

AGENDA

LOC Work meeting

November 19, 2014

After LOC Meeting Adjourns

BC Conference Room

1. LOC Priorities

- a. Committee Priorities
 - i. Legislation needed to meet OBC Priorities
 - ii. Other Legislation
- b. Individual Priorities
 - i. Fawn: Pow wow Bylaws; Furlough Policy
 - ii. Jenny: Petition: Childcare Complaint; Tribal Hearing Bodies & APA Replacement; Audit Law; Rules of Appellate Procedure; Business Organization Code; Capping Damages from the Judiciary; Employee Advocacy; Whistleblower
 - iii. Tehassi: Code of Ethics; Election Law; Agriculture Law

2. BC Sanctions and Penalties Law

- a. From the 11/5 LOC meeting: Motion by Jennifer Webster to forward BC Sanctions and Penalties to an LOC work meeting, with invitations to be sent to the rest of the Oneida Business Committee; seconded by Fawn Billie. Motion carried unanimously.

Chapter XX
Sanctions and Penalties for ~~Violations of Tribal Policy or Law for~~
~~Elected or Appointed~~ Government Officials

Oneida Word – TBD

.1. Purpose and Policy
 .2. Adoption, Amendment, Repeal
 .3. Definitions

.4. Sanctions and Penalties
 .5. Reporting

.1. Purpose and Policy

.1-1. Purpose. It is the purpose of this Law to provide sanctions and penalties for violations of Tribal law or policy by ~~Elected and Appointed~~ Government Officials; ~~no government official shall avoid a penalty or sanction where there is absence of a sanction or penalty from tribal law or policy. The law.~~ This Law is also intended to provide the scope of sanctions and penalties, as well as provide a framework for implementation. ~~Use of these sanctions and penalties are required where tribal law or policy is absent of identified minimum sanctions or penalties for elected or appointed officials.~~

.1-2. Policy. It is the policy of the Tribe to enable the Oneida Business Committee and boards, committees and commissions to sanction and/or penalize Government Officials who do not uphold Tribal law and policy and to ensure no Government Official avoids a penalty or sanction because of an absence of a sanction or penalty in a Tribal law or policy.

.2. Adoption, Amendment, Repeal

.2-1. This law was adopted by the Oneida Business Committee by resolution _____.

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 This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

.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.

.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.

.2-5. ~~2.2~~ Definitions. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

.3. Definitions

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

~~2.2-1. Reserved.~~

~~2.2-2. (a) “Enterprise. An enterprise includes” means~~ all entities of the Oneida Tribe of Indians of Wisconsin that are engaged in a business or activity with the expectation to generate revenue or make a profit as a primary function at any time during a fiscal cycle.

~~2.2-3. Good Mind Principle Kahletsyalúsla—The heart felt encouragement of the best in each of us.~~

~~2(b) “2-4. Good Mind Principle Kanolukhwásla—Compassion, caring, identity and joy of being.~~

~~2.2-5. Good Mind Principle Ka?nikuhli yó—The openness of the good spirit and mind.~~

~~2.2-6. Good Mind Principle Ka?tshatsi^sla—The strength of belief and vision as a People.~~

~~2.2-7. Good Mind Principle Ka?nikuhli-yó—The use of the good words about ourselves, our Nation, and our future.~~

~~2.2-8. Good Mind Principle Yukwahwa-tsie?—Our Family and our Nation~~

~~2.2-9. Good Mind Principle Yukwatsistay?—Our fire, our spirit within each one of us.~~

~~2.2-10. Government Official.—A government official includes all persons who are~~ means any person elected to the Oneida Business Committee, any other person elected or appointed to a board, committee, or commission created by the Oneida Business Committee or Oneida General Tribal Council, or any person appointed to a board, committee or commission to fill a vacancy. However, “Government Official” does not mean a judge serving on the Tribe’s judicial system.

~~2.2-11.—(c) “Notice. Shall mean” means~~ written correspondence from a board, committee or commission which provides a ~~government official,~~ Government Official with the sanction(s) or penalties imposed upon ~~them~~ him or her through official board, committee or commission action.

~~2.2-12.—(d) “Official Tribal Newspaper. Shall mean” means~~ the Kalihwisaks.

~~2.2-13. Oneida.—(e) “Tribe—or Tribe. Oneida Tribe or Tribe shall mean” means~~ the Oneida Tribe of Indians of Wisconsin.

~~2.2-14. Tribal Court. Shall mean~~ (f) “Tribe’s judicial system” means a court with the Oneida Judiciary adopted by General Tribal Council on January 7, 2013.

