Oneida Business Committee conducts business.

(b) "Alternate" shall mean an individual appointed by the Business Committee to serve on the Election Board during an election and until election results have been certified.

(c) "Applicant" shall mean a potential candidate who has not yet been officially approved for acceptance on a ballot.

(d) "Business day" shall mean Monday through Friday, 8:00 a.m. – 4:30 p.m., excluding holidays of the Nation.

(e) "Campaigning" shall mean all efforts designed to influence members of the Nation to support or reject a particular candidate of the Nation including, without limitation,

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- 36 advertising, rallying, public speaking, or other communications with members of the  
37 Nation.
- 38 (f) “Candidate” shall mean a petitioner or nominee for an elected position whose name is  
39 placed on the ballot by the Election Board after successful application.
- 40 (g) “Clerk” shall mean an Election Board member who identifies proper registration for  
41 the purpose of determining voter eligibility.
- 42 (h) “Close of business” shall mean 4:30 p.m. Monday through Friday.
- 43 (i) “Conflict of Interest” shall mean any interest, whether it be personal, financial,  
44 political or otherwise, in which a Nation elected official, employee, consultant, appointed  
45 or elected, member of any board, committee or commission, or their immediate relatives,  
46 friends or associates, or any other person with whom they have contact, that conflicts  
47 with any right of the Nation to property, information, or any other right to own and  
48 operate its enterprises, free from undisclosed competition or other violation of such rights  
49 of the Oneida Nation, or as defined in any law or policy of the Nation.
- 50 (j) “Constitution” means the Constitution and By-laws of the Oneida Nation.
- 51 (k) “Election” shall mean every primary and election.
- 52 (l) “Election Judge” shall mean an Election Board member who informs and advises the  
53 Election Board Chairperson of discrepancies, complaints and controversy regarding voter  
54 eligibility.
- 55 (m) “General election” shall mean the election held every three (3) years in July to elect  
56 the Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members  
57 of the Oneida Business Committee, and may include elections for other elected positions.
- 58 (n) “Immediate family member” means an individual’s father, mother, grandparent,  
59 sister, brother, wife, husband, daughter, son, father-in-law, mother-in-law, sister-in-law,  
60 brother-in-law, daughter-in-law, son-in-law, step-father, step-mother, step-sister, step-  
61 brother, step-daughter, step-son, and any of the these relations attained through legal  
62 adoption.
- 63 (o) “Judiciary” means the judicial system that was established by Oneida General Tribal  
64 Council resolution GTC-01-07-13-B to administer the judicial authorities and  
65 responsibilities of the Nation.
- 66 (p) “Lot drawing” shall mean the equal chance method used to select a candidate as the  
67 winner of an elected position, in the case of a tie between two (2) or more candidates.
- 68 (q) “Nation” means the Oneida Nation.
- 69 (r) “Official media outlets” means the Oneida Nation’s website and the Kalihwisaks  
70 newspaper as identified by the Oneida Business Committee through resolution BC-03-22-  
71 17-B.
- 72 (s) “Oneida Police Officer” shall mean an employed as a police officer with the Oneida  
73 Police Department.
- 74 (t) “Private property” shall mean any lot of land not owned by the Nation, a residential  
75 dwelling or a privately owned business within the boundaries of the Reservation.
- 76 (u) “Prominent locations” shall mean the polling places, main doors of the Norbert Hill  
77 Center, main doors of the Oneida Community Library, the Oneida Community Health  
78 Center, the South Eastern Oneida Tribal Services (SEOTS) building, and all fuel stations  
79 operated by the Nation.
- 80 (v) “Qualified voter” shall mean an enrolled member of the Nation who is eighteen (18)

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81 years of age or older as defined in Article III, Section 2 of the Constitution.

82 (w) “Rejected Ballots” shall mean those ballots which are rejected by the vote tabulating  
83 machine.

84 (x) “Spoiled Ballot” shall mean a ballot which contains a voter error or is otherwise  
85 marred and is not tabulated.

86 (y) “Teller” shall mean an Election Board member in charge of collecting and storing of  
87 all ballots.

88

89 **102.4. Election Board**

90 102.4-1. *Establishment.* An Election Board is hereby created for the purpose of carrying out the  
91 provisions of this law and Article III, Sections 2 and 3 of the Constitution.

92 102.4-2. *Composition.* The Election Board shall consist of nine (9) elected members. All  
93 members shall be elected to terms of three (3) years.

94 102.4-3. *Recusal.* An Election Board member shall recuse himself or herself from participating  
95 as an Election Board member in any pre-election, election day, or post-election activities when:

96 (a) he or she is a petitioner, applicant or candidate in any election;

97 (b) a petitioner, applicant, or candidate in any election is an immediate family member of  
98 the Election Board member; or

99 (c) there is otherwise a conflict of interest.

100 102.4-4. *Vacancies.* Any vacancy in an unexpired term shall be filled by appointment by the  
101 Oneida Business Committee for the balance of the unexpired term. The filling of a vacancy may  
102 be timed to correspond with the pre-election activities and the needs of the Election Board.

103 102.4-5. The Election Board shall identify members who shall serve as tellers, Election Judges  
104 and clerks in advance of an election.

105 102.4-6 *Election Board Alternates.* The Oneida Business Committee may appoint or reappoint a  
106 sufficient number of alternates to the Election Board, as recommended by the Election Board, to  
107 assist with election day and pre-election activities.

108 102.4-7. The Election Board shall choose a Chairperson from amongst themselves as set out in  
109 the bylaws of the Election Board, to preside over the meetings. This selection shall be carried  
110 out at the first meeting of the Election Board following an election. The Chairperson shall then  
111 ask the Election Board to select a Vice-Chairperson and a Secretary.

112 102.4-8. *Duties of the Election Board.* The Election Board shall have the following duties, along  
113 with other responsibilities listed throughout this law:

114 (a) The Election Board shall ensure that the election polling equipment and ballots are  
115 maintained in a locked and secured area when not in use for an election;

116 (b) The Election Board shall develop and adhere to standard operating procedures  
117 regarding election activities and responsibilities;

118 (1) Actions of the Election Board regarding standard operating procedures shall  
119 be presented to the Business Committee who shall then adopt or forward action(s)  
120 to the General Tribal Council for adoption.

121 (c) The Election Board shall assist individuals with disabilities through the voting  
122 process;

123 (d) The Election Board shall be in charge of all registration and election procedures; and

124 (e) Upon completion of an election, the Election Board shall make a final report on the  
125 election results.

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126 102.4-9. *Specific Duties of Officers and Election Board Members.* All Election Board members  
127 shall be required to attend all Election Board meetings. Additional specific duties of the  
128 Chairperson and other Election Board members include the following:

129 (a) *Chairperson.* The Chairperson of the Election Board shall conduct the following  
130 duties:

- 131 (1) preside over meetings of the Election Board;
- 132 (2) oversee the conduct of the election;
- 133 (3) dismiss the alternates and Trust Enrollment Department personnel when their  
134 election day duties are complete; and
- 135 (4) post and report election results.

136 (b) *Vice-Chairperson.* The Vice-Chairperson shall preside over all meetings in the  
137 absence of the Chairperson.

138 (c) *Secretary.* The Secretary shall keep a record of the meetings and make them available  
139 to the Nation's Secretary, other Election Board members, and the public as required in  
140 the Nation's laws and policies governing open records and open meetings.

141 (d) *Clerks.* The clerks shall implement the requirements of identifying and registering all  
142 voters and determining voter eligibility. Clerks shall work in conjunction with the Trust  
143 Enrollment Department personnel in the registration process, and assist the Chairperson  
144 as directed in conducting the election.

145 (1) Clerks shall not be currently employed by the Trust Enrollment Department.

146 (e) *Tellers.* Tellers shall collect and keep safe all ballots until the election is complete, as  
147 determined by this law, and shall assist the Chairperson in conducting the election.

148 (f) *Election Judges.* Election Judges shall inform and advise the Chairperson of all  
149 aspects of the election conducted under this law. In case of disputes among Election  
150 Board members, or between members of the Nation and Election Board members, or any  
151 controversy regarding voter eligibility, the election judge(s) shall assist the Chairperson  
152 in making a determination.

153 102.4-10. *Stipend Rates.* Election Board members shall receive a stipend in accordance with the  
154 Nation's laws, policies, and resolutions governing boards, committees, and commissions.  
155 Election members are to be compensated at an hourly rate when conducting elections as provided  
156 for in the Election Board's bylaws as approved by the Oneida Business Committee.

157 102.4-11. *Compensation of other Election Personnel.* The Trust Enrollment Department  
158 personnel and Oneida Police Officer(s) shall be compensated at their regular rate of pay out of  
159 their respective budgets when performing official duties during an election in accordance with  
160 this law.

161 102.4-12. *Enforcement.* A member of the Election Board found to be in violation of this law  
162 may be subject to:

163 (a) removal pursuant to any laws and/or policies of the Nation's governing removal, if  
164 the Election Board member was elected to his or her position;

165 (1) A member who is removed from the Election Board shall be ineligible to  
166 serve on the Election Board for three (3) years from the time he or she is removed  
167 from the Election Board.

168 (b) termination of appointment by the Oneida Business Committee pursuant to any laws  
169 and/or policies of the Nation governing boards, committees, and commissions, if the  
170 Election Board member was appointed to his or her position by the Oneida Business

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171 Committee; and/or  
172 (c) sanctions and penalties pursuant to any laws and/or policies of the Nation governing  
173 sanctions and/or penalties.  
174

### 175 **102.5. General Elections**

176 102.5-1. In accordance with Article III, Section 5 of the Constitution, general elections shall be  
177 held in the month of July on a date set by the General Tribal Council.

178 (a) The General Tribal Council shall set the election date at the January annual meeting,  
179 or at the first General Tribal Council meeting held during a given year.  
180

### 181 **102.6. Special Elections**

182 102.6-1. *Initiation of Special Elections.* A special election may be initiated by a request or  
183 directive of the General Tribal Council or the Oneida Business Committee.

184 (a) A member of the Nation may make a request for a special election to the Oneida  
185 Business Committee or the General Tribal Council.

186 102.6-2. Matters subject to a special election include, but are not limited to, referendum  
187 questions, vacancies, and/or petitions. Matters subject to a special election may be placed on the  
188 ballot of a general election.

189 102.6-3. A special election shall follow the processes and procedures established for all other  
190 elections.

191 102.6-4. The date of a special elections shall be set by the Oneida Business Committee as  
192 recommended by the Election Board, or as ordered by the Judiciary in connection with an  
193 election challenge.

194 102.6-5. *Notice of Special Elections.* Notice of a special election shall be posted by the Election  
195 Board in the prominent locations, and placed in the Nation's official media outlets not less than  
196 ten (10) calendar days prior to the special election.

197 102.6-6. *Emergency Cancellation of Special Elections.* In the event of an emergency, the  
198 Election Board may reschedule the special election, provided that no less than twenty-four (24)  
199 hour notice of the rescheduled special election date is given to the voters, by posting notices in  
200 the prominent locations.  
201

### 202 **102.7. Referendums**

203 102.7-1. A qualified voter may submit a referendum question to be included on the ballot for a  
204 general or special election for the purpose of soliciting an opinion from the voters of that election  
205 on any issue directly affecting the Nation or its general membership.

206 102.7-2. The Nation's Secretary shall develop and make available in the Business Committee  
207 Support Office a standard referendum form.

208 102.7-3. A referendum question shall be written in a manner that solicits a "yes" or "no"  
209 response.

210 102.7-4. The referendum form shall be presented to the Nation's Secretary at the caucus prior to  
211 an election. Once received at a caucus, the referendum question shall be placed on the ballot of  
212 the next election.

213 102.7-5. The results of a referendum question in which a majority of the qualified voters who  
214 cast votes shall be binding on the Oneida Business Committee to present the issue for action  
215 and/or decision at General Tribal Council.

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216

217 **102.8. Primary Elections for Oneida Business Committee Positions**

218 102.8-1. There shall be a primary election for an Oneida Business Committee position whenever  
219 there are three (3) or more candidates for any officer position or sixteen (16) or more candidates  
220 for the at-large council member positions.

221 (a) The two (2) candidates receiving the highest number of votes cast for each officer  
222 position shall be placed on the ballot.

223 (b) The fifteen (15) candidates receiving the highest number of votes cast for the at-large  
224 council member positions shall be placed on the ballot.

225 (c) Any position where a tie exists to determine the candidates to be placed on the ballot  
226 shall include all candidates where the tie exists.

227 102.8-2. The primary election shall be held on a Saturday at least thirty (30) calendar days prior  
228 to the election.

229 102.8-3. The Election Board shall cancel the primary election if the Oneida Business Committee  
230 positions did not draw the requisite number of candidates for a primary by the petitioning  
231 deadline set for the primary election.

232 102.8-4. In the event a candidate withdraws or is unable to run for office after being declared a  
233 winner in the primary, the Election Board shall declare the next highest primary vote recipient  
234 the primary winner. This procedure shall be repeated as necessary until the ballot is full or until  
235 there are no available candidates. If the ballot has already been printed, the procedures for  
236 notifying the Oneida public in section 102.12-3 and 102.12-4 shall be followed, including the  
237 requirement to print a notice in the Nation's official media outlets if time lines allow.

238

239 **102.9. Candidate Eligibility**

240 102.9-1. All applicants shall meet the minimum eligibility requirements in order to become a  
241 candidate, in addition to any specific requirements and/or exceptions set out in duly adopted  
242 bylaws or other documents.

243 102.9-2. *Minimum Eligibility Requirements.* In order to be eligible to be a candidate, applicants  
244 shall:

245 (a) be an enrolled member of the Nation, as verified by membership rolls of the Nation;

246 (b) be a qualified voter on the day of the election; and

247 (c) provide proof of physical residency as required for the position for which they have  
248 been nominated or for which they have petitioned. Proof of residency may be through  
249 one (1) or more of the following:

250 (1) a valid Wisconsin driver's license;

251 (2) a bill or pay check stub showing name and physical address of the candidate  
252 from the prior or current month;

253 (3) another form of proof that identifies the candidate and that the candidate has  
254 physically resided at the address and identifies that address as the primary  
255 residence.

256 102.9-3. *Conflict of Interest.* No applicant shall have a conflict of interest with the position for  
257 which they are being considered, provided that any conflict of interest which may be eliminated  
258 within thirty (30) calendar days of being elected shall not be considered as a bar to nomination or  
259 election.

260 102.9-4. *Applications for Candidacy.* An applicant interested in being considered as a candidate

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261 for a position that was nominated at a caucus or will be petitioning for candidacy shall submit an  
262 application for candidacy to the Nation's Secretary or the Business Committee Support Office.

