

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

March 2, 2016 9:00 a.m.

- I. Call to Order and Approval of the Agenda**
- II. Minutes to be approved**
 1. February 17, 2016 LOC Meeting Minutes
- III. Current Business**
 1. Administrative Hearing Court
 2. Workplace Violence Policy
 3. Trust/Enrollment Bylaw Amendments
 4. Comprehensive Policy Governing Boards, Committees and Commissions Amendments
 5. Employment Law
 6. Eviction Law
 7. Garnishment Law Amendments
 8. Per Capita Law Amendments
- IV. New Submissions**
- V. Additions**
- VI. Administrative Updates**
 1. Quarterly Report
- VII. Executive Session**
- VIII. Recess/Adjourn**

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LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2nd Floor Norbert Hill Center

February 17, 2016 9:00 a.m.

Present: Brandon Stevens, Fawn Billie, Tehassi Hill and Jennifer Webster.

Excused: David P. Jordan.

Others Present: Taniquelle Turner, Krystal John, Douglass McIntyre, Maureen Perkins, Rae Skenandore, Michelle Mays, Nancy Barton, Cathy Metoxen, Mike Debraska, Bonnie Pigman, Danelle Wilson, and Mary Cornelissen.

I. Call to Order and Approval of the Agenda

Brandon Stevens called the February 17, 2016 Legislative Operating Committee meeting to order at 9:01 a.m.

Motion by Tehassi Hill to approve the agenda; seconded by Fawn Billie. Motion carried unanimously.

II. Minutes to be approved

1. February 3, 2016 LOC Meeting Minutes

Motion by Tehassi Hill to approve the February 3, 2016 LOC meeting minutes; seconded by Fawn Billie. Motion carried unanimously.

III. Current Business

1. Administrative Procedures Act Amendments (01:02-04:24)

Motion by Tehassi Hill to forward the Administrative Procedures Act Amendments to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

2. Cemetery Law Amendments (04:34-38:48)

Motion by Jennifer Webster to accept the legislative analysis for the Cemetery Law Amendments and defer to the sponsor pending the results of the hydrogeology study; seconded by Fawn Billie. Motion carried unanimously.

3. Fitness For Duty Policy (38:50-54:35)

Motion by Jennifer Webster to forward the Fitness for Duty Policy to the Legislative Reference Office for a legislative analysis and to the Finance Department for a fiscal impact statement; seconded by Tehassi Hill. Motion carried unanimously.

4. Marriage Law Amendments (54:41-55:14)

Motion by Fawn Billie to approve the public meeting packet for the Marriage Law Amendments and to forward to a public meeting date of March 17, 2016; seconded by Jennifer Webster. Motion carried unanimously.

5. Removal Law Amendments (55:37-56:06)

Motion by Tehassi Hill to accept the Removal Law Amendments draft and forward to the Legislative Reference Office for an updated legislative analysis and to the Finance Department for a fiscal impact statement; seconded by Fawn Billie. Motion carried unanimously.

6. Violence Against Women Act (56:12-01:13:23)

Motion by Jennifer Webster to accept the memorandum on the Violence Against Women Act; to leave the Violence Against Women Act on the Active Files List and to direct the Legislative Reference Office to research alternative options that could be implemented; seconded by Tehassi Hill. Motion carried unanimously.

7. Administrative Rulemaking Law (01:13:25-01:35:11)

Motion by Jennifer Webster to forward the Administrative Rulemaking Law to the Oneida Business Committee for consideration noting that any substantial changes in the Fiscal Impact Statement would be sent to an e-poll; seconded by Fawn Billie. Motion carried unanimously.

IV. New Submissions**V. Additions****VI. Administrative Updates****VII. Executive Session****VIII. Recess/Adjourn**

Motion by Fawn Billie to adjourn the February 17, 2016 Legislative Operating Committee meeting at 10:36 a.m.; seconded by Jennifer Webster. Motion carried unanimously.



Legislative Operating Committee

March 2, 2016

Oneida Administrative Hearing Court

(formerly 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 under the title "Tribal Hearing Bodies"; and 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. After that research was completed, it was proposed that an Administrative Court be developed which would assume the hearing body authority of each of those entities; so that all disputed administrative matters would be heard in the same forum.*

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.

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

6/3/14 LOC: Motion by Jennifer Webster for the Legislative Operating Committee to send a memorandum to the Oneida Business Committee, to be on their agenda, for the recommendation from the Legislative Operating Committee requesting authority to develop legislation for an administrative court, also drafting a letter to be sent to elected and appointed boards, committees and commissions requesting full cooperation in submitting the data that is asked for; seconded by Fawn Billie. Motion carried unanimously.

6/10/15 OBC: Motion by David Jordan to approve the creation of an administrative court and endorse a letter of co-operation to be created that directs the Tribe's boards, committees and commissions to assist the LOC in the creation of the administrative court, seconded by Fawn Billie. Motion carried unanimously.

Motion by Lisa Summers that the LOC create an action plan to be brought back to the Business Committee in 60 days, seconded by Melinda J. Danforth. Motion carried unanimously.

6/17/15 LOC: Motion by David P. Jordan to forward the Tribal Hearings Bodies/Administrative Court to an LOC work meeting(s) to discuss the 60-day action plan; seconded by Fawn Billie. Motion carried unanimously.

7/27/15: Work meeting held. Attendees include: Brandon Stevens, Tehassi Hill, David P. Jordan, Jennifer Webster, Rhiannon Metoxen, Candice Skenandore, Taniquelle Thurner, Krystal John, Douglass McIntyre.

8/5/15 LOC: Motion by Tehassi Hill to accept the Tribal Hearing Bodies/Administrative Court Action Plan and forward it to the Oneida Business Committee for its consideration; seconded by David P. Jordan. Motion carried unanimously.

Motion by Fawn Billie to direct the Oneida Child Protective Board, the Oneida Election Board, the Oneida Environmental Resource Board, the Oneida Land Commission, the Oneida Personnel

Commission, the Oneida License Commission and the Oneida Trust/Enrollment Committee to retrieve their financial expenses for the last three (3) years (including, but not limited to, the amount of stipends received, training costs and other expenses) and turn the information over to the Oneida Business Committee to help in evaluating which entities should retain their hearing body authority; seconded by Tehassi Hill. Motion carried unanimously.

8/12/15 OBC: Motion by Jennifer Webster to accept the action plan for the Tribal Hearing Bodies/Administrative Court and to direct the Oneida Child Protective Board, the Oneida Election Board, the Oneida Environmental Resource Board, the Oneida Land Commission, the Oneida Personnel Commission, the Oneida License Commission and the Oneida Trust/Enrollment Committee to retrieve their financial expenses for the last three (3) years (including, but not limited to, the amount of stipends received, training costs and other expenses) and turn the information over to OBC to help in evaluating which entities should retain their hearing body authority, seconded by David Jordan. Motion carried unanimously.

Amendment to the main motion by Lisa Summers that the information be provided by Friday, September 4, 2015, seconded by Fawn Billie. Motion carried unanimously.

9/9/15 OBC: Motion by Lisa Summers to accept verbal update regarding the Tribal Hearing Bodies/Administrative Courts, seconded by Jennifer Webster. Motion carried unanimously.

9/16/15 LOC: Motion by David P. Jordan to accept the update on Tribal Hearing Bodies as information, and forward to the Oneida Business Committee with an updated chart; seconded by Tehassi Hill. Motion carried unanimously.

9/23/15 OBC: Motion by Melinda J. Danforth to accept the update from the Legislative Reference Office regarding the status of the Tribal Hearing Bodies/Administrative Courts and to direct the Personnel Commission Liaison to request from the Personnel Commission their number of hearings from the last three (3) years to the Legislative Operating Committee, no later than September 30, 2015, seconded by Lisa Summers. Motion carried unanimously.

Amendment to the main motion by Lisa Summers that the Business Committee suspend Personnel Commission stipends if the requested information is not provided by the September 30, 2015 deadline, seconded by Brandon Stevens. Motion carried unanimously.

12/2/15 LOC: Motion by Jennifer Webster to defer the Administrative Court to the Legislative Reference Office for a legislative analysis and to the Finance Office for a fiscal impact statement; seconded by Fawn Billie. Motion carried unanimously.

Next Steps:

- Accept the Legislative Analysis and forward the Administrative Court to a public meeting to be held on March 31, 2016.

PUBLIC MEETING
TO BE HELD
THURSDAY, MARCH 31 at 12:15 p.m.
IN THE
OBC CONFERENCE ROOM
(2nd FLOOR—NORBERT HILL CENTER)

In accordance with the Legislative Procedures Act, the Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal.

TOPIC: ONEIDA ADMINISTRATIVE HEARING COURT

This is a proposal (to amend an existing Tribal Law) which would:

- ◆ Establish the Oneida Administrative Hearing Court within the Judiciary;
- ◆ The Oneida Administrative Hearing Court would be a forum for the resolution of all administrative matters for the Tribe.

To obtain copies of the Public Meeting documents for this proposal, or to learn about the LOC public meeting process, please visit www.oneida-nsn.gov/Register/PublicMeetings or contact the Legislative Reference Office.

PUBLIC COMMENT PERIOD
OPEN UNTIL APRIL 7, 2016

During the Public Comment Period, all interested persons may submit written comments and/or a transcript of any testimony/spoken comments made during the Public Meeting. These may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person (Second floor, Norbert Hill Center) or by U.S. mail, interoffice mail, e-mail or fax.

Legislative Reference Office
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Oneida Nation

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Committee Members

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

Memorandum

To: Legislative Operating Committee
From: Jennifer Webster, Councilmember
Date: March 3, 2016
Re: Administrative Hearing Court

This memorandum is being sent to request that the LOC consider an alternative which has been suggested for the proposed Administrative Court.

One of the primary reasons the LOC sought to establish an Administrative Court was to improve cost-effectiveness by consolidating duplicative services. After the Judiciary was implemented, the LOC began to look into integrating the hearing body authority which is currently exercised by various Tribal boards, committees and commissions. The LOC presented this idea to the Oneida Business Committee (OBC), and on June 10, 2015, the OBC approved the creation of an Administrative Court. On August 12, 2015, the OBC accepted the Action Plan presented by the LOC, and various entities were directed to provide information for the OBC to help in evaluating which entities should retain their separate hearing body authority.

