

Oneida Tribe of Indians of Wisconsin

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Oneida, WI 54155



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.



UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

RESOLUTION #4-20-95-B

WHEREAS, the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States, and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Tribe of Indians of Wisconsin, and

WHEREAS, the Oneida Business Committee finds that employees within the Tribal employment structure are most aware of employee practices that could result in financial loss through money or property; and

WHEREAS, the Oneida Business Committee desires to offer the most support and protection possible to these employees, and other persons, who wish to come forward with information benefiting the Tribe; and

WHEREAS, it is necessary to implement this policy as soon as possible to enable the Tribe to protect employees, to maintain confidential and privileged information, to detect, correct and prevent abuse of Tribal policies and regulations, and to save financial resources of the Tribe to benefit Tribal members as well as employees;

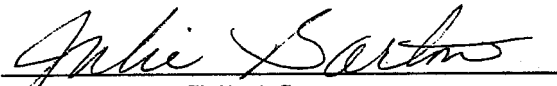
NOW THEREFORE BE IT RESOLVED: that the Oneida Business, using the emergency authority granted under Article VI of the Administrative Procedures Act, adopts the attached policy for a six month period beginning from the date of adoption of this resolution, and

NOW THEREFORE BE IT FURTHER RESOLVED: that the Oneida Business Committee directs that Division Directors shall present testimony at a Public Hearing for this policy which is scheduled on May 16, 1995, where such testimony shall include both positive and negative impacts on the respective division, and

NOW THEREFORE BE IT FINALLY RESOLVED: that the Human Resources Department Manager or his delegate, is directed to integrate this policy into the Personnel Policy and Procedures Handbook currently being revised, to create posters indicating this policy exists and a contact person where the employee may obtain a copy of this policy, and finally to submit written testimony to the Public Hearing regarding this policy.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum. 5 members were present at a meeting duly called, noticed and held on the 20th day of April, 1995; that the foregoing resolution was duly adopted at such meeting by a vote of 5 members for; 0 members against, and 0 members not voting; and that said resolution has not been rescinded or amended in any way.


Julie Barton, Tribal Secretary
Oneida Business Committee

ONEIDA TRIBAL LAW OFFICE

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STATEMENT OF EFFECT

Resolution Regarding Emergency Adoption of Employee Protection Law

Summary

This resolution adopts the Employee Protection Law on an emergency basis. The Employee Protection Law implements protective procedures for employees who have information regarding employee practices that are to the detriment of the Tribe and/or individual Tribal members or employees.

Analysis

This law will be adopted for a minimum six month period under the emergency procedures of the Administrative Procedures Act, Article VI. During this six months, a Public Hearing will be held at which the Division Directors and the Human Resources Department Manager are directed to submit written testimony.

The Employee Protection Law creates protected information if the employee follows specific instructions regarding disseminating the information. The employee must submit written testimony that identifies themselves, parties taking the detrimental action, and the date and times the actions occurred. This testimony must be given to one of five listed groups of persons who are directed to investigate the testimony. **An employee submitting the proper information is protected under this law from retaliation.** This protection extends to immediate appeal to the Personnel Commission regarding disciplinary action, or immediate appeal to the Division Director for other types of retaliation.

Retaliation under this policy consists of actions, reactions, and inactions regarding all aspects of employment. Including, merit raises, transfer, promotions, as well as disciplinary actions.

Conclusion

There are no legal bars to adoption of this law. It should be recognized that this law is adopted on an emergency basis only and subject to comments received at the Public Hearing. It may be necessary to create additional, more comprehensive, procedures as a result of the Public Hearing.

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EMPLOYEE PROTECTION POLICY

Article I. Purpose and Policy

§1-1. The purpose of this policy is to give protection to employees who wish to give information that is intended to protect the Oneida Nation, or its agencies from fraud, theft or other detrimental effects - monetary, political, reputation and the like.

§1-2. It is the policy of the Oneida Nation to extend protection to employees who take action within this policy to protect the Nation's interests.

Article II. Adoption, Amendment, Repeal

§2-1. This policy shall become effective thirty (30) business days after adoption.

§2-2. This policy shall supersede, repeal, rescind any prior law or policy regarding employee protection. Provided, that the law or policy is in direct conflict or extends lesser protection than this Employee Protection Policy.

§2-3. This policy may be amended or repealed by the Oneida Business Committee pursuant to the Oneida Administrative Procedures Act.

Article III. Definitions

3-1. This article shall govern the definitions of words as phrases as used herein. All words not defined herein shall be used in their ordinary and everyday sense.

3-2. "Abuse of Authority" means using the authority, whether real or assumed, of any position, whether actual or assumed, to obtain information, goods or services to the detriment of the tribe, or using the authority as described above to directly or indirectly punish any person or employee for disclosing information as described below.