~~3.3. Government Officials. The Oneida Tribe’s expectation is that government officials will uphold their oaths of office and demonstrate the highest standards of personal integrity, truthfulness, honesty, and fortitude in all activities in order to inspire public confidence and trust in themselves and in the Oneida Tribe of Indians of Wisconsin.~~

~~3.3-1. Government official(s) shall strive to:~~

~~(a) Uphold their Oath of Office,~~

~~(b) Adhere to the Code of Ethics, including the practice of identified standards and attributes in the conduct of day to day activities,~~

~~(c) Utilize and practice the good mind principles.~~

~~(e) Support, comply with and adhere to the laws, customs, and traditions of the Tribe as well as applicable state and federal law.~~

~~(f) Where there appears to be a conflict of law, seek legal advice to clarify the conflict, as well as actively pursue changes to the law to avoid future conflicts of law.~~

~~3.3-2. The Government Official shall be responsible for his or her actions.—~~

~~(a) Integrity is a personal responsibility and no one may justify an illegal act by claiming it was directed.—~~

~~(b) No one, regardless of rank, is ever authorized to direct an employee to commit an illegal or unethical act.~~

.4. Sanctions and Penalties

~~4-1.~~ Sanctions and penalties shall be utilized for Government Officials for violations of Tribal law or policy. These sanctions and penalties may be used in addition to, or in the absence of, any enforcement provisions contained within the Tribal law or policy violated. With the exception of ~~censure,~~ all sanctions and penalties shall be approved by majority vote of the ~~Business Committee or the~~ respective Government Official’s board, committee, or commission.

~~4.4-1.—4-2.~~ Each day a government official is not in compliance with an approved sanction or penalty shall constitute a new violation. Sanctions and penalties include application of a single penalty or sanction, or a combination of penalties or sanctions as identified herein:

(a) Public apology presented through the ~~Tribe's~~ official Tribal newspaper, ~~the Kalihwisaks,~~

(b) Verbal warning, including notice to the Government Official of expectations to comply with the ~~tribe's code of ethics, the tribal~~ Tribal law, ~~custom~~ or tradition ~~policy~~ violated, and written acknowledgement of those expectations.

(c) Written warning, including notice to the official of expectations to comply with the ~~tribe's code of ethics, the tribal~~ Tribal law, ~~custom~~ or tradition ~~policy~~ violated, and written acknowledgement of those expectations.

(d) Censure of published news articles, other public opinions or speaking on behalf of the Business Committee, or the board, committee or commission elected or appointed to.

(1) Censure shall not exceed a six (6) months period per violation; and

~~Must~~ (2) Censure shall be approved by a ~~two-thirds~~ (2/3) vote of the Government Official's respective board, committee or commission.

(e) Community service, not to exceed ~~ten~~ (10) hours per violation ~~and~~. Community service hours ~~must~~ shall be completed within ~~ninety~~ (90) days of issuance, or the ~~official~~ will Government Official shall be subject to additional sanctions or penalties.

(f) A ~~fine~~ monetary penalty, suspension, ~~suspension of~~ without pay or stipend forfeiture ~~as identified,~~

~~Termination of~~ (g) Initiation of proceedings to have the Government Official remove from office, if elected or have his or her appointment ~~for~~ terminated, if appointed officials.

(a) ~~Subject to removal for elected officials~~

~~4.3.~~ The administration of three (3) sanctions or penalties ~~for elected officials~~ within the same term of office for a Government Official is grounds for:

(a) a presentation to General Tribal Council to determine if removal proceeding should begin, provided that: ~~the Government Official is elected. The Business Committee shall be responsible for administering the process to bring such presentation to the General Tribal Council.~~

~~the~~ (b) a presentation to Oneida Business Committee to determine if a Government Official's appointment should be terminated; provided that the Government Official is appointed. The Government Official's board, committee or commission shall be responsible for administering the process to bring such ~~reports~~ presentation to the ~~General Tribal Council~~ Oneida Business Committee.

(a) ~~the three (3) accumulated sanctions or penalties are within the same term of office for which the official engaged in the violation~~

~~4.4.3.~~ Non-Monetary Sanctions.

~~(a)~~ Within fifteen (15) days of being noticed of a non-monetary sanction or penalty, the ~~government official~~ Government Official shall comply with the sanction by completing the applicable action(s):-

(a) Submitting a written apology to the ~~tribe's~~ official Tribal newspaper.

(b) Scheduling volunteer hours with a tribal program or a non-profit organization, and providing a written notice to the Business Committee or issuing board, committee, or commission of the location and dates service hours are to be completed.