The proposed Administrative Court law was developed and submitted for legislative analysis; and the draft and analysis are provided with this memo.

The Judiciary Law establishes two branches of the Judiciary – the Trial Court, and the Court of Appeals. Within the Trial court, the Judiciary establishes three separate divisions:

1. A peacemaking/mediation division
2. A general Civil division, and
3. Any other court or division as may be created by Tribal Law. (So far, one court has been established in accordance with this provision – the Family Court.)

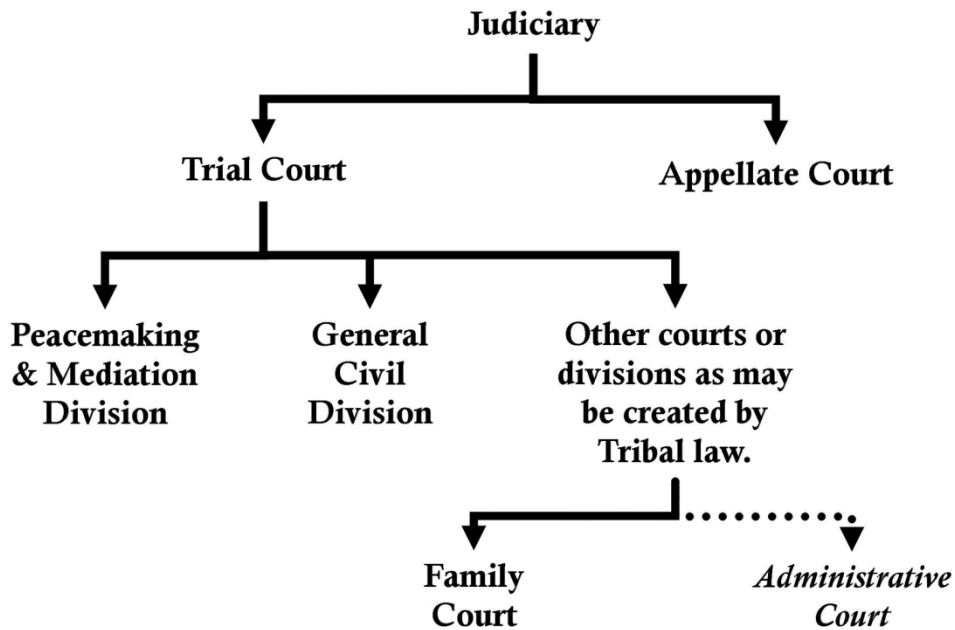
The proposed draft of the Administrative Court would establish a new Administrative Court, which would be a branch of the Trial Court. However, the proposed draft law contains very specific requirements as to what actions could be heard by the Administrative Court; and as written, it looks like various types of similar administrative actions would not be eligible to be heard by the Administrative Court, although they would still be heard by the Judiciary. The Law also does not appear to reflect the intended purpose – to transfer hearing body authority from other Tribal hearing bodies.

After reviewing the information and the current structure of the Judiciary, it seems like it may not be necessary to establish a separate Administrative Court by law – instead, it may be more

efficient to simply amend the relevant Tribal laws to identify the Judiciary as the body responsible for hearing appeals. The Judiciary Law has already established a General Civil Division under the Trial Court; which looks like it could be an appropriate place for administrative actions to be heard. This would eliminate the need to adopt a new Law establishing a separate administrative court.

Regardless of whether a separate administrative court is created or not, there are several Tribal laws, policies, bylaws, and other foundational documents that will need to be amended before all hearing body authority is transferred to the Judiciary. However, if the hearing body authorities are all transferred to a division which already exists, we may be able to accomplish this change more quickly. This will also enable the Judiciary to more quickly begin the process of developing any specialized rules for administrative hearings; similar to the Family Court Rules.

The following chart shows the organization of the Judiciary, including the placement of the Administrative Court in the current draft of the proposed law:



Requested Action

Discuss the organization of the Judiciary and determine where the Administrative Court should be placed.

Attachments

Relevant language from the Judiciary Law

Judiciary Law – Relevant Language

150.4-2. The Judiciary shall consist of the following:

- (a) The Trial Court as provided under 150.5, which shall include the following divisions:
 - (1) Peacemaking and Mediation Division as provided under 150.6.
 - (2) General Civil Division as provided under 150.7.
 - (3) Such other courts or divisions that may be created by Tribal law.
- (b) The Court of Appeals as provided under 150.8.

150.7. General Civil Division

150.7-1. There is hereby established a General Civil Division, under the jurisdiction of the Trial Court, to provide a forum for the resolution of all civil actions and proceedings, unless jurisdiction is given to some other division or court.

Chapter 157
ONEIDA ADMINSTRATIVE HEARING COURT

157.1. Purpose and Policy
157.2. Adoption, Amendment, Repeal
157.3. Definitions

157.4. General Provisions
157.5. Jurisdiction.
157.6. Agency Responsibilities

1

<i>Analysis by the Legislative Reference Office</i>					
Title	Oneida Administrative Hearing Court law (the Law)				
Requester	LOC	Drafter	Douglass McIntyre	Analyst	Tani Thurner
Reason for Request	The LRO conducted research on Tribal hearing bodies, and after that research was completed, it was proposed that an Administrative Court be developed which would assume the hearing body authority of each of those entities.				
Purpose	To establish an administrative court so that all disputed administrative matters could be heard in the same forum.				
Authorized/ Affected Entities	The Judiciary. All Tribal boards, committees and commissions that currently have hearing body authority could potentially be affected.				
Related Legislation	Judiciary Law, Rules of Civil Procedure, Rules of Appellate Procedure, Rules of Evidence, Administrative Procedures Act.				
Enforcement & Due Process	Provides a process for appealing decisions of Tribal boards, committees, commissions and departments.				

2

3

Overview

4

This law establishes an administrative court within the Judiciary, to provide a knowledgeable, fair and impartial forum for the resolution of all administrative matters that come before it pursuant to a grant of authorization by law. [157.1]

5

6

This Law would be adopted by General Tribal Council (GTC), and in the future it could only be amended or repealed by GTC. [157.2-2]

7

8

The following chart shows the structure of the Judiciary, as authorized by the Judiciary Law. [Judiciary Law, section 150.4-2.] The Judiciary Law establishes two separate courts. The Trial Court consists of two specific divisions, as well as “other courts or divisions as may be created by Tribal law.” This proposed Administrative Hearing Court would be such a court “created by Tribal law”, and is under the jurisdiction of the Trial Court. [154.7-1]

9

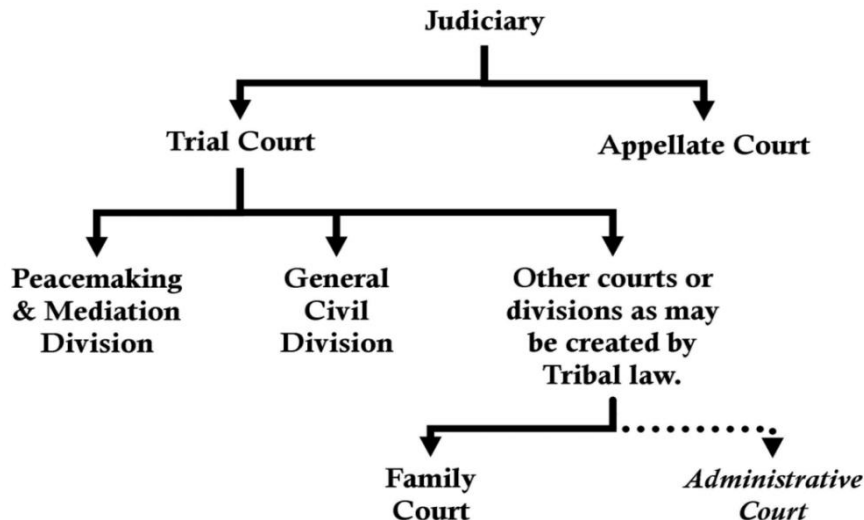
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15 As the above chart shows, the General Civil Division provides a forum for the resolution
16 of all civil actions and proceedings, “unless jurisdiction is given to some other division or court.”
17 [Judiciary Law, 150.7-1] Although the actions being heard in the proposed Court would be civil
18 actions; this Law creates a separate court exclusively for certain administrative matters – those
19 actions would not be heard in the General Civil Division, although all other administrative
20 matters and appeals would be.

21 22 **Jurisdiction of the Administrative Hearing Court**

23 The Law defines “**administrative action**” as an action or decision made by an Agency.
24 An Agency is defined as a Tribal department, board, committee or commission. [157.3-1(a) and
25 (b)] The Law states that:

- 26 • This Court provides a forum for the resolution of all **administrative matters** that come
27 before it pursuant to a grant of authorization by law. [157.1-2]
- 28 • This Court provides a forum for the resolution of all **administrative actions and**
29 **proceedings** arising under this law. [157.4-1]
- 30 • This Court has jurisdiction to hear **contested cases** - defined as a challenge to an **Agency**
31 **action** where Tribal law specifically authorizes the **action or decision** to be appealed to
32 this Court when Tribal law specifically authorizes this Court to exercise jurisdiction, and
33 all administrative actions recognized as appealable by Tribal law with the exception of:
 - 34 ○ **Oneida Nation Gaming Ordinance** (This may be intended to refer to the
35 Gaming Commission)
 - 36 ○ **Oneida Nation School Board**
 - 37 ○ **Oneida Police Commission**
 - 38 ○ **Pardon and Forgiveness [Screening] Committee.** [157.5-1 and 157.5-3(c)]

39
40 The Law does not define administrative matter or administrative proceeding, and does
41 not clarify how they are different from each other or from an administrative action. The Law also
42 is not clear on what an “agency decision” is - this could be interpreted in different ways, for
43 example: it could mean a formal hearing body decision, or it could mean any administrative
44 actions taken by any department, board, committee or commission such as issuing compliance
45 orders, or declining to issue a permit. Further, it is not clear if a citation issued by Oneida Police
46 Department in enforcing a Tribal law or agency Rule would be considered an agency or
47 administrative action, matter, proceeding or decision.