263 (a) The application for candidacy shall be submitted in person during normal business  
264 hours, 8:00 a.m. to 4:30 p.m., Monday through Friday, within five (5) business days after  
265 the caucus.

266 (b) No mailed, internal Nation mail delivery, faxed or other delivery method shall be  
267 accepted.

268 (c) The Nation's Secretary or the Business Committee Support Office shall timestamp  
269 when an application for candidacy is received.

270 (d) *Proof of Minimum Eligibility Requirements.* At the time of submission, the  
271 application for candidacy shall include attached documentation verifying that the  
272 applicant meets the minimum eligibility requirements.

273 (1) The application for candidacy shall include a list of the required  
274 documentation for each office.

275 (2) An application that does not include attached documentation verifying the  
276 applicant meets the minimum eligibility requirements at the time of submission  
277 shall be disqualified.

278 102.9-5. An applicant for a position on the Oneida Business Committee or a position within the  
279 Judiciary shall only be eligible to apply for one (1) elective office or position per election.

280 (a) A statement of the ineligibility of an applicant to apply for more than one (1) elective  
281 office or position if applying for a position with the Oneida Business Committee or the  
282 Judiciary shall be included in the application materials as well as the notice for the  
283 caucus, and read verbally at the start of the caucus.

284 (b) If an applicant provides an application for candidacy or petition for candidacy for  
285 more than one position or office if applying for a position on the Oneida Business  
286 Committee or the Judiciary, then the application which was filed first shall be accepted  
287 while any other applications shall be disqualified.

288 (1) The Election Board should review the timestamps on the applications to  
289 determine which application shall be accepted.

290 102.9-6. The names of the candidates and the positions sought shall be a public record and  
291 made available to the public upon the determination of eligibility by the Election Board or the  
292 Election Board's designee.

293 102.9-7. *Eligibility Review.* The Election Board shall be responsible for reviewing the  
294 qualifications of applicants to verify eligibility. Any applicant found to be ineligible for a  
295 nominated or petitioned for position shall be notified by certified mail return receipt requested.  
296 The notice shall provide the following information:

297 (a) Position for which they were considered;

298 (b) Qualifications of the position and citation of the source. Copies of source may be  
299 attached;

300 (c) A brief summary explaining why the applicant was found to be ineligible; and

301 (d) That the applicant has two (2) business days from notification to request a hearing on  
302 the ineligibility determination with the Judiciary.

303 102.9-8. *Request for a Hearing on Ineligibility.* An applicant found to be ineligible for a  
304 nominated or petitioned for position shall have two (2) business days to request a hearing with  
305 the Judiciary to review the eligibility status of the applicant. The Judiciary shall hear and decide

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306 a request for a hearing on ineligibility within two (2) business days after the request is filed. Any  
307 appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the  
308 issuance of the lower body's decision and decided within two (2) business days after the appeal  
309 is filed.

310  
311 **102.10. Campaign Financing**  
312 102.10-1. A candidate shall only accept contributions from individuals who are members of the  
313 Nation or individuals related by blood or marriage to the candidate.

314 102.10-2. A candidate shall not accept contributions from any business, whether sole  
315 proprietorship, partnership, corporation, or other business entity.

316 102.10-3. A candidate shall not solicit or accept contributions in any office, business and/or  
317 facility of the Nation.

318 102.10-4. *Violations of Campaign Financing Restrictions.* A violation of the campaign  
319 financing restrictions shall result in a fine.

320 (a) The Election Board shall impose the fine in an amount specified in a resolution  
321 adopted by the Oneida Business Committee.

322 (b) Fines shall be paid to the Election Board within ninety (90) days after the fine is  
323 issued. If the fine is not paid by this deadline, the Election Board may seek to collect the  
324 money owed through the Nation's garnishment and/or per capita attachment process.

325 (c) Money received from fines shall be deposited into the General Fund.  
326

### 327 **102.11. Campaign Signs and Campaigning**

328 102.11-1. *Restrictions on Campaigning.* The following restrictions on campaigning apply to all  
329 candidates:

330 (a) No campaigning of any type shall be conducted within two hundred eighty (280) feet  
331 of the voting area during an election, excluding private property.

332 (b) Employees of the Nation shall not engage in campaigning for offices of the Nation  
333 during work hours.

334 (1) *Enforcement.* The Nation's employees shall be subject to disciplinary action  
335 under the Nation's laws and policies governing employment for political  
336 campaigning during work hours.

337 102.11-2. *Placement of Campaign Signs.* Placement of campaign signs shall be pursuant to the  
338 following restrictions:

339 (a) Campaign signs shall not be posted or erected on any property of the Nation except  
340 for private property with the owner or tenant's permission.

341 (b) No campaign sign shall exceed sixteen (16) square feet in area. A maximum of  
342 seven (7) such signs may be placed on a building or on a lot.

343 (c) No campaign sign shall project beyond the property line into the public right of way.

344 102.11-3. *Enforcement of Sign Placement.* The Zoning Administrator shall remove any  
345 campaign signs that are not in compliance with this law, in accordance with the Nation's laws  
346 and policies governing zoning. The Zoning Administrator shall notify the Election Board of  
347 campaign sign violations.

348 102.11-4. *Violations of Campaign Restrictions.* A violation of the restriction on campaigning  
349 within two hundred eighty (280) feet of the voting area during an election, or campaign sign  
350 restrictions shall result in a fine.

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351 (a) The Election Board shall impose the fine in an amount specified in a resolution  
352 adopted by the Oneida Business Committee.

353 (b) Fines shall be paid to the Election Board within ninety (90) days after the fine is  
354 issued. If the fine is not paid by this deadline, the Election Board may seek to collect the  
355 money owed through the Nation's garnishment and/or per capita attachment process.

356 (c) Money received from fines shall be deposited into the General Fund.

357 102.11-5. *Removal of Campaign Signs.* All campaign signs shall be removed within five (5)  
358 business days after an election.

### 360 **102.12. Candidate Withdrawal from the Election**

361 102.12-1. A candidate may withdraw from the election at any time. A candidate withdrawing  
362 by any method listed within this section shall be denied any position from which they have  
363 withdrawn regardless of the number of votes cast for that candidate. A written statement shall be  
364 considered the only necessary evidence of withdrawal and acceptance of denial of any position  
365 withdrawn from.

366 102.12-2. *Withdrawal Prior to Submission of the Ballot.* A candidate may withdraw his or her  
367 name from a ballot prior to submission of the ballot for printing if the withdrawal is submitted  
368 in writing by the candidate to any Election Board member, excluding alternates.

369 102.12-3. *Withdrawal Prior to the Opening of the Polls.* After the ballot is printed, a candidate  
370 may withdraw his or her name from the election prior to the opening of the polls by submitting in  
371 writing a statement indicating they are withdrawing from the election to any Election Board  
372 member, excluding alternates.

373 (a) This written withdrawal statement shall be posted alongside any sample ballot printed  
374 prior to the election in the official media outlets of the Nation or any posting at the  
375 polling places.

376 102.12-4. *Withdrawal After Opening of the Polls.* A candidate may withdraw after the opening  
377 of the polls by submitting a request to be removed from the ballot, in writing, to the Election  
378 Board members in charge of the polling place.

379 (a) The written withdrawal statement shall be posted next to any posted sample ballot.

380 102.12-5. *Candidate Withdrawal After Winning an Election but Before the Oath is Taken.*

381 (a) In the event a candidate declines an office after winning an election, the Election  
382 Board shall declare the next highest vote recipient the winner. This procedure shall be  
383 repeated as necessary until a winner is declared.

384 (b) If all vote recipients decline or are otherwise unable to be declared the winner, then a  
385 special election shall be held.

386 102.12-6. *Candidate Withdrawal After Taking an Oath of Office.* In the event a candidate  
387 declines an office after winning an election and taking an oath of office, the withdrawal shall be  
388 treated as a resignation of an official.

### 390 **102.13. Selection of Candidates**

391 102.13-1. *Setting of a Caucus.* The Election Board shall be responsible for calling a caucus  
392 before any election is held.

393 (a) The caucus for the general election shall be held at least seventy-five (75) calendar  
394 days prior to the election date.

395 (b) A caucus for a special election shall be held at least forty-five (45) calendar days

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396 prior to the election date.

397 (c) In a general election year, caucuses shall be combined so that candidates for the  
398 Oneida Business Committee and other elected positions are nominated at the same  
399 caucus.

400 102.13-2. *Caucus Procedures.* The procedures for a caucus shall be as follows:

401 (a) Each position shall be opened and closed for nominations by motion during the  
402 caucus. A nomination for a position shall only be accepted when a position is open for  
403 nominations.

404 (1) Once nominations are closed for a particular position, an applicant may  
405 petition to be on the ballot for that position.

406 (b) Once a position is opened for nominations a candidate shall be nominated for a  
407 position from the floor.

408 (1) An individual shall not nominate himself or herself for a position during the  
409 caucus.

410 (c) A candidate present at the caucus shall accept or decline their nomination at the  
411 caucus. A candidate nominated at the caucus, but not present at the caucus to accept the  
412 nomination, shall be required to follow the petition process.

413 (d) Nominations shall consist of the following positions:

414 (1) Oneida Business Committee Chairperson;

415 (2) Oneida Business Committee Vice-Chairperson;

416 (3) Oneida Business Committee Treasurer;

417 (4) Oneida Business Committee Secretary;

418 (5) Oneida Business Committee Council Member; and

419 (6) Any other elected positions as required by bylaws, resolution, or law of the  
420 Nation.

421 102.13-3. *Petition for Candidacy.* Any eligible member of the Nation may petition to be placed  
422 on a ballot for an election. The procedure for a petition for candidacy shall be as follows:

423 (a) Each petitioner, not nominated at caucus, shall file a petition for candidacy. A  
424 petitioner shall use an official petition form and application for candidacy which may  
425 be obtained in the Business Committee Support Office or from the mailing for that  
426 caucus.

427 (b) A petitioners shall obtain at least ten (10) signatures of qualified voters on the  
428 petition form. The petition form shall contain the original signatures of the qualified  
429 voters. Photocopies of signatures shall not be accepted.

430 (c) The petition form shall consist of each qualified voter's:

431 (1) printed name and address;

432 (2) date of birth;

433 (3) enrollment number; and

434 (4) signature.

435 (d) Petitions shall be presented to the Nation's Secretary or the Business Committee  
436 Support Office during normal business hours, 8:00 a.m. to 4:30 p.m. Monday through  
437 Friday, but no later than prior to close of business five (5) business days after the  
438 caucus. The location to drop-off petitions shall be identified in the mailing  
439 identifying the caucus date.

440 (e) The Nation's Secretary shall forward all petitions to the Election Board

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441 Chairperson the next business day following the close of petition submissions.  
442 (f) The Election Board shall forward the petitions to the Trust Enrollment  
443 Department for verification of all signatures contained on the petition.  
444

#### 445 **102.14. Notice of Polling Places**

446 102.14-1. The Election Board shall post a notice of the election in the prominent locations and  
447 on the official media outlets, stating the location of the polling places and the time the polls will  
448 be open. This notice shall also be posted in an easily visible position, close to the entrance of the  
449 Nation's businesses and/or facilities.

450 102.14-2. Notice of the election and polling information shall be posted no less than ten (10)  
451 calendar days prior to the election, and shall remain posted until the poll closes on the day of the  
452 election.

453 102.14-3. Except for a special election, notice for the election shall be mailed to all members of  
454 the Nation, stating the time and place of the election and a sample of the ballot, no less than ten  
455 (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment  
456 Department shall be notified, by the Election Board Chairperson, no less than twenty (20)  
457 calendar days prior to the requested mailing.  
458

#### 459 **102.15. Registration of Voters**

460 102.15-1. *Voter Registration.* Qualified voters shall physically register on the day of the  
461 election at the polls by signing his or her name on an official Voter Registration Form containing  
462 the following information:

- 463 (a) name;  
464 (b) date of birth; and  
465 (c) enrollment number.

466 102.15-2. *Identification of Voters.* All qualified voters shall present one of the following picture  
467 identifications in order to be able to vote:

- 468 (a) Oneida Nation identification card;  
469 (b) Driver's license; or  
470 (c) Other identification card that contains a name and photograph.

471 102.15-3. Trust Enrollment Department personnel shall be responsible for verifying enrollment  
472 with the Nation. The conduct of Trust Enrollment Department personnel is governed by the  
473 Election Board members during the voting period.

474 102.15-4. *Verification of Voter Eligibility.* Should a question or dispute arise as to the eligibility  
475 of an individual being qualified to vote, an Election Board member serving as an election judge  
476 shall meet with the Trust Enrollment Department personnel who are registering voters, to decide  
477 the voting member's eligibility currently being questioned, and shall make such decisions from  
478 the facts available, whether the applicant is, in fact qualified and verifiable under Article III  
479 Section 2 of the Constitution to vote in the Nation's elections.

480 102.15-5. Any voter denied eligibility shall not be allowed to vote in the election.  
481

#### 482 **102.16. Election Process**

483 102.16-1. *Public Test of Ballot Machines.* No more than ten (10) days prior to an election, the  
484 Election Board shall publically test the ballot machines to ensure that the ballot machine  
485 correctly counts the votes cast for all offices and on all measures.

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486 (a) Notice of the public test of the ballot machines shall be posted in the Nation's official  
487 media outlets at least ten (10) days prior to the public test.

488 (b) All ballot machines shall be tested during the public test, no matter what polling  
489 location the ballot machines will ultimately be used for.

490 (b) The Election Board shall conduct the test by processing a pre-audited group of  
491 marked ballots to ensure the machine properly records the predetermined number of votes  
492 on the test ballots.

493 102.16-2. *Polling Location.* Elections shall be held in facilities of the Nation as determined by  
494 the Election Board.

495 102.16-3. *Polling Time.* Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m.  
496 All qualified voters in line to vote at 7:00 p.m. shall be allowed to vote.

497 (a) If a ballot counting machine is used, the ballot counting machine shall be prepared  
498 prior to 7:00 a.m. on the day of the election. The Election Judges shall open the polls  
499 only after four (4) members of the Nation verify, through signature on the tape, the ballot  
500 box is empty and the ballot counting machine printer tape has a zero (0) total count.

501 102.16-4. *Voter Assistance.* A voter who requires assistance to complete the voting process, due  
502 to a disability or impairment, may request assistance from a member of the Election Board or  
503 from another qualified voter.

