

Oneida Tribe of Indians of Wisconsin

Legislative Reference Office

P.O. Box 365
Oneida, WI 54155
(920) 869-4376
(800) 236-2214
<http://oneida-nsn.gov/LOC>



Committee Members

Brandon Stevens, Chairperson
Tehassi Hill, Vice Chairperson
Fawn Billie, Councilmember
David P. Jordan, Councilmember
Jennifer Webster, Councilmember

LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room-2nd Floor Norbert Hill Center
June 3, 2015 9:00 a.m.

- I. Call To Order and Approval of the Agenda**
- II. Minutes to be approved**
 - 1. May 20, 2015 LOC Meeting Minutes
- III. Current Business**
 - 1. Investigative Leave Policy Amendments
 - 2. Petition: Genskow- OBC Accountability, Repeal Judiciary & Open Records Law
 - 3. Petition: Child Care Department Consumer Complaint Policy
 - 4. Tribal Hearing Bodies
 - 5. Audit Committee Bylaws
- IV. New Submissions**
- V. Additions**
- VI. Administrative Updates**
 - 1. LOC Sponsor List
- VII. Executive Session**
- VIII. Recess/Adjourn**

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LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2nd Floor Norbert Hill Center

May 20, 2015 9:00 a.m.

PRESENT: Tehassi Hill, Brandon Stevens, Fawn Billie, David P. Jordan

EXCUSED: Jennifer Webster

OTHERS PRESENT: Taniquelle Thurner, Danelle Wilson, Fawn Cottrell, Jacob Metoxen, Candice Skenandore, James Bittorf, Rebecca Webster, RC Metoxen, Michelle Mays, Leyne Orosco, Pat Garvey, Rae Skenandore

I. Call To Order and Approval of the Agenda

Brandon Stevens called the May 20, 2015 Legislative Operating Committee meeting to order at 9:02 a.m.

Motion by Tehassi Hill to approve the agenda with the Industrial Hemp Law item being moved to executive session and that the LOC go into executive session first; seconded by Fawn Billie. Motion carried unanimously.

Motion by Tehassi Hill to go into executive session at 9:03 a.m.; seconded by David P. Jordan. Motion carried unanimously.

Motion by Tehassi Hill to come out of executive session at 9:25 a.m.; seconded by Fawn Billie. Motion carried unanimously.

II. Minutes to be approved

1. May 6, 2015 LOC Meeting Minutes

Motion by Tehassi Hill to approve the May 6, 2015 LOC meeting minutes; seconded by David P. Jordan. Motion carried unanimously.

III. Current Business

1. ONGO Amendments (04:07-09:16)

Motion by Fawn Billie to defer the ONGO Amendments to the Legislative Reference Office and direct that a legislative and fiscal analysis be developed once the draft is completed; seconded by Tehassi Hill. Motion carried unanimously.

2. Violence Against Women Act (VAWA) (09:24-10:00)

Motion by Fawn Billie to accept the Violence Against Women Act (VAWA) memorandum as FYI; seconded by Tehassi Hill. Motion carried unanimously.

3. Election Board Bylaws Amendments (10:04-10:36)

Motion by Fawn Billie to accept the Election Board Bylaws Amendments memorandum; seconded by David P. Jordan. Motion carried unanimously.

4. Personnel Commission Bylaws Amendments (10:42-11:18)

Motion by Fawn Billie to accept the memorandum regarding the status of the Personnel Commission Bylaws Amendments and to defer the item back to the sponsor's office; seconded by David P. Jordan. Motion carried unanimously.

5. Investigative Leave Policy Amendments (11:30-18:59)

Motion by David P. Jordan to defer the Investigative Leave Policy Amendments to the Legislative Reference Office to make the noted changes and to prepare this item for OBC consideration; seconded by Tehassi Hill. Motion carried unanimously.

6. Marriage Law Amendments (19:14-20:27)

Motion by David P. Jordan to forward the Marriage Law Amendments to the OBC for consideration; seconded by Fawn Billie. Motion carried unanimously.

IV. New Submissions

1. Petition: Cornelius- Special GTC meeting to address 4 Resolutions (20:29-26:21)

Motion by Fawn Billie to accept the Petition: Cornelius- Special GTC meeting to address 4 Resolutions and to add to the active files list; seconded by Tehassi Hill. Motion carried unanimously.

Note: David P. Jordan will be the sponsor

Motion by Fawn Billie to forward a memorandum to the OBC addressing concerns that the Resolutions are not attached to petition; seconded by Tehassi Hill. Motion carried unanimously.

V. Additions

VI. Administrative Updates

VII. Executive Session

1. Industrial Hemp Law (01:22-03:39)

Motion by David P. Jordan to accept the update and to forward the Industrial Hemp Law to the Oneida Business Committee to be discussed in executive session; seconded by Tehassi Hill. Motion carried unanimously.

VIII. Recess/Adjourn

Motion by Fawn Billie to adjourn the May 20, 2015 Legislative Operating Committee Meeting at 9:51 a.m.; seconded by David P. Jordan. Motion carried unanimously.



Legislative Operating Committee

June 3, 2015

Investigative Leave Policy Amendments

Submission Date: December 17, 2014

✓ Public Meeting: **4/30/15**
☐ Emergency Enacted:

LOC Sponsor: Jennifer Webster

Summary: *Amendments to the Investigative Leave Policy were requested to delete a section of the Policy which prohibits the use of investigative leave when a complaint is filed. While the original intent of the section was to prohibit the use of investigative leave when one employee files a complaint against another, as defined under the Personnel Policies and Procedures, a decision by the Oneida Appeals Commission has interpreted the Policy to apply anytime the term “complaint” is used in an investigation. This could prohibit a supervisor from taking action to protect the Tribe in cases of misappropriation if inappropriate activities are identified based on a complaint arising out of a disciplinary or complaint process. The amendments would also reduce the time period of the investigation from 30 days to 15 days.*

- 12/17/14 LOC:** Motion by Jennifer Webster to add the Investigative Leave Policy Amendments to the active files list with herself as the sponsor; seconded by Tehassi Hill. Motion carried unanimously.
- 02/18/15 LOC:** Motion by Tehassi Hill to defer the Investigative Leave Policy Amendments for a legislative analysis and a fiscal impact statement; seconded by Fawn Billie. Motion carried unanimously.
- 4/3/15 LOC:** Motion by Jennifer Webster to make the changes as discussed and forward to an April 30th, 2015 Public Meeting; seconded by Tehassi Hill. Motion carried unanimously.
- 4/30/15:** Public Meeting Held.
- 5/20/15 LOC:** Motion by David P. Jordan to defer the Investigative Leave Policy Amendments to the Legislative Reference Office to make the noted changes and to prepare this item for OBC consideration; seconded by Tehassi Hill. Motion carried unanimously.

Next Steps:

- Review the draft and fiscal impact statement and consider forwarding to the OBC for consideration.

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David P. Jordan, Councilmember
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Memorandum

To: Oneida Business Committee
From: Brandon Stevens, LOC Chairperson *BS*
Date: June 10, 2015
Re: Investigative Leave Policy Amendments

Please find attached the following for your consideration:

1. Resolution: Investigative Leave Policy Amendments
2. Statement of Effect: Investigative Leave Policy Amendments
3. Fiscal Impact Statement: Investigative Leave Policy Amendments
4. Investigative Leave Policy Amendments (redline)
5. Investigative Leave Policy Amendments (clean)

Overview

The attached Resolution will adopt amendments to the Investigative Leave Policy (Policy). Amendments to the Policy were requested to delete a section which prohibits the use of investigative leave when a complaint is filed. While the original intent of this section was to prohibit the use of investigative leave when one employee files a complaint against another, as defined under the Tribe's personnel policies and procedures; a decision by the Oneida Appeals Commission has interpreted the Policy to apply anytime the term "complaint" is used in an investigation. In order to avoid prohibiting a supervisor from taking action to protect the Tribe, reduce the amount of time an employee can be placed on investigative leave and streamline the Policy, the following amendments were made:

- Remove language that states that investigative leaves do not apply to investigations regarding appeals of disciplinary actions or employee complaint investigations.
- Reduce how long an employee can be placed on investigative leave; this timeframe has been reduced from 30 calendar days to 15 calendar days.
- Reduce how long an employee's investigative leave can be extended; this timeframe has been reduced from 30 calendar days to 15 calendar days.
- Require the employee's supervisor to notify the employee when to return to work and/or the disciplinary action that will be taken.
- Add an enforcement provision.
- Amend the appeal process, only allowing the employee to appeal a disciplinary action that arises from an investigation.

A public meeting was held on April 30, 2015 in accordance with the Legislative Procedures Act and the comments were received were considered by the Legislative Operating Committee on May 20, 2015.

Requested Action

Approve the Resolution: Investigative Leave Policy Amendments

BC Resolution _____
Investigative Leave Policy Amendments

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 of America; 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 has been delegated the authority of Article IV of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

WHEREAS, the Investigative Leave Policy was adopted by the Oneida Business Committee by resolution BC-04-07-99-A and amended by resolution BC-08-13-14-D; and

WHEREAS, the amendments to the Investigative Leave Policy remove language that states that investigative leaves do not apply to investigations regarding the appeals of disciplinary actions or employee complaint investigations; and

WHEREAS, the amendments reduce how long an employee can be placed on investigative leave as well as reduce the timeframe of an extension; and

WHEREAS, the amendments require the employee's supervisor to notify the employee when to return to work and/or the disciplinary action that will be taken; and

WHEREAS, the amendments add an enforcement provision; and

WHEREAS, other amendments change the appeal process, only allowing the employee to appeal a disciplinary action that arises from an investigation; and

WHEREAS, a public meeting was held on April 30, 2015, in accordance with the Legislative Procedures Act.

NOW THEREFORE BE IT RESOLVED, that the attached amendments to the Investigative Leave Policy are hereby adopted.

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Tehassi Hill, Vice Chairperson

Fawn Billie, Councilmember

David P. Jordan, Councilmember

Jennifer Webster, Councilmember

Statement of Effect*Investigative Leave Policy Amendments***Summary**

This Resolution adopts amendments to the Investigative Leave Policy (Policy) which will avoid prohibiting a supervisor from protecting the Tribe, reduce the amount of time an employee is subject to an investigative leave and streamline the Policy.

Submitted by: Candice E. Skenandore, Legislative Analyst, Legislative Reference Office

Analysis by the Legislative Reference Office

On December 17, 2014, amendments to the Investigative Leave Policy (Policy) were requested by the Law Office to delete a section within the Policy that prohibits the use of investigative leave when a complaint is filed. While the original intent of this section was to prohibit the use of investigative leave when one employee files a complaint against another; as defined under the Tribe's personnel policies and procedures, a decision by the Oneida Appeals Commission has interpreted the Policy to apply anytime the term "complaint" is used in an investigation.

Proposed amendments to the Policy include the following:

- Remove language that states that investigative leaves do not apply to investigations regarding appeals of disciplinary actions or employee complaint investigations.
- Reduce how long an employee can be placed on investigative leave; this timeframe has been reduced from 30 calendar days to 15 calendar days.
- Reduce how long an employee's investigative leave can be extended; this timeframe has been reduced from 30 calendar days to 15 calendar days.
- Require the employee's supervisor to notify the employee when to return to work and/or the disciplinary action that will be taken.
- Add an enforcement provision.
- Amend the appeal process, only allowing the employee to appeal a disciplinary action that arises from an investigation.

A public meeting on the proposed amendments was held on April 30, 2015 pursuant to the Legislative Procedures Act. The comments pertaining to this Policy were considered by the Legislative Operating Committee on May 20, 2015.