48 *Lower Tribal Hearing Bodies*

49 If the intent of this Law is to eliminate the remaining “lower/Tribal hearing bodies” and to
50 consolidate existing hearing body authorities within this one Court, then this means the following
51 hearing bodies would be affected by this Law – next to each are a few examples (not an
52 exhaustive list) of the sorts of hearings currently conducted by that body:

- 53 • **Oneida Land Commission** – Probate, foreclosure and eminent domain hearings,
54 actions related to condominium disputes, mapping disputes, appeals of citations.
- 55 • **Oneida Personnel Commission** - Various appeals of adverse employment actions
- 56 • **Tax Collector (Accounting Department)** – appeals of tax assessments for hotel
57 operators
- 58 • **Oneida Trust/Enrollment Committee** - Appeals for denials of enrollment, per capita
59 payments and GTC Meeting stipend payments.
- 60 • **Oneida Nation Arts Board** - Appeals of grant funding decisions (the appeals

- 61 committee is currently appointed by the Board’s Chair)
- 62 • **Oneida Election Board** - Hearings for applicants found to be ineligible to run for
- 63 elected office, or ineligible to vote.
- 64 • **Environmental Resource Board** - original hearing body in matters concerning
- 65 environmental and conservation laws, also hears many different appeals of citations
- 66 issued for violations of various laws.
- 67 • **Child Protective Board** – original hearing body for decisions by the Oneida Child
- 68 Care Department regarding the issuance of child care provider certification; hearing
- 69 body for Child Care Provider disputes.
- 70 • **Oneida License Commission** - (this entity was never actually created but is authorized
- 71 to exercise hearing body authority in the current Vendor Licensing Law)

Immediate Effect

72
73 Currently, no Tribal law specifically delegates authority to an administrative hearing
74 court, so the Court would not immediately have jurisdiction to hear any matters. [157.5-1 and
75 157.3-1(b)] There are several laws which currently identify that decisions/actions can be
76 appealed to the Judiciary; however none of these laws specifically identify the Administrative
77 Hearing Court as having authority to hear appeals of agency actions taken in accordance with
78 those laws.

79 Further, if the intent of this Law is to transfer hearing body authority from lower hearing
80 bodies, the proposed draft does not address that goal – this Law states that the Court has subject
81 matter jurisdiction over “all administrative actions recognized as appealable by Tribal law” and
82 this could be interpreted to mean appeals of lower hearing body decisions.

Notice Requirement

83
84 Under the proposed Law, every time an agency issues a decision and Tribal Law gives a
85 party the right to a hearing before the Court, the Agency must provide written notice identifying
86 how a party can appeal, including deadlines for doing so. [157.6-1] This Law does not identify
87 what would happen if the agency fails to provide this notice.

Agencies

88
89 This Law does not give agencies authority to bring actions in the Court. The only parties
90 who may bring actions in this Court are parties appealing an agency decision. This means that
91 where an agency wants to bring an action against a party – for example, for enforcement, or for a
92 cease-and-desist order, etc., the agency would have to file the action with the Trial Court (where
93 it appears it would fall under the General Civil Division), not with the Administrative Hearing
94 Court.

Subject Matter Jurisdiction

95
96
97 This Court is a division of the Trial Court, so it is subject to the requirements in the
98 Judiciary Law governing the Trial Court. However, this Law only gives the Court a small portion
99 of the subject-matter jurisdiction that is exercised by the Trial Court:

<p>Judiciary Law, 150.5-2 [...] The Trial Court shall have subject matter jurisdiction over cases and controversies arising under the following:</p>	<p>Administrative Hearing Court Law, 157.5-1 [...] The Court shall have subject matter jurisdiction over contested cases arising under the following:</p>
<p>(a) Tribal laws which specifically authorize the Trial Court to exercise jurisdiction.</p>	<p>(a) where Tribal law specifically authorizes the Court to exercise jurisdiction.</p>

<p>(c) where an agency has denied a person a benefit or has provided a person with an incorrect or incomplete benefit, or has imposed a fine on a person, and the person has exhausted the process provided by law, if any, for review of the action, and</p> <ul style="list-style-type: none"> (1) a hearing body has not been designated by law for the purpose of an appeal; or (2) there is no law providing that the agency’s decision is final and/or not appealable. <p>(d) where a disagreement over the terms, interpretation or enforcement of a written contract, where at least one (1) of the parties is an agency or where both parties meet the personal jurisdiction requirements [...]</p>	<p>(b) all administrative actions recognized as appealable by Tribal law with the exception of:</p> <ul style="list-style-type: none"> (1) Oneida Nation Gaming Ordinance; (2) Oneida Nation School Board; (3) Oneida Police Commission; (4) Pardon and Forgiveness Committee.
<p>(b) the Constitution.</p>	
<p>(e) where a declaratory judgment is sought to determine the validity of a Tribal law [...]</p>	
<p>(f) small claims actions (<\$5000)</p>	

101
 102 As the chart shows, the Trial Court also has subject matter jurisdiction where a Tribal agency:
 103 • denied a person a benefit or provided a person with an incorrect or incomplete benefit, or
 104 • imposed a fine on a person, and the person has exhausted the process provided by law, if
 105 any, for review of the action, and
 106 ○ a hearing body has not been designated by law for the purpose of an appeal; or
 107 ○ there is no law providing that the agency’s decision is final and/or not appealable.
 108 These are all specific types of administrative actions - this language may cause confusion when
 109 compared with the proposed Law, which authorizes jurisdiction over all administrative actions
 110 recognized as appealable by Tribal law with the exception of four entities.

111
 112 *Administrative Actions/Decisions the Court would not hear*

113 For any of these actions arising under 150.5-2(c) of the Judiciary law, if the relevant
 114 Tribal law does not specifically authorize the matter to be heard by the Administrative Hearing
 115 Court, or if Tribal Law does not specifically “recognize” the action as appealable, or if the action
 116 is taken by one of the entities that are listed exceptions, then the matter may still be appealable to
 117 the Trial Court, but just not to the Administrative Hearing Court. Identical matters arising under
 118 different Tribal laws may go to different divisions within the Trial Court based only on whether
 119 the Tribal law specifically identifies the Administrative Hearing Court as the hearing body to
 120 hear the matter.

121 Similarly, 150.5-2(d) grants jurisdiction to the Trial Court where there is a disagreement
 122 over the terms, interpretation or enforcement of a written contract, where at least one (1) of the
 123 parties is an agency. Although the Trial Court is specifically granted jurisdiction by the Judiciary
 124 law over these actions, they could not be heard by the Administrative Hearing Court unless the
 125 action is brought by a party appealing an agency decision in accordance with a Tribal law that
 126 specifically authorizes the action to be heard by the Administrative Hearing Court, or where the
 127 Law specifically recognizes the action as appealable.

128 This also means that the Administrative Hearing Court would not have authority to issue
 129 declaratory rulings, in accordance with 150.5-2(e). On February 24, 2016, the OBC adopted a

130 new Rulemaking Law, which specifically authorizes agencies to develop their own rules, and
 131 which enables the Judiciary to issue declaratory judgments as to the validity of such a rule.
 132 Actions seeking a declaratory judgment would not be authorized to be heard in the
 133 Administrative Hearing Court.

134 **Requirements for the Administrative Hearing Court**

135
 136 The Judiciary Law sets out several requirements which apply to the Trial Court of the
 137 Judiciary. This proposed Court falls under the jurisdiction of the Trial Court and is subject to
 138 those requirements set out in the Judiciary Law for the Trial Court; however this Law repeats
 139 several of those requirements – with some changes.

140 *Pro Tem Judges*

141 Any Trial Court judge may serve as a judge for a contested case within the court. When
 142 necessary, a pro tem judge (appointed on a temporary, case-by-case basis) may be appointed
 143 pursuant to the Judiciary Law. [157.4-2]

144 The Judiciary Law already sets out provisions governing the use of pro tem judges; but
 145 does not specifically prohibit appellate court judges from hearing a case at the Trial Court level
 146 when necessary - this Law clearly does not allow for appellate court judges to hear cases at the
 147 Trial Court level (i.e. it only specifically permits Trial Court judges and pro tem judges) which
 148 means that where no Trial Court judge is available to hear a matter, a pro-tem judge must be
 149 brought in even if an appeals court judge is available.

150 *Yonikúhlihsa?ahnú*

151 This Law expands upon the principles set out in the Judiciary Law for
 152 Yonikúhlihsa?ahnú (a decision is made/*stare decisis*). Under the Judiciary Law, prior decisions of
 153 the Oneida Appeals Commission/Oneida Tribal Judicial System (OAC/OTJS) are recognized as
 154 precedent, and remain precedent (i.e. should be followed) unless the Judiciary overturns or
 155 otherwise modifies the precedent, or unless there is a change in law. [Judiciary Law, 150.2-6]
 156 This Law expands that recognition of precedent to also apply to “valid written decisions of
 157 Boards, Committees and Commissions that previously held hearing authority of a matter.”
 158 [157.4-5]

159 *Court Seal*

160 The Court is required to adopt a seal to be used to authenticate its respective judgments
 161 and other documents. [157.4-3] The Judiciary Law already requires the Trial Court and Court of
 162 Appeals to each adopt a seal to be used to authenticate their respective judgments and other
 163 documents. [150.4-3] This would require a separate seal for the Administrative Hearing Court,
 164 too.

165 *Personal and Territorial Jurisdiction*

166 This law repeats the same provisions relating to personal jurisdiction as set out in the
 167 Judiciary Law for the Trial Court. [157.5-2] However, this Law does not include territorial
 168 jurisdiction requirements like the Judiciary Law does. [Judiciary Law, 150.5-3]

169 *Court Open to the Public*

170 Like the Judiciary Law, this Law states that the proceedings of the Court are public and
 171 that members of the general public may freely attend, except where expressly prohibited by law,
 172 policy or rule, except that a judge can exclude certain individuals from proceedings if there are
 173 safety or confidentiality concerns. [157.4-4]

174 *Rules of Pleading, Practice and Procedure*

175 The Judiciary Law states that the Judiciary is authorized to establish internal operating

176 procedures governing the operation of the court. [150.9-1] This Law states that The Court is
177 subject to the internal operating procedures governing the operation of the Trial Court. [157.4-1]

178 The Judiciary Law also authorizes the Judiciary to create rules of pleading, practice and
179 procedure to regulate all hearings – these rules are required to be adopted by the OBC and
180 codified as part of the Code of Laws [Judiciary law, 150.10] So far, the OBC has adopted Rules
181 of Civil Procedure, Rules of Appellate Procedure, Rules of Evidence, and Family Court Rules;
182 all of which have been codified as law. This Law does not address rules of pleading, practice or
183 procedure. If the OBC does not adopt specialized Rules governing procedure, then proceedings
184 would be held in accordance with the current Rules of Civil Procedure and Rules of Evidence.