(c) Providing written acknowledgement to the Business Committee or issuing board, committee, or commission of any verbal or written warning(s).

(d) Placing public or published comments on the Business Committee or issuing board, committee, or commission agenda for approval for the duration of the censure.

~~4.4-4~~ 5. Monetary Penalties. Monetary penalties may ~~only~~ be:

(a) Minimum of fifty dollars (\$50.00) and maximum of one hundred dollars (\$100.00) per violation, for the first (1st) offense.

(b) Minimum of one hundred dollars (\$100.00) and maximum of two hundred dollars (\$200.00) per violation for the second (2nd) offense.-

(c) Minimum of two hundred dollars (\$200.00) and maximum of five hundred dollars (\$500.00) per violation for the third (3rd) offense.-

~~(e) — Each day a government official is not in compliance with an approved sanction or penalty, it shall constitute a new violation.~~

~~(f) — (d)~~ One (1) day suspension without pay.

5.1.4-6. *Implementation of Monetary Penalties.* The Oneida Police Department shall be responsible for issuing monetary penalties.

(a) The Oneida Police Department shall develop and maintain operating procedures on how issued fines shall be administered to government officials. The operating procedures shall be reviewed by the Oneida Police Department at least annually to ensure compliance with this Law.

(b) Penalties issued ~~must~~shall be issued within five (5) business days of the date approved.

(c) Penalties ~~must~~shall be paid in full within thirty (30) days of issuance and are payable to the ~~Oneida~~ Tribe.

(d) Penalties unpaid at the end of the thirty (30) days shall be garnished from the individual's pay.

(1) Full-time officials garnishment rate shall be a minimum of one hundred dollars (\$100.00) per pay check until paid in full.

(2) Part-time officials garnishment rate shall be a minimum of fifty dollars (\$50.00) per pay check until paid in full.

(3) Officials who receive stipend payments shall have stipends forfeited until paid in full.

(e) A request for an extension on a fine payment can be made by filing a request with the ~~tribal court~~Tribe's judicial system; provided that no extension shall exceed sixty (60) additional days. ~~4.~~ Individuals whose fines are not paid in full within the extension period are subject to garnishment as outlined in ~~X-4-26~~(d), and ~~can~~may be subjected to applicable civil or criminal violations in accordance with Tribal law, or in the absence of Tribal law, local or state ordinances.

(f) Funds received from the issuance of sanctions or penalties shall be assigned to the Oneida Language Endowment Fund.

~~5.4-37.~~ *Implementation of Pay Suspensions.*

(a) The Human Resource and Payroll Departments shall be responsible for oversight and administration of pay suspensions.

~~The~~(1) Within sixty (60) days of this Law being passed, the Human Resources Department shall develop internal operating procedures on how the administer pay suspensions for ~~government officials within 60 days of the law being passed~~Government Officials.

(2) The internal operating procedures shall be reviewed by the Human Resources department at least annually to ensure compliance with this Law.

(b) The pay suspension ~~must~~shall be taken consecutively.

(c) Any pay suspension issued ~~must~~shall be administered within two (2) weeks of the expiration of ~~5.14-6~~(c).-

(d) Personal, vacation or flex time may not be utilized to cover the hours under suspension.

6.7. Filing 5. Reporting

5-1. Reporting a Notice of Violation-Notice. The Tribe expects individuals to report any violation of Tribal law or policy, as well as any other dishonest or illegal acts of which they become aware in the workplace. The Tribe ~~will~~shall not tolerate reprisals against any Government Official(s), Employee(s) or Community Members who, in good faith, makes such reports. Individuals may file notices of violations with the offending Government Officials' board, committee or commission Chairperson. If the notice relates to the Chairperson, the notice may be filed with the Vice-Chairperson.

~~6.7 1. Individuals may file notices~~(a) Notices of violations ~~with the respective government officials' board, committee or commission Chairperson. If the notice relates to the Chairperson, then the notice can~~shall be ~~filed with the Vice Chairperson.~~

~~(a) — notices of violations must~~ in writing and signed;;

~~(b) — within a total of~~ Within sixty (60) days ~~from~~after the receipt of notice, the board, committee, or commission shall:

- (1) Acknowledge receipt of the notice;
- (2) Hold a special meeting to address the notice;
- (3) Determine appropriate sanction or penalty to be applied;
- (4) Provide written notice to the affected government official; and
- (5) Provide written notice to the other appropriate Tribal agencies for implementation.