Conclusion

Adoption of this Resolution would not conflict with Tribal law.

ONEIDA TRIBE OF INDIANS OF WISCONSIN



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ONEIDA FINANCE OFFICE

Office: (920) 869-4325 • Toll Free: 1-800-236-2214

FAX # (920) 869-4024

MEMORANDUM

DATE: May 29, 2015
FROM: Rae Skenandore, Project Manger
TO: Larry Barton, Chief Financial Officer
CC: Ralinda R. Ninham-Lamberies, Assistant Chief Financial Officer
RE: **Financial Impact of the Investigative Leave Policy**

I. Background

The Investigative Leave Policy was originally approved with BC resolution 04-07-99A. Amendments were requested by HRD and based on Appeals Commission ruling that indicated the language of the policy needed clarification. The policy outlines the process and timelines to be used to complete a work-related investigation into alleged acts that could result in disciplinary acts or termination.

II. Executive Summary of Findings

The amendments clear up some ambiguities in the previous policy by adding distinct timelines and identifying the specific requirements that an employee on investigative leave must follow in order to be paid during that time. No startup costs are associated with the implementation of this policy and no new personnel are needed. Existing in-house staff will communicate the amendments to the organization and the policy can be enacted immediately upon approval and notification of the HRD manager. HRD is responsible for the oversight and approval of an investigative leave and will inform supervisors of the changes in the policy.

III. Financial Impact

No financial impact.

III. Recommendation

The Finance Department 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 General Tribal Council has full information with which to render a decision.

Investigative Leave Policy

Article I. Purpose and Policy
Article II. Adoption, Amendment, Repeal
Article III. Definitions
Article IV. Scope
Article V. Authorization
Article VI. Employee Notice
Article VII. Investigator(s) and Reports

Article VIII. Duration
Article IX. Employee Responsibilities
Article X. Pay and Benefits
Article XI. Enforcement
Article XII. Appeal
Article XIII. Confidentiality

Analysis by the Legislative Reference Office					
Title	Investigative Leave Policy (Policy)				
Requester	Chief Counsel	Drafter	Lynn A. Franzmeier	Analyst	Candice E. Skenandore
Reason for Request	It has recently been interpreted that this Policy cannot be utilized if a “complaint” has been filed. The intent of this Policy was to prohibit an employee complaint about another employee (i.e. personal issue between two employees or a peer level complaint affecting the work environment), not a “complaint” in an investigation. In addition, it has been requested that the investigation period be reduced to 15 days.				
Purpose	The purpose of this Policy is to address investigative leave for employees undergoing work-related investigations [See 1-1].				
Authorized/Affected Entities	This Policy affects Tribal employees employed by any program or enterprise but does not pertain to elected or appointed officials and political appointees [See 3-1 (a)]. Other identified entities include the employee’s supervisor and/or area manager, Human Resource Department (HRD), HRD Manager, Division Directors or their equivalent and possibly the Equal Employment Opportunity Officer.				
Due Process	An employee can appeal any disciplinary action arising out of an investigation pursuant to the Tribe’s personnel policies and procedures [See 12-1].				
Related Legislation	Back Pay Policy [See 10-4], appeals and releasing confidential information will follow the processes set out in the Tribe’s personnel policies and procedures [See 12.1 & 13-1],				
Enforcement	Any violation of this Policy is subject to disciplinary action as set out in the Tribe’s personnel policies and procedures [See 11-1].				

Overview

An employee will be placed on investigative leave when a situation requires an investigation and the employee’s presence can influence the outcome or if an employee allegedly commits an act which prevents the employee from meeting employment eligibility such as required licenses, Tribal fidelity bond or background investigation requirements. This Policy; however, cannot be used as a form a discipline [See 4-1 & 4-2]. The Policy will:

- Require the supervisor to obtain prior approval before placing an employee on investigative leave [See 5];
- Call for the supervisor to place an employee in an alternative work assignment during the investigation so long as alleged action does not prevent the employee from working elsewhere in the Tribe, an alternative work assignment is available and the employee meets the minimum qualifications of the of the alternative work assignment [See 5-4];
- Require the supervisor to provide written notice to the employee being placed on investigative leave [See 6];
- Identify who is responsible for completing the investigation [See 7];
- Set out how long an employee can be placed on investigative leave [See 8];
- Specify the employee’s responsibilities while on investigative leave [See 9];
- Explain how pay and benefits are handled while the employee is on investigative leave

For OBC consideration (redline)

06/10/15

including when an employee is eligible for back pay [See 10];

- Subject the employee to discipline in accordance with the Tribe's personnel policies and procedures if the employee violates this Policy [See 11];
- Identify how appeals are conducted [See 12] and
- Require information related to the investigation to be confidential and can only be released in accordance with relevant laws and personnel policies and procedures [See 13].

Proposed Amendments

The following are proposed amendments to the Policy:

- The term "disciplinary action" has been removed from the Policy, the definition of "employee" has been revised to be consistent with other Tribal laws and the definition for "investigative leave" has been enhanced to better reflect the intent of the Policy [See redline 3-1].
- This Policy no longer states that investigative leave does not apply to investigations regarding appeals of disciplinary actions or employee complaint investigations [See redline 4-3]. This amendment will help avoid any further confusion as to whether this Policy can be utilized when a complaint is filed.
- Currently, the HRD Manager must, among other things, decide to place an employee on investigative leave. Because there may be times when the HRD Manager is not available when a request is made, language has been added that allows the HRD Manager or his/her designee to make the necessary determinations [See 5-1 & 5-2].
- The current Policy allows the supervisor to authorize an alternative work assignment for the employee placed on investigative leave if the alleged action does not preclude the employee from working elsewhere in the Tribe. The proposed Policy will also require that an alternative work assignment be available and the employee meets the minimum qualifications of the alternative work assignment prior to the supervisor authorizing an alternative work assignment [See 5-4].
- The timeframe for how long an employee can be placed on investigative leave has been reduced from 30 calendar days to 15 calendar days. In addition, if an extension is granted to the investigative leave, that extension can only last an additional 15 calendar days instead of 30 calendar days which is current practice [See 6-2 & 8-1]. This amendment will reduce the amount of time a supervisor and/or area manager will be required to complete an investigation; however, the amount of time an employee is subject to an investigative leave is cut in half.
- The Policy now clarifies that no matter who conducts the investigation, the employee's supervisor is responsible for notifying the employee when to return to work and/or of what disciplinary action will be taken [See 7-3]. In addition, if anyone other than the employee's supervisor conducts the investigation, the supervisor must complete an investigation within 48 hours of receiving the report to determine if any corrective actions are needed [See 7-3 (b)].
- An enforcement provision was added to the Policy that subjects an employee to disciplinary action in accordance with the Tribe's personnel policies and procedures if the

- An employee can only appeal a disciplinary action that arises from an investigation pursuant to the Tribe's personnel policies and procedures [See 12-1]. The current Policy allows an employee to appeal the findings in the written report and/or a decision in accordance with the Tribe's personnel policies and procedures; however, the Personnel Policies and Procedures only allow employees to appeal disciplinary actions [See *Personnel Policies and Procedures* Section V.D.3].

- There are inconsistencies with how the Tribe views political appointees. There are times when Tribal legislation includes political appointees in the definition for “employee” and other times political appointees are excluded from the “employee” definition. This Policy does not apply to political appointees but the proposed Furlough Policy will apply to political appointees [*See 3-1 (a) and proposed Furlough Policy draft 3, 3-1 (a)*].

For OBC consideration (redline)

06/10/15

~~(a) “Disciplinary action” shall mean the process as set forth in the Tribe’s personnel policies for dealing with job-related behavior that does not meet expected and communicated performance standards.~~

~~(b)~~(a) “Employee” shall mean any individual who is employed by the Tribe and is subject to the direction and control of the Tribe with respect to the material details of the work performed, or who has the status of an employee under the usual common law rules applicable to determining the employer-employee relationship. “Employee” includes, but is not limited to; an individual employed by any program or enterprise of the Tribe, but does not include elected or appointed officials or ~~individuals employed by a Tribally Chartered Corporation, and political appointees.~~ For purposes of this Policy, individuals employed under an employment contract as a limited term employee are employees of the Tribe, not consultants political appointees.

~~(c)~~(b) “Investigative leave” shall mean a temporary absence ~~without~~from regular job duties ~~and without pay~~ for the purpose of ~~determining~~conducting an investigation to determine whether conduct or ~~not~~alleged conduct by an employee should result in disciplinary action ~~needs to be taken~~and/or termination of employment.

~~(d)~~(c) “Tribal” or “Tribe” shall mean the Oneida Tribe of Indians of Wisconsin.

Article IV. Scope

4-1. An employee shall be placed on investigative leave when one (1) of the following occurs:

(a) ~~An A situation requires an~~ investigation ~~needs to be~~ conducted and ~~an~~the employee’s presence ~~would~~may influence the outcome.—

(b) An employee allegedly commits an act which would preclude ~~them~~the employee from meeting employment eligibility including required Licenses, the Tribal Fidelity Bond, or Background Investigation requirements.

4-2. This Policy shall not be used as a form of discipline.

~~4-3. Investigative leave shall not apply to investigations regarding appeals of disciplinary actions or employee complaint investigations.~~

Article V. Authorization

5-1. This leave, or an extension of this leave, shall only be used when an employee’s supervisor receives prior approval from the Human Resources Department Manager or his or her designee and:

(a) their Division Director; or

(b) if there is no Division Director, the person at the highest level of the chain of command.—

5-2. If the Human Resources Department Manager of his or her designee and the Division Director or his or her equivalent do not agree with placing the employee on investigative leave, then the final decision shall rest with the Human Resources Department Manager or his or her designee.

5-3. The prior approval requested in 5-1 shall be granted or denied within forty-eight (48) hours of receiving the request.—

5-4. During the investigative leave, the employee’s supervisor shall authorize an alternative

For OBC consideration (redline)

06/10/15

work assignment if all the following occur:

(a) The alleged action does not preclude the employee from working elsewhere in the organization—.

(b) An alternative work assignment ~~authorized~~ is available and

(c) The employee meets the minimum job requirements of the alternative work assignment.

5-5. If an employee placed in an alternative work assignment under ~~this~~ section 5-4, the alternative work assignment shall be considered a part of the investigative leave and the employee shall continue to receive their same rate of pay.

Article VI. Employee Notice

6-1. When the employee is placed on investigative leave, the employee shall immediately receive a written notice from the employee's supervisor; the notice shall contain the following:

(a) The specific allegation(s) being investigated;

(b) The employee shall be on unpaid status, unless he or she is placed in an alternative work assignment;

(c) The alternative work assignment, if appropriate;-

(d) The expected length of the investigation;

(e) Whether or not the investigation is being forwarded to an outside agency;

(f) The telephone number and name of person to contact in case of questions;

(g) The procedures to return to work upon completion of the investigation; and

(h) That the employee still remains as an employee with the Tribe.

~~6-2. If the employee's investigative leave is extended past the original~~ ~~thirty~~ (30fifteen (15)) calendar days pursuant to section 8-1, the supervisor shall immediately notice the employee in writing of this extension and the reason for the extension.

Article VII. Investigator(s) and Reports

7-1. The employee's supervisor and/or area manager shall be responsible for completing the investigation. If the employee ~~is one who being investigated reports~~ directly-reports to the Oneida Business Committee, the Tribal Equal Employment Opportunity Officer shall conduct the investigation.