3-3. "Appropriate Agency" means a delegated person or officer to receive disclosures in the Internal Auditing, Gaming Commission, Tribal School Board, and Personnel Commission.

3-4. "Disciplinary Action" means any action by an employer affecting an employee to their detriment, including, but not limited to - dismissal, demotion, transfer, removal of duty, refuse to restore, suspend, reprimand, verbal or physical harassment, reduction of pay, denial of educational benefits, reassignment, failure to increase base pay.

3-5. "Disclosure" means to reveal otherwise non-public information or other information that would otherwise remain concealed during a period which it should be brought to light.

3-6. "Employee" means any person working for the Oneida Nation in its programs, enterprises, and governmental functions, whether elected, appointed, or hired as a limited term employee, vendor, or contractor.

3-7. "Information" means the specific time, date, who, when, where, what, how in any disclosure that would prevent detrimental actions being taken against the Oneida Nation.

3-8. "Merit Further Investigation" means that point at which a person(s) hearing the information believes that it requires further action.

3-9. "Mismanagement" means failure to use reasonable good sense in using the authority granted through the job description, delegated authority by any supervisor, and/or personal judgment to advance the economic, financial, and political value of the Oneida Nation by properly using employee time, equipment, funds, and their own time.

3-10. "Retaliatory Action" means any action, either disciplinary or otherwise, taken against any employee, whether supervisory or supervised, for that employee's disclosure of information as directed within this policy, excluding any action that can be reasonably justified as taken in good faith based on documented employee performance. Action other than disciplinary action that may be retaliatory, by way of example, would be loss of hours, rescheduling shifts outside of normal shift changes, change of job requirements without notice.

3-11. "Substantial Waste of Public Funds" means any use of funds in a manner not directed by policy, including any preference laws adopted by the Oneida Nation.

Article IV. Disclosure

§4-1. An employee is protected under this policy if disclosure of the information is given, in confidence, in writing and signed, to the any of the following persons:

- a. Supervisor
- b. appropriate agency
- c. law enforcement agency
- d. attorney retained by the employee.
- e. Employee Advocates

Provided that, disclosure, through circumstances other than in person, the employee shall fully identify themselves.

§4-2. A protected disclosure includes the following elements:

- a. identity of person making the disclosure
- b. identity of person or persons against whom disclosure is being made
- c. to the best of the employees knowledge, the date and times at which the disclosed action occurred, and
- d. summary of the disclosed action.

§4-3. All disclosures shall be kept confidential, until such time as action is being taken against the person or persons identified in the disclosed information.

§4-4. Disclosures made to persons in section 4-1 shall be directed as soon as reasonably possible to the appropriate agency in a sealed envelop. Provided that no attorney shall be directed under this policy to act in a manner the attorney reasonably decides is in conflict with any professional responsibility or rule.

§4-5. The appropriate agency shall send a written decision to the disclosing party that the disclosure has or does not have merit, along with any further action that will be taken within twenty (20) business days. If a disclosure merits further action, the disclosing party will be notified that they may be called by the appropriate agency to give additional testimony at a closed meeting and on approximately what date. Further, appropriate agencies will follow the hearing procedures set out in the Administrative Procedures Act for a Hearing of Record. Appropriate agencies are authorized to use their full powers to take corrective measures where disclosures merit action, and to utilize all Tribal agencies to effectively correct any and all problems found. This includes, but is not limited to, the following action:

- a. Oneida Business Committee garnishment action to recover lost funds,
- b. Personnel Commission for disciplinary action,

- c. Appeals Commission for appropriate civil actions,
- d. Criminal prosecutions, where indicated, in appropriate federal or state courts

Article V. Protection

§5-1. Any employee who discloses information in the manner described in this policy shall be protected from any and all employment related retaliation to the fullest extent of this Article.

5-2. Any employee who believes that retaliatory action is being taken against them may follow procedures set out below:

- a. This policy supersedes those complaint procedures set out in the Personnel Policy and Procedures Manual and the employee may go directly to their Division Director and state, in person and in writing, or written only, the action that employee believes is retaliatory, or
- b. If a disciplinary action, that employee may go directly to the Personnel Commission with their grievance.

5-3. The Personnel Commission is authorized through this policy to proceed immediately with any alleged retaliation grievance placed before them by any employee. Any resolution of a retaliation grievance must be written and placed in all parties files. All parties include, but are not limited to, persons actively involved with knowingly implementing any retaliation action and named by the grieving party.

5-4. Any person acting under the authority of another, who has a good faith belief of the correctness of their actions, is a legal defense against any retaliation grievance and, if accepted by the Personnel Commission, bars placement of the results of the action in that employee's file. Provided that, the person was not found to be actively involved in an retaliatory action. Provided further, that the employee acting in good faith has not asked that the results of any retaliation hearing be placed in their file.

5-4. There are no appeals from a retaliation hearing, provided that, any grievance brought before a Division Director may be appealed to the Personnel Commission.