504 102.16-5. At least one (1) Oneida Police Officer shall be present during the time the polls are  
505 open, and until the counting of ballots is completed, and tentative results are posted.

506 102.16-6. The Election Board shall provide a voting area sufficiently isolated for each qualified  
507 voter, such that there is an area with at least two (2) sides and a back enclosure.

508 102.16-7. No one causing a disturbance shall be allowed in the voting area.

509 102.16-8. Election Board members may restrict the voting area to qualified voters only. This  
510 restriction is in the interest of maintaining security of the ballots and voting process.

511 102.16-9. *Ballot Box.* All ballots being votes, shall be placed in a receptacle clearly marked  
512 "Ballot Box" and shall be locked until counting at the close of polls. Provided that, with  
513 electronic ballot counting, the ballots may be placed within the ballot counting machine as they  
514 are received.

515 (a) Ballots from each polling location shall remain separate.

516 102.16-10. *Spoiled Ballots.* If a voter spoils his or her ballot, he or she shall be given a new  
517 ballot.

518 (a) The spoiled ballot shall be marked "void" and initialed by two (2) Election Board  
519 members and placed in a locked sealed container marked as "Spoiled Ballots." The voter  
520 who spoiled his or her ballot shall witness the spoiled ballot be marked as "void" and  
521 placed into the locked sealed container.

522 (b) The Spoiled Ballot locked sealed containers shall be retained and secured for no less  
523 than fifteen (15) calendar days following finalization of any challenge of the election, at  
524 the Records Management Department.

525 102.16-11. *Rejected Ballots.* Rejected Ballots are to be placed in a specially marked container  
526 and sealed.

527 (a) Computer rejected ballots shall be reviewed by the Election Board members to verify  
528 the authenticity of the ballot. Ballots rejected because of mutilation shall be added to the  
529 final computer total, provided that, a new ballot was not received as set out in section  
530 102.16-10 governing spoiled ballots.

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531 (b) Ballots rejected, either during the computer process or during a manual counting,  
532 shall be reviewed by the Election Board members to verify that they are authentic. If the  
533 Election Board members determine that the ballot is not an official ballot, or that it is an  
534 illegal ballot, the ballot shall be designated “void” and placed in a sealed container  
535 marked “Void Ballots.”

536 102.16-12. *Machine Counted Ballots.* When ballots are counted by machine, the Election  
537 Judges shall generate from the ballot counting machine copies of the election totals from the  
538 votes cast at the close of the polls.

539 (a) At least four (4) Election Board members shall sign the election totals, which shall  
540 include the tape signed by the members of the Nation before the polls were opened per  
541 section 102.16-3(a).

542 102.16-13. *Manually Counted Ballots.* When ballots are manually counted, the Election Judges  
543 shall unlock the ballot box and remove the ballots at the close of the polls.

544 (a) If the ballots need to be counted at a location other than the polling site, the ballots  
545 shall be secured in a sealed container for transportation to the ballot counting location.  
546 The sealed ballots shall be transported by an Oneida Police Officer with at least three (3)  
547 of the Election Board members for counting and tallying of ballots.

548 (b) The sealed ballots shall be opened at the time of counting by the Election Board  
549 members and witnessed and monitored by an Oneida Police Officer.

550 (c) Ballots must be counted by two (2) different Election Board members until two (2)  
551 final tallies are equal in back to back counting. Final tallies shall be verified by the  
552 Election Judges.

553 102.16-14. *Securing Ballots.* The Election Judges shall place together all ballots counted and  
554 secure them together so that they cannot be untied or tampered with without breaking the seal.  
555 The secured ballots, and the election totals with the signed tape, if applicable, shall then be  
556 secured by the Election Judges in a sealed container in such a manner that the container cannot  
557 be opened without breaking the seals or locks, or destroying the container. The Oneida Police  
558 Officer shall then deliver, on the day of the election, the sealed container to the Records  
559 Management Department for retention.

560

### 561 **102.17. Election Outcome and Ties**

562 102.17-1. *Election Results Announcement.* The tentative results of an election shall be  
563 announced and posted by the Election Board within twenty-four (24) hours after the closing of  
564 the polls. Notices of election results shall contain the following statement: "The election results  
565 posted here are tentative results. Final election results are forwarded by the Oneida Election  
566 Board to the Oneida Business Committee via a Final Report after time has lapsed for recount  
567 requests, or challenges or after all recounts or challenges have been completed, whichever is  
568 longer"

569 102.17-2. The Election Board shall post the tentative results of the election in the prominent  
570 locations, and publish the tentative results on the Nation’s website.

571 102.17-3. *Tie* . In the event of a tie for any office, and where the breaking of a tie is necessary  
572 to determine the outcome of an election, the Election Board shall conduct an automatic recount  
573 of the votes for each candidate receiving the same number of votes. Any recount conducted shall  
574 be the only recount allowed for the tied candidates.

575 102.17-4. *Ties of an Oneida Business Committee Position.* For Oneida Business Committee

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576 positions, a run-off election between the candidates with the same number of votes shall be held  
577 if there remains a tie after the recount. Said run-off election shall be held within twenty one (21)  
578 calendar days after the recount.

579 102.17-5. *Ties of Other Elected Positions.* For all elected positions other than the Oneida  
580 Business Committee, if there remains a tie after the recount, the Election Board shall decide the  
581 winner of the tied positions at least two (2) business days after, but no more than five (5)  
582 business days after the recount through a lot drawing, which shall be open to the public.

583 (a) The Election Board shall notify each of the tied candidates and the public of the date,  
584 time, and place of the drawing at least one (1) business day before the drawing. Notice to  
585 the tied candidates shall be in writing. Notice to the public shall be posted by the  
586 Election Board in the prominent locations.

587 (b) On the date and at the time and place the drawing was noticed, the Election Board  
588 Chairperson shall clearly write the name of each tied candidate on separate pieces of  
589 paper in front of any witnesses present. The pieces of paper shall be the same, or  
590 approximately the same, color, size, and type. The papers shall be folded in half and  
591 placed in a container selected by the Election Board Chairperson.

592 (c) The Election Board Chairperson shall designate an uninterested party to draw a name  
593 from the container. The candidate whose name is drawn from the container first shall be  
594 declared the winner. An Election Board member other than the Chairperson shall remove  
595 the remaining pieces of paper from the container and show them to the witnesses present.

596

597 **102.18. Recount Procedures**

598 102.18-1. *Eligibility for a Recount.* A candidate may request the Election Board to complete a  
599 recount, provided the margin between the requesting candidate's vote total and vote total for the  
600 unofficial winner was within two percent (2%) of the total votes for the office being sought or  
601 twenty (20) votes, whichever is greater.

602 102.18-2. *Requesting a Recount.* A candidate may request a recount by hand delivering a  
603 written request to the office of the Nation's Secretary or the Business Committee Support Office,  
604 within five (5) business days after the election.

605 (a) Requests shall be limited to one (1) request per candidate.

606 (b) The five (5) business day deadline for submitting a request for a recount may be  
607 extended for one (1) business day after the tentative results of a recount are announced,  
608 for a candidate who has not yet utilized his or her one (1) recount request, and who is  
609 directly impacted by a recount of the results which lead to a reversal in the results of the  
610 election.

611 102.18-3. The Nation's Secretary shall contact the Election Board Chairperson by the next  
612 business day after the request for recounts.

613 102.18-4. The Election Board shall conduct the requested recount within two (2) business days  
614 after receiving the request from the Nation's Secretary.

615 (a) No recount request need be honored where there have been two (2) recounts completed as a  
616 result of a request either as a recount of the whole election results, or of that sub-section.

617 102.18-5. An Oneida Police Officer shall be responsible for picking up the locked, sealed  
618 container with the ballots from the Records Management Department and transporting it to the  
619 ballot recounting location.

620 102.18-6. A recount shall be conducted by a quorum of the Election Board, including at least

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621 three (3) of the original Election Board members. The locked, sealed ballots shall be opened by  
622 the Election Board Chairperson and an Oneida Police Officer shall witness the recount.

623 102.18-7. All recounts shall be conducted both manually and by machine count with, if possible,  
624 the original Election Board members and Oneida Police Officer present. Recounts may, at the  
625 discretion of the Election Board members, be of the total election results, or of the challenged  
626 sub-section of the election results.

627 102.18-8. All ballots shall be counted until two (2) final tallies are equal in back to back  
628 counting and the total count of ballots reconciles with the total count from the ballot counting  
629 machine. Sub-sections of candidates may be recounted in lieu of a full recount.

630 (a) Manually counted ballots shall be recounted by the Election Board. Ballots shall be  
631 counted twice by different persons and certified by the Election Judges.

632 (b) Computer counted ballots shall be recounted twice and certified by the Election  
633 Judges. Prior to using an electronic ballot counting device, it shall be certified as correct  
634 either by the maker, lessor of the machine, or the Election Board.

635 102.18-9. The Election Board shall post tentative results of the recount within twenty-four (24)  
636 hours of the recount being completed. The Election Board shall post the tentative results in the  
637 prominent locations, and publish on the Nation's website.

638

### 639 **102.19. Challenges and Declaration of Results**

640 102.19-1. *Challenges.* Any qualified voter may challenge the results of an election by filing a  
641 complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall  
642 hear and decide a challenge to any election within two (2) business days after the challenge is  
643 filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day  
644 after the issuance of the lower body's decision and decided within two (2) business days after the  
645 appeal is filed.

646 (a) The person challenging the election results shall prove by clear and convincing  
647 evidence that the Election Law was violated or an unfair election was conducted, and that  
648 the outcome of the election would have been different but for the violation.

649 (b) If the Judiciary invalidates the election results, a special election shall be ordered by  
650 the Judiciary for the office(s) affected to be held on a date set by the Judiciary for as soon  
651 as this law allows for a special election.

652 102.19-2. *The Final Report.* The Election Board shall forward a Final Report to the Nation's  
653 Secretary after time has lapsed for recount requests, or challenges or after all recounts or  
654 challenges have been completed, whichever is longer. The Final Report shall consist of the  
655 following information:

656 (a) Total number of persons voting;

657 (b) Total votes cast for each candidate by subsection of the ballot;

658 (c) List of any ties and final results of those ties, including the method of resolution;

659 (d) List of candidates elected and position elected to;

660 (e) Number of spoiled ballots; and

661 (f) Cost of the election, including the compensation paid to each Election Board member.

662 102.19-3. *Declaration of Results.* The Business Committee shall declare the official results of  
663 the election and send notices regarding when the swearing in of newly elected officials shall take  
664 place within ten (10) business days after receipt of the Final Report.

665 102.19-4. A candidate elected to the Oneida Business Committee shall resign from any salaried

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666 position effective prior to taking an Oneida Business Committee oath of office  
667 102.19-5. Except in the event of an emergency, as determined by the Oneida Business  
668 Committee, a newly elected official shall be sworn into office no later than thirty (30) calendar  
669 days after the official results of an election are declared by the Oneida Business Committee.

670 (a) If a newly elected official is not sworn in within thirty (30) calendar days, the seat  
671 shall be considered vacant and the Election Board shall declare the next highest vote  
672 recipient the winner. This procedure shall be repeated as necessary until a winner is  
673 declared.

674 (b) If all vote recipients decline or are otherwise unable to be declared the winner, then a  
675 special election shall be held.

676 102.19-6. The Election Board shall send notice to the Records Management Department to  
677 destroy the ballots thirty (30) calendar days after the election or after the final declaration of  
678 official election results occurs, whichever is longer.

679

## 680 **102.20. Constitutional Amendments**

681 102.20-1. Pursuant to Article VI of the Constitution, amendments to the Constitution may be  
682 initiated by the Oneida Business Committee or a petition of qualified voters.

683 102.20-2. *Constitutional Amendments by the Oneida Business Committee.* The requirements for  
684 the Oneida Business Committee's initiation of amendments to the Constitution are as provided in  
685 the Constitution. Additional requirements for constitutional amendments by the Oneida Business  
686 Committee shall be further detailed in the supporting standard operating procedures which the  
687 Oneida Business Committee shall adopt.

688 102.20-3. *Constitutional Amendments by a Petition of Qualified Voters.* Qualified voters may  
689 petition to amend the Constitution by submitting a petition to the Nation's Secretary which  
690 includes the full text of the proposed amendments and signatures that are equal in number to at  
691 least ten percent (10%) of all members qualified to vote.

692 (a) Qualified voters may request a petition form from the Nation's Secretary or the  
693 Business Committee Support Office.

694 (b) When a petition form is requested, the Nation's Secretary, or his or her designee,  
695 shall direct the Trust Enrollment Department to calculate the number of signatures  
696 currently required for a petition submittal, which shall be ten percent (10%) of all  
697 members qualified to vote on the date the petition form is requested from the Nation's  
698 Secretary or the Business Committee Support Office. When the Nation's Secretary  
699 receives the calculation from the Trust Enrollment Department, the Nation's Secretary  
700 shall provide the requester with the petition form and the number of signatures that are  
701 currently required.

702 (c) Such petitions shall be circulated with all supporting materials and submitted a  
703 minimum of ninety (90) days prior to the election at which the proposed amendment is to  
704 be voted upon. If a petition includes supporting materials in addition to the petition form,  
705 each qualified voter signing the petition shall also acknowledge that the supporting  
706 materials were available for review at the time he or she signed the petition by initialing  
707 where required on the petition form.

708 (d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment  
709 Department for verification of signatures and to notify the Election Board to provide  
710 notice that the petition may need to be placed on an upcoming ballot.

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711 (e) If the petition is verified by the Trust Enrollment Department to contain signatures  
712 from at least ten percent (10%) of all qualified voters, the Election Board shall make an  
713 official announcement of the proposed amendments to the Oneida Nation Constitution at  
714 least sixty (60) days prior to the election at which the proposed amendments are to be  
715 voted on.

716 102.20-4. The Election Board shall place any proposed amendments to the Oneida Nation  
717 Constitution that meet the requirements of this law on the ballot at the next general election.  
718 Provided that, the Oneida Business Committee or General Tribal Council may order a special  
719 election be held to consider the proposed amendments. In such circumstances, the Election  
720 Board shall place any proposed amendments to the Oneida Nation Constitution on the ballot at  
721 the next special election.

722 102.20-5. The Election Board shall publish any proposed amendments to the Constitution by  
723 publishing a sample ballot no less than ten (10) calendar days prior to the election, through a  
724 mass mailing. The Trust Enrollment Department shall be notified, by the Election Board  
725 Chairperson, no less than twenty (20) calendar days prior to the requested mailing. Copies of  
726 such publications shall be prominently posted in each polling place, at administrative offices of  
727 the Nation, and shall also be published in the official media outlets.