7-2. If the allegations against the employee include criminal actions, or actions that may affect licensing, the ~~investigations may be completed by an appropriate agency, including but not limited to: Police Departments, District Attorneys, Oneida Security, the Oneida Gaming Commission, and Social Services~~ supervisor shall conclude the employment related investigation without waiting for the results of a criminal or licensing investigation.

7-3. The person(s) conducting an investigation shall prepare a written report that shall include the findings of the investigation, and provide a copy of the written report to the employee and, if ~~necessary someone other than~~ the employee's supervisor—conducts the investigation, a copy of the written report shall be provided to the employee's supervisor.

~~(a) 7-4. Within~~ If the employee's supervisor conducts the investigation, the written report shall inform the employee when to return to work, if applicable, and/or of what disciplinary action will be taken against the employee based on the report.

(b) If someone other than the employee's supervisor conducts the investigation, within

forty-eight (48) hours of ~~creating or~~ receiving the written ~~reports~~report, the supervisor shall ~~be responsible for informing~~complete the investigation by determine any corrective actions needed, inform the employee in writing when to return to work if applicable, and/or ~~deciding~~inform the ~~discipline which may~~employee of any applicable disciplinary action will be ~~appropriate~~taken against the employee based on the report.

Article VIII. Duration

8-1. An investigative leave shall be no longer than ~~thirty (30)~~fifteen (15) calendar days, with the ability to extend one (1) time for an additional ~~thirty (30)~~fifteen (15) calendar days with a valid explanation of the reason for the extension. The extension shall be determined by the same individuals who placed the employee on investigative leave in section 5-1. However, if the investigation is forwarded to an outside agency, these timelines shall not apply.-

8-2. Investigative leave shall end upon any of the following occurrences:

- (a) the expiration of the ~~thirty (30)~~fifteen (15) calendar day time limit, if applicable;
- (b) the expiration of the ~~thirty (30)~~fifteen (15) calendar day extension if granted;
- (c) termination of the employee's employment based on the investigation;
- (d) the employee's return to work ~~when the based on the written report submitted to the employee after an~~ investigation is completed ~~prior to the expiration of the time limits given in (a) and/or (b) as officially documented by whomever is designated as the official investigative body~~; or
- (e) the employee chooses to resign or retire.

Article IX. Employee Responsibilities

9-1. An employee placed on investigative leave shall:

- (a) ~~Not report to work or the worksite without prior supervisory approval;~~
- ~~—~~(b) Abide by all Tribal laws and policies, ~~including prohibited gaming activities~~; and
- (c) Fully cooperate with the investigation as requested by those conducting the investigation.

Article X. Pay and Benefits

10-1. Paid leave shall not be authorized ~~in accordance with the Tribe's personnel policies and procedures and the Oneida Nation Gaming Ordinance.~~

10-2. An employee placed on investigative leave shall not receive any wages or benefits unless placed in an alternative work assignment. If the employee refuses the alternative work assignment and is returned to work, the employee shall not receive any back pay or benefits.

10-3. If an alternative work assignment is not available, the employee may use his or her accrued vacation and/or personal time while on investigative leave.-

10-4. An employee shall receive back pay and benefits for the time the employee was on investigative leave, ~~including prorated credit for vacation/personal time pursuant to Section 4-4 of the Back Pay Policy~~ if all of the following occur:

- (a) The employee was not offered an alternative work assignment when placed on investigative leave; and-
- (b) The employee is returned to his or her position; and-
- (c) The employee is not disciplined ~~or terminated~~ based on the investigation.

Article XI. ~~Enforcement~~Appeal

11-1. ~~In~~ Any employee found violating this Policy shall be subject to discipline in accordance with the Tribe's personnel policies and procedures.

~~Article XII. Appeal of the Tribe, an~~

~~12-1. An~~ employee ~~can~~may appeal ~~the findings in the written report and/or the decision~~any disciplinary action arising out of ~~the~~an investigation ~~within ten (10) business days of receiving the written report required in 7-3.~~ in accordance with the Tribe's personnel policies and procedures.

~~Article XII~~XIII. Confidentiality

~~1213~~-1. Information related to an investigation is confidential. ~~Access or sharing of this information shall be limited to those who have a legitimate "need to know" and may only be released~~ in ~~compliance~~accordance with relevant laws and personnel policies and procedures.-

~~1213~~-2. All investigation materials shall be maintained in the ~~employees~~employee's personnel file with the Human Resources Department.—

End.

OBC Approved 4-07-99-A
Amended- BC-08-13-14-D

Investigative Leave Policy

Article I. Purpose and Policy
Article II. Adoption, Amendment, Repeal
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Article I. Purpose and Policy

1-1. The purpose of this Policy is to address investigative leave for employees undergoing work-related investigations.

1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin to maintain confidentiality and avoid undue influence when conducting an investigation into an employee's alleged wrong doings.

Article II. Adoption, Amendment, Repeal

2-1. This Policy was adopted by the Oneida Business Committee by resolution BC-04-07-99-A, and amended by resolution BC-08-13-14-D and _____.

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

2-3. Should a provision of this Policy or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Policy which are considered to have legal force without the invalid portions.

2-4. In the event of a conflict between a provision of this Policy and a provision of another policy, the provisions of this Policy shall control.

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

Article III. Definitions

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

(a) "Employee" shall mean any individual who is employed by the Tribe and is subject to the direction and control of the Tribe with respect to the material details of the work performed, or who has the status of an employee under the usual common law rules applicable to determining the employer-employee relationship. "Employee" includes, but is not limited to; an individual employed by any program or enterprise of the Tribe, but does not include elected or appointed officials or political appointees.

(b) "Investigative leave" shall mean a temporary absence from regular job duties for the purpose of conducting an investigation to determine whether conduct or alleged conduct by an employee should result in disciplinary action and/or termination of employment.

(c) "Tribal" or "Tribe" shall mean the Oneida Tribe of Indians of Wisconsin.

Article IV. Scope

4-1. An employee shall be placed on investigative leave when one (1) of the following occurs:

(a) A situation requires an investigation be conducted and the employee's presence may influence the outcome.

(b) An employee allegedly commits an act which would preclude the employee from

meeting employment eligibility including required Licenses, the Tribal Fidelity Bond, or Background Investigation requirements.
4-2. This Policy shall not be used as a form of discipline.

Article V. Authorization

5-1. This leave, or an extension of this leave, shall only be used when an employee's supervisor receives prior approval from the Human Resources Department Manager or his or her designee and:

- (a) their Division Director; or
- (b) if there is no Division Director, the person at the highest level of the chain of command.

5-2. If the Human Resources Department Manager of his or her designee and the Division Director or his or her equivalent do not agree with placing the employee on investigative leave, then the final decision shall rest with the Human Resources Department Manager or his or her designee.

5-3. The prior approval requested in 5-1 shall be granted or denied within forty-eight (48) hours of receiving the request.

5-4. During the investigative leave, the employee's supervisor shall authorize an alternative work assignment if all the following occur:

- (a) The alleged action does not preclude the employee from working elsewhere in the organization,
- (b) An alternative work assignment is available and
- (c) The employee meets the minimum job requirements of the alternative work assignment.

5-5. If an employee placed in an alternative work assignment under section 5-4, the alternative work assignment shall be considered a part of the investigative leave and the employee shall continue to receive their same rate of pay.

Article VI. Employee Notice

6-1. When the employee is placed on investigative leave, the employee shall immediately receive a written notice from the employee's supervisor; the notice shall contain the following:

- (a) The specific allegation(s) being investigated;
- (b) The employee shall be on unpaid status, unless he or she is placed in an alternative work assignment;
- (c) The alternative work assignment, if appropriate;
- (d) The expected length of the investigation;
- (e) Whether or not the investigation is being forwarded to an outside agency;
- (f) The telephone number and name of person to contact in case of questions;
- (g) The procedures to return to work upon completion of the investigation; and
- (h) That the employee still remains as an employee with the Tribe.

6-2. If the employee's investigative leave is extended past the original fifteen (15) calendar days pursuant to section 8-1, the supervisor shall immediately notice the employee in writing of this extension and the reason for the extension.

Article VII. Investigator(s) and Reports

7-1. The employee's supervisor and/or area manager shall be responsible for completing the investigation. If the employee being investigated reports directly to the Oneida Business

Committee, the Tribal Equal Employment Opportunity Officer shall conduct the investigation.

7-2. If the allegations against the employee include criminal actions, or actions that may affect licensing, the supervisor shall conclude the employment related investigation without waiting for the results of a criminal or licensing investigation.

7-3. The person(s) conducting an investigation shall prepare a written report that shall include the findings of the investigation, and provide a copy of the written report to the employee and, if someone other than the employee's supervisor conducts the investigation, a copy of the written report shall be provided to the employee's supervisor.

(a) If the employee's supervisor conducts the investigation, the written report shall inform the employee when to return to work, if applicable, and/or of what disciplinary action will be taken against the employee based on the report.

(b) If someone other than the employee's supervisor conducts the investigation, within forty-eight (48) hours of receiving the written report, the supervisor shall complete the investigation by determine any corrective actions needed, inform the employee in writing when to return to work if applicable, and/or inform the employee of any applicable disciplinary action will be taken against the employee based on the report.

Article VIII. Duration

8-1. An investigative leave shall be no longer than fifteen (15) calendar days, with the ability to extend one (1) time for an additional fifteen (15) calendar days with a valid explanation of the reason for the extension. The extension shall be determined by the same individuals who placed the employee on investigative leave in section 5-1. However, if the investigation is forwarded to an outside agency, these timelines shall not apply.

8-2. Investigative leave shall end upon any of the following occurrences:

(a) the expiration of the fifteen (15) calendar day time limit, if applicable;

(b) the expiration of the fifteen (15) calendar day extension if granted;

(c) termination of the employee's employment based on the investigation;

(d) the employee's return to work based on the written report submitted to the employee after an investigation is completed; or

(e) the employee chooses to resign or retire.

Article IX. Employee Responsibilities

9-1. An employee placed on investigative leave shall:

(a) Not report to work or the worksite without prior supervisory approval;

(b) Abide by all Tribal laws and policies; and

(c) Fully cooperate with the investigation as requested by those conducting the investigation.

Article X. Pay and Benefits

10-1. Paid leave shall not be authorized.

10-2. An employee placed on investigative leave shall not receive any wages or benefits unless placed in an alternative work assignment. If the employee refuses the alternative work assignment and is returned to work, the employee shall not receive any back pay or benefits.

10-3. If an alternative work assignment is not available, the employee may use his or her accrued vacation and/or personal time while on investigative leave.

10-4. An employee shall receive back pay and benefits for the time the employee was on

investigative leave pursuant to the Back Pay Policy if all of the following occur:

- (a) The employee was not offered an alternative work assignment when placed on investigative leave; and
- (b) The employee is returned to his or her position; and
- (c) The employee is not disciplined based on the investigation.

Article XI. Enforcement

11-1. Any employee found violating this Policy shall be subject to discipline in accordance with the Tribe's personnel policies and procedures.

Article XII. Appeal

12-1. An employee may appeal any disciplinary action arising out of an investigation in accordance with the Tribe's personnel policies and procedures.

Article XIII. Confidentiality

13-1. Information related to an investigation is confidential and may only be released in accordance with relevant laws and personnel policies and procedures.

13-2. All investigation materials shall be maintained in the employee's personnel file with the Human Resources Department.

End.