~~7.1.5-2. Reporting to General Tribal Council.~~ Each board, committee and commission ~~is responsible to~~shall report violations reported to them for both the Annual and Semi Annual General Tribal Council meetings. This report shall include a summary of ~~complaint(s)~~any complaints received, implemented sanctions or penalties, and the respective outcomes.-

End.

Chapter XX
Sanctions and Penalties for Government Officials
Oneida Word – TBD

- .1. Purpose and Policy
.2. Adoption, Amendment, Repeal
.3. Definitions

- .4. Sanctions and Penalties
.5. Reporting
-

.1. Purpose and Policy

.1-1. *Purpose.* It is the purpose of this Law to provide sanctions and penalties for violations of Tribal law or policy by Government Officials. This Law is also intended to provide the scope of sanctions and penalties, as well as provide a framework for implementation.

.1-2. *Policy.* It is the policy of the Tribe to enable the Oneida Business Committee and boards, committees and commissions to sanction and/or penalize Government Officials who do not uphold Tribal law and policy and to ensure no Government Official avoids a penalty or sanction because of an absence of a sanction or penalty in a Tribal law or policy.

.2. Adoption, Amendment, Repeal

.2-1. This law was adopted by the Oneida Business Committee by resolution _____.

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

.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.

.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.

.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

.3. Definitions

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

(a) "Enterprise" means all entities of the Oneida Tribe of Indians of Wisconsin that are engaged in a business or activity with the expectation to generate revenue or make a profit as a primary function at any time during a fiscal cycle.

(b) "Government Official" means any person elected to the Oneida Business Committee, any other person elected or appointed to a board, committee, or commission created by the Oneida Business Committee or Oneida General Tribal Council, or any person appointed to a board, committee or commission to fill a vacancy. However, "Government Official" does not mean a judge serving on the Tribe's judicial system.

(c) "Notice" means written correspondence from a board, committee or commission which provides a Government Official with the sanction(s) or penalties imposed upon him or her through official board, committee or commission action.

(d) "Official Tribal Newspaper" means the Kalihwisaks.

(e) "Tribe" means the Oneida Tribe of Indians of Wisconsin.

(f) "Tribe's judicial system" means a court with the Oneida Judiciary adopted by General Tribal Council on January 7, 2013.

42 **.4. Sanctions and Penalties**

43 .4-1. Sanctions and penalties shall be utilized for Government Officials for violations of Tribal
44 law or policy. These sanctions and penalties may be used in addition to, or in the absence of, any
45 enforcement provisions contained within the Tribal law or policy violated. With the exception of
46 censure, all sanctions and penalties shall be approved by majority vote of the respective
47 Government Official's board, committee, or commission.

48 .4-2. Each day a government official is not in compliance with an approved sanction or penalty
49 shall constitute a new violation. Sanctions and penalties include application of a single penalty
50 or sanction, or a combination of penalties or sanctions as identified herein:

51 (a) Public apology presented through the official Tribal newspaper.

52 (b) Verbal warning, including notice to the Government Official of expectations to
53 comply with the Tribal law or policy violated, and written acknowledgement of those
54 expectations.

55 (c) Written warning, including notice to the official of expectations to comply with the
56 Tribal law or policy violated, and written acknowledgement of those expectations.

57 (d) Censure of published news articles, other public opinions or speaking on behalf of
58 the Business Committee, or the board, committee or commission elected or appointed to.

59 (1) Censure shall not exceed a six (6) months period per violation; and

60 (2) Censure shall be approved by a two-thirds (2/3) vote of the Government
61 Official's respective board, committee or commission.

62 (e) Community service, not to exceed ten (10) hours per violation. Community service
63 hours shall be completed within ninety (90) days of issuance, or the Government Official
64 shall be subject to additional sanctions or penalties.

65 (f) A monetary penalty, suspension without pay or stipend forfeiture.

66 (g) Initiation of proceedings to have the Government Official remove from office, if
67 elected or have his or her appointment terminated, if appointed.

68 .4-3. The administration of three (3) sanctions or penalties within the same term of office for a
69 Government Official is grounds for:

70 (a) a presentation to General Tribal Council to determine if removal proceeding should
71 begin, provided that the Government Official is elected. The Business Committee shall
72 be responsible for administering the process to bring such presentation to the General
73 Tribal Council.

74 (b) a presentation to Oneida Business Committee to determine if a Government
75 Official's appointment should be terminated; provided that the Government Official is
76 appointed. The Government Official's board, committee or commission shall be
77 responsible for administering the process to bring such presentation to the Oneida
78 Business Committee.

79 .4-4. *Non-Monetary Sanctions.* Within fifteen (15) days of being noticed of a non-monetary
80 sanction or penalty, the Government Official shall comply with the sanction by completing the
81 applicable action(s):

82 (a) Submitting a written apology to the official Tribal newspaper.