728 102.20-6. The Election Board shall ensure that the ballot contains a statement of the purpose of  
729 the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall  
730 ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a  
731 true and impartial statement and is written in such a manner that does not create prejudice for or  
732 against the proposed amendment.

733 102.20-7. Pursuant to Article VI, Section 3 of the Constitution, proposed amendments that are  
734 approved by sixty-five percent (65%) of the qualified voters that vote on that amendment shall  
735 become part of the Constitution, and shall abrogate or amend existing provisions of the  
736 Constitution at the end of thirty (30) days after submission of the final election report.

737 102.20-8. If two (2) or more amendments approved by the voters at the same election conflict,  
738 the amendment receiving the highest affirmation vote prevails.  
739  
740

741 *End.*

~~742~~

---

744 Adopted - June 19, 1993

745 Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

746 Presented for Adoption of 1997 Revisions - GTC-07-6-98-A

747 Amended- October 11, 2008 (General Tribal Council Meeting)

748 Amended-GTC-01-04-10-A

749 Amended – BC-02-25-15-C

750 Amended – GTC-04-23-17-A

751 Amended – GTC-\_\_-\_\_-\_\_-\_\_

## September 10, 2018 Legislative Operating Committee E-Poll Approval of the Sanctions and Penalties Law Public Meeting Packet



**Good Afternoon Legislative Operating Committee,**

This e-mail serves as the e-poll for the approval of the Sanctions and Penalties law public meeting packet.

### Executive Summary

On August 15, 2018, the Legislative Operating Committee approved the public meeting packet for the proposed Sanctions and Penalties law, and forwarded the Sanctions and Penalties law to a public meeting to be held on September 20, 2018. On August 15, 2018, the Legislative Reference Office sent an e-mail to the Kalihwisaks requesting that the public meeting notice for the Sanctions and Penalties law be published in the September 6, 2018, Kalihwisaks edition. The Kalihwisaks provided confirmation later that day on August 15, 2018, that the public meeting notice for the Sanctions and Penalties law would be published in the September 6, 2018, Kalihwisaks edition.

Unfortunately, the public meeting notice for the proposed Sanctions and Penalties law was not published in the September 6, 2018, Kalihwisaks edition. The Legislative Procedures Act requires that a public meeting notice be published in the Kalihwisaks a minimum of ten (10) business days before a public meeting is held. [1 O.C. 109.8-2(c)]. Since the public meeting notice for the proposed Sanctions and Penalties law was not published in the September 6, 2018, Kalihwisaks edition, the ten (10) day notice period required by the Legislative Procedures Act cannot be met, and therefore the public meeting scheduled for September 20, 2018, cannot be held.

In order to have an updated public meeting packet included in the next Kalihwisaks edition, the publication deadline of September 13, 2018, must be met. Therefore, an e-poll to approve the updated public meeting packet for the proposed Sanctions and Penalties law is required to be done by the Legislative Operating Committee, since the next Legislative Operating Committee will be held on September 19, 2018, after the Kalihwisaks publication deadline.

The updated public meeting packet states that the public meeting for the proposed Sanctions and Penalties law will be held on Thursday, October 4, 2018. The public comment period will remain open until Thursday, October 11, 2018.

### Requested Action

Approve the public meeting packet and forward the proposed Sanctions and Penalties law to a public meeting to be held on October 4, 2018.

### Deadline for Response

**Tuesday, September 11, 2018, at 11:00 a.m.**

All supporting documentation has been attached to this email for your convenience.

### E-POLL RESULTS:

The e-poll was approved by Jennifer Webster, David P. Jordan, Ernest Stevens III, and Kirby Metoxen. Daniel Guzman did not provide a response to the e-poll.

**From:** Jennifer A. Webster **Sent:** Mon 9/10/2018 3:53 PM  
**To:** LOC; Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Kirby W. Metoxen  
**Cc:** Cathy L. Bachhuber; Fawn J. Billie; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Brandon M. Wisneski; Clorissa N. Santiago  
**Subject:** Re: E-POLL REQUEST: Approval of the Sanctions and Penalties Law Public Meeting Packet

Approve,  
Jenny

Sent from my Samsung Galaxy smartphone.

**The sender responded: Approve.** **Sent:** Mon 9/10/2018 3:57 PM

**From:** David P. Jordan  
**To:** LOC  
**Cc:**  
**Subject:** Approve: E-POLL REQUEST: Approval of the Sanctions and Penalties Law Public Meeting Packet

 Tue 9/11/2018 7:54 AM  
**Kirby W. Metoxen**  
**RE: E-POLL REQUEST: Approval of the Sanctions and Penalties Law Public Meeting Packet**  
**To:** LOC; Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Jennifer A. Webster  
**Cc:** Cathy L. Bachhuber; Fawn J. Billie; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Brandon M. Wisneski; Clorissa N. Santiago

Support

Yaw^ko,

*Kirby Metoxen*  
Oneida Nation Councilman  
Phone: 920-869-4441  
Fax: 920-869-4040  
[kmetox@oneidation.org](mailto:kmetox@oneidation.org)

 Mon 9/10/2018 5:08 PM  
**Ernest L. Stevens**  
**RE: E-POLL REQUEST: Approval of the Sanctions and Penalties Law Public Meeting Packet**  
**To:** LOC; Daniel P. Guzman; David P. Jordan; Jennifer A. Webster; Kirby W. Metoxen  
**Cc:** Cathy L. Bachhuber; Fawn J. Billie; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Brandon M. Wisneski; Clorissa N. Santiago

Approve

# ONEIDA NATION PUBLIC MEETING NOTICE

LEGISLATIVE OPERATING COMMITTEE  
WWW.ONEIDA-NSN.GOV/GOVERNMENT

**Thursday, October 4, 2018, 12:15pm**

Norbert Hill Center-Business Committee Conference Room  
N7210 Seminary Rd., Oneida, Wisconsin

## SANCTIONS AND PENALTIES LAW



The purpose of this law is to establish a consistent set of sanctions and penalties that may be imposed upon elected and appointed officials of the Nation, including members of the Oneida Business Committee, for misconduct in office; and to establish an orderly and fair process for imposing such sanctions and penalties.

This proposed Sanctions and Penalties law will:

1. Set parameters for what behavior constitutes misconduct.
2. Describe how an individual can file a complaint against both an elected and appointed official.
3. Provide procedures for making a determination of whether or not the official engaged in misconduct based on the alleged complaint against the elected or appointed official.
4. Describe potential sanctions and penalties that can be imposed upon elected and appointed officials found to have engaged in misconduct, and the factors that will be utilized to determine an appropriate sanction or penalty.
5. Requires a record of conduct for each appointed and elected official to be maintained.

## **PUBLIC COMMENTS PERIOD CLOSSES THURSDAY, OCTOBER 11, 2018**

During the Public Comment Period, all interested persons may submit written comments. Comments may be submitted to the Oneida Nation Secretary's Office or the Legislative Reference Office in person, by U.S. mail, interoffice mail, or e-mail.



**-PUBLIC MEETING PACKETS ARE AVAILABLE AT-**

[www.oneida-nsn.gov/Register/PublicMeetings](http://www.oneida-nsn.gov/Register/PublicMeetings) or contact Oneida Nation Legislative Reference Office located in the Norbert Hill Center, PO Box 365, Oneida, Wisconsin 54155  
Email: [LOC@oneidanation.org](mailto:LOC@oneidanation.org) Phone: 920-869-4376



## SANCTIONS AND PENALTIES LEGISLATIVE ANALYSIS

### SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Oneida Business Committee	SPONSOR: Jennifer Webster	DRAFTER: Clorissa N. Santiago	ANALYST: Brandon Wisneski
Intent of the Amendments	To increase accountability among elected and appointed officials of the Nation, including members of the Oneida Business Committee. This new law creates a formal complaint process and allows for corrective actions against officials who engage in misconduct.		
Purpose	To establish a consistent set of sanctions and penalties that may be imposed upon elected and appointed officials of the Nation, including members of the Oneida Business Committee, for misconduct in office; and to establish an orderly and fair process for imposing such sanctions and penalties [see <i>Sanctions and Penalties, 1 O.C. 120.1-1J</i> ].		
Affected Entities	Oneida Business Committee; All elected and appointed members of boards, committees, and commissions; Any individual who has knowledge that an official has committed misconduct, Judiciary Trial Court, Judiciary Court of Appeals, Business Committee Support Office. This law does not apply to the judges of the Oneida Judiciary, whose misconduct process is located in the Judiciary Law. This does not apply to members of corporate boards.		
Affected Legislation	Rules of Civil Procedure, Rules of Appellate Procedure, Code of Ethics, Comprehensive Policy on Boards, Committees and Commissions, Garnishment Law, Per Capita Law, and any of the Nation’s laws and bylaws.		
Enforcement/Due Process	Sanctions and penalties against appointed officials will be imposed by the Business Committee. Sanctions and penalties against elected officials will be imposed by the Trial Court. Officials accused of misconduct have the right to be represented by an attorney or advocate. Officials also have the right to submit a written response to the complaint, and an opportunity to appear at the investigatory hearing to answer the allegations, provide witness testimony, documents and evidence on their behalf. Complaints against officials must be proven by clear and convincing evidence.		
Public Meeting	A public meeting has not yet been held.		

### SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A.** When officials of the Nation commit misconduct in office, there are few remedies available for the
- 3 Nation to discipline that official. Currently, appointed officials may have their appointment
- 4 terminated by the Business Committee, and elected officials may be removed in accordance with the
- 5 Removal Law. However, there have been instances of misconduct that do not rise to the level of
- 6 removal. For example, officials with multiple unexcused absences, failure to submit reports on time,
- 7 or behaving disrespectfully to community members or fellow officials. In these cases, other remedies
- 8 such as verbal reprimands, fines, or suspensions may be more appropriate.

- 9 **B.** This law creates a formal complaint process that gives all tribal members an opportunity to file  
 10 complaints while ensuring that due process rights for those accused are protected. This law also  
 11 creates a range of potential sanctions and penalties for officials who violate the laws of the Nation or  
 12 commit other forms of misconduct.
- 13 **C.** During the Special Election held on July 9, 2016, the following referendum question was approved by  
 14 a vote of 178 to 59: “Should the BC develop a law which provides for sanctions and due process for  
 15 elected officials?” The Election Law requires the Oneida Business Committee to present referendum  
 16 questions that receive a majority vote to the General Tribal Council (GTC) for discussion and action  
 17 [see *Election Law 1 O.C. 102.12-9(c)*]. The LOC intends to present the final draft of this law to GTC  
 18 for consideration.
- 19 **D.** This law will apply to the following officials of the Nation:  
 20     ▪ Members of the Oneida Business Committee;  
 21     ▪ Members of the following Boards, Committees and Commissions:

ELECTED	APPOINTED
<ul style="list-style-type: none"> <li>▪ Oneida Election Board</li> <li>▪ Oneida Gaming Commission</li> <li>▪ Oneida Land Claims Commission</li> <li>▪ Oneida Land Commission</li> <li>▪ Oneida Nation Commission on Aging (ONCOA)</li> <li>▪ Oneida Nation School Board</li> <li>▪ Trust Enrollment Committee</li> </ul>	<ul style="list-style-type: none"> <li>▪ Anna John Resident Centered Care Community Board (AJRCC)</li> <li>▪ Audit Committee</li> <li>▪ Environmental Resource Board (ERB)</li> <li>▪ Finance Committee</li> <li>▪ Oneida Library Board</li> <li>▪ Oneida Nation Arts Board</li> <li>▪ Oneida Police Commission</li> <li>▪ Oneida Pow Wow Committee</li> <li>▪ Oneida Nation Veterans Affairs Committee (ONVAC)</li> <li>▪ Pardon and Screening Forgiveness Committee</li> <li>▪ Southeastern WI Oneida Tribal Services Advisory Board (SEOTS)</li> </ul>

22  
 23 **SECTION 3. CONSULTATION AND OUTREACH**

- 24 **A.** The Rules of Civil Procedure, Rules of Appellate Procedure, Judiciary Law, Code of Ethics, Open  
 25 Meetings and Open Records Law, and Comprehensive Policy on Boards Committees and  
 26 Commissions were reviewed in drafting this analysis. In addition, the following laws were reviewed  
 27 in drafting this analysis:
- 28     ▪ Ho Chunk Nation Code of Ethics 2 HCC 1;  
 29     ▪ Oglala Sioux Tribe Code of Ethics Ordinance No. 08-11;  
 30     ▪ Pokagon Band of Potawatomi Indians Ethics Code;  
 31     ▪ Rosebud Sioux Tribal Code of Ethics Ordinance 86-04;  
 32     ▪ Siletz Tribal Council Ethics Ordinance –Siletz Tribal Code 2.200;  
 33     ▪ Skokomish Code of Ethics S.T.C. 1.05;  
 34     ▪ Pit River Tribal Government Code of Conduct Section 80.
- 35 **B.** The Business Committee Support Office, Records Management Department, Human Resources  
 36 Department and representatives from the following Boards, Committees and Commissions were  
 37 consulted in the development of this law and analysis:
- 38     ▪ Anna John Resident Centered Care Community Board (AJRCC);  
 39     ▪ Election Board;

- 40           ▪ Environmental Resource Board (ERB);
  - 41           ▪ Gaming Commission;
  - 42           ▪ Land Commission;
  - 43           ▪ Police Commission;
  - 44           ▪ Pow-wow Committee;
  - 45           ▪ Trust Enrollment Committee;
  - 46           ▪ Oneida Nation Veterans Affairs Committee (ONVAC).
- 47 C. A community pot-luck meeting was held on May 3, 2018 to gather community input on this law.  
48 Sixteen (16) people attended this meeting.
- 49

## 50 **SECTION 4. PROCESS**

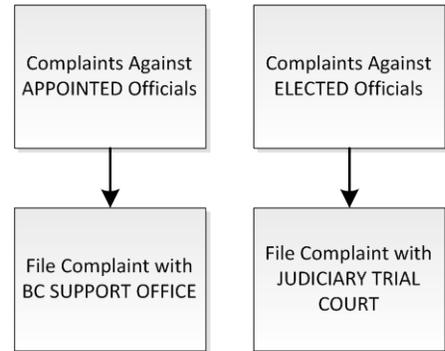
- 51 A. Thus far, this law has followed the process set forth in the Legislative Procedures Act (LPA).
- 52 B. The law was originally added to the Active Files List on October 15, 2014 and was carried over from  
53 the previous term. The law was re-added to the Active Files List on September 6, 2017.
- 54 C. At the time this legislative analysis was developed, the following work meetings had been held  
55 regarding the most recent efforts to develop this law and legislative analysis:
- 56           ▪ September 6, 2017: LOC work meeting.
  - 57           ▪ November 1, 2017: LOC work meeting with representatives from the following boards,  
58 committees and commissions: Police Commission, Trust Enrollment Committee, Election Board,  
59 Land Commission, Oneida Gaming Commission, Pow-wow Committee. All board, committees  
60 and committees were invited to attend this work meeting.
  - 61           ▪ December 6, 2017: LOC work meeting.
  - 62           ▪ March 9, 2018: LOC work meeting.
  - 63           ▪ May 3, 2018: Community meeting with LOC, BC Support Office, Oneida community members,  
64 and representatives from the following boards, committees and commissions: Police Commission,  
65 ONVAC, ERB, AJRCCC, and Gaming Commission. All board, committees and commissions  
66 were invited to attend this meeting.
  - 67           ▪ May 11, 2018: LOC work meeting.
  - 68           ▪ July 9, 2018: Work meeting with BC Support Office.
  - 69           ▪ August 1, 2018: LOC work meeting.
- 70

## 71 **SECTION 5. CONTENTS OF THE LEGISLATION .**

- 72 A. *What Qualifies as Misconduct.* The Oneida Nation expects elected and appointed officials to uphold  
73 high ethical and moral standards. Officials who engage in misconduct may be subject to sanctions and  
74 penalties. This section describes what behaviors could be considered misconduct [*see Sanctions and*  
75 *Penalties 120.4*]. Under this law, the definition of misconduct is very broad and includes any of the  
76 following:
- 77           ▪ Violating the Oneida Constitution or any law, policy or rule of the Oneida Nation.
  - 78           ▪ Violating the bylaws or standard operating procedures of the board the official serves on.
  - 79           ▪ Being convicted of a felony under federal or Wisconsin law, or being convicted of a crime  
80 elsewhere that would be considered a felony in the state of Wisconsin or the United States.
  - 81           ▪ Any other activity that does not uphold the moral and ethical standards expected of the Nation's  
82 officials.