185 Currently, the Administrative Procedures Act (APA) sets out hearing procedures for
186 Agency hearing bodies to follow when conducting hearings, for use when an Agency does not
187 have its own hearing procedures. However, the APA specifically states that it does not apply to
188 Judiciary proceedings; and so it would not apply to provide a streamlined process for
189 administrative actions.

190 Other

191 The Law states that this Law does not confer rulemaking authority upon or expand the
192 rulemaking authority of, any Agency. [157.6-2]

193 A public meeting has not been held.

194 Considerations

195 The following are issues the LOC may want to consider:

- 196 • It is recommended that this Law be reviewed with application in mind – this Law does not
197 provide any clear guidance about which actions will be heard in the Administrative Hearing
198 Court as compared to which actions would be heard in other courts/divisions. Further, it may
199 be helpful to create a wide-range plan for the operations of this Court – particularly if the
200 intent is for this Court to replace existing Tribal hearing bodies. The Law may be easier to
201 understand if there is a broad picture of what will eventually fall under this Court's
202 jurisdiction. In particular:
 - 203 ○ This law defines “Agency” as any Tribal Department, Board, Committee or
204 Commission – which appears to mean that actions or decisions made by a Tribal
205 Department could be appealed to the Court. However, there are not really any Tribal
206 Departments with hearing body authority, so it may be helpful to identify what sort of
207 department actions/decisions are envisioned under this law.
 - 208 ○ Because this Law states that actions are only heard in the Administrative Hearing
209 Court when another Tribal Law specifically authorizes the Court to hear those
210 actions, other Tribal laws will need to be amended to specifically authorize actions to
211 be appealed to this Court.
 - 212 ○ Because this Law states that actions are only heard in the Administrative Hearing
213 Court when another Tribal Law “recognizes” the administrative action as appealable,
214 it may be beneficial to clarify what is meant by “appealable” – i.e. if a Tribal law
215 states that a person can appeal an action to the director of an agency, and then that
216 decision can be appealed to an agency hearing body, and then that decision can be
217 appealed to the Judiciary, does this mean that the person would appeal the action
218 directly to the Administrative Hearing Court, skipping the director and agency
219 hearing body?
- 220 • It may be beneficial to consider establishing one consistent process that would apply, Tribe-
221 wide, for appealing administrative actions, and to amend any conflicting laws accordingly.

222 Some laws provide for appeals to managers or other parties, some state that lower hearing
223 body decisions are final, some laws do not mention appeals at all, some state that appeals can
224 be made to the Judiciary (with no further information) and some state that appeals can be
225 made to the Appellate court, or to the Trial Court. Because there is no consistency from law
226 to law, it makes it difficult for any person to clearly understand how to appeal any agency
227 action, or what to expect.

- 228 • 157.5-1 - It is not clear whether this law requires that the requirements of both (a) and (b) be
229 met, or whether the intent is for just one of these two requirements to be met. Further, the
230 Law does not explain how an action might be “recognized as appealable” by Tribal law – this
231 could also be open to broad interpretation.
- 232 • The Judiciary Law states that Yonikúhlihsa’ahnú (a decision is made/precedent) applies to all
233 matters before the Judiciary, and adds “This includes the precedent set by the Oneida
234 Appeals Commission/Oneida Tribal Judicial System of accepting appeals from Personnel
235 Commission decisions.” [150.2-6]. If the Personnel Commission’s authority is transferred to
236 the Administrative Hearing Court, any amendment to existing resolutions, bylaws, laws, etc,
237 may want to consider this provision in the Judiciary Law.
- 238 • Personal Jurisdiction - it may be more appropriate to either delete this section entirely (since
239 the Judiciary Law already covers personal jurisdiction) or to revise this language to more
240 appropriately identify how the Court would have personal jurisdiction as it relates to
241 agencies. Also, since the Judiciary Law sets out territorial jurisdiction, if this Law includes
242 provisions governing personal and subject-matter jurisdiction, then it may be appropriate to
243 also include provisions governing territorial jurisdiction.

245 Chapter 157

246 ONEIDA ADMINSTRATIVE HEARING COURT

249 157.1. Purpose and Policy

250 157.1-1. *Purpose.* The purpose of this law is to establish the Oneida Administrative Hearing
251 Court of the Oneida Judiciary to provide for the administration of law, justice, judicial
252 procedures and practices by the Oneida Tribe as a sovereign nation by exercising the inherent
253 power to make, execute, apply and enforce its own law, and to apply its own customs and
254 traditions in matters affecting the Oneida people.

255 157.1-2. *Policy.* It is the policy of the Tribe to provide a knowledgeable, fair, and impartial
256 forum for the resolution of all administrative matters that come before it pursuant to a grant of
257 authorization by law.

259 157.2. Adoption, Amendment, Repeal

260 157.2-1. This law was adopted by the Oneida Business Committee by resolution _____.

261 157.2-2. This law may only be amended or repealed by the General Tribal Council pursuant to
262 the procedures set out in the Legislative Procedures Act.

263 157.2-3. Should a provision of this law or the application thereof to any person or circumstances
264 be held as invalid, such invalidity shall not affect other provisions of this law which are
265 considered to have legal force without the invalid portions.

266 157.2-4. In the event of a conflict between a provision of this law and a provision of another
267 law, the provisions of this law shall control.

268 157.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians
269 of Wisconsin.

270

271 **157.3. Definitions**

272 157.3-1. The definitions below shall govern the words and phrases used within this law. All
273 words not defined herein shall be used in their ordinary and everyday sense:

274 (a) “Administrative action” means an action or decision made by an Agency.

275 (b) “Agency” means a Tribal department, board, committee or commission.

276 (c) “Contested case” means a challenge to an Agency action where Tribal law
277 specifically authorizes an action or decision to be appealed before the Oneida
278 Administrative Hearing Court.

279 (d) “Court” means the Oneida Administrative Hearing Court.

280 (e) “Indians” means any person who is a member of any federally recognized Indian
281 Tribe.

282 (f) “Judge” means a Judge who sits on the Trial Court within the Judiciary.

283 (g) “Pro Tem Judge” means a decision maker that is not currently seated on the
284 Judiciary, but that is appointed on a temporary (*pro tempore*), case-by-case basis to hear
285 and decide matters in the Court.

286 (h) “Reservation” means all land within the exterior boundaries of the Reservation of the
287 Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the
288 Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

289 (i) “Tribe” or “Tribal” means the Oneida Tribe of Indians of Wisconsin.

290 (j) “Tribal law” means a law or policy enacted by the Oneida General Tribal Council or
291 Oneida Business Committee.

292 (k) “Yonikúhlihsa?ahťú” translated as “a decision is made” means the legal principle
293 establishing that Judges are bound to recognize the precedent set by previous decisions,
294 and should generally maintain that precedent and apply such precedent in later matters.

295

296 **157.4. General Provisions**

297 157.4-1. *Establishment.* Pursuant to the authority found in Section 150.4-2(a)(3) of the Judiciary
298 law, there is hereby established an Administrative Hearing Court, under the jurisdiction of the
299 Trial Court. The Court shall provide a forum for the resolution of all administrative actions and
300 proceedings arising under this law. The Court is subject to the internal operating procedures
301 governing the operation of the Trial Court.

302 157.4-2. *Judges.* Any Judge within the Trial Court may serve as a Judge for a contested case
303 within the Court. When necessary, a Pro Tem Judge may be appointed to serve as a Judge within
304 the Court as long as such an appointment is made pursuant to the Judiciary law.

305 157.4-3. *Seal of the Courts.* The Court shall adopt a seal to be used to authenticate its respective
306 judgments and other documents.

307 157.4-4. *Court Open to the Public.* The proceedings of the Court shall be public and members of
308 the general public may freely attend the same, except if expressly prohibited by law, policy or
309 rule; provided that, in any case where the presiding Judge determines that there are safety or
310 confidentiality concerns the Judge may exclude from the proceedings all individuals not
311 necessarily present as parties or witnesses.

312 157.4-5. *Precedent.* The principles of Yonikúhlihsa?ahťú as established in the Judiciary law
313 shall apply to valid written decisions of boards, committees and commissions that previously

314 held hearing authority of a matter and shall remain precedent unless overturned or otherwise
315 modified by a decision of the Court, or by a law adopted by the Oneida Business Committee or
316 Oneida General Tribal Council. Where precedent for a particular matter has not been
317 established, the Judges may refer to established Wisconsin or Federal case law precedent or laws
318 for guidance.

319

320 **157.5. Jurisdiction.**

321 157.5-1. *Subject Matter Jurisdiction.* The Court shall have subject matter jurisdiction over
322 contested cases arising under the following:

- 323 (a) where Tribal law specifically authorizes the Court to exercise jurisdiction.
324 (b) all administrative actions recognized as appealable by Tribal law with the exception
325 of:

- 326 (1) Oneida Nation Gaming Ordinance;
327 (2) Oneida Nation School Board;
328 (3) Oneida Police Commission;
329 (4) Pardon and Forgiveness Committee.

330 157.5-2. *Personal Jurisdiction.* The Court shall have personal jurisdiction as follows:

- 331 (a) *Indians.* The Court shall have jurisdiction over all Indians.
332 (b) *Non-Indians.* The Court shall have jurisdiction over non-Indians who have
333 consented to the jurisdiction of the Tribe or this Court or as otherwise consistent with
334 federal law.

335 (1) *Consent to Jurisdiction.* For purposes of Section 157.5-2(b) above, a person
336 shall have consented to the jurisdiction of the Court by:

- 337 (A) entering into a consensual relationship with the Tribe, Tribal entities,
338 Tribal corporations, or Tribal members, including but not limited to
339 contracts or other agreements; or
340 (B) entering onto Reservation lands; or
341 (C) other facts which the Court determines manifest an intent to consent
342 to the authority of the Tribe or the jurisdiction of the Court, including
343 failure to raise an objection to the exercise of personal jurisdiction in a
344 timely manner.

