

Oneida Nation

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Oneida, WI 54155

BC Resolution # 10-26-16-D

Drug and Alcohol Free Workplace Policy Emergency Amendments

- 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 federal Occupational Safety and Health Administration (OSHA) adopted amendments to a final rule (29 CFR 1904) which become effective on November 1, 2016, and which prohibit employers from retaliating against workers who report work-related injuries or illnesses; and
- WHEREAS,** OSHA's comments on the changes to the rule, as published in the Federal Register, state that "To strike the appropriate balance here, drug testing policies should limit post-incident testing to situations in which employee drug use is likely to have contributed to the incident, and for which the drug test can accurately identify impairment caused by drug use"; and
- WHEREAS,** the Drug and Alcohol Free Workplace Policy, as originally adopted by Oneida Business Committee resolution 10-25-95-A and most recently amended by Oneida Business Committee resolution 12-11-13-F, requires all employees to immediately undergo drug and alcohol testing following a workplace accident; and
- WHEREAS,** these requirements in the Policy conflict with the new requirements under federal law; and
- WHEREAS,** amendments to the Policy would delete the requirement that all employees must undergo drug and alcohol testing following any workplace accident; and
- WHEREAS,** the Nation's employees are still required to immediately report all workplace accidents to their supervisor; and
- WHEREAS,** the Nation's employees may still be required to undergo drug and alcohol testing at any time if there is "reasonable suspicion" that the employee is under the influence of alcohol or drugs; and
- WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact legislation on an emergency basis; and
- WHEREAS,** emergency adoption of this amendment to the Drug and Alcohol Free Workplace Policy is necessary for the preservation of the public health, safety, or general welfare of the Reservation population; because it ensures that the Nation is in compliance with federal workplace standards; and
- WHEREAS,** observance of the standard legislative process would be contrary to public interest because

permanent amendments to the Policy could not be adopted in time to be in effect when the new federal requirements go into effect; and

NOW THEREFORE BE IT RESOLVED, that the attached emergency amendments to the Drug and Alcohol Free Workplace Policy are hereby adopted and shall take effect immediately.

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; 7 members were present at a meeting duly called, noticed and held on the 26th day of October, 2016; that the forgoing resolution was duly adopted at such meeting by a vote of 6 members for, 0 members against, and 0 members not voting; and that said resolution has not been rescinded or amended in any way.



Lisa Summers, Tribal Secretary
Oneida Business Committee

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