83 **B. *Filing a Complaint.*** Under this law, anyone eighteen (18) years or older who believes that an  
84 official has committed misconduct can file a complaint. The person filing the complaint does not need  
85 to be an enrolled tribal member. Examples of individuals who might file complaints include  
86 community members, employees of the Nation, and fellow officials. The complaint must be filed  
87 within 90 days of when the alleged misconduct occurred or was discovered [*see Sanctions and*  
88 *Penalties 120.5*].

**Chart 2. Where to File Complaints**



89  
90 ■ ***Contents of the Complaint.*** Complaints must include the  
91 following information:

- 92 ○ Information about the official, including the  
93 official's name and the entity they serve on.
- 94 ○ Information about the alleged misconduct, including  
95 date, time, location and specific details.
- 96 ○ The specific law, policy, rule or bylaw that the  
97 official violated.
- 98 ○ Information about any witnesses or others with  
99 knowledge of the violation.
- 100 ○ Contact information of the individual filing the complaint.
- 101 ○ Supporting documents and any other information required by the Rules of Civil  
102 Procedure.

103 - The Rules of Civil Procedure must be followed for complaints against elected  
104 officials, which are filed in the Trial Court. More detail on the Rules of Civil  
105 Procedure is included later in this analysis.

106 ■ ***Where to File Complaints.*** Complaints against appointed officials are filed with the Business  
107 Committee (BC) Support Office, which is currently located at the Norbert Hill Center.  
108 Complaints against elected officials are filed with the Trial Court, with is located within the  
109 Oneida Judiciary.

110 ■ ***Retaliation.*** Retaliation against someone who files a complaint or cooperates with a misconduct  
111 investigation is not allowed.

112 ■ ***Right to an Attorney or Advocate.*** Any official who has been accused of misconduct has the right  
113 to be represented by an attorney or an advocate, at their own expense.

114 ○ ***Legal Resource Center.*** The Legal Resource Center Law established an office to provide  
115 legal advice and representation to Tribal members and employees in cases before the  
116 Judiciary. This office currently has two advocates who provide services at cost.

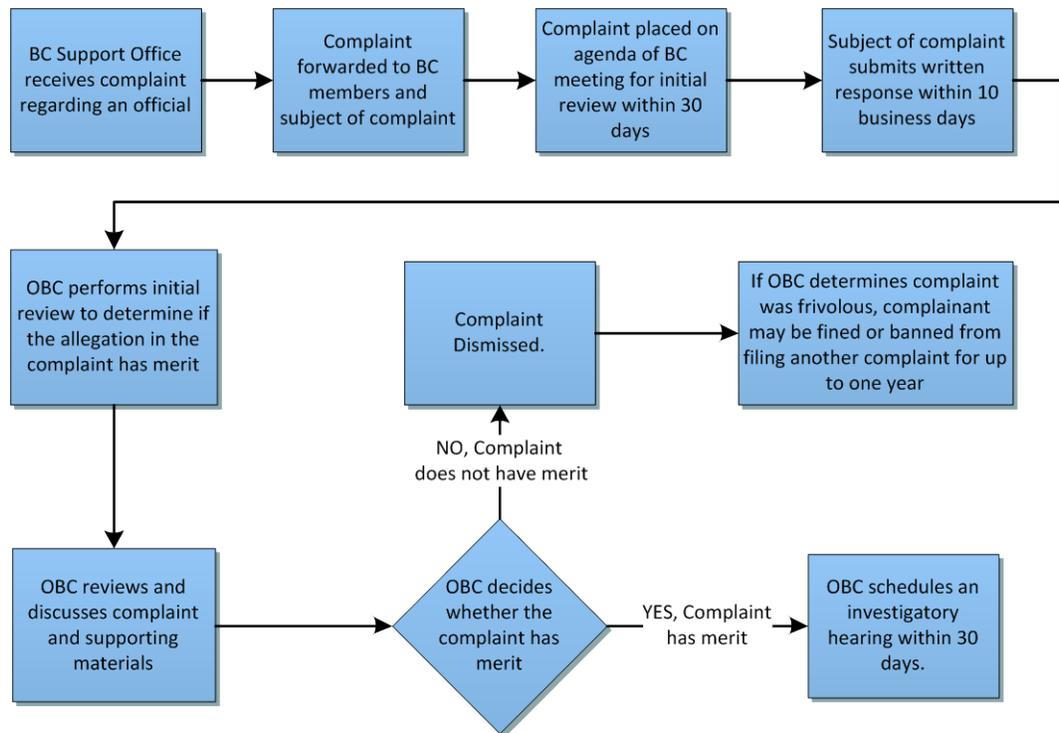
117 **C. *Complaints Against an Appointed Official.*** Complaints against an appointed official will be filed  
118 with the Business Committee (BC) Support Office. Appointed officials serve at the discretion of the  
119 Oneida Business Committee (BC), who may terminate appointments at any time. The LOC has  
120 determined that because the BC is responsible for selecting and appointing officials, the BC should be  
121 responsible for holding appointed officials accountable through sanctions and penalties. The  
122 following is a description of the complaint process for appointed officials [*see Sanctions and*  
123 *Penalties 120.6*].

124 ■ ***Receipt of Complaint.*** When the BC Support Office receives a complaint, it will forward copies  
125 of the complaint to all members of the Oneida Business Committee (BC) for review, and to the

126 official the complaint has been made against. The BC Support Office will place the complaint on  
127 the agenda of a Business Committee meeting within thirty (30) days.

- 128 ■ **Answer to the Complaint.** The official who has been accused of misconduct will have ten (10)  
129 business days to respond in writing to the complaint. The official may admit to the misconduct,  
130 deny the misconduct, or provide an affirmative defense. An affirmative defense means that an  
131 official admits they committed the alleged acts, but that they were justified in doing so.
- 132 ■ **Conflict of Interest.** If a member of the Oneida Business Committee (BC) has a conflict of  
133 interest regarding a complaint, they must recuse themselves and not participate in the review or  
134 hearings. If a member of the BC fails to recuse themselves, that member may be subject to  
135 sanctions and penalties under this law.
- 136 ■ **Initial Review.** The Oneida Business Committee (BC) will review the complaint, the official's  
137 written response, and any documentation. The BC will discuss and decide whether the complaint  
138 has merit by majority vote. If the BC decides the complaint has merit, they will schedule an  
139 investigatory hearing. If BC decides the complaint does not have merit, it the complaint will be  
140 dismissed.
  - 141 ○ **Frivolous Complaints.** If the BC decides that an individual filed a complaint that was  
142 frivolous, false, or made with malicious intent, they may fine that individual up to \$500  
143 or ban them from filing another complaint for up to 1 year. In addition, the official the  
144 complaint was filed against may also file a civil suit in the Trial Court.

146 **Chart 3. Complaint Process Against Appointed Officials: Receipt and Initial Review of**  
147 **Complaint.**

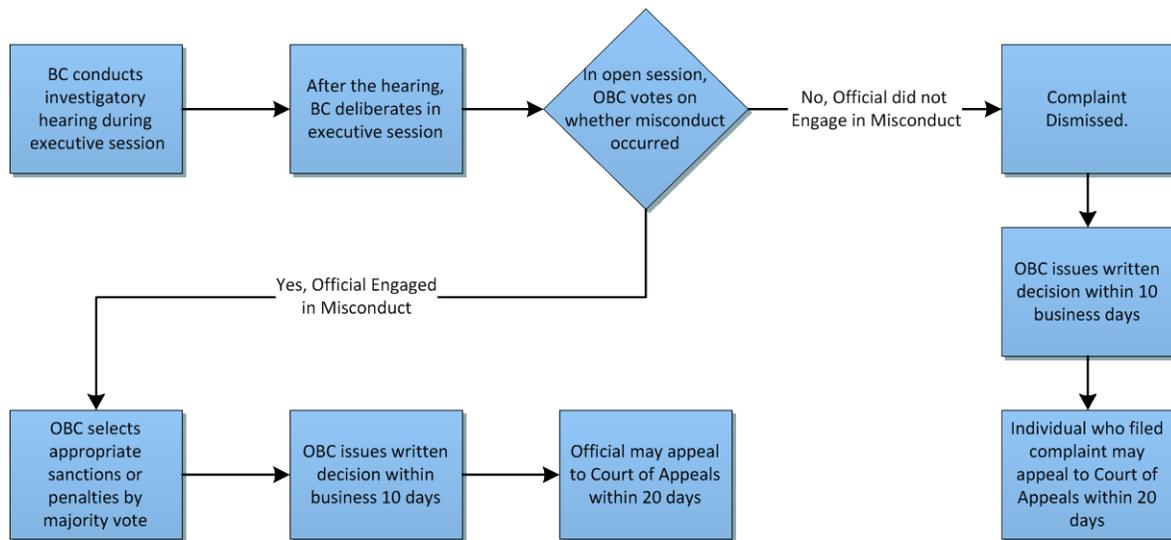


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- **Investigatory Hearing.** The BC will conduct an investigatory hearing during executive session of a regular or special BC meeting. During this hearing, the BC will determine whether there’s enough evidence to substantiate the allegations by clear and convincing evidence.
    - **Burden of Proof.** The burden of proof for allegations made under this law is “clear and convincing evidence.” This is the same standard the Nation uses in misconduct cases against judges in the Oneida Judiciary [see 8 O.C. Judiciary Law 801.12-6(c)]. This means that the person filing the complaint must provide evidence “indicating that the [allegation] to be proved is highly probably or reasonably certain” [see *Black’s Law Dictionary*]. This is a greater burden than “preponderance of the evidence,” the standard in most civil trials, but less than evidence “beyond a reasonable doubt,” which is used for criminal trials.
  - The BC will have the authority to call witnesses to provide testimony and physical evidence under oath.
    - **Testimony.** The official accused of misconduct will have the opportunity to answer allegations, provide witness testimony and evidence on their own behalf. The individual who filed the complaint will also have an opportunity to answer questions, provide witness testimony and information to support their claim. The hearing will be informal.
  - **Deliberation.** After the investigatory hearing, the BC will remain in executive session to discuss the evidence and information provided. The BC will also discuss which sanctions and penalties to impose, if appropriate.
  - **Determination.** During an open session of a special or regular Oneida Business Committee meeting, the BC will vote to decide whether the allegations of misconduct have been proven by clear and convincing evidence. If the BC finds that the official has engaged in misconduct, then they will also decide the appropriate sanction or penalty by majority vote. The BC must issue a written decision within 10 days of the investigatory hearing, and provide copies of the decision to the person who made the complaint, the official accused of misconduct, and the BC Support Office.
  - **Appeal.** Both the official accused of misconduct and the individual who filed the complaint have the right to appeal the decision of the Oneida Business Committee. The appeal must be filed with the Court of Appeals within 20 days of the BC’s written decision.

194

**Chart 4. Complaint Process Against Appointed Officials: Investigatory Hearing & Decision**



195

196 **D. Complaints Against an Elected Official.**

197 ■ Complaints against elected officials, including members of the Oneida Business Committee, will  
198 be heard by the Nation’s Trial Court. Because elected officials are chosen by the tribal  
199 membership, it has been determined that complaints against these officials should go to the  
200 Nation’s Trial Court.

201 ■ All complaints must follow the Trial Court’s Rules of Civil Procedure. The following is a brief  
202 overview of how a civil case is processed by the Trial Court [see *Sanctions and Penalties 120.7*].

203 ○ *Petitioner Files a Complaint with the Trial Court and Pays Filing Fee.* The Trial Court  
204 has a standard complaint form with instructions to fill out the complaint.

205 - *Complaint.* At the time this analysis was drafted, the Rules of Civil Procedure  
206 require the complaint to include the full name and address of the plaintiff and  
207 defendant, why the defendant is being sued, facts supporting each claim, why the  
208 trial court has jurisdiction, specifically what relief is sought from the defendant,  
209 and a summons [see *Oneida Judiciary Rules of Civil Procedure 803.5-1*].

210 - *Filing Fee.* The Oneida Judiciary Trial Court charges a \$50 filing fee to file a  
211 general civil case. However, individuals may request a fee waiver from the court  
212 for the following reasons: unemployed, health/medical, or below poverty level.  
213 Note that this fee applies only to cases filed against elected officials. Complaints  
214 against appointed officials will be filed with the BC Support Office, which does not  
215 charge a fee.