345 (c) *Long-arm Jurisdiction.* In any case in which the Court has subject matter
346 jurisdiction, the Court may exercise jurisdiction over any person who has sufficient
347 contacts with the Reservation or Tribal trust land. Such sufficient contacts can be
348 demonstrated where a person purposefully avails himself of the Reservation such that he
349 or she could reasonably anticipate being haled into the forum for the resolution of a
350 contested case.

351

352 **157.6. Agency Responsibilities**

353 157.6-1. *Notice of Right to Hearing.* When a decision is made by an Agency and Tribal law
354 gives a party the right to a hearing before the Court, the Agency shall provide a written notice
355 that an appeal of the Agency's decision must be made by filing a request with the Court and shall
356 include the time in which an appeal of the Agency's decision must be filed.

357 157.6-2. *Rulemaking Authority.* This Law does not confer rulemaking authority upon or expand
358 the rulemaking authority of any Agency.

359

360 *End.*
361
362



Legislative Operating Committee

March 2, 2016

Workplace Violence Policy

Submission Date: September 17, 2014

Public Meeting:
 Emergency Enacted:

LOC Sponsor: Tehassi Hill

Summary: *This item was originally submitted to the LOC on December 18, 2012 and carried over into the current term by the LOC. The proposed Policy provides guidance to Tribal employees to maintain an environment at and within the Tribe's property and events that is free of violence and the threat of violence.*

9/17/14 LOC: Motion by Fawn Billie to not add Workplace Violence Policy to the Active Files List, and to provide notice to the Oneida Business Committee. Motion withdrawn.

Motion by Tehassi Hill to add the Workplace Violence Policy to the Active Files List with Tehassi Hill as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

11/23/15: Work meeting held. Attendees include: Geraldine Danforth, Matthew J. Denny, Bob Keck, James Bittorf, Kaylynn Gresham, Robert Fresen, Eric Boulanger, Douglass McIntyre.

1/22/16: Work meeting held. Attendees include: Matthew J. Denny, James Bittorf, Kaylynn Gresham, Robert Fresen, Richard VanBoxtel, Jennifer Webster, Douglass McIntyre.

Next Steps:

- Accept the draft and forward to the Legislative Reference Office for an analysis and to the Finance Department for a fiscal impact statement.

Workplace Violence Policy

~~Article I. Purpose and Policy~~

~~Article II. Adoption, Amendment, Repeal~~

~~Article III. Definitions~~

~~Article IV. Applicability~~

~~Article V. Prohibited Behavior~~

~~Article VI. Reporting Workplace Violence~~

~~Article VII. Future Workplace Violence~~

~~Article VIII. Human Resource Department Responsibilities~~

~~Article IX. Fraudulent Report~~

~~Article X. Confidentiality~~

~~Article I. Purpose and Policy~~

~~Article II. Adoption, Amendment, Appeal~~

~~Article III. Definitions~~

~~Article IV. Applicability~~

~~Article V. Prohibited Behavior~~

~~Article VI. Reporting Workplace Violence~~

~~Article VII. Future Workplace Violence~~

~~Article VIII. HRD Investigation~~

~~Article IX. Violence Mitigation Team~~

~~Article X. Mandated Training and Instruction~~

~~Article XI. Fraudulent Report~~

~~Article XII. Confidentiality~~

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Article I. Purpose and Policy

1-1. *Purpose.* The purpose of this Policy is to provide all Oneida Tribe of Indians of Wisconsin employees a workplace environment that is free of violence and the threat of violence.

1-2. *Policy.* It is the policy of the Tribe to provide a safe and secure environment for employees to work and for conducting business. The Tribe maintains a zero tolerance standard of violence in the workplace, which shall include, but is not limited to: any form of harassment, intimidation, any kind of violent act, or threat of violence against any employee, vendor, visitor or customer, whether it be implied, a direct threat, intentional act, or other conduct which arouses fear, hostility, intimidation, or the threat of harm.

Article II. Adoption, Amendment, Repeal

2-1. This Policy was 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 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 as used within this Policy. All words not defined herein shall be used in their ordinary and everyday sense.

~~(a) "Emergency Management Homeland Security (EMHS)" shall mean the agency that exercises complete emergency authority over all Public Safety functions/disciplines for the Tribe. The EMHS ensures compliance on Emergency Management Homeland Security laws applicable to Indian Country, Tribal Laws and Tribal & Order Act 2010, Homeland Security Presidential Directives HSPD 5 & 8, Oneida Tribal law Chapter 35, Department of Homeland Security 37 Target Capabilities List, resolutions, policies, plans, public safety training, response, operations, recovery and coordination for all hazards natural or manmade.~~

~~(b)~~(a) "Employee" means any individual who is employed-hired 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"

39 includes, but is not limited to ~~;~~ ~~and~~ individuals employed by any program or enterprise of
40 the Tribe, and for this Policy shall include individuals employed through an employment
41 contract as a limited term employee. ~~elected or appointed officials or individuals~~
42 ~~employed by a Tribally Chartered Corporation. For purposes of this Policy, individuals~~
43 ~~employed under an employment contract as a limited term employee are employees of~~
44 ~~the Tribe.~~

45 (b) -“Intimidation” means making others afraid or fearful through threatening behavior.

46
47 (c) “Reservation” means all the lands and waters within the exterior boundaries of the
48 Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838
49 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

50 (d) “Stalking” means unwanted or obsessive attention by an individual or group toward
51 another person; a course of conduct directed at a specific person that involves repeated
52 (two or more occasions) visual or physical proximity, nonconsensual communication, or
53 verbal, written, or implied threats, or a combination thereof, that would cause a
54 reasonable person fear.

55 (e) “Supervisor” means the immediate supervisor, or person who has taken on the role of
56 supervisor due to an absence that is responsible for performance review, corrective
57 action, and day-to-day assignments of duties.

58 (f) “Threat” means the implication or expression of intent to inflict physical harm or
59 actions that a reasonable person would interpret as a threat to physical safety or property.

60 (g) “Tribal” or “Tribe” means the Oneida Tribe of Indians of Wisconsin.

61 ~~“Violence Mitigation Team” means the designated employees from the Oneida Police~~
62 ~~Department, Emergency Management and Homeland Security, Human Resources~~
63 ~~Department, Social Services, Employee Assistance Program, and Staff Attorney with the~~
64 ~~Oneida Law Office that shall work together to reduce the frequency, magnitude to~~
65 ~~severity of exposure of employees to workplace violence.~~

66 (h) “Weapon” means firearms or other objects intended to cause harm to oneself or
67 others.

68 (i) “Workplace” means all of the Tribe’s facilities, and all customer facilities and job
69 sites, and any locations where an employee represents the Tribe during normal business
70 hours, including over-the-road travel in the Tribe’s owned or rented vehicles and
71 circumstances where the employee is being reimbursed for expenses.

72 (j) “Workplace Violence” means any intentional act that inflicts, attempts to inflict, or
73 threatens to inflict emotional or bodily hurt on another person or that inflicts, attempts to
74 inflict, or threatens to inflict, damage to property, whether committed by a Tribal
75 employee or by anyone else and which occurs in a Tribal workplace.

76 77 **Article IV. Applicability**

78 4-1. This Policy applies to all employees; ~~and to third parties who visit Tribal facilities and~~
79 ~~workplaces.~~

80 ~~4-2.~~

81 ~~4-2.~~ An employee who violates this policy may be subject to disciplinary action up to and
82 including termination.

83 ~~4-3. The Oneida Police Department will investigate all complaints of alleged workplace~~
84 ~~violence filed with the Department that occur within the boundaries of the Reservation. The~~

~~Oneida Police Department will also coordinate with all involved agencies or departments as needed to investigate any possible violation of this Policy.~~

Article V. Prohibited Behavior

5-1. *Prohibited Behaviors.* Examples of workplace violence include, but is not limited to the following list of prohibited behaviors:

- (a) Intentionally causing physical injury to another person;
- (b) Hitting or shoving;
- (c) Fighting or "horseplay" that may be dangerous to others;
- (d) Direct threats or physical intimidation;
- (e) Implications or suggestions of violence;
- (f) Stalking;
- (g) Possession or use of weapons of any kind on Tribal property, including parking lots, other exterior premises or while engaged in activities for the Tribe, except for law enforcement personnel;
- (h) Physical restraint, confinement;
- (i) Loud, disruptive or angry behavior or abusive language;
- (j) Sending of threatening, harassing or abusive e-mail, faxes and/or phone calls;
- (k) Using the workplace to violate protective orders;
- (l) Intentionally damaging Tribal property or property of another;
- (m) Any other act that a reasonable person would perceive as constituting a threat of violence;
- (n) Throwing an object at an individual;

5-2. *Exceptions.* The following shall be exempt from the Policy:

- (a) Law Enforcement officials and security staff are not considered to be in violation of this Policy when acting in their official capacity.
- (b) Employees required to utilize Tribally owned knives or other tools that could potentially be used as weapons are not considered to be in violation of this Policy as long as the tools are used within the normal scope of employment and not used in a way to intimidate, threaten or otherwise harm another person within the workplace.
- (c) Employees, vendors and visitors with proof of a license to carry a concealed weapon are allowed to store their weapons securely in their vehicle while on Tribal property.
- (d) Any other action that is consistent with other Tribal Law or Policy.

~~5-4. *Retaliation.* Retaliation is prohibited regardless of the outcome of the complaint. Employees who, in good faith, report what they believe to be workplace violence or who cooperate in any investigation under this Policy shall not be subject to retaliation. Any employee who believes he/she has been the victim of retaliation for reporting workplace violence or cooperating in an investigation should immediately contact the Human Resources Department (HRD).~~

Article VI. Reporting Workplace Violence

6-1. An employee ~~shall~~ may report workplace violence where the employee:

- (a) is the victim of workplace violence; or
- (b) believes he or she has been threatened with workplace violence. ~~;~~ or

130 | 6-2. An employee must report workplace violence where the employee (e) witnesses an act or
 131 | threat of workplace violence towards anyone else.