83 (b) Scheduling volunteer hours with a tribal program or a non-profit organization, and
84 providing a written notice to the Business Committee or issuing board, committee, or
85 commission of the location and dates service hours are to be completed.

86 (c) Providing written acknowledgement to the Business Committee or issuing board,
87 committee, or commission of any verbal or written warning(s).

88 (d) Placing public or published comments on the Business Committee or issuing board,
89 committee, or commission agenda for approval for the duration of the censure.

90 .4-5. *Monetary Penalties.* Monetary penalties may be:

- 91 (a) Minimum of fifty dollars (\$50.00) and maximum of one hundred dollars (\$100.00)
92 per violation, for the first (1st) offense.
93 (b) Minimum of one hundred dollars (\$100.00) and maximum of two hundred dollars
94 (\$200.00) per violation for the second (2nd) offense.
95 (c) Minimum of two hundred dollars (\$200.00) and maximum of five hundred dollars
96 (\$500.00) per violation for the third (3rd) offense.
97 (d) One (1) day suspension without pay.

98 .4-6. *Implementation of Monetary Penalties.* The Oneida Police Department shall be
99 responsible for issuing monetary penalties.

- 100 (a) The Oneida Police Department shall develop and maintain operating procedures on
101 how issued fines shall be administered to government officials. The operating procedures
102 shall be reviewed by the Oneida Police Department at least annually to ensure
103 compliance with this Law.
104 (b) Penalties issued shall be issued within five (5) business days of the date approved.
105 (c) Penalties shall be paid in full within thirty (30) days of issuance and are payable to
106 the Tribe.
107 (d) Penalties unpaid at the end of the thirty (30) days shall be garnished from the
108 individual's pay.
109 (1) Full-time officials garnishment rate shall be a minimum of one hundred
110 dollars (\$100.00) per pay check until paid in full.
111 (2) Part-time officials garnishment rate shall be a minimum of fifty dollars
112 (\$50.00) per pay check until paid in full.
113 (3) Officials who receive stipend payments shall have stipends forfeited until
114 paid in full.
115 (e) A request for an extension on a fine payment can be made by filing a request with the
116 Tribe's judicial system; provided that no extension shall exceed sixty (60) additional
117 days. Individuals whose fines are not paid in full within the extension period are subject
118 to garnishment as outlined in 4-6(d), and may be subject to applicable civil or criminal
119 violations in accordance with Tribal law, or in the absence of Tribal law, local or state
120 ordinances.
121 (f) Funds received from the issuance of sanctions or penalties shall be assigned to the
122 Oneida Language Endowment Fund.

123 .4-7. *Implementation of Pay Suspensions.*

- 124 (a) The Human Resource and Payroll Departments shall be responsible for oversight and
125 administration of pay suspensions.
126 (1) Within sixty (60) days of this Law being passed, the Human Resources
127 Department shall develop internal operating procedures on how the administer
128 pay suspensions for Government Officials.
129 (2) The internal operating procedures shall be reviewed by the Human Resources
130 department at least annually to ensure compliance with this Law.
131 (b) The pay suspension shall be taken consecutively.
132 (c) Any pay suspension issued shall be administered within two (2) weeks of the
133 expiration of 4-6(c).
134 (d) Personal, vacation or flex time may not be utilized to cover the hours under
135 suspension.
136

.5. Reporting

.5-1. *Reporting a Notice of Violation.* The Tribe expects individuals to report any violation of Tribal law or policy, as well as any other dishonest or illegal acts of which they become aware in the workplace. The Tribe shall not tolerate reprisals against any Government Official(s), Employee(s) or Community Members who, in good faith, makes such reports. Individuals may file notices of violations with the offending Government Officials' board, committee or commission Chairperson. If the notice relates to the Chairperson, the notice may be filed with the Vice-Chairperson.

(a) Notices of violations shall be in writing and signed;

(b) Within sixty (60) days after the receipt of notice, the board, committee, or commission shall:

(1) Acknowledge receipt of the notice;

(2) Hold a special meeting to address the notice;

(3) Determine appropriate sanction or penalty to be applied;

(4) Provide written notice to the affected government official; and

(5) Provide written notice to the other appropriate Tribal agencies for implementation.

.5-2. *Reporting to General Tribal Council.* Each board, committee and commission shall report violations reported to them for both the Annual and Semi Annual General Tribal Council meetings. This report shall include a summary of any complaints received, implemented sanctions or penalties and the respective outcomes.

End.