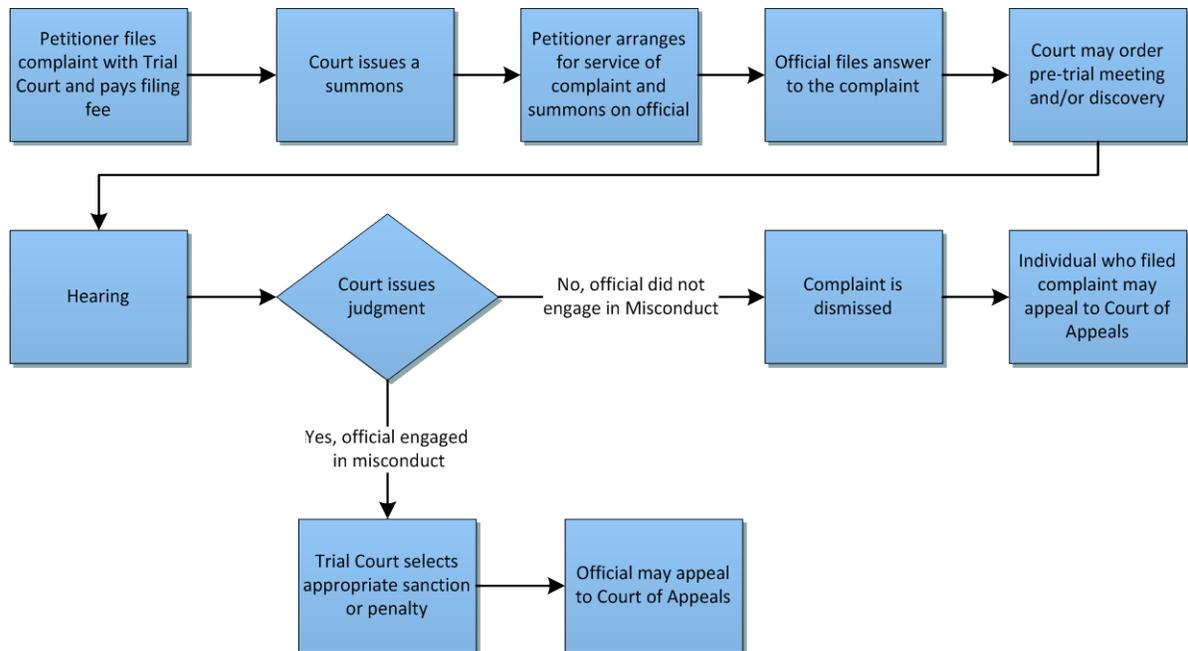
216 - *Summons:* A summons is a document ordering a defendant to appear before a  
217 judge. The Trial Court has a standard summons form.

218 ○ *Complaint and Summons are served on official.* The complaint and summons must be  
219 delivered to the official within 30 days after the complaint is filed. In addition, for  
220 complaints against officials, notice must also be served to the Secretary’s office [see 8  
221 *O.C. Rules of Civil Procedure 803.5*].

222 ○ *Petitioner Files Proof of Service.* The petitioner must provide proof to the Court that the  
223 complaint and summons were delivered to the defendant within 10 days of delivery. If

- 224 proof of service is not completed, then the case will be dismissed. [see *Rules of Civil*  
 225 *Procedure 803.5-3*].
- 226 ○ *Official Files an Answer.* The official responds to the complaint by filing an answer. The  
 227 official can either admit to or deny the allegations made in the complaint and provide  
 228 defenses to each claim made in the complaint.
  - 229 ○ *Pre-Trial Meeting.* A pre-trial meeting may be scheduled between the judge, petitioner  
 230 and defendant. The purpose for this meeting could include preparing for the trial, creating  
 231 a plan regarding discovery, or facilitating a settlement, such as peacemaking [see *Rules of*  
 232 *Civil Procedure 803.12*].
  - 233 ○ *Discovery.* The petitioner may make efforts to obtain information relevant to the case,  
 234 such as documents and electronic information. The judge may place limitations on the  
 235 information.
  - 236 ○ *Hearing.* The individual who filed the complaint must prove by clear and convincing  
 237 evidence that the elected official committed misconduct.
  - 238 ○ *Judgment.* If the Trial Court determines by clear and convincing evidence that the official  
 239 engaged in misconduct, then the Trial Court will impose sanctions and penalties that they  
 240 deem appropriate.
  - 241 ○ *Appeals.* Both the official accused of misconduct and the individual who filed the  
 242 complaint have the right to appeal the decision of the Trial Court. The appeal must be  
 243 filed with the Court of Appeals in accordance with the Rules of Appellate Procedure.  
 244

245 **Chart 5. Complaint Process Against Elected Officials**



246  
 247  
 248 **E. Sanctions and Penalties.** This law includes a list of sanctions and penalties that may be imposed on  
 249 an official for misconduct in office. The Trial Court is responsible for imposing sanctions on an  
 250 elected official. The Oneida Business Committee is responsible for imposing sanctions on an

251 appointed official. Officials may receive one or more of the following penalties. The Trial Court or  
252 BC will select whichever penalty they feel is appropriate [see *Sanctions and Penalties 120.8*].

- 253     ▪ *Verbal Reprimand.* During a BC or GTC meeting, the Nation’s chairperson will read a statement  
254         describing the official’s misconduct. The chairperson will also state that the official’s behavior  
255         was unacceptable and that the official should not engage in misconduct again.
- 256     ▪ *Public Apology.* An official may be ordered to make a public apology at a BC or GTC meeting.  
257         The apology must include a description of the misconduct, a statement that the actions were  
258         wrong, a description of the harm caused by the misconduct, and a “clear and unambiguous”  
259         apology.
- 260     ▪ *Written Reprimand.* The Oneida Business Committee or Judiciary Trial Court may publish a  
261         written reprimand in the Nation’s official media outlets. The Nation’s official media outlets are  
262         the Oneida Nation website and the Kalihwisaks newspaper [see *BC Resolution #03-22-17-B*].  
263         The written reprimand will include the same information as a verbal reprimand.
- 264     ▪ *Suspension.* The BC or Trial Court may suspend an official for up to sixty (60) days. During a  
265         suspension, the official cannot attend meetings, trainings, or conferences. The official also cannot  
266         vote or perform work for the board. In addition, the official cannot earn any stipends, salary or  
267         mileage during the suspension.
- 268     ▪ *Restitution.* An official can be ordered to pay restitution, which means paying back any  
269         improperly received benefit, such as stolen money or items or replacing damaged property.  
270         Examples of restitution could include paying back money that was improperly taken or paying to  
271         repair or replace damaged items.
- 272     ▪ *Fines.* An official can be ordered to pay a fine for each act of misconduct. Unlike restitution, a  
273         fine is a punishment. The maximum amount of each fine is \$5000.
  - 274         ○ *Fine Process.* All fines will be paid to the trial court and deposited into the Nation’s  
275             General Fund. Officials must pay their fine within 90 days after the fine is issued or  
276             upheld on final appeal. If the fine is not paid on time, the Nation may collect the money  
277             through garnishment or the official’s per capita payment.
  - 278         ○ *Community Service Alternative.* An official can complete community service to make up  
279             all or part of their fine. The rate earned for community service will be the Nation’s  
280             minimum wage, which is currently \$10.10 per hour. The Nation currently allows  
281             community service for fines issued in the Hunting, Fishing and Trapping Law [see  
282             *Hunting Fishing and Trapping 406.10-5(a)*].
- 283     ▪ *Loss of Stipend.* An official may lose their stipend for up to twelve (12) meetings. Appointed  
284         boards are eligible for only one meeting stipend per month, so at most this could amount to one  
285         year’s worth of stipends. Elected boards are allowed to meet more frequently, so this could  
286         amount to six (6) months of stipends for a board that meets twice per month.
- 287     ▪ *Termination of Appointment.* The Oneida Business Committee can terminate the appointment of  
288         any appointed official at any time. All appointed members serve at the discretion of the BC [see  
289         *Comprehensive Policy 1 O.C. 105.6-5*].
- 290     ▪ *Removal.* The Trial Court can recommend that an official be removed from office in accordance  
291         with the Removal Law. However, this would only be a recommendation. The Removal Law  
292         provides a strict process that must be followed to remove elected officials:
  - 293         ○ *Removal Law Process.* In order to remove an elected official, an eligible voter must file a  
294             petition with the Secretary signed by at least 30% of the vote cast in the previous general

295 election. For example, the number of votes cast in the 2017 general election was 1612, so  
296 the number of signatures needed to initiate removal is 484. Then, the Judiciary conducts  
297 a preliminary review to determine whether there is sufficient grounds for removal. If so,  
298 the Judiciary holds a hearing. If the Judiciary determines that sufficient grounds for  
299 removal has been proven, the findings are forwarded to the Nation’s Chair, who  
300 schedules a GTC meeting. At the GTC meeting, an elected official may be removed from  
301 office after a 2/3 vote [*see Removal Law 1 O.C. 104*].

- 302     ▪ *Prohibition.* An appointed official can be banned from serving on an entity for up to three years.
  - 303         ○ *Election Law.* The Election law contains a similar provision that bans members of the  
304         Election Board from serving for up to three years if they are removed from office [*see*  
305         *Election Law 1 O.C. 102.4-4*].

306 **F. *Factors in Determining Appropriate Sanction and/or Penalty.*** The Trial Court and Oneida Business  
307 Committee may consider the following when deciding which sanction or penalty to apply [*see*  
308 *Sanctions and Penalties 120.8-3*].

- 309     ▪ How severe the misconduct was, whether it was intentional, and how likely the official is to  
310     repeat the misconduct.
- 311     ▪ The damage to the finances or reputation of the Nation, the entity, or any person or organization.
- 312     ▪ Whether the official has expressed remorse and is willing to take steps to correct the harm done.
- 313     ▪ Whether any prior complaints have been filed against the official. For example, is this the first  
314     complaint against the official or does it represent a pattern of behavior.

315 **G. *Civil Liability and Criminal Prosecution.*** In addition to the sanctions and penalties in this law, an  
316 official who commits misconduct may also suffer other consequences. [*see Sanctions and Penalties*  
317 *120.8-4*]. These include:

- 318     ▪ Removal from office or termination of appointment.
- 319     ▪ Criminal prosecution, if the official violated a criminal law. For example, criminal charges for  
320     theft or violent acts.
- 321     ▪ Civil liability, in accordance with any applicable law of any jurisdiction. For example, a lawsuit  
322     in court for damages.
- 323     ▪ Any other penalties listed in another law of the Oneida Nation.
  - 324         ○ For example, a violation of the Computer Resources Ordinance may result in loss of  
325         access to the Nation’s computer resources [*see Computer Resources 2 O.C. 215.9-1*].

326 **H. *Effect of Resignation by an Official.*** If an official resigns from office after a complaint has been  
327 filed, that complaint will still be investigated and sanctions and penalties may still be pursued.  
328 Resigning from office does not end or prevent an investigation [*see Sanctions and Penalties 120.9*].

329 **I. *Record of Conduct in Office.*** A record of conduct for each official will be maintained by the BC  
330 Support Office, which will include copies of complaints filed against the official, outcome of the  
331 complaints, and any sanctions and penalties the official received. This record will be maintained for at  
332 least 10 years [*see Sanctions and Penalties 120.10*].

- 333     ▪ *Public Access to Record of Conduct.* The Open Records and Open Meetings law provides tribal  
334     members with access to public records of the Nation. However, the Open Records and Open  
335     Meetings law also states that “any record containing personally identifiable information that is  
336     collected or maintained in connection with a complaint, investigation or other circumstances that  
337     may lead to an enforcement action, administrative proceeding, arbitration or court proceeding” is  
338     exempt from inspection and copying [*see Open Records and Open Meetings Law 1 O.C. 107.4-*

339 *I(j)*). Therefore, this suggests that the record of conduct maintained by the BC Support Office  
340 would not be available for the public to view or copy. However, it should be noted that sanctions  
341 such as verbal reprimands, written reprimands and public apologies will occur in public meetings  
342 or be published in the Nation’s newspaper.  
343

## 344 **SECTION 6. EFFECT ON EXISTING LEGISLATION**

345 **A. *References to the Other Laws of the Nation:*** The following laws of the Nation are referenced in this  
346 law. This law does not conflict with any of the referenced laws.

- 347     ▪ *Rules of Civil Procedure.*
- 348     ▪ *Rules of Appellate Procedure.*
- 349     ▪ *Garnishment Law.*
- 350     ▪ *Per Capita Law.*

## 351 **SECTION 7. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR OBLIGATIONS**

352 **A. *Due Process.*** Officials accused of misconduct have the right to be represented by an attorney or  
353 advocate. Officials also have the right to submit a written response to the complaint, and an opportunity to  
354 appear at the investigatory hearing to answer the allegations, provide witness testimony, documents and  
355 evidence on their behalf. Complaints against officials must be proven by clear and convincing evidence.  
356  
357

## 358 **SECTION 8. ENFORCEMENT AND ACCOUNTABILITY**

359 **A.** Sanctions and penalties against appointed officials will be imposed by the Business Committee.  
360 Sanctions and penalties against elected officials will be imposed by the Nation’s Trial Court.  
361

## 362 **SECTION 9. OTHER CONSIDERATIONS**

363 **A. *Code of Ethics.*** Most other tribal, municipal and state governments place sanctions and penalties  
364 within their Code of Ethics law. This makes sense, as the Code of Ethics and Sanctions and Penalties  
365 are closely related. The Code of Ethics provides guidelines that officials must follow, while the  
366 sanctions and penalties describe what happens if those guidelines are violated.

- 367     ▪ ***Need for Revision of Code of Ethics.*** Any efforts to create a Sanctions and Penalties law  
368 should include a review of the Code of Ethics so that the two documents work together  
369 harmoniously. Currently, portions of the Nation’s Code of Ethics are written in vague, broad  
370 terms. In contrast, the Codes of Ethics of other Tribal Nations and municipalities often  
371 provide clear, specific examples. Updating the Code of Ethics would provide clear guidance  
372 to officials, individuals filing complaints, the Business Committee and the Judiciary when  
373 they begin hearing complaints under this law.
- 374     ▪ ***Recommendation:*** The Code of Ethics is currently on the LOC’s Active Files List. It is  
375 suggested that work proceed on reviewing and updating the Code of Ethics as this Sanctions  
376 and Penalties law moves forward.

377 **B. *Number of Potential Complaints.*** Since the Nation currently has no formal sanctions and penalties  
378 process, it is not possible to predict the number of complaints that may be filed against elected and  
379 appointed officials.