132 | 6-3.2. An employee shall take the following steps to report workplace violence:

133 | (a) Report the incident to the appropriate supervisor as soon as possible if the situation is
 134 | not one of immediate danger to life and safety. If the incident involves the supervisor
 135 | than the employee shall report the incident to the supervisor of the supervisor or if none
 136 | exists to the area head manager. -

137 | (b) If an emergency exists or the situation is one of immediate danger to life and safety,
 138 | the employee shall, if possible without causing themselves to be in danger, contact local
 139 | law enforcement and take whatever emergency steps are available and appropriate to
 140 | protect himself or herself from immediate harm.

141 | 6-3.4. Upon receiving a report of workplace violence, a supervisor shall immediately assess the
 142 | situation and determine if an emergency exists or if the situation is one of immediate danger. If
 143 | so and possible without causing themselves to be in danger, a supervisor shall immediately
 144 | contact local law enforcement and take whatever emergency steps are available and appropriate
 145 | to protect himself or herself, employees and others from immediate harm.

146 | 6-5.4. If the situation is not creating immediate danger to life and safety, the supervisor shall
 147 | speak to the person reporting the incident and assess the situation.

148 | (a) If the supervisor deems it not a workplace violence problem then the investigation as
 149 | a workplace violence matter ends.

150 | (b) Where the supervisor deems the incident as a workplace violence matter, he or she
 151 | shall prepare a written Workplace Violence Incident Report detailing the complaint. The
 152 | supervisor shall then forward this report to the HRD Human Resources Department.

153 | 6-6.5. Where an employee or supervisor fails to meet these responsibilities he or she may be
 154 | subject to discipline under the Tribe's personnel policies and procedures, up to and including
 155 | termination.

156 |

157 | Article VII. Future Workplace Violence

158 | 7-1. Where an employee Employees who have has reason to believe they that he, she or others,
 159 | may be victimized sometime in the future, either at the workplace or as a direct result of their
 160 | employment with the Tribe, he or she shall is encouraged to provide this information to contact
 161 | his or her supervisor or the Human Resources Manager and/or Designee for an initial
 162 | assessment.

163 | (a) The supervisor shall inform his or her Department Director or designee, the Director
 164 | of Human Resources and the local law enforcement officials.

165 | (b) The Human Resources Manager and/or Designee shall inform the local law
 166 | enforcement if determined appropriate.

167 | 7-2. An Employees who has or obtains have obtained and/or have a current restraining order,
 168 | temporary or permanent, against an individual due to a potential act of violence, who would be in
 169 | violation of the order by coming near them at work another employee, shall immediately supply a
 170 | copy of the signed order to their his or her supervisor or to Human Resources Department.

171 | (a) The supervisor shall provide copies to the Area Manager and the Human Resources
 172 | Manager and/or Designee Department.

173 |

174 |

175

176 **Article VIII. Human Resource Department Responsibilities Investigation**

177 8-1. 7-1. Upon receipt of a completed Workplace Violence Incident Report, or other acceptable
 178 notice of an allegation of workplace violence, the Human Resources Department Manager or
 179 designee shall coordinate with all involved agencies or departments and immediately conduct an
 180 investigation by performing the following duties:

- 181 (a) Personally visit the scene of an incident as soon as possible;
 182 (b) Interview injured and/or threatened employees and witnesses;
 183 (c) Examine the workplace for security risk factors associated with the incident,
 184 including examination of any reports of inappropriate behavior by the perpetrator;
 185 (d) Determine the cause of the incident;
 186 (e) Take Determine what mitigating action to could prevent the incident from recurring;
 187 (f) Record the findings and recommended mitigating actions taken;
 188 (g) Contact any appropriate law enforcement agency, including the Oneida Police
 189 Department; and

190 8-2. In performing this duties, the Human Resources Department shall not interfere in the
 191 investigation of the law enforcement agencies. If at any time criminal charges are brought, then
 192 the employee shall be placed on investigative leave and the Human Resources Department shall
 193 suspend their investigation until that is complete.

194 8-3. Upon completion of the investigation, the Human Resources Department shall:

- 195 (a) implement any preventive factors within the Human Resources Department's
 196 authority;
 197 (b) provide a recommendation for disciplinary action, if any, to the supervisor of the
 198 employee
 199 (c) Notification of law enforcement authorities when a potential criminal act has
 200 occurred;
 201 (d) Refer employees to post-event trauma counseling for those employees desiring such
 202 assistance
 203 (e) Offer to provide information on filing a restraining order.

204 8-4. 8-1.—The Tribe will shall not accept a resignations when there is an ongoing in lieu of
 205 investigations or in lieu of a and/or terminations.

206 8-2. Incidents which threaten the security of employees shall be communicated to the Violence
 207 Mitigation Team as soon as possible following their discovery to request to conduct an
 208 assessment.

209 8-5. 7-3.—In appropriate circumstances, the Tribe shall inform the reporting individual of the
 210 results of the investigation. To the extent possible, the Tribe shall maintain the confidentiality of
 211 the reporting employee and the investigation, however the Tribe may need to disclose results in
 212 appropriate circumstances; for example, in order to protect individual safety.

213

214 **Article VII. ~~Future Violence~~**

215 ~~7-1. Employees who have reason to believe they, or others, may be victimized sometime in the~~
 216 ~~future, at the workplace or as a direct result of their employment with the Tribe, shall contact the~~
 217 ~~Human Resources Manager and/or Designee for an initial assessment.~~

218 ~~The supervisor shall inform his/her Department Director or designee, the Director of Human~~
 219 ~~Resources and the local law enforcement officials.~~

220 ~~The Human Resources Manager and/or Designee shall inform the local law enforcement if~~
221 ~~determined appropriate.~~

222 ~~7-2. Employees who have obtained and/or have a current restraining order, temporary or~~
223 ~~permanent, against an individual due to a potential act of violence, who would be in violation of~~
224 ~~the order by coming near them at work, shall immediately supply a copy of the signed order to~~
225 ~~their supervisor.~~

226 ~~The supervisor shall provide copies to the Area Manager and the Human Resources Manager~~
227 ~~and/or Designee.~~

228

229 **Article VIII. Mitigating Measures**

230 ~~8-1. The Tribe will not accept resignations in lieu of investigations and/or terminations.~~

231 ~~8-2. Incidents which threaten the security of employees shall be communicated to the Violence~~
232 ~~Mitigation Team as soon as possible following their discovery to request to conduct an~~
233 ~~assessment.~~ 8-3. ~~After the assessment, the Violence Mitigation Team may choose that further~~

234 ~~action is necessary. That further action may include one or more of the following:~~

235 ~~Notification of law enforcement authorities when a potential criminal act has occurred;~~

236 ~~Provision of emergency medical care in the event of any violent act upon an employee;~~

237 ~~Post event trauma counseling for those employees desiring such assistance;~~

238 ~~Assurance that incidents are handled in accordance with the Workplace Violence Policy; and~~

239 ~~Requesting the Tribe's attorney file a restraining order as appropriate.~~

240

241 **Article IX. Mandated Training and Instruction**

242 ~~9-1. The Tribe's Emergency Management Homeland Security Agency, in conjunction with~~
243 ~~the Human Resources Department, shall provide training and instruction on general workplace~~
244 ~~security practices as follows:~~

245 ~~(a) Preventive measures to reduce the threat of workplace violence, including procedures~~
246 ~~for reporting workplace security hazards;~~

247 ~~(b) Methods to diffuse hostile or threatening situations;~~

248 ~~(c) Escape routes;~~

249 ~~(d) Explanation of workplace violence and this Policy;~~

250 ~~(e) DHS/FEMA IS906 Training Certification;~~

251 ~~(f) Employees action to threats Poster & Handouts; and~~

252 ~~(g) Individual Protective Measures and Actions.~~

253 ~~9-2. Training and instruction shall be provided to the following:~~

254 ~~(a) All current employees;~~

255 ~~(b) To all newly hired employees, supervisors and managers, or employees given new job~~
256 ~~assignments for which specific workplace security training for that job assignment has~~
257 ~~not previously been provided; and~~

258 ~~(c) To affected employees whenever management is made aware of a new or previously~~
259 ~~unrecognized hazard.~~

260 ~~9-3. Area Managers shall be responsible for ensuring that all employees, including managers,~~
261 ~~supervisors and front line employees are provided training and instructions on job specific~~
262 ~~workplace security practices.~~

263 ~~9-4. In addition, specific instructions shall be provided to all employees regarding workplace~~
264 ~~security hazards unique to their job assignment.~~

265 **Article IX. Fraudulent Report**

266 9-1. Any Employee or Supervisor found to have made a report other than in good faith, shall be
267 disciplined according to the Tribe's personnel policies and procedures, up to and including
268 termination.

269 **Article X. Confidentiality**

270 10-1. Information related to the application of this Policy is strictly confidential and said
271 information shall not be disclosed to third parties without the prior written consent of the alleged
272 victim. ~~Access to this information is limited to those who have a legitimate "need to know" in~~
273 ~~or in~~ compliance with a court order or relevant laws and personnel policies and procedures.

274
275 **Article XIV. Communication**

276 ~~11-1. The Human Resources Department will communicate the Workplace Violence Policy to~~
277 ~~all employees. To ensure all employees are aware of their role in supporting the Workplace~~
278 ~~Violence Policy:~~

279 ~~(a) All employees will be given information on how to access this Policy.~~

280 ~~(b) The Policy will be reviewed in new employee orientation and other means, as deemed~~
281 ~~appropriate by the Human Resources Department.~~

282 ~~(c) All employees will sign an acknowledgment form stating they received a copy of the~~
283 ~~Policy and agree to follow this Policy.~~

284

285 *End.*



Legislative Operating Committee

March 2, 2016

Trust/Enrollment Committee Bylaws Amendments

Submission Date: January 6, 2016

Public Meeting: N/A
 Emergency Enacted:

LOC Sponsor: Jennifer Webster

Summary: *A Tribal member has requested changes to the entity's bylaws in order to remove particular language. The Trust/Enrollment Committee also wishes to update the entity's bylaws.*

1/6/16 LOC: Motion by Jennifer Webster to add the Trust/Enrollment Committee Bylaws Amendments to the Active Files List; seconded by Fawn Billie. Motion carried unanimously.

Note: Jennifer Webster will be the sponsor.

Next Steps:

- Accept the memorandum for the Trust/Enrollment Committee Bylaws Amendments as FYI and defer to the sponsor to bring back when read.

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: Legislative Operating Committee
FROM: Jennifer Webster *Jennifer Webster*
DATE: March 2, 2016
RE: Trust/Enrollment Committee Bylaws Amendments

On December 15, 2015, a request to amend the Trust/Enrollment Committee bylaws was submitted to the Legislative Operating Committee (LOC) on behalf of a community member. On January 6, 2016, the LOC added the Trust/Enrollment Committee bylaws amendments to the active files list, with myself as the sponsor. Approximately sixty (60) days have passed since the original submission and this memorandum serves as an update as to where the legislation is at in the LOC process.

On Friday February 19, 2016, the Trust/Enrollment Committee submitted the attached draft amendments to their bylaws to the Legislative Reference Office (LRO). The LRO has begun reviewing this submission to ensure that the requirements of the Comprehensive Policy Concerning Boards, Committees and Commissions have been met. Additionally, the LRO has offered to meet with the community member to put her concerns into a draft for presentation when the bylaws come forward to the LOC.

I am asking that you defer this item back to my office for further work and I will bring back the bylaws when they are ready.

Requested Action

Motion to accept the memorandum regarding the status of the Trust/Enrollment Committee bylaws amendments as FYI and to defer the item back to my office until a draft is ready.

Oneida Trust ~~/~~Enrollment Committee Bylaws

Article I. Authority

1. Name
 - A. The official name of this committee shall be the Oneida Trust ~~/~~Enrollment Committee.
2. Authority
 - A. By the authority of the Oneida Tribe of Indians of Wisconsin, the Oneida Trust ~~/~~Enrollment Committee was established by General Tribal Council Resolution ~~4-~~28-74 and approved by the Oneida General Tribal Council, and charged with duties and responsibilities as set forth in General Tribal Council Resolution 1-8-77-C.
 - B. The Oneida Membership Ordinance established by General Tribal Council Resolution 7-2-84-A, charged the Oneida Trust ~~/~~Enrollment Committee with membership duties and responsibilities.
 - C. A Memorandum of Agreement exists between the Oneida Trust ~~/~~Enrollment Committee and Oneida Business Committee and is amended on an annual basis.
 - D. The Oneida Trust ~~/~~Enrollment Committee has the authority to hire personnel, including, but not limited to a Trust ~~Director and an~~ Enrollment Director. The hiring of all personnel shall be conducted in accordance with the Tribe's personnel policies and procedures and shall be dependent ~~upon~~ available funding.
 - E. The purpose of the Oneida Trust ~~/~~Enrollment Committee is to:
 - 1) ~~administer~~ Administer the Emigrant New York Indian Claims Award Docket 75 Trust Fund known as Elderly Per Capita, Higher Education and General Welfare Trust a/f/k/a/ the Elderly Per Capita Payment Distribution Fund and the Oneida Trust Scholarship Fund;
 - 2) ~~administer~~ Administer the Minors Per Capita Trust Funds;
 - 3) ~~administer~~ Administer the Language Revitalization Fund;
 - 4) ~~administer~~ Administer the Per Capita Endowment Fund and any other trusts which may be created;
 - 5) ~~monitor~~ Monitor funds held in the name of the Oneida Tribe of Indians of Wisconsin at the Bureau of Indian Affairs;
 - 6) ~~exercise~~ Exercise exclusive control of the investment and collection of principal, interest and investments of all monies deposited in, and income derived from, all Oneida Tribe endowment fund accounts;
 - 7) ~~maintain~~ maintain the official roll of the Oneida Tribe of Indians of Wisconsin;
 - 8) ~~approve~~ Approve new applications for enrollment with subsequent ratification by the Oneida Business Committee; and
 - 9) ~~supervise~~ Supervise the Oneida Trust ~~and~~ Enrollment Departments.
3. Office
 - A. The official mailing address of the Oneida Trust ~~/~~Enrollment Committee, ~~and~~ the Trust ~~/~~ ~~Department, and the~~ Enrollment Department is P.O. Box 365, Oneida, WI 54155.
 - B. The physical address of the Trust Department is 909 Packerland Drive, Green Bay, WI 54303. The physical address of the Enrollment Department is 210 Elm Street, Oneida, Wisconsin 54155. The physical address of each Department is subject to change from time to time with approval of the Oneida Trust

~~/~~Enrollment Committee.¹ These changes do not require the approval of the General Tribal Council.

4. Membership

- A. The Oneida Trust ~~/~~Enrollment Committee shall be composed of nine (9) members, one (1) of whom will be a member of and represent the Oneida Business Committee. All other Committee members are elected by the Oneida General Tribal Council by casting ballots at the annual Tribal elections.
- B. Qualifications
- 1) To be eligible to run for the Oneida Trust ~~/~~Enrollment Committee, a candidate shall have-meet the following qualifications:
 - a) Shall be an enrolled Oneida Tribal Member who is eligible to vote in tribal elections.
 - ~~b) —~~ Shall live within Brown or Outagamie County on or near the reservation (within the external boundaries of the Oneida Reservation or in a surrounding community).
 - ~~e)b) —~~ Shall have the ability to honorably protect and uphold the purpose of the Oneida Trust ~~/~~Enrollment Committee with integrity, diligence and foresight.
 - ~~d)c) —~~ Must be able to obtain a fiduciary bond.
- C. Vacancies, Appointments, Resignations, Suspensions, and Removals
- 1) Vacancies and Appointments
 - a) If any member dies, resigns, is removed, is incapacitated, or is otherwise unable to serve, the Chairperson of the Oneida Trust ~~/~~Enrollment Committee shall select a candidate who, upon approval of the Oneida Trust ~~/~~Enrollment Committee and the Oneida Business Committee, shall serve the remainder of the former member's term. If the remainder of the term is for more than one year a qualified replacement shall be voted in by election.
 - b) If, after the annual election, a position on the Oneida Trust ~~/~~Enrollment Committee remains vacant due to the lack of a sufficient number of qualified candidates in the election, the Chairperson of the Oneida Trust ~~/~~Enrollment Committee shall select a candidate within thirty (30) days of the certification of the election results who, upon approval by the Oneida Trust ~~/~~Enrollment Committee and the Oneida Business Committee, shall serve as if elected in the annual election.
 - 2) Resignation
 - a) A resignation shall be submitted in writing at any regular Oneida Trust ~~/~~Enrollment Committee meeting.
 - 3) Attendance
 - a) Attendance at Oneida Trust ~~/~~Enrollment Committee meetings is critical for the ongoing operation and growth of each department. The Oneida Trust ~~/~~Enrollment Committee has high

¹ The Oneida Trust/Enrollment Committee will honor the tribal member's desire to keep the Enrollment Department within central Oneida.

expectations when it comes to attendance; therefore, attendance will be closely monitored. Failure to attend meetings on a regular basis or missing three (3) consecutive meetings without prior notification will prompt the Oneida Trust ~~/~~Enrollment Committee to add the attendance issue to the agenda for discussion and recommendation of removal in accordance with the Removal Law.~~possible action.~~

- D. Challenged Elections
- 1) In the event of a challenged election, all Oneida Trust ~~/~~Enrollment Committee members holding positions prior to the election shall remain members of the Oneida Trust ~~/~~Enrollment Committee until the election dispute is resolved.
- E. Subcommittees
- 1) A subcommittee may be appointed by the Chairperson of the Oneida Trust ~~/~~Enrollment Committee to carry out specific duties, when deemed necessary. The subcommittee shall serve until the duties with which this subcommittee has been charged are completed, and a report has been accepted by the Oneida Trust ~~/~~Enrollment Committee. Upon dissolution, ~~the~~ respective department administrative assistants ~~is are~~ responsible for materials to be filed or destroyed.

Article II. Officers

1. Officer Selection Process
 - A. Officers shall be elected by the Oneida Trust ~~/~~Enrollment Committee at the first Regular monthly meeting following the final approval by the Oneida Business Committee result of a valid annual election of Oneida Trust ~~/~~Enrollment Committee positions, and will take office; ~~to~~and serve a one (1) year term.
 - B. If an officer position is vacated, an interim election shall be held by the Oneida Trust ~~/~~Enrollment Committee at the next regular Trust/Enrollment Committee meeting to fill the office for the balance of the year.
 - C. Any Oneida Trust ~~/~~Enrollment Committee member nominated for an office as defined in Article II of these bylaws may communicate acceptance of such nomination via correspondence, which may include electronic communications such as email, and facsimile, and written correspondence.
 - D. ~~Any n~~omination for an officer position defined in Article II can be made only by an Oneida Trust ~~/~~Enrollment Committee member who is physically present at a duly called meeting of the Oneida Trust ~~/~~Enrollment Committee.
2. Positions
 - A. Chairperson
 - 1) The Chairperson presides at meetings, appoints committees, oversees all Oneida Trust ~~/~~Enrollment Committee activities, schedules Special meetings, and supervises the Directors of ~~both the~~ Trust ~~/~~Enrollment and Trust Departments. The Chair shall invite input from Committee members for evaluations.
 - 2) The Chairperson of the Oneida Trust ~~/~~Enrollment Committee shall serve as an ex-officio member of all established subcommittees.
 - B. Vice-Chairperson

- 1) The Vice-Chairperson acts with the same authority as the Chairperson in the absence of the Chairperson.
- C. Secretary
 - 1) The Secretary is responsible for correspondence and minutes of all meetings.
 - 2) In the absence of the Chairperson and Vice-Chairperson, ~~to~~ the Secretary may call the meeting to order and preside until the immediate election of a Chair Pro Tem.

Article III. Committee Duties

1. The duties of the Oneida Trust ~~/~~Enrollment Committee include, but are not limited to the following:
 - A. Complete the Oneida Trust ~~/~~Enrollment Committee Confidentiality Statement and the Non-Disclosure Agreement. At the commencement of taking office, new members shall complete the forms and provide the completed forms to the Trust/Enrollment Director. Upon submission of forms to the Trust ~~/~~Enrollment Director the new member shall have the authority to vote and or receive a stipend payment.
 - B. Provide direction to the Oneida Trust ~~and /~~Enrollment Departments. The Directors of the Trust ~~and /~~Enrollment Departments ~~is are~~ responsible to the Oneida Trust ~~/~~Enrollment Committee, and under the immediate supervision of the Chairperson of the Oneida Trust ~~/~~Enrollment Committee, or his or her designee. The Trust /Enrollment Director ~~and the Trust Director~~ shall comply with all directives of the Oneida Trust ~~/~~Enrollment Committee and cooperate with the Committee Members ~~and representatives (who are representatives?)~~ of the Oneida Trust ~~/~~Enrollment Committee.
 - C. Report to the Oneida General Tribal Council semiannually.
 - D. Develop policy relating to the trust funds and enrollment for adoption by the Oneida Trust ~~/~~Enrollment Committee and/or the Oneida General Tribal Council.
 - E. Oversee Trust Fund distributions.
 - F. Participate in continuing training including: orientation, board training and workshops pertaining to investing, fiduciary, Administrative-Legislative Procedures Act and general knowledge of the policies and procedures of the Oneida Tribe of Indians of Wisconsin. Members of the Committee will also be familiar with the various trust and departmental guidelines and standard operating procedures.
 - G. Carry out all enrollment duties as required~~prescribed~~ in the Membership Ordinance and any subsequent enrollment laws.
 - H. Conduct oversight on Trust Fund investment activity, provide due diligence in all matters relating to the Trust, and maintain fiduciary responsibility in management of the funds in accordance with the requirements of the Oneida Trust Agreements.

Article IV. Meetings

~~1. Regular Meetings~~

A. Regular

- 1) The Oneida Trust ~~/~~Enrollment Committee will meet on the first third (1st3rd) Tuesday of each month ending quarter for New Enrollments, and

~~the~~ fourth (4th) Tuesday of each month for ~~the~~ Regular Trust/Enrollment business. ~~Time and place of meetings shall be established by the Oneida Trust/Enrollment Committee.~~

B. New Enrollments

1) The Oneida Trust Enrollment Committee will meet the third (3rd) Tuesday of each month quarterly~~ending quarter~~ for New Enrollments.

C. Special

1) The Chairperson may call a Special meeting. There shall be a minimum of twenty-four (24) hours electronic~~verbal~~ notice to all Committee members of any special meeting.

D. Time and Place

~~1)~~ 1) Time and place of meetings shall be established by the Oneida Trust Enrollment Committee.

~~2.~~ Emergency/Special Meetings

~~A. The Chairperson may call Emergency/Special meetings. There shall be a minimum of 24 hour verbal notice to all Committee members of any emergency and/or special meeting.~~

~~3.2.~~ Agenda and Meeting Materials

A. The Chairperson shall approve the agenda.
B. Notice of meeting location, agenda, and materials shall be forwarded to the Committee members by the Trust ~~/Enrollment Department~~ ~~or the Trust Department~~, depending on the subject matter of the meeting.

~~4.3.~~ Quorums

A. A majority of the Oneida Trust ~~/Enrollment~~ Committee shall constitute a quorum. If a quorum is not present within fifteen (15) minutes of the announced meeting time, the meeting will be declared dismissed.

~~5.4.~~ Parliamentary Procedure

A. All meetings shall be conducted in accordance with the rules contained in the current edition of ROBERT'S RULES OF ORDER, in all cases to which they are applicable, unless they are inconsistent with these Bylaws and/or any special rules of order the Oneida Trust ~~/Enrollment~~ Committee may adopt.

~~6.5.~~ Order of Business

A. The regular meetings of the Oneida Trust ~~/Enrollment~~ Committee shall follow the order of business as set out herein:

- 1) Call Meeting to Order
- 2) ~~Approve~~ Adoption of Agenda
- ~~3)~~ Approve Minutes
- ~~3)4)~~ Tabled Business
- ~~4)5)~~ Attorney Business
- ~~5)~~ Old Business
- 6) New Business
- 7) Other Business
- 8) Adjournment

B. The ~~emergency~~/special meetings of the Oneida Trust ~~/Enrollment~~ Committee shall follow the order of business as set by the Chairperson.

~~7.6.~~ Voting

A. Voting shall be in accordance with the simple majority vote of the Committee

members present at a duly called meeting.

- B. The Chairperson may not vote except in the event of a tie.
- C. Each Oneida Trust ~~/~~Enrollment Committee member shall have one (1) vote.
- D. Conflicts of Interest
 - 1) In cases where a conflict of interest exists, a Committee member shall recuse themselves from an action, or the Oneida Trust ~~/~~Enrollment Committee can vote by a majority of the quorum present to exclude a Committee member they believe has a conflict.

8.7. Stipends

- A. Meetings
 - 1) A Committee member is eligible to receive a stipend if a quorum has been established in accordance with Article IV 4.
 - 2) A Committee member's stipend is \$75 for attending meetings, regular or special, at least one (1) hour regardless of the length of the meeting.
 - 3) The Chairperson must supervise the departments' directors, which requires additional work. The Chairperson's stipend is \$100 for attending meetings, regular or special, at least one (1) hour regardless of the length of the meeting.
- B. Conferences and Training
 - 1) Reimbursement for conferences and training shall be in accordance with the Comprehensive Policy Governing Boards, Committees and Commissions, Article XI, 11-6, 11-7 and 11-8.

Article V. Reporting

- 1. General
 - A. The Oneida Trust ~~/~~Enrollment Committee will report to the Oneida General Tribal Council semiannually.
- 2. Format
 - A. Agenda items shall be in an identified format.
- 3. Minutes
 - A. Minutes shall be typed and in a consistent format designed to generate the most informative record of the meetings of the Oneida Trust ~~/~~Enrollment Committee.
 - B. The Oneida Trust ~~/~~Enrollment Department will provide copies of minutes of the Oneida Trust ~~/~~Enrollment Committee meetings pertaining to the Trust ~~/~~Enrollment ~~items~~ to the Secretary of the Oneida Business Committee within a reasonable time after approval by the Oneida Trust ~~/~~Enrollment Committee.
 - ~~C. The Oneida Enrollment Department will provide copies of minutes of the Oneida Trust/Enrollment Committee meetings pertaining to Enrollments to the Secretary of the Oneida Business Committee within a reasonable time after approval by the Oneida Trust/Enrollment Committee.~~
 - ~~D.C.~~ All copies of minutes will be stamped confidential and held by the Tribal Secretary in a sensitive documents area of tribal records.
 - ~~E.D.~~ Original minutes of the Oneida Trust ~~/~~Enrollment Committee meetings will be stamped confidential and held by ~~the Trust/Enrollment~~ ~~each respective~~ ~~department~~ ~~Department~~ in a sensitive documents area.
- 4. Attachments
 - A. Handouts, reports, memoranda, and the like shall be attached to the original

minutes and agenda.

Article VI. Amendments

1. At the first regular meeting following certification of election results, a review of these Bylaws will be conducted in order to determine that they are current.
2. The Oneida Trust Enrollment Committee, upon written notice, may at any of its Regular meetings, by majority vote of voting members, present, adopt, amend, or repeal any or all of the Bylaws provided that the amendment or repeal has been submitted in writing at the previous regular monthly meeting.
3. All amendments are subject to subsequent approval by the Oneida General Tribal Council.

Approved by Oneida Trust/Enrollment Committee Chair: February 28,
2012

Approved by General Tribal Council: _____





Legislative Operating Committee

March 2, 2016

Comprehensive Policy Governing Boards, Committees and Commissions Amendments

Submission Date: 9/17/14

Public Meeting:
 Emergency Enacted:
 Expires:

LOC Sponsor: Jennifer Webster

Summary: *This item was carried over into the current term by the LOC. Amendments were requested to: prohibit individuals from serving on multiple boards, committees and commissions at one time; set term limits; and prohibit Tribal employees from serving on tribal boards, committees and commissions. In addition, the OBC directs that the appointment process be reviewed.*

9/10/14 OBC: Motion by Lisa Summers to direct the Tribal Secretary's Office to send formal correspondence to the Land Claims Commission requiring them to submit their reports by Friday and to request the LOC to bring back a recommendation on how to amend the Comprehensive Policy Governing Boards, Committees, and Commissions to include the withholding of stipends payments to Boards, Committees, and Commissions who do not provide their reports in a timely manner, seconded by Fawn Billie. Motion carried unanimously.

9/17/14 LOC: Motion by Jennifer Webster to add the Comprehensive Policy Governing Boards, Committees and Commissions Amendments to the Active Files List; seconded by Fawn Billie. Motion carried unanimously.

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

4/22/15 OBC: Motion by Lisa Summers to direct the Comprehensive Policy Governing Boards, Committees, and Commissions appointment process be sent back to the Legislative Operating Committee for amendments and to bring back a recommendation on clarifying the process, seconded by Fawn Billie. Motion carried unanimously.

5/6/15 LOC: Motion by Jennifer Webster to defer the Comprehensive Policy Governing Boards, Committees and Commission to a Legislative Operating Committee work meeting; seconded by David P. Jordan, motion carried unanimously.

5/27/15 OBC: Motion by Jennifer Webster to accept the report from the Secretary's Office as information and to request the LOC to make the necessary policy amendments to the Comprehensive Policy Governing Boards, Committees and Commissions to address this issue, seconded by Lisa Summers. Motion carried unanimously.

6/8/15: Work Meeting held. Attendees: Danelle Wilson, Melanie Burkhart, Brandon Stevens, Rae Skenandore, David Jordan, Jacob Metoxen, Tehassi Hill, Fawn Billie, Jenny Webster, Kathy Metoxen, Candice Skenandore, Tani Thurner, Fawn Cottrell, Lynn Franzmeier, Daril Peters, Jordan Rasmussen.

- 8/4/15:** OBC Work Meeting held. Attendees: Jennifer Webster, Trish King, Tina Danforth, Tehassi Hill, David P. Jordan, Fawn Billie, Fawn Cottrell, Dawn Moon-Kopetsky, Krystal John, Tani Thurner.
- 10/21/15 LOC:** Motion by Fawn Billie to defer the Comprehensive Policy Governing Boards, Committees and Commissions Amendments to the sponsor to address the concerns and considerations and to prepare for a December 3, 2015 