OBC Approved 4-07-99-A

Amended- 08-13-14-D



Legislative Operating Committee

June 3, 2015

Petition: Genskow-OBC Accountability, Repeal Judiciary & Open Records Law

Submission Date: May 5, 2015

☐ Public Meeting:
☐ Emergency Enacted:

LOC Sponsor: David P. Jordan

Summary: *This petition seeks to adopt three attached resolutions which would require the first item on the agenda of GTC Annual and Semi-Annual meetings be that each individual OBC member must verbally report to GTC if they, as an individual OBC member, know of any GTC directives that are not being carried out. This item may not be deleted from the GTC agenda; the GTC will regain it's authority as the supreme power of the Oneida Tribe, that Resolutions 1-7-13-A and 1-7-13-B be repealed immediately; and that GTC resolution 11-15-08-C be restored, "which will provide full disclosure to the Oneida people regarding how their money is spent" regarding all contracts, not just corporate contracts; and requiring Treasurer reports to include an independently audited financial statement of all receipts/debits in possession of the Treasurer, that no agent of the Tribe shall enter into any agreement with any corporation that prohibits full disclosure of all transactions - and that such an agreement is not binding to the Tribe.*

04/22/15 OBC: Motion by Jennifer Webster to accept the verified petition submitted by Madelyn Genskow; to send the verified petition to the Law, Finance, Legislative Reference and Direct Report offices for the legal, financial, legislative and administrative analyses to be completed; to direct the Law, Finance, and Legislative Reference offices to submit the analyses to the Tribal Secretary's office within 60 days, and that a progress report is submitted in 45 days; to direct the Direct Report offices to submit the appropriate administrative analyses to the Tribal Secretary's office within 30 days, seconded by Lisa Summers. Motion carried unanimously.

5/6/15 LOC: Motion by Jennifer Webster to add the Petition: Genskow- OBC Accountability, Repeal Judiciary & Open Records Law to the active files list with David P. Jordan as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

Next Steps:

- Review the memorandum update and consider forwarding to the OBC

Oneida Tribe of Indians of Wisconsin

Legislative Reference Office

P.O. Box 365

Oneida, WI 54155

(920) 869-4376

(800) 236-2214

<http://oneida-nsn.gov/LOC>

**Committee Members**

Brandon Stevens, Chairperson

Tehassi Hill, Vice Chairperson

Fawn Billie, Councilmember

David P. Jordan, Councilmember

Jennifer Webster, Councilmember

Memorandum

TO: Oneida Business Committee
FROM: Brandon Stevens, LOC Chairperson *BS*
DATE: June 10, 2015
RE: Petition: Genskow-OBC Accountability, Repeal Judiciary & Open Records Law

On April 22, 2015, the Oneida Business Committee (OBC) directed that the Legislative Reference Office complete a legislative analysis on a petition which requests that a General Tribal Council (GTC) meeting be held to address three resolutions that pertain to OBC accountability, repeal the Judiciary Law and the Open Records and Open Meetings Law. The OBC further directed that a progress report be submitted to the Tribal Secretary's office within 45 days.

This memorandum is to inform the OBC that the Legislative Operating Committee is working on completing these analyses and will be bringing them to the June 17, 2015 OBC meeting.



Legislative Operating Committee

June 3, 2015

Petition: Child Care Department Consumer Complaint Policy

Submission Date: 9/17/14

☐ Public Meeting:
☐ Emergency Enacted:
Expires:

LOC Sponsor: Jennifer Webster

Summary: *A petition was submitted to mandate the OBC review, amend and implement a new complaint process for Oneida Child Care. The intent of the petition is to provide the minimum requirements of the new process which include mandatory administrative leave during investigations; investigation timelines, providing explanation of results, and quarterly reporting of all complaints to the Childcare Division Director and OBC.*

This item was added to the active files list on June 6, 2012. A legislative analysis was presented to GTC on November 19, 2012 and GTC approved the petition, directing the OBC to review, amend and implement a new parent communications and grievances process for the Oneida Childcare Department. Since then a draft was developed and an update was given to GTC on July 1, 2013 as directed. Public meetings were held on October 13, 2013 and February 27, 2014. On April 16, 2014 the sponsor began to develop the Policy through a series of work meetings.

9/17/14 LOC: Motion by Jennifer Webster to add the Child Care Department Consumer Complaint Policy to the Active Files List; seconded by Fawn Billie. Motion carried unanimously.

Note: Jennifer Webster will be the sponsor for this item.

11/18/14: Work meeting held. Attendees include: Candice Skenandore, Chenoa Webster, Michelle Mays, Dorothy A. Skenandore, Jenny Webster, Rae Skenandore, Donna Christensen, Jacob Metoxen, Bob Keck and Norbert Hill.

11/24/14: Work meeting held. Attendees include: Candice Skenandore, Michelle Mays and Stephen Webster.

12/5/14: Work meeting held. Attendees include: Candice Skenandore, Michelle Mays, Jennifer Webster, Dorothy Skenandore and Diane Heim-McLester

12/12/14: Work meeting held. Attendees include: Richard Cluckey, Stephen Webster and Candice Skenandore

2/23/15: Work meeting held. Attendees include: Norbert Hill, Dorothy Skenandore, Jennifer Webster, Bob Keck, Donna Christensen, Jessica Wallenfang, Rae Skenandore, Susan House, Chenoa Webster, Jacob Metoxen

3/18/15 LOC: Motion by Fawn Billie to defer the Child Care Department Consumer Complaint Policy for a legislative analysis and fiscal impact statement; seconded by Tehassi Hill. Motion carried unanimously.

Next Steps:

- Review the Child Care Department Consumer Complaint Policy draft and legislative analysis and make any necessary changes and/or defer to LRO to prepare for a public meeting.



Child Care Department Consumer Complaint Policy Analysis

<i>Analysis by the Legislative Reference Office</i>					
Title	Oneida Child Care Department Consumer Complaint Policy (Policy)				
Requester	Petition	Drafter	Michelle Mays	Analyst	Candice E. Skenandore
Reason for Request	Motion by General Tribal Council to develop a parent communications and grievance process for the Child Care Department [GTC Meeting, November 19, 2012].				
Purpose	Provide a formal process for addressing consumer complaints for anyone that uses the Oneida Child Care Department, this Policy is not intended to resolve employee complaints or grievances [See 1-1].				
Authorized/ Affected Entities	Child Care Department, Area Manager of Education and Training, Ombudsperson, any parent/guardian that is currently utilizing the child care services, anyone on the child's emergency contact list, anyone who witnesses child abuse or neglect, Audit Department, Records Department, Risk Management, Governmental Services Division Director and possibly Wisconsin Department of Children and Families, Oneida Indian Child Welfare Department, Oneida Police Department and Tribe's Judiciary				
Due Process	The complainant can appeal to the Area Manager, and if he/she is dissatisfied with the Area Manager's decision, he/she can appeal to the Tribe's judiciary [See 9-1 & 9-2].				
Related Legislation	Investigative Leave Policy and possibly the Back Pay Policy; Tribe's personnel policies and procedures, Rules of Appellate Procedure, standard operating procedures for disposing video surveillance; Wisconsin Statutes; Wisconsin Department of Children and Families Serious Violations List and Oneida Policy on Reporting Child Abuse and Neglect				
Enforcement	Any Tribal member founding violating this Policy or retaliating against the children/family involved in a complaint is subject to discipline set out in the Tribe's personnel policies and procedures [See 13-1].				

Overview

On May 9, 2012 the Oneida Business Committee (OBC) accepted a petition which mandated the OBC to review, amend and implement a new complaint process for the Oneida Child Care. The intent of this petition was to provide the minimum requirements of the new process which include mandatory administrative leave during investigations, investigation timelines, providing explanation of results and quarterly reporting of all complaints to the Child Care Division Director and OBC. The petition was presented to General Tribal Council (GTC) on November 19, 2012 and GTC direct the OBC to review, amend and implement a new parent communications and grievances process for the Oneida Child Care Department. After further development on the Policy, it was decided to form a work group made of representatives from the following areas: LOC, Child Care Department, Area Manager of Higher Education, Internal Audit, Risk Management, Finance, Law Office, Petitioners, Governmental Services, Records Management and the Chairperson's Office. The work group has met numerous times between April 2014 and February 2015 and this proposed Policy is a direct result of the collaboration with the work group.

This Policy will:

- Allow a parent, guardian, anyone on the child's emergency contact list or anyone that witnesses an act of child abuse or neglect to file a complaint with the Ombudsperson [See 4-1 & 4-4].
- Authorize the Ombudsperson to determine the severity of the complaint and recommend which Complaint Investigator should complete the investigation [See 5-1].
- Require a corrective action plan to be developed for substantiated complaints that are

Child Care Department Consumer Complaint Policy Analysis

considered very mild, mild, moderate or serious *[See Article 6]*.

- Allow for the possibility of placing a Child Care staff member on investigative leave for allegations alleging actions that are considered very serious and/or child abuse or neglect; however, if child abuse or neglect allegations are substantiated, the staff member will be immediately terminated *[See 7-1 (b) & 8-1 (b)]*.
- Require the Records Management Department to retain video surveillance footage for at least ten business days *[See 10-1]*.
- Require any Oneida Child Care staff member that witnesses another staff member behaving unethically or inappropriately to report the behavior to the Ombudsperson *[See 11-1]*.
- Establish a parent/teacher organization *[See 12-1]*.
- Call for any Tribal employee found violating this Policy to be subject to discipline in accordance with the Tribe's personnel policies and procedures *[See 13.-1]*.

**Please refer to the chart (attached) for a more in depth overview of the Policy*

Considerations

The LOC many want to consider the following:

- This Policy places a 60-day timeframe on when a complaint can be filed after an alleged incident *[See 4-1]*. There may be times when a complaint filed after the 60 day timeline warrants an investigation. For example, an ongoing problem that has gone undetected or unreported. The LOC may want to consider adding language to this section stating that complaints filed 60 days after the alleged incident shall not guarantee an investigation.
- Anyone other than a parent, guardian or person on the child's emergency contact list can only file a complaint if he/she witness an act of child abuse or neglect *[See 4-1 (c)]*. This could prohibit a person that witnesses an action against a child, other than child abuse or neglect, from filing a complaint. The LOC may want to revise section 4-1 (c) to allow a person who witnesses any action that would warrant an investigation pursuant to this Policy to file a complaint.
- Section 4-3 of this Policy sets out what information, if known, must be included in a complaint *[See 4-3]*. The Policy does not explain what happens if key information is missing. The LOC may want to specify if an investigation is still conducted when the complaint is not complete.
- Both sections 5-1 and 5-2 of the Policy state that the Ombudsperson shall recommend an appropriate Complaint Investigator. In order to avoid redundancy, the LOC may want to consider revising section 5-2.
- If the person who filed the complaint agrees, the Ombudsperson must facilitate a meeting(s) between the person who filed the complaint and the Department *[See 6-1]*. There may be times when the person who filed the complaint is not the child's parent or guardian; however, the parent or guardian may want to attend these meetings. The LOC may want to consider amending this section to state that the Ombudsperson shall facilitate a meeting(s) between any interested party. If the LOC decides to revise 6-1, section 6-5 may also require revisions to allow any interested party to receive the results of the investigation *[See 6-5]*. If these changes are made, it may be necessary for the LOC to define "interested party".
- The Policy is inconsistent in that section 4-5 (c) requires the parties to agree to mediation; while section 6-1 requires only the person who filed the complaint to agree to mediation.

Child Care Department Consumer Complaint Policy Analysis

- This Policy is inconsistent with how the corrective action plans are approved and forwarded.
 - Section 6-1 (a) does not specify who approves the corrective action plan developed by the Department or if the correction action plan is forwarded to the Internal Audit Department.
 - Section 6-3 (a) (1) requires the Ombudsperson and Area Manager to finalize the corrective action plan and identifies the Area Manger as having the responsibility of forwarding the plan to the Internal Audit Department.
 - Section 6-3 (b) (2) requires the corrective action plan to be finalized by the Director and Ombudsperson but does not identify who is responsible for forwarding the plan to the Internal Audit Department.
 - Section 6-6 states that the Ombudsperson provides the corrective action plan to the Area Manager who shall immediately forward the plan to the Internal Audit Department *[See 6-1 (a), 6-3 (a) (1), 6-3 (b) (2) & 6-6]*.