- 380     ▪ ***Other Forms of Complaint.*** The Removal Law requires a large number of signatures and  
381 has rarely (if ever) been successfully used. GTC petitions provide another opportunity for

382 tribal members to express their complaints and opinions regarding actions of the Nation.  
 383 Petitions require 50 (fifty) signatures, and over the past decade GTC has received between  
 384 five (5) and (17) petitions per year. Both Removal Law and GTC petitions require signatures,  
 385 while this process does not. Therefore, it is reasonable to assume that the number of  
 386 complaints filed using this law may be much higher. GTC Meetings regularly feature  
 387 complaints from GTC members regarding individual office holders or specific boards,  
 388 committees and commissions. It is not known how many of these verbal complaints would  
 389 result in written complaints under this law.

- 390 ▪ **Recommendation:** Given the uncertainty regarding the number of potential complaints, the  
 391 Business Committee, BC Support Office and Judiciary should be prepared to potentially  
 392 process a large number of complaints upon passage of this law.

393 **C. Impact of Suspension on Full-Time Officials.** Members of the Oneida Business Committee and  
 394 Oneida Gaming Commission are full-time elected officials. Therefore, suspension of these officials  
 395 will impact salaries, benefits such as health insurance, and access to buildings and email. The Human  
 396 Resources Department reports that they have a suspension procedure in place for employees of the  
 397 Nation, and that this procedure could be used for suspension of full-time officials.

- 398 ▪ **Recommendation:** Since notifications of suspension go to the BC Support Office, it is  
 399 suggested that the BC Support Office work with HRD to develop a process should  
 400 suspensions of full-time BC members or Gaming Commissioners occur.

401 **D. Public Apologies.** Under this law, an official may be ordered to issue a “clear and unambiguous”  
 402 public apology. The practice of ordering an apology is used in the state of Wisconsin. The WI  
 403 Department of Corrections notes that “some offenders are ordered by a court to write apology letters  
 404 to their victims.” However, it is possible that an official may decline to offer an apology, or offer an  
 405 apology that appears insincere. The LOC may also consider whether it is appropriate to “force” an  
 406 individual to make a statement if they do not agree with it.

- 407 ▪ **Recommendation:** Rather than requiring an apology, the LOC may want to consider offering  
 408 public apology as an alternative to other sanctions and penalties. For example, ordering an  
 409 official to give a public apology OR receive a written reprimand.

410 **E. Comparison to Other Nations.** Research of other tribal nations and municipalities indicate that there  
 411 are many different processes for sanctions and penalties of public officials. There is not a single  
 412 standard used by all tribal governments. Examples of other sanctions and penalties processes are  
 413 provided below for information:

414 *Chart 6. Sanctions and Penalties Process of other Tribal Nations*

Tribe	Where Complaints Are Filed	Who Investigates the Complaint	Who Decides the Sanction or Penalty
<b>Siletz</b>	Tribal Council*	Ad Hoc Committee or Special Advisor appointed by Tribal Council*	Tribal Council*
<b>Ho Chunk</b>	Judiciary	Judiciary	President
<b>Rosebud Sioux</b>	Ethics Commission, appointed by Tribal Council*	Ethics Commission, appointed by Tribal Council*	Tribal Council*
<b>Skokomish</b>	Ethics Officer, appointed by Tribal	Ethics Officer, appointed by Tribal	Chairman

	Council*	Council*	
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415 \*Note that "Tribal Council" refers to an elected body similar to the Oneida Business  
416 Committee.

417 **F. Create a Standard Complaint Form.** The BC Support Office and Judiciary may want to consider  
418 drafting standard complaint forms to provide to individuals who wish to file a complaint against  
419 officials under this law. This form could include the information required under 120.5-3, instructions,  
420 and clearly state where complaints against elected officials or appointed officials must be filed. The  
421 Nation' Trial Court has a standard civil complaint packet which could be used as an example.

422 **G. Community Service.** This law allows officials to complete community service instead of paying a  
423 fine. These volunteer hours will need to be tracked and reported to ensure that they have been  
424 completed. The Hunting, Fishing and Trapping Law has a similar community service provision for  
425 fines issued under that law. The Trial Court has developed a form for documenting community  
426 service. The individual is required to contact entities on their own to schedule their own community  
427 service. Environmental Resource Board (ERB) reports that a deadline was typically placed on when  
428 the community service had to be completed. At this time, the completed volunteer forms are turned in  
429 to the Law Office.

430       ▪ **Recommendation:** The Judiciary and/or Law Office should be prepared to accept and track  
431 community service hours should individuals be fined under this law.

432 **H. Complaints against Judiciary.** The Judiciary Law already contains a process for reprimand,  
433 suspension and removal of judges [see Judiciary Law 8 O.C. 801.12]. Therefore, the Judiciary is not  
434 included in this law.

435 **I. Rules of Civil Procedure.** Complaints filed in the Judiciary Trial Court must follow the Rules of  
436 Civil Procedure. The Rules of Civil Procedure are currently on the LOC's Active Files List and may  
437 be revised in the near future.

438 **J. Fiscal Impacts.** Please refer to the fiscal impact statement for any fiscal impacts.  
439

440

**Title 1. Government and Finances - Chapter 120**  
**SANCTIONS AND PENALTIES**

120.1. Purpose and Policy	120.7. Complaint Alleged Against an Elected Official
120.2. Adoption, Amendment, Repeal	120.8. Sanctions and Penalties
120.3. Definitions	120.9. Effect of Resignation by an Official
120.4. Misconduct.	120.10. Record of Conduct in Office
120.5. Filing of a Complaint	
120.6. Complaint Alleged Against an Appointed Official	

1

2 **120.1. Purpose and Policy**

3 120.1-1. *Purpose.* The purpose of this law is to establish a consistent set of sanctions and  
4 penalties that may be imposed upon elected and appointed officials of the Nation, including  
5 members of the Oneida Business Committee, for misconduct in office; and to establish an  
6 orderly and fair process for imposing such sanctions and penalties. This law does not apply to  
7 judges of the Oneida Nation Judiciary.

8 120.1-2. *Policy.* It is the policy of the Nation to ensure that elected and appointed officials who  
9 commit misconduct while in office be subject to appropriate sanctions and penalties; and to  
10 ensure that there is a fair process in place that enables officials to fairly respond to allegations of  
11 misconduct.

12 120.1-3. It is the intent of the Nation that all elected and appointed officials strive to exhibit and  
13 uphold the Nation’s core values of The Good Mind as expressed by On<yote>a=ka, which  
14 includes:

- 15 (a) Kahletsyal&sla. The heart felt encouragement of the best in each of us.
- 16 (b) Kanolukhw@sla. Compassion, caring, identity, and joy of being.
- 17 (c) Ka>nikuhli=y%. The openness of the good spirit and mind.
- 18 (d) Ka>tshatst^sla. The strength of belief and vision as a People.
- 19 (e) Kalihwi=y%. The use of the good words about ourselves, our Nation, and our future.
- 20 (f) Twahwahts\$lay<. All of us are family.
- 21 (g) Yukwats\$stay<. Our fire, our spirit within each one of us.

22

23 **120.2. Adoption, Amendment, Repeal**

24 120.2-1. This law was adopted by the General Tribal Council by resolution GTC-\_\_-\_\_-\_\_-\_\_.

25 120.2-2. This law may be amended or repealed by the General Tribal Council pursuant to the  
26 procedures set out in the Legislative Procedures Act.

27 120.2-3. Should a provision of this law or the application thereof to any person or circumstances  
28 be held as invalid, such invalidity shall not affect other provisions of this law which are  
29 considered to have legal force without the invalid portions.

30 120.2-4. In the event of a conflict between a provision of this law and a provision of another law,  
31 the provisions of this law shall control.

32 120.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

33

34 **120.3. Definitions**

35 120.3-1. This section shall govern the definitions of words and phrases used within this law. All  
36 words not defined herein shall be used in their ordinary and everyday sense.

- 37 (a) “Affirmative defense” means a fact or set of facts other than those alleged by the  
38 complainant which, if proven by the official, defeats or mitigates the consequences of the  
39 official’s otherwise unlawful conduct.

- 40 (b) “Answer” means a formal written statement addressing the dispute on the merits  
41 and presents any defenses and counterclaims.  
42 (c) “Business Committee Support Office” means the office that provides administrative  
43 support for the Oneida Business Committee and various other governmental operations.  
44 (d) “Business day” means Monday through Friday 8:00 a.m. – 4:30 p.m., excluding  
45 holidays recognized by the Nation.  
46 (e) “Clear and convincing evidence” means that it is substantially more likely than not  
47 that the facts presented are true.  
48 (f) “Complainant” means an individual who has made a complaint.  
49 (g) “Constitution” means the Constitution and By-Laws of the Oneida Nation.  
50 (h) “Court of Appeals” means the Court of Appeals of the Oneida Nation Judiciary.  
51 (i) “Entity” means a board, committee or commission of the Nation, including the  
52 Oneida Business Committee.  
53 (j) “F frivolous” means a complaint without any reasonable basis or merit, that cannot be  
54 supported by a good faith argument. Most often frivolous complaints are intended to  
55 merely harass, delay, or embarrass the opposition.  
56 (k) “Misconduct” means wrongful, improper or unlawful conduct or behavior.  
57 (l) “Nation” means the Oneida Nation.  
58 (m) “Official” means any person who is elected or appointed to serve on a board,  
59 committee or commission of the Nation, including the Oneida Business Committee.  
60 (n) “Restitution” means compensation to an individual for an injury, damage or loss.  
61 (o) “Stipend” means the amount paid by the Oneida Nation to individuals serving on  
62 boards, committees and commissions of the Nation to offset the expenses of being a  
63 member on the board, committee or commission.  
64 (p) “Substantiate” means to find that the complaint or allegation in the complaint is valid  
65 because there is clear and convincing evidence.  
66 (q) “Trial Court” means the Trial Court of the Oneida Nation Judiciary.

#### 67 68 **120.4. Misconduct**

69 120.4-1. It shall be the obligation of every official to behave in a manner that promotes the  
70 highest ethical and moral standard. High moral and ethical standards amongst officials of the  
71 Nation is essential to the conduct of government.

72 120.4-2. An official may be subject to sanctions and penalties for behaving in a manner which  
73 constitutes misconduct. Misconduct includes:

- 74 (a) a violation of the Constitution or any of the Nation’s laws, policies, or rules;  
75 (b) a violation of the bylaws, standard operating procedures or other internal operating  
76 documents that govern the entity upon which the official serves;  
77 (c) a conviction of a felony, or any crime in any jurisdiction that would be classified as a  
78 felony under federal law or Wisconsin law; and  
79 (d) any other activity that is incompatible with the high moral and ethical standards that  
80 are expected of the Nation’s officials.

#### 81 82 **120.5. Filing of a Complaint**

83 120.5-1. *Who May File.* Any individual at least eighteen (18) years of age or older, or entity,  
84 who in good faith, has knowledge or reason to believe that an official has committed misconduct,  
85 may file a written complaint.

86 120.5-2. *When to File.* A complaint may be filed as long as the alleged misconduct has  
87 occurred, or was discovered to have occurred, within the previous ninety (90) days.

88 120.5-3. *Contents of the Complaint.* The complaint alleging misconduct by an official shall  
89 include the following information:

- 90 (a) The name(s) of the official alleged to have committed the misconduct;
- 91 (b) The entity or entities upon which the official serves;
- 92 (c) The specific date(s), time(s), and location(s) of the alleged misconduct;
- 93 (d) The specific details of the official’s misconduct;
- 94 (e) The specific provision of law, policy, rule, or bylaw of the Nation allegedly violated  
95 by the official;
- 96 (f) Names of any witnesses of the alleged misconduct, or individuals who may have  
97 knowledge pertinent to the alleged misconduct;
- 98 (g) The contact information for the person filing the complaint, which at minimum shall  
99 include the person’s name, address, and telephone number;
- 100 (h) A notarized sworn statement attesting that the information provided in and with the  
101 complaint is true, accurate, and complete to the best of the complainant’s knowledge;
- 102 (i) Any supporting documentation; and
- 103 (j) Any other information required by the Nation’s Rules of Civil Procedure if the  
104 complaint is alleging misconduct of an elected official.

105 120.5-4. *Where to File.*

106 (a) *Appointed Official.* Complaints against an appointed official shall be filed with the  
107 Business Committee Support Office.

108 (b) *Elected Official.* Complaints against an elected official shall be filed with the  
109 Nation’s Trial Court.

110 120.5-5. *Retaliation Prohibited.* Retaliation against any individual who makes a complaint or  
111 party or witness to a complaint is prohibited. This protection shall also be afforded to any person  
112 offering testimony or evidence or complying with directives authorized under this law.  
113 Retaliation shall include any form of adverse or punitive action by or caused by, any official.

114 120.5-6. Any official who is the subject of a complaint has the right to be represented by an  
115 attorney or advocate, at his or her own expense, for any actions or proceedings related to the  
116 complaint.

117

## 118 **120.6. Complaints Alleged Against an Appointed Official**

119 120.6-1. Due to the fact that an appointed official serves at the discretion of the Oneida Business  
120 Committee, all complaints alleged against an appointed official shall be handled by the Oneida  
121 Business Committee.

122 120.6-2. *Receipt of Complaint.* Upon receiving a complaint, the Business Committee Support  
123 Office shall:

124 (a) immediately forward copies of the complaint, including any supporting  
125 documentation, to:

- 126 (1) all members of the Oneida Business Committee for review; and
- 127 (2) the individual who is the subject of the complaint.

128 (b) place the complaint on the executive session portion of the agenda of a regular or  
129 special meeting of the Oneida Business Committee for an initial review within thirty (30)  
130 days after receipt of complaint.

131 120.6-3. *Answer to the Complaint.* The individual who is the subject of the complaint shall have  
132 ten (10) business days after receiving his or her copy of the complaint, to submit to the Business

133 Committee Support Office a written answer setting forth any admission, denial, affirmative  
134 defense, or other relevant information upon which the official intends to rely during proceedings  
135 related to the complaint.

136 (a) The Business Committee Support Office shall immediately forward the answer and  
137 any supporting documentation to all members of the Oneida Business Committee upon  
138 receipt from the individual who is the subject of the complaint.

139 120.6-4. *Conflict of Interest.* An Oneida Business Committee member that has a conflict of  
140 interest in a complaint brought before the Oneida Business Committee, shall immediately recuse  
141 themselves and shall not participate in the initial review or the investigatory hearing.

142 (a) Failure of an Oneida Business Committee member to recuse themselves due to a  
143 conflict of interest shall constitute grounds for sanctions and/or penalties.

144 120.6-5. *Initial Review.* The Oneida Business Committee shall perform an initial review of an  
145 allegation of misconduct on the part of an official. The purpose of the initial review shall be to  
146 determine whether the allegation made within the complaint has merit.