The LOC may want to review Article 6 and clarify the process surrounding the corrective action plans.

- The corrective action plan process (creation, approval, implementation) is required for complaints that are categorized as Level 1: Very Mild, Mild or Moderate and Level 2: Serious; however, the corrective action plans are not required for Level 3: Very Serious and Level 4: Child Abuse or Neglect *[See Articles 6-8]*. This Policy does not require an internal investigation to be conducted when a complaint is referred to an outside agency. In addition, Level 3 complaints may still be conducted by the Supervisor; however, that Supervisor is not required to complete a corrective action plan *[See 5-1 (chart) and Article 7]*.
- When a complaint involves an allegation under Level 3: Very Serious or Level 4: Child Abuse or Neglect, the person receiving the complaint must immediately refer the matter to the appropriate investigator and/or agency; however, section 5-1 of the Policy requires the Ombudsperson to make a determination as to the severity of the complaint and recommend an appropriate Complaint Investigator to conduct an investigation *[See 7-1 (a), 8-1 (a) & 5-1]*. It should be noted that if an employee suspects child abuse or neglect, he/she is already required to report it to the Oneida Police Department in accordance with the Oneida Policy on Reporting Child Abuse and Neglect *[See Oneida Policy on Reporting Child Abuse and Neglect, Article 6]*.
- If an allegation of child abuse or neglect is made against a Child Care staff member, he/she may be placed on investigative leave pursuant to the Investigative Leave Policy *[See 8-1 (b)]*. The Investigative Leave Policy allows the Human Resource Department Manager and Division Director 48 hours to decide to place an employee on investigative leave *[See Investigative Leave Policy 5-3]*. This may allow a staff member to remain in the classroom for up to two days before being placed on investigative leave.
- This Policy does not require the Department to report the number of complaints to the Division Director and/or the OBC. The LOC may want to consider adding reporting requirements to the Policy in order for the OBC to know how many complaints are made against the Department.

Miscellaneous

A public meetings were held on October 31, 2013 and February 27, 2014; however, the Policy has gone through significant changes and will require another public meeting.

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FILING A COMPLAINT

A parent or guardian currently using the Department's services, anyone on the child's emergency contact list or anyone that witnesses an act of child abuse or neglect can file a complaint within 60 days of the alleged incident [4-1]

Complaint must contain specific allegations and be on a form that is provided by the Department or be in writing. Forms will be available at the facility and on the Department's webpage [4-2 & 4-3]

Completed complaints must be delivered to the Ombudsperson or the Area Manager, if the Ombudsperson is unavailable [4-4]

Once a complaint is received, the Ombudsperson will

- immediately secure the appropriate video surveillance footage
- immediately notify the Director, Area Managers and complainant that the complaint was received
- determine the level of severity
- Refer the matter to the appropriate Complaint Investigator within five business days [4-5 and 5-1]

LEVELS 1 & 2 COMPLAINTS

Ombudsperson facilitates a meeting between the complainant and Department; if a resolution is reached the Department may prepare a corrective action plan. If the matter is not resolved a full investigation will be completed [6-1]

The assigned Complaint Investigator has 5 business days to complete an investigation. The Ombudsperson can grant a 5 business day extension for extenuating circumstances, if an extension is granted, the Ombudsperson will notify the complainant within 24 hours of granting such extension [6-2]

Once the investigation is complete, the Complaint Investigator will decide if the complaint is substantiated and forward copies of all documents and findings to the Ombudsperson, Area Manager and Director for review, the review must be completed within 5 business days [6-3]

UnSubstantiated Finding:
Ombudsperson, Area Manager and Director can override a decision to not substantiate a complaint. If the decision is overridden, the Director will complete a corrective action plan within 5 business days [6-3 (a)]

Corrective action plan is finalized by the Ombudsperson and Area Manager within 5 business days. The Area Manager forwards a copy of the plan to Internal Audit within 24 hours of finalizing the plan [6-3 (a) (1)]

Ombudsperson notifies the complainant of the results of the investigation in writing by US or private mail within 5 business days of receiving the finalized corrective action plan or findings that do not substantiate the complaint [6-5]

Substantiated Finding:
Complaint Investigator completes a corrective action plan within 5 business days of forwarding the findings. A decision to substantiate the complaint cannot be overridden [6-3 (b)]

Corrective action plan is finalized by the Director and Ombudsperson within 5 business days [6-3 (b) (2)]

All Child Care staff members must comply with the corrective action plan [6-4]

LEVEL 3 COMPLAINTS

If a complaint involving "very serious" allegations is received, the person receiving the complaint will immediately refer the matter to the appropriate investigator and/or agency for investigation and follow through [7-1 (a)]

The Child Care staff member can be placed on investigative leave and/or transferred to another department until the investigation is completed by the appropriate agency, the staff member will return to work if the allegations are not substantiated [7-1 (b)]

LEVEL 4 COMPLAINTS

If a complaint involving "child abuse/neglect" allegations is received, the person receiving the complaint will immediately refer the matter to the appropriate investigator and/or agency for investigation and follow through [8-1 (a)]

The Child Care staff member can be placed on investigative leave and/or transferred to another department until the investigation is completed by the appropriate agency, the staff member will return to work if the allegations are not substantiated. If the allegations are substantiated, the staff member will be immediately terminated [8-1 (b)]

Appeals

If the complainant is dissatisfied with an unsubstantiated finding or the corrective action plan, he/she can appeal to Area Manager in writing within 10 business days of receiving the results. The Area Manager will have 5 business days to review the appeal and inform the complainant of his/her decision. If the complainant is dissatisfied with the Area Manager's decision, he/she can appeal to the Judiciary [9-1 & 9-2]

The Ombudsperson will provide the corrective action plan to the Area Manager who will immediately forward the plan to Audit Department. Within 30 days, the Audit Department will work with the Department to ensure the concerns in the substantiated complaint are addressed. The Audit Department can monitor the continuous improvement plan [6-6 & 6-7]

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Oneida Child Care Department Consumer Complaint Policy

Article I. Purpose and Policy

Article II. Adoption, Amendment, Repeal

Article III. Definitions

Article IV. Filing of a Complaint

Article V. Determination of Severity of Complaint

Article VI. Processing the Complaint – Level 1: Very Mild, Mild,
or Moderate and Level 2: Serious

Article VII. Processing the Complaint – Level 3: Very Serious

Article VIII. Processing the Complaint - Level 4: Child Abuse or
Neglect Allegations

Article IX. Appeal

Article X. Video Surveillance

Article XI. Self-Reporting by Department

Article XII. Parent/Teacher Organization

Article XIII. Enforcement

Article I. Purpose and Policy

1-1. The purpose of this Policy is to provide a formal process for addressing consumer complaints for anyone who uses the services of the Oneida Child Care Department. The Policy is not intended to resolve employee complaints or grievances which shall be addressed through the process specified in the Tribe's personnel policies and procedures.

1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin to provide a safe, secure and nurturing environment for all children that are enrolled in the Oneida Child Care Department. It is also the policy of the Tribe to allow any person who utilizes the services of the Oneida Child Care Department to have any and all complaints concerning those services addressed in a timely and professional manner.

Article II. Adoption, Amendment, Repeal

2-1. This Policy is adopted by the Oneida Business Committee by resolution _____

2-2. This Policy may be amended or repealed by the Oneida Business Committee and/or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

2-3. Should a provision of this Policy or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Policy which are considered to have legal force without the invalid portion(s).

2-4. In the event of a conflict between a provision of this Policy and a provision of another policy, the provision of this Policy shall control; provided that this Policy repeals Resolution BC-7-26-95-A (Policy on Internal Investigation of Complaints).

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

Article III. Definitions

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

(a) "Abuse" shall mean any of the following:

(1) Physical injury inflicted on a child by other than accidental means;

(2) Sexual intercourse or sexual contact under Wis. Stats. 940.225 or 948.02, which refers to sexual assault and sexual assault of a child;

(3) Sexual exploitation of a child under Wis. Stat. 948.05;

(4) Permitting, allowing, or encouraging a child to be involved in prostitution under Wis. Stat. 944.30;

(5) Causing mental harm to a child under Wis. Stat. 948.04; or

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- (6) Causing a child to view or listen to sexually explicit activity under 948.055.¹
- (b) “Area Manager” shall mean the Area Manager of Education and Training within the Governmental Services Division.
- (c) “Complaint” shall mean an allegation of certain wrongdoing against an Oneida Child Care staff member or the Department.
- (d) “Complaint Investigator” shall mean any of the following as recommended by the Ombudsperson:
- (1) the Supervisor of an Oneida Child Care staff member that has a complaint against him or her;
 - (2) the Supervisor’s substitute;
 - (3) the Area Manager; and/or
 - (4) an outside agency
- (e) “Days” shall mean calendar days unless otherwise specified.
- (f) “Department” shall mean the Oneida Child Care Department.
- (g) “Director” shall mean the Oneida Child Care Department Director.
- (h) “Neglect” shall mean a failure, refusal or inability of an Oneida Child Care staff member to provide necessary care, food, clothing, medical care or shelter so as to seriously endanger the physical health of a child, lack of supervision, or total abandonment.
- (i) “Ombudsperson” shall mean an individual employed by the Oneida Tribe of Indians of Wisconsin who functions as a designated confidential, independent, neutral and informal dispute resolution resource that does not represent the Tribe or any specific party, but advocates for fairness and the application of a fair and equitable process.
- (j) “Substantiated” shall mean a finding that the complaint or allegation in the complaint is valid because there is proof by a preponderance of the evidence.
- (k) “Supervisor” shall mean the person in charge of the other Oneida Child Care staff, which may include the Director.
- (l) “Tribe” or “Tribal” shall mean the Oneida Tribe of Indians of Wisconsin.
- (m) “Unsubstantiated” shall mean a finding that the complaint or allegation in the complaint is not valid because there is not proof by a preponderance of the evidence.

Article IV. Filing of a Complaint

4-1. *Who May File.* The following people may file a complaint within sixty (60) days of the alleged incident:²

- (a) Any parent or guardian who is currently utilizing the services of the Department.
- (b) Any person who is on the child’s emergency contact list.
- (c) Any person who witnesses an act of child abuse or neglect.

4-2. *Format.* A complaint shall be filed by either:

- (a) using the specific form provided for by the Department, which shall at all times be made

¹ Wisconsin State Statutes can be found at <https://docs.legis.wisconsin.gov/statutes/prefaces/toc>

² While a complaint can be filed within 60 days of the alleged incident, surveillance footage is only available to capture for ten (10) days after the alleged incident.

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available at the facility as well as on the Department's webpage; or

(b) in writing following the requirements of Section 4-3.

4-3. *Statement of Facts.* The complaint filed shall contain specific allegations, which shall include, if known, but is not limited to the following information:

(a) The name(s) of the child(ren) involved;

(b) The name(s) of the Oneida Child Care staff member(s) involved;

(c) The specific date(s) and time(s) of the alleged incident(s);

(d) The specific details of the alleged incident;

(e) Name(s) of any witness(es) to the alleged incident and a written statement by the witness(es) as to what he or she witnessed; and

(f) Any noted impacts.

(g) The contact information for the person filing the complaint, which at minimum shall include the person's name, address and telephone number.

4-4. *Where to File Complaint.* All fully completed complaints shall be delivered to the Ombudsperson, or if the Ombudsperson is unavailable, to the Area Manager. If it a complaint is delivered to the Area Manager due to the absence of the Ombudsperson, the Area Manager shall immediately forward a copy of the complaint to the Ombudsperson so it is available upon the Ombudsperson's return.

4-5. *Responsibilities of the Ombudsperson.*

(a) The Ombudsperson shall immediately secure the appropriate video surveillance footage that is relevant to the complaint.

(b) Upon receipt of the complaint, the Ombudsperson shall immediately forward a copy of the complaint to the Director and the Area Manager, as well as notify the person filing the complaint by mail or e-mail that the complaint was received and what the next steps will be.

If the complaint is a severity level 2, 3 or 4, the Ombudsperson shall forward a redacted copy of the complaint to the Risk Management Department.

(c) The Ombudsperson shall have five (5) business days to refer the matter to the Complaint Investigator. However, if the parties agree to mediate the matter with the Ombudsperson, the Ombudsperson shall have five (5) days additional days to recommend a Complaint Investigator, if needed.

(d) The Area Manager shall have the same responsibilities of the Ombudsperson should the Ombudsperson be unavailable.

4-6. *Repeat Complaints.* A complaint that was deemed unsubstantiated or rejected on appeal shall not be re-filed unless new facts or new evidence have been discovered.

Article V. Determination of Severity of Complaint

5-1. *Who Investigates.* Upon receipt of the complaint, the Ombudsperson shall make a determination as to the severity of the complaint and recommend an appropriate Complaint Investigator to conduct an investigation pursuant to the following chart:

LEVEL	CATEGORY	DESCRIPTION	WHO INVESTIGATES
1	Very Mild, Mild and Moderate	Complaints such as poor business practices, inadequate	Supervisor if not resolved through the Ombudsperson

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		equipment/furnishings, ratio violations or lack of supervision.	
2	Serious	Complaints that are listed on the Serious Violations List with the Wisconsin Department of Children and Families that do not pose a risk of direct harm to children.	Supervisor; may also include the Wisconsin Department of Children and Families and the Oneida Indian Child Welfare Department as determined by the investigator.
3	Very Serious	Complaints that are listed on the Serious Violations List with the Wisconsin Department of Children and Families that pose a risk of harm to children.	Supervisor and/or the Oneida Police Department as determined by the investigator. May also include the Wisconsin Department of Children and Families and the Oneida Indian Child Welfare Department as determined by the investigator.
4	Child Abuse or Neglect	Imminent danger to children.	Wisconsin Department of Children and Families; Police Department and the Oneida Indian Child Welfare Department.

5-2. *Oneida Child Care Department.* The Ombudsperson shall recommend an appropriate Complaint Investigator based on the chart found in Section 5-1.

(a) *Conflict of Interest.* If the Complaint Investigator has a conflict in conducting the investigation, he or she shall immediately notify the Ombudsperson who shall recommend a new Complaint Investigator to conduct the investigation.

Article VI. Processing the Complaint – Level 1: Very Mild, Mild, or Moderate and Level 2: Serious

6-1. The Ombudsperson shall facilitate a meeting(s) between the person who filed the complaint and the Department if the person who filed the complaint agrees. The intent of this meeting(s) is to resolve the complaint prior to commencing a full investigation.

(a) If a resolution is reached, the Ombudsperson shall inform the Department that a corrective action plan shall be prepared, if necessary, based on the agreement.

(b) If the matter is not resolved at the meeting(s), a full investigation shall be completed.

6-2. Once the complaint investigator is assigned, he or she shall have five (5) business days to complete a thorough investigation. The Ombudsperson may grant a five (5) business day extension for extenuating circumstances. If an extension is granted, the Ombudsperson shall send written

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notice to the person filing the complaint within twenty-four (24) hours of that extension being granted.

6-3. Upon completion of the investigation, the Complaint Investigator shall either substantiate or not substantiate the complaint and forward copies of all documents and findings to the Ombudsperson, Area Manager and Director for review. The Ombudsperson, Area Manager and Director shall complete a review within five (5) business days of receiving the investigation findings.

(a) Unsubstantiated Findings: The Ombudsperson, Area Manager and/or Director may over-ride the Complaint Investigator's decision to unsubstantiate the complaint. If the decision is over-ridden, the Director shall complete a corrective action plan within five (5) business days of over-riding the decision to not substantiate the complaint.

(1) The Director's corrective action plan shall be finalized by the Ombudsperson and Area Manager within five (5) business days. The Area Manager shall forward a copy of the corrective action plan to Internal Audit Department within 24 hours of finalizing the plan.

(b) Substantiated Findings: The Complaint Investigator shall create a corrective action plan within five (5) business days of forwarding the investigation findings.

(1) A decision to substantiate the complaint cannot be over-ridden.

(2) The corrective action plan shall be finalized by the Director and Ombudsperson within five (5) business days.

6-4. All Oneida Child Care staff members shall comply with the corrective action plan.

6-5. The Ombudsperson shall notify the person who filed the complaint of the results of the investigation in writing by U.S. or private mail using a delivery tracking feature within five (5) business days of receiving the finalized corrective action plan or findings that do not substantiate the complaint. The information provided to the person filing the complaint shall include, but is not limited to the following:

(a) Details of the investigation which would not compromise the legally-protected confidentiality of any other person; and

(b) Whether or not the complaint was substantiated; and

(c) Any corrective action plan prepared to resolve the complaint, redacting specific employee related matters or information; or

(d) An explanation as to why the complaint is unsubstantiated, if necessary.

6-6. The Ombudsperson shall provide the corrective action plan to the Area Manager who shall immediately forward the corrective action plan to the Internal Audit Department.

6-7. Within thirty (30) days of receiving the corrective action plan, the Internal Audit Department shall work with the Department to complete a plan to improve the conditions and or processes to ensure the concerns brought up in all substantiated complaints are being adequately addressed. The Internal Audit Department shall have the right to monitor the continuous improvement plan as they deem necessary.

Article VII. Processing the Complaint – Level 3: Very Serious

7-1. When a complaint involving an allegation under Level 3 is filed against an Oneida Child Care staff member(s):

(a) The person receiving the complaint shall immediately refer the matter to the appropriate

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investigator and/or agency for investigation and follow through.

(b) The Oneida Child Care staff member(s) may be placed on investigative leave and/or transferred to another department pursuant to the Investigative Leave Policy until the investigation is completed by the appropriate agency. If placed on investigative leave, the staff member(s) shall be returned to work if the complaint allegations are found to be unsubstantiated.

Article VIII. Processing the Complaint - Level 4: Child Abuse or Neglect Allegations

8-1. When a complaint involving an allegation under Level 4 is filed against an Oneida Child Care staff member(s):

(a) The person receiving the complaint shall immediately refer the matter to the appropriate investigator and/or agency for investigation and follow through.

(b) The Oneida Child Care staff member(s) may be placed on investigative leave and/or transferred to another department pursuant to the Investigative Leave Policy until the investigation is completed by the appropriate agency. If placed on investigative leave, the staff member(s) shall be returned to work if the complaint allegations are found to be unsubstantiated. A substantiation of a complaint for child abuse or neglect shall result in immediate termination of the Oneida Child Care staff member(s).

Article IX. Appeal

9-1. If the person who filed the complaint is dissatisfied with the finding that the complaint is unsubstantiated, or is dissatisfied with the corrective action plan, that person may appeal the matter to the Area Manager, in writing, within ten (10) business days of receiving the results of the investigation and, if applicable, the corrective action plan. The Area Manager shall complete his or her review of the appeal within five (5) business days of receiving the written appeal and inform the person filing the complaint in writing of his or her decision.

9-2. If the person filing the complaint is dissatisfied with the Area Manager's decision, he or she may appeal to the Tribe's Judiciary pursuant to the Judiciary's Rules of Appellate Procedure.

Article X. Video Surveillance

10-1. The Department, for security purposes, shall have daily video surveillance. The video surveillance footage shall not be erased by anyone in the Department. The Records Management Department shall retain the video surveillance footage for at least ten (10) business days and dispose of the video surveillance footage in accordance with their standard operating procedures.

10-2. Only the Ombudsperson, Department, Complaint Investigator, Area Manager, Governmental Services Division Director, police department, Oneida Indian Child Welfare Department, Oneida's Risk Management Department, and/or the Wisconsin Department of Children and Families shall have access to the video surveillance footage. The video surveillance footage shall be viewed at the Records Department with a Records Management Department personnel present.

10-3. The Records Management Department shall follow a standard operating procedure for disposal of video surveillance that complies with the child care industry standard.

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2015 06 03**Article XI. Self-Reporting by Department**

11-1. If any Oneida Child Care staff member witnesses another staff member behaving in an unethical or otherwise inappropriate manner as defined by the State of Wisconsin licensing requirements, that person shall immediately document and report such behavior to the Ombudsperson, who shall immediately report the behavior to the parent or guardian of the child(ren). An investigation shall be conducted as if a complaint was filed. If the behavior witnessed constitutes child abuse or neglect, the staff member shall report in accordance with Section 8-1.

Article XII. Parent/Teacher Organization

12-1. The Department shall form a parent/teacher organization for the purpose of gathering and sharing information, addressing concerns, and planning activities to enhance or improve the Department. The first meeting shall be set by the Department. Thereafter, those involved in the parent/teacher organization shall agree to a convenient time and place for all future meetings.

Article XIII. Enforcement

13-1. Any Tribal employee found violating this Policy or retaliating against the children or family involved in a complaint shall be subject to discipline in accordance with the Tribe's personnel policies and procedures.

End.



Legislative Operating Committee

June 3, 2015

Tribal Hearing Bodies

Submission Date: 9/17/14

Public Meeting:
Emergency Enacted:
Expires:

LOC Sponsor: Jennifer Webster

Summary: *This item was originally submitted to the LOC on November 15, 2013, and the item was carried over into the current term by the LOC. This was a request for the LRO to conduct research on Tribal Boards, Committees and Commissions to find out which are also hearing bodies and where the hearing body authority comes from.*

9/17/14 LOC: Motion by Jennifer Webster to add Tribal Hearing Bodies to the Active Files List; seconded by Tehassi Hill. Motion carried unanimously.

Note: Jennifer Webster will be the sponsor for this item.

10/15/14 LOC: Motion by Jennifer Webster to accept the verbal update on the Personnel Commission Legislation; seconded by Fawn Billie. Motion carried unanimously

Next Steps:

- Review the attached chart and direct next steps

HEARING BODY CHART

Tribal Entity	Authority and Bylaws	Adopting Resolution or Date Adopted	Power to Amend	Potential Amended Legislation
Oneida Child Protective Board	OBC Resolution 9-25-81	OBC 09-25-81	OBC	Repeal OBC Resolution 9-25-81
	Bylaws	OBC 01-31-07	OBC	1-2; 1-6 (A & E); 4-4; 5-2; 5-3; 6; 7; 9-1 (B)
Oneida Election Board	Oneida Election Law	GTC 7-06-98-A	GTC	2.4-10 (a); 2.5-6; 2.5-7(d); 2.5-8 (b); 2.5-9 (e); and 2.8-7
Oneida Environmental Resource Board	Oneida Tribal Regulation on Domestic Animals Ordinance	OBC 03-13-96-B	OBC or GTC	34.4-3
	Hunting, Fishing and Trapping Law	OBC 07-22-98-A	OBC or GTC	45.15-1; 45.15-3, 45.16-2 & 45.17-1
	All-Terrain Vehicle Law	OBC 06-16-04-B	OBC or GTC	49.6-2,
	Public Use of Tribal Land	OBC-5-15-14-C	OBC	38.4-1 (c); 38.7-2 & 38.7-3
	Water Resources Ordinance	OBC 05-08-96-B	OBC or GTC	48.1-3; 48.6-1 (e); 48.6-2; & 48.6-4
	Well Abandonment Law	OBC 8-31-94-A	OBC or GTC	43.7-3 & 43.7-6
	Tribal Environmental Response	OBC 09-12-12-B	OBC or GTC	40.11-1 (b); 40.11-2 & 40.11-3
	Bylaws	OBC 12-10-03	OBC	1-4 (b); 1-5 (c) (2); 1-5 (f) (1 & 3); 2-2 (b); 2-4 (a, c-e); 4; 5-3; and 5-4
Oneida Gaming Commission	Oneida Nation Gaming Ordinance	GTC 07-05-04-A	OBC or GTC	21.2-6; 21.6-14 (f), (i), (j), (m), (s), & (v); 21.12-4; 21.12-8; 21.12-9; 21.13-13; 21.13-14
	Oneida Gaming Commission Regulation 1: Vendor Licensing and Permitting	OBC 05-23-12-C	OBC or GTC	1.18
Oneida Land Commission	Real Property Law	OBC 05-29-96-A	OBC or GTC	67.8-6 (d) & (e); 67.9-6; 67.9-7; 67.9-10 through 67.9-16; 67.11-5; 67.13-5 (a); 67.13-6; 67.14-5 (b) & 67.16-2 (c) (2)
	Non-Metallic Mine Reclamation	OBC 08-01-07-G	OBC or GTC	41.14-2; 41.15-4; 41.23-4
	Building Code	OBC03-23-11-E	OBC or GTC	66.24-1 (c)
	Condominium Ordinance	OBC 07-30-97-A	OBC or GTC	68.7-1; 68.9-3; 68.20-3; and 68.26
	Zoning and Shoreland Protection	By motion at the June 5, 1990 OBC meeting	OBC or GTC	69.4-1 (b), (c), (e) & (g); 69.4-2 (j) & (k); 69.5-4 (f); 69.5-5; 69.10-1 (e) (2); 69.15
	Bylaws	OBC 12-10-2008	OBC	1-2 (b); 3-4; 3-5; 6-1
Pardon and Forgiveness Screening Committee	Pardon and Forgiveness	OBC 05-25-11-A	OBC or GTC	5.4-2 (d); 5.8; 5.9-2; 5.9-3 and 5.10-1
Oneida Personnel Commission	Personnel Policies and Procedures	GTC	GTC	Section V.D.3
	Military Service Employee	OBC 10-24-07-E	OBC or GTC	97.11-5 & 97.11-6

HEARING BODY CHART

	Protection Act			
	Employee Protection Policy	OBC 12-06-95 B	OBC	3-3; 4-5; 4-7; 5-2 (b); 5-3; 5-4 & 5-5
	Investigative Leave Policy	OBC 04-07-99-A	OBC or GTC	11-1 & 12-1 (refers to personnel policies and procedures)
	Bylaws	OBC 04-28-10	OBC	1-4 (b) (5)
Oneida Police Commission	Oneida Nation Law Enforcement Ordinance	OBC 10-10-01-C	OBC or GTC	37.6-1 (h) & (i); 37.9-1 (c), (d), (e) and (f); 37.9-2 through 37.9-9
	Bylaws	OBC 03-03-2004	OBC	6-1 (h) & (i)
Oneida Nation School Board	Memorandum of Agreement	OBC 03-14-83	GTC	MOA
	School Board Policies and Procedures Manual	Revised March 2006	School Board	2-101; 2-108; 3-107; 3-108; and Appendix 1
Oneida License Commission	Oneida Vendor Licensing	OBC 03-05-97-E	OBC or GTC	56.3-8, 56.7-1 & 56.7-2
Oneida Trust/Enrollment Committee	Membership Ordinance	GTC 7-2-84-A	GTC	10.3-1 (e); 10.5-1 (c)
	Per Capita	OBC	OBC	9.4-4 (c); 9.6-2 (a) (3) (C) (iv) & (v); 9.6-3 (a) (3)
	General Tribal Council Meeting Stipend Payment Policy	OBC 12-10-08-K	GTC	6-1
	Memorandum of Agreement	OBC 07-05-06	OBC & Committee	10 th and 11 th “Whereas” clauses



Legislative Operating Committee

June 3, 2015

Audit Committee Bylaws

Submission Date: September 17, 2014

☐ Public Meeting:
☐ Emergency Enacted:

LOC Sponsor: Fawn Billie

Summary: *This item was deferred to the LOC by the OBC on April 27, 2011 and it was carried over into the current term by the LOC. Originally, the OBC deferred the Audit Committee Charter to the LOC for review of authority and review under the context as bylaws. The Audit Committee is a standing committee of the OBC currently operating under a charter adopted by the Audit Committee. The previous LOC deferred a draft of the Bylaws to the Audit Committee for review and was awaiting a response from the Audit Committee when the term ended. The Audit Committee's last action on this item occurred on May 3, 2013 and was to "defer until after the GTC Meeting regarding enforcement authority," which refers to amendments to the Audit Law that were anticipated would be sent to GTC for review.*

9/17/14 LOC: Motion by Fawn Billie to add the Audit Committee Bylaws to the Active Files List with Fawn Billie as the sponsor; seconded by Tehassi Hill. Motion carried unanimously.

Next Steps:

- Review the proposed Audit Committee Bylaws and make changes or forward the draft to the Audit Committee for review and consideration.

AUDIT COMMITTEE BYLAWS

Article I. Authority

- 1-1. *Name.* The name of this committee shall be the Audit Committee, hereinafter referred to as "Committee."
- 1-2. *Authority.* By the authority of the Oneida Business Committee, the Committee was created by adoption of the Audit Law Resolution BC-07-15-98-C. Through the Audit Law, the Committee has been delegated the authority to ensure the integrity of the Tribe's financial reporting and audit systems. Definitions for the words used throughout these bylaws shall be taken from the Audit Law. All words not defined in the Audit Law shall be used in their ordinary and everyday sense.
- 1-3. *Office.* The office of the Committee shall be located within the exterior boundaries of the Oneida Reservation and its mailing address shall be P.O. Box 365, Oneida, WI 54155.
- 1-4. *Membership.*
- a. Number of members. The Committee shall consist of five (5) members.
 - b. How elected or appointed.
 1. Four (4) Committee members shall be Oneida Business Committee members, selected by a majority of the Oneida Business Committee.
 2. One (1) Committee member who meets the qualifications of 1-4(e) shall be appointed in accordance with the Comprehensive Policy Governing Boards, Committees and Commissions.
 - c. Term of office.
 1. The terms of the Oneida Business Committee members shall coincide with the term of the Oneida Business Committee.
 2. The term of the appointed Committee member shall expire midway through the term of the Oneida Business Committee.
 - d. How vacancies are filled. Vacancies on the Committee shall be filled in accordance with section 1-4(b) for the remainder of the outstanding term.
 - e. Qualifications of members.
 1. The appointed Committee member shall be at least twenty-one (21) years of age and be an enrolled member of the Oneida Tribe of Indians of Wisconsin.
 2. Committee members shall be both independent and financially literate or have access to financial expertise, whether in the form of a single individual serving on the Committee, or collectively among Committee members. Defining independence of each Committee member is important for the Tribe and no Committee member may:
 - a. Be employed by any Tribal entity.
 - b. Provide contract services to the Tribe.
 - c. Be a member of any other Tribal Board, Committee or Commission, other than the Oneida Business Committee members.
 - d. Represent any interests other than the Tribe's while acting as a member of the Committee.
 3. Committee members shall strictly adhere to the Tribe's laws and policies establishing ethical standards and/or conflicts of interest, and any code of conduct.
 4. At least one (1) member of the Committee shall be designated as the "financial expert," as defined by employment experience in finance and accounting, certification or other comparable background and experience. Components of financial expertise include:

- a. The ability to assess the general application of the principles and standards in connection with the accounting for estimates, accruals, and reserves.
- b. An understanding of internal controls.
- c. An understanding of the procedures for financial reporting.
- d. An understanding of audit committee functions and responsibilities.

Article II. Officers

- 2-1. The Committee shall have two (2) officers: Chairperson and Vice-Chairperson. The Chairperson and Vice-Chairperson shall be chosen from the Oneida Business Committee representatives by all Committee members present at the first meeting held after the Committee is appointed. The terms of office for the officers shall coincide with the terms of the Oneida Business Committee members.
- 2-2. *Chairperson Duties.* The Chairperson shall preside over all meetings and may not vote except in the case of a tie. The Chairperson shall be responsible for calling meetings and notifying members with the assistance of the Internal Audit Department.
- 2-3. *Vice-Chairperson Duties.* The Vice-Chairperson shall assist the Chairperson with his or her duties, at the request of the Chairperson, and shall preside over all meetings in the Chairperson's absence.
- 2-4. *Personnel.* The Committee shall recruit and hire a qualified Internal Audit Director to lead the internal audit function and to assure unbiased audit and investigative processes and reporting.

Article III. Meetings

- 3-1. The Committee shall meet on a monthly basis within the Reservation boundaries. Special meetings may be called as circumstances require.
 - a. All Committee members are expected to attend each meeting.
 - b. The Committee may invite entity representatives, auditors or others to attend meetings and provide pertinent information, as necessary in open session.
 - c. The Committee may hold meetings in executive session with auditors, legal counsel, and entity representatives as required.
- 3-2. *Quorum.* A quorum shall consist of a majority of current members of the Committee and shall include the Chairperson or Vice-Chairperson.
- 3-3. *Order of Business.* The regular meetings of the Committee shall follow the order of business as set out herein:
 - a. Call to Order.
 - b. Approval of Agenda
 - c. Approval of Minutes
 - d. Old Business
 - e. New Business
 - f. Executive Session
 - g. Adjourn
- 3-4. *Voting.* Decisions of the Committee shall be based on a majority of a quorum of members present at a meeting. The officer presiding at a meeting shall vote only in case of a tie.
- 3-5. *Stipends.* The appointed Committee member shall be paid a meeting stipend in accordance with Section 11-3 of the Comprehensive Policy Governing Boards, Committees and Commissions, provided that the meeting has established a quorum for a minimum of one (1) hour and the Committee member collecting the stipend was present for at least one (1) hour of the established quorum.

Article IV. Reporting

- 4-1. Agenda items shall be in an identified format.
- 4-2. Minutes shall be typed and in a consistent format designed to generate the most informative record of the meetings of the Committee.
- 4-3. 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.
- 4-4. The Committee shall report to the Oneida Business Committee and to the General Tribal Council, when appropriate, relative to audits, financial reports, management reports and recommended corrective measures.
- 4-5. The Committee shall report to the Oneida Business Committee, as often as deemed appropriate, the approved Committee minutes, audit reports and appropriate supporting information.
 - a. Minutes and audit reports require Oneida Business Committee approval in order to finalize the audit records.

Article V. Amendments

- 5-1. The Bylaws of the Committee shall be amended with the approval of a quorum of the Committee and upon subsequent approval by the Oneida Business Committee.

Article VI. Responsibilities

- 6-1. The Committee shall have oversight of the activities of the internal audit function in independent assignments related to auditing, evaluating, and special investigations related to detecting fraudulent financial reporting and conducting investigations into fraud and theft in the Tribe's entities.
- 6-2. *Enforcement.* The Committee shall have the ability to utilize all existing enforcement authorities to carry out their responsibilities to achieve their purpose, including:
 - a. In accordance with Tribal law, compel entity representatives to attend meetings in order to represent issues.
 - b. In accordance with Tribal law, compel entity representatives to comply with audit requests and reply to audit reports.
 - c. Instruct the external auditor and the internal auditor that the Committee expects to be advised if there are any areas that require its special attention.
 - d. Issue notices of noncompliance to entity employees in accordance with the disciplinary provisions relating to work performance and personal actions, as provided for in the Tribe's Personnel Policies and Procedures.
 - e. Issue notices of violation of Oath of Office, as appropriate, to entity members.
 - f. Seek improvements to assure the Tribe's laws and policies establishing ethical standards and/or conflicts of interest, as well as any code of conduct implemented are current and adequate to ensure fairness for all and equity by protecting the resources.
- 6-3. *Financial Statements.* The Committee shall review and discuss annual and quarterly statements and Managements Discussion & Analysis (MD&A) with entity representatives and auditors.
- 6-4. *Internal Control.* The Committee shall ensure that entities have developed and follow an adequate system of internal control, including:
 - a. Compliance with legal and regulatory requirements.
 - b. Risk assessment and risk management.

- c. Adopt a code of ethics which includes monitoring and enforcement.
- d. Establish procedures for the receipt, retention, and treatment of complaints; establish a confidential anonymous submission by individuals for concerns regarding questionable matters.
- e. Ensure open communication and information flow with entities, internal auditors and external auditors.

6-5. *External Audit.* The Committee shall be responsible for evaluating and recommending to the Oneida Business Committee, an independent public accounting firm for the annual or any special audit, unless there is a prior alternative written agreement in place delegating the responsibility for a given special audit. When an external auditor is hired, the Committee shall:

- a. Verify the qualifications of the external auditor.
- b. Oversee the performance of the external audit.
- c. Assure all reports from the external auditor go directly to the Committee.

6-6. *Compliance.* The Committee shall review the effectiveness of the system for monitoring compliance with laws and regulations and the results of an entity's investigation and follow-up of any instances of non-compliance. Special audits may be recommended by the Committee from time to time, but such audits shall be requested in writing to the Oneida Business Committee.

6-7. *Other Responsibilities.* The Committee shall complete a self-evaluation annually to identify improvement opportunities. This includes comparing the Committee's performance to its bylaws, any formal guidelines and rules, and against best practices. Such review is confidential and may or may not include evaluations of particular members.

These Bylaws are hereby attested to as adopted by the Audit Committee at a duly called meeting held on the _____ of _____, 2015 by the Audit Committee Chairperson's signature.

Tehassi Hill, Chairperson
Audit Committee

These By-Laws are also approved by the Oneida Business Committee at a duly called meeting held on the _____ of _____, 2015 by the Secretary of the Oneida Business Committee's signature.

Lisa Summers, Tribal Secretary
Oneida Business Committee

LOC Active Files List – Sponsor Breakdown

	Brandon Stevens	Tehassi Hill	Jennifer Webster	Fawn Billie	David Jordan	No Sponsor	LOC Total
Total Active Items	6	9	13	9		2	39
New Laws/Policies	3	5	8	5			21
Amendments	2	4	3	1		1	10
Bylaws	1		2	2			5
Other						1	1

Completed Items - Overall

	Brandon Stevens	Tehassi Hill	Jennifer Webster	Fawn Billie	David Jordan	No Sponsor	LOC Total
Total Completed Items	3	5	1	2		1	12
New Laws/Policies		1					1
Amendments	3	4	1	1		1	10
Bylaws				1			1
Other							

Petitions

	Brandon Stevens	Tehassi Hill	Jennifer Webster	Fawn Billie	David Jordan	No Sponsor	LOC Total
Total Petitions	6	2	1	0	2	2	13
Petitions added to the AFL or deferred to LOC for legislative analysis:					2		2
Petitions where the OBC has accepted the LRO's analyses but the item has not yet been presented at GTC	2	2	1			1	6
Completed Petitions (presented to GTC or otherwise resolved)	4					1	5

Current Active Items
(Note: "Days on AFL" is effective as of June 3, 2015)

Item	Type	Added to AFL	Days on AFL
Brandon Stevens			
Budget Management and Control Law	New	9/17/14	260
Employment Law	New	9/17/14	260
Family Court Amendments: Bench Warrants	Amendments	9/17/14	260
Membership Ordinance	Amendments	9/17/14	260
ONGO Amendments (Permanent)	Amendments	9/17/14	260
Sanctions and Penalties Law	New	10/15/14	232
Election Board Bylaws Amendments	Bylaws	3/18/15	78
Tehassi Hill			
Rulemaking Law	New	9/17/14	260
Workplace Violence Policy	New	9/17/14	260
Code of Ethics Law Amendments	Amendments	9/17/14	260
Election Law Amendments	Amendments	9/17/14	260
Law Enforcement Ordinance – Conservation Officers	Amendments	9/17/14	260
Agricultural Law	New	10/1/14	246
Environmental, Health and Safety Law	New	12/17/14	169
Hunting, Fishing, Trapping Law Amendments	Amendments	1/21/15	134
Industrial Hemp Law	New	3/18/15	78
Jenny Webster			
Capping Damages and Awards from the Judicial System	New	9/17/14	260
Employee Advocacy Law	New	9/17/14	260
Fitness for Duty Policy	New	9/17/14	260
Tribally-Owned Business Organization Code	New	9/17/14	260
Vehicle Driver Certification and Fleet Management	New	9/17/14	260
Whistleblower Law	New	9/17/14	260
Audit Law Amendments	Amendments	9/17/14	260
Comprehensive Policy Governing BCCs Amendments	Amendments	9/17/14	260
Petition: Child Care Dep't Consumer Complaint Policy	Other	9/17/14	260
Tribal Hearing Bodies	Other	9/17/14	260
Investigative Leave Policy Amendments	Amendments	12/17/14	169
Violence Against Women Act (VAWA)	New	3/18/15	78
Flag Code	New	5/6/15	29
Fawn Billie			
Children's Code	New	9/17/14	260
GTC Meetings Law	New	9/17/14	260
Guardianship Law	New	9/17/14	260
Audit Committee Bylaws	Bylaws	9/17/14	260
Furlough Policy	New	10/15/14	232
Higher Education	New	10/15/14	232
Removal Law Amendments	Amendments	12/17/14	169

Personnel Commission Bylaws	Bylaws	3/18/15	78
David Jordan			
No Sponsor			
APA Emergency Amendments	Amendments	2/18/15	106
Personnel Commission Complaint	Other	2/25/15	99

Items Completed This Term

Item	Type	Added to AFL	Date Completed	# of Days
Brandon Stevens				
Administrative Procedures Act Repeal	Amendments	9/17/14	9/24/14	7
Judiciary/Transition Plan Emerg. Amendments	Amendments	9/17/14	9/25/14	7
ONGO Emergency Amendments	Amendments	9/17/14	10/1/14	14
Tehassi Hill				
Personnel Policies: Job Duties/Work Assignments (Emergency Amendments)	Amendments	9/17/14	9/24/14	7
Real Property Law Amendments	Amendments	3/4/15	5/6/15	64
Public Use of Tribal Land Amendments	Amendments	9/17/14	12/3/14	78
Motor Vehicle Registration Law Amendments	Amendments	11/5/14	4/3/15	150
Leasing Law	New	9/17/14	5/6/15	232
Jennifer Webster				
Rules of Appellate Procedure Amendments	Amendments	9/17/14	3/4/15	169
Fawn Billie				
Pow-wow Committee Bylaws	Bylaws	10/1/14	4/3/15	185
Marriage Law Amendments	Amendments	11/5/14	5/20/15	187
David Jordan				
No Sponsor				
Oneida Appeals Commission References Removal	Amendments	2/18/15	2/18/15	1

Petitions

Petitions are calculated/processed differently from all other items, for various reasons. For the purposes of this report, petitions are only treated as an active/completed item if the petition resulted in additional processing beyond the typical legislative analysis. All other petitions are below.

	Petitions added to the AFL or deferred to LOC for legislative analysis:	Petitions where the OBC has accepted the LRO's analyses but the item has not yet been presented at GTC	Completed Petitions (presented to GTC or otherwise resolved)
Brandon Stevens		<ul style="list-style-type: none"> Budget Cuts, Swimming Lessons, GTC Directives & Home Repairs for Elders Develop a Dialysis Center 	<ul style="list-style-type: none"> Publishing Names/ Addresses of Petition Signers in GTC Mailouts Real Estate Taxes for all Tribe Owned Property Paid by Tribe Responding to Questions/ Comments from Floor at GTC Directing a "Stall Mall" be Created
Tehassi Hill		<ul style="list-style-type: none"> Judiciary Support System GTC Meeting to Address Tribal Election Issues 	
Jennifer Webster		<ul style="list-style-type: none"> Genskow – GTC Meeting for 6 Resolutions 	
Fawn Billie			
David Jordan	<ul style="list-style-type: none"> Genskow-3 resolutions – OBC Accountability, Repeal Judiciary, Open Records Law Petition: Frank Cornelius – Special GTC Meeting to address 4 resolutions 		
No Sponsor		<ul style="list-style-type: none"> Petition: Raise Employee Salaries 99 cents 	<ul style="list-style-type: none"> Petition: Constitution Amendments re: Membership

June 2015

June 2015							July 2015						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
7	1	2	3	4	5	6	5	6	7	1	2	3	4
14	8	9	10	11	12	13	12	13	14	8	9	10	11
21	15	16	17	18	19	20	19	20	21	15	16	17	18
28	22	23	24	25	26	27	26	27	28	22	23	24	25
	29	30							29	30	31		

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
May 31 - Jun 6	May 31	Jun 1	2	3	4	5	6
		6:00pm 9:00pm GTC Meeting (Radisson)	3:00pm 4:30pm FW: Vehicle Driver PM Comment Review (BCCR) - Candice E. Skenandore	9:00am 2:00pm LOC Meeting (BCCR) - LOC_Calendar			
Jun 7 - 13	7	8	9	10	11	12	13
		1:30pm 3:00pm Comprehensive Policy LOC Work Me 3:00pm 4:30pm Tribal Flag Code Work Meeting (ECR)		BC Meeting (BCCR)			
Jun 14 - 20	14	15	16	17	18	19	20
		3:00pm 4:30pm Employment Law Work Meeting (ECR) - LOC_Calendar		9:00am 2:00pm LOC Meeting (BCCR) - LOC_Calendar			
Jun 21 - 27	21	22	23	24	25	26	27
				BC Meeting (BCCR)			
Jun 28 - Jul 4	28	29	30	Jul 1	2	3	4

July 2015

July 2015							August 2015						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
5	6	7	1	2	3	4	2	3	4	5	6	7	1
12	13	14	8	9	10	11	9	10	11	12	13	14	8
19	20	21	15	16	17	18	16	17	18	19	20	21	15
26	27	28	22	23	24	25	23	24	25	26	27	28	22
			29	30	31		30	31					29

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Jun 28 - Jul 4	Jun 28	29	30	Jul 1	2	3	4
				9:00am 2:00pm LOC Meeting (BCCR) - LOC_Calendar			
Jul 5 - 11	5	6	7	8	9	10	11
				BC Meeting (BCCR)			
Jul 12 - 18	12	13	14	15	16	17	18
				9:00am 2:00pm LOC Meeting (BCCR) - LOC_Calendar			
Jul 19 - 25	19	20	21	22	23	24	25
				BC Meeting (BCCR)			
Jul 26 - Aug 1	26	27	28	29	30	31	Aug 1