147 (a) During the initial review the Oneida Business Committee shall review the complaint  
148 and the written answer; as well as any supporting documentation.

149 (b) In order to determine if a complaint has merit, the Oneida Business Committee will  
150 discuss if whether assuming the facts alleged are true, said facts would support a  
151 determination of misconduct.

152 (c) The Oneida Business Committee shall determine, by majority vote, whether the  
153 complaint has merit.

154 (1) Upon a finding that the complaint has merit, the Oneida Business Committee  
155 shall schedule an investigatory hearing to consider the specific allegations  
156 identified in the complaint.

157 (2) Upon finding that a complaint has no merit, the Oneida Business Committee  
158 shall dismiss the complaint.

159 (A) If the Oneida Business Committee dismisses the complaint based on a  
160 determination that the complaint was frivolous, false, or made with a  
161 malicious intent, the complainant may be subject to:

162 (i) a fine not to exceed five hundred dollars (\$500);

163 (ii) prohibition from filing another complaint for a period of time  
164 not to exceed one (1) year; and/or

165 (iii) a civil suit in the Nation's Trial Court brought by the official  
166 accused by the frivolous, false or malicious allegation.

167 120.6-6. *Investigatory Hearing.* The investigatory hearing shall occur within thirty (30) days  
168 after the initial review has concluded. The investigatory hearing shall take place during the  
169 executive session portion of the agenda of a regular or special meeting of the Oneida Business  
170 Committee. The purpose of the investigatory hearing is for the Oneida Business Committee to  
171 determine if there is enough evidence to substantiate the allegations of misconduct by clear and  
172 convincing evidence.

173 (a) When conducting an investigatory hearing, the Oneida Business Committee shall  
174 have the broadest grant of authority to compel any person or organization within the  
175 Nation to:

176 (1) appear at the hearing to provide testimony under oath and/or information  
177 relevant to the allegations against the official; and/or

178 (2) produce physical evidence that is relevant to the allegations.

179 (b) The Oneida Business Committee shall provide an opportunity for the official who is  
180 the subject of the complaint to answer all allegations and to provide witness testimony,  
181 documents, and other evidence on his or her own behalf.

182 (c) The Oneida Business Committee shall also provide the complainant the opportunity  
183 to answer questions, provide witness testimony or additional information, and/or to  
184 otherwise speak on his or her own behalf.

185 (d) The hearing shall be informal and conducted as the interests of justice so require, and  
186 shall be recorded by the Business Committee Support Office.

187 120.6-7. *Deliberation of the Oneida Business Committee.* At the conclusion of the investigatory  
188 hearing, the Oneida Business Committee shall excuse everyone from executive session for the  
189 deliberation of the Oneida Business Committee. Prior to making a final determination as to  
190 whether to substantiate the complaint, the Oneida Business Committee shall:

191 (a) consider all evidence and information provided, and shall have a full and complete  
192 discussion of all aspects of the complaint and answer; and

193 (b) have a full and complete discussion of all potential sanctions and penalties that may  
194 be imposed, if appropriate.

195 120.6-8. *Determination by the Oneida Business Committee.* After the investigatory hearing has  
196 concluded and the Oneida Business Committee has deliberated, the Oneida Business Committee  
197 shall in open session of a regular or special Oneida Business Committee meeting, by majority  
198 vote, declare whether the Oneida Business Committee has determined there is enough evidence  
199 to substantiate the allegations of misconduct by clear and convincing evidence.

200 (a) If the Oneida Business Committee finds that there is clear and convincing evidence  
201 that the official engaged in misconduct, the Oneida Business Committee shall, by  
202 majority vote, determine and impose appropriate sanctions and/or penalties.

203 (b) If the Oneida Business Committee does not find that there is clear and convincing  
204 evidence to support the allegations that the official engaged in misconduct, the complaint  
205 shall be dismissed.

206 (c) Within ten (10) business days after the investigatory hearing, the Oneida Business  
207 Committee shall issue a written decision and provide copies of the decision to:

208 (1) the complainant,

209 (2) the official who is the subject of the complaint, and

210 (3) the Business Committee Support Office, for recordkeeping.

211 120.6-9. *Appeal.* The complainant and the official who is the subject of the complaint shall both  
212 have the right to appeal the Oneida Business Committee's decision to the Court of Appeals  
213 within twenty (20) days after the written decision is issued. The appeal shall be limited to review  
214 of the record, and the Oneida Business Committee's decision may only be overturned if the  
215 Court of Appeals determines that:

216 (a) The findings or penalties imposed were clearly erroneous, unsupported by the record,  
217 or made on unreasonable grounds or without any proper consideration of circumstances;  
218 or

219 (b) Procedural irregularities occurred which prevented a fair and impartial hearing.  
220

## 221 **120.7. Complaints Alleged Against an Elected Official**

222 120.7-1. The Trial Court shall have jurisdiction to hear complaints of alleged misconduct of  
223 elected officials. Complaints of alleged misconduct shall be filed with the Trial Court pursuant to  
224 the Nation's Rules of Civil Procedure.

225 120.7-2. In a civil action against an elected official for misconduct, the complainant has the  
226 burden of proving by clear and convincing evidence that the official engaged in misconduct.

227 120.7-3. In making a final determination, the Trial Court shall determine if there is enough  
228 evidence to substantiate the allegations of misconduct by the official by clear and convincing  
229 evidence.

230 (a) If the Trial Court finds that there is clear and convincing evidence that the official  
231 engaged in misconduct, the Trial Court shall determine and impose any sanctions and/or  
232 penalties deemed appropriate in accordance with this law.

233 (b) If the Trial Court does not find that there is clear and convincing evidence to support  
234 the allegations that the official engaged in misconduct, the complaint shall be dismissed.

235 120.7-4. *Appeal*. The complainant and the official who is the subject of the complaint shall both  
236 have the right to appeal the Trial Court’s decision to the Court of Appeals pursuant to the  
237 Nation’s Rules of Appellate Procedure.

238 120.7-5. The Trial Court shall provide the Business Committee Support Office a copy of the  
239 complaint and the determination of the Trial Court for the official’s record of conduct in office.  
240

## 241 **120.8. Sanctions and Penalties**

242 120.8-1. A sanction or penalty, or any combination of sanctions and/or penalties, may be  
243 imposed upon the Nation’s officials for misconduct in office, in accordance with this law.

244 120.8-2. Sanctions and penalties may include:

245 (a) *Verbal Reprimand*. A verbal reprimand may be imposed on the official.

246 (1) The Oneida Business Committee or Trial Court shall submit written notices to  
247 both the official and to the Business Committee Support Office of the specific  
248 date, time and location of the verbal reprimand. The verbal reprimand shall occur  
249 at an Oneida Business Committee meeting and/or a General Tribal Council  
250 meeting.

251 (2) To impose the verbal reprimand, the Oneida Business Committee Chairperson  
252 shall read a statement that identifies:

253 (A) The Oneida Business Committee or Trial Court’s findings regarding  
254 the specific actions or inaction taken by the official that were found to be  
255 misconduct;

256 (B) The reasons why the official’s actions or inactions amounted to  
257 misconduct;

258 (C) A statement identifying that the misconduct violates the high standards  
259 of behavior expected of the Nation’s officials and is not acceptable; and

260 (D) A direction to the official to refrain from engaging in future  
261 misconduct.

262 (b) *Public Apology*. The official may be ordered to make a public apology. The Oneida  
263 Business Committee or Trial Court shall submit written notices to both the official and to  
264 the Business Committee Support Office of the specific date, time and location of the  
265 public apology. The public apology shall occur at an Oneida Business Committee  
266 meeting and/or a General Tribal Council meeting. The public apology shall:

267 (1) identify the specific misconduct committed by the official;

268 (2) recognize that the official’s actions or inactions were wrong;

269 (3) identify the effects of the official’s misconduct; and

270 (4) include a clear and unambiguous apology from the official.

271 (c) *Written Reprimand.* A written reprimand may be imposed on the official by  
272 publication on the Nation’s official media outlets, as determined by the Oneida Business  
273 Committee. The Oneida Business Committee or the Trial Court may publish a written  
274 reprimand which includes the information required for the verbal reprimand as stated in  
275 section 120.8-2(a)(2)(A)-(D).

276 (d) *Suspension.* An official may be suspended from performing his or her duties as an  
277 official for one (1) consecutive period of time, not to exceed sixty (60) days.

278 (1) During a suspension, the official shall not:

- 279 (A) attend meetings, trainings or any other event as part of the entity;
- 280 (B) attend conferences or other events on behalf of, or as a representative  
281 of, the entity;
- 282 (C) vote or participate in any activities of the entity;
- 283 (D) perform work on behalf of the entity; or
- 284 (E) be eligible for any compensation, including regular pay, stipends, or  
285 mileage reimbursement.

286 (2) When an official is suspended, the Oneida Business Committee or Trial Court  
287 shall submit written notices to both the official and to the Business Committee  
288 Support Office of the specific start and end date of the suspension.

289 (e) *Restitution.* An official may be ordered to pay restitution, which may include the  
290 repayment of any improperly-received benefit, or any other payment which is intended to  
291 make another whole after suffering losses as a result of the official’s misconduct.

292 (f) *Fines.* An official may be ordered to pay a fine not to exceed five thousand dollars  
293 (\$5,000) per act of misconduct.

294 (1) Fines shall be paid to the Trial Court.

295 (2) Fines shall be paid within ninety (90) days after the order is issued or upheld  
296 on final appeal, whichever is later. Cash shall not be accepted for payment of  
297 fines. If the fine is not paid by this deadline, the Trial Court may seek to collect  
298 the money owed through the Nation’s garnishment and/or per capita attachment  
299 process.

300 (3) Money received from fines shall be deposited into the General Fund.

301 (4) Community service may be substituted for part or all of any fine at the  
302 minimum wage rate of the Nation for each hour of community service.

303 (g) *Loss of Stipend.* An official may be ordered to forfeit a stipend for his or her service  
304 on an entity not to exceed twelve (12) meetings.

305 (h) *Termination of Appointment.* An appointed official may have his or her appointment  
306 terminated by the Oneida Business Committee in accordance with the Nation’s laws  
307 and/or policies governing boards, committees, and commissions.

308 (i) *Removal.* The Trial Court may recommend that the process for removing an elected  
309 official as contained in the Nation’s laws and/or policies governing removal be initiated.

310 (j) *Prohibition.* Once terminated from office, an appointed official may be prohibited  
311 from serving on an entity for a period of time not to exceed three (3) years.

312 120.8-3. *Factors in Determining an Appropriate Sanction and/or Penalty.* When determining  
313 the appropriate sanction or sanctions to impose, the Oneida Business Committee or the Trial  
314 Court may consider all factors it deems relevant, including but not limited to:

- 315 (a) the seriousness or severity of the misconduct;
- 316 (b) whether the conduct was intentional or not;
- 317 (c) the likelihood of repetition;

- 318 (d) the extent of probable damage to the finances or reputation of the Nation, the
- 319 complainant, the entity, or to any other person or organization;
- 320 (e) whether the official or his or her family personally profited, financially or otherwise,
- 321 from the prohibited conduct;
- 322 (f) the official’s remorse, or
- 323 (g) the official’s willingness and ability to take steps to mitigate the harm caused by the
- 324 violation, and
- 325 (h) any prior complaints filed, including any previous sanctions and penalties imposed
- 326 upon the official while serving on an entity.

327 120.8-4. The imposition of sanctions and/or penalties in accordance with this law does not  
328 exempt an official from individual liability for the underlying misconduct, and does not limit any  
329 penalties that may be imposed in accordance with other applicable laws. In addition to any  
330 sanctions and penalties that may be imposed in accordance with this law, officials who commit  
331 misconduct in office may be subject to other consequences; including but not limited to:

- 332 (a) removal in accordance with the Nation’s laws and/or policies governing removal, if an
- 333 elected official;
- 334 (b) termination of appointment by the Oneida Business Committee, if an appointed
- 335 official;
- 336 (c) criminal prosecution, for misconduct that also violates applicable criminal law;
- 337 (d) civil liability, in accordance with the applicable law of any jurisdiction; and/or
- 338 (e) penalties for specific misconduct as authorized by any other law of the Nation.

339  
340 **120.9. Effect of Resignation by an Official**

341 120.9-1. The resignation of an official after a complaint has been filed against the official shall  
342 not affect the status of the hearing and determination by either the Oneida Business Committee  
343 or Trial Court.

344 120.9-2. An official who resigns may still be subject to sanctions and/or penalties at the  
345 discretion of the Oneida Business Committee or Trial Court.

346  
347 **120.10. Record of Conduct in Office**

348 120.10-1. The Business Committee Support Office shall maintain a record of conduct in office  
349 for each official.

350 120.10-2. The record of conduct in office maintained for each official shall include, at a  
351 minimum:

- 352 (a) a copy of each complaint filed against the official;
- 353 (b) the outcome of the complaint, and
- 354 (c) any sanctions or penalties imposed upon an official.

355 120.10-3. The record of conduct in office for each official shall be maintained for a period of no  
356 less than ten (10) years.

357  
358 *End.*

359  
360 

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Adopted – GTC-\_\_-\_\_-\_\_-\_\_

361

# September 2018

September 2018

Su	Mo	Tu	We	Th	Fr	Sa
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2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

October 2018

Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Aug 26	27	28	29	30	31	Sep 1
2	3	4	5 9:00am LOC (BC_Conf_Room) - LOC	6	7	8
9	10 1:30pm LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	11	12	13	14	15
16	17	18 3:00pm LOC Prep (BC_Exec_Conf_Room) - LOC	19 9:00am LOC (BC_Conf_Room) - LOC	20	21 8:30am LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	22
23	24 6:00pm GTC (Radisson)	25	26	27 1:30pm LOC Work Session (BC_Exec_Conf_Room) - 5:00pm UPDATE- LOC Community	28	29
30	Oct 1	2	3	4	5	6

# October 2018

October 2018

Su	Mo	Tu	We	Th	Fr	Sa
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7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

November 2018

Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Sep 30	Oct 1	2	3 9:00am LOC Meeting (BC_Conf_Room) - LOC	4 12:15pm Sanctions and Penalties Public Meeting (BC Conference Room)	5	6
7	8	9	10	11	12	13
14	15	16 3:00pm LOC Prep (BC_Exec_Conf_Room) - LOC	17 9:00am LOC Meeting (BC_Conf_Room) - LOC	18	19	20
21	22	23	24	25	26	27
28	29	30	31	Nov 1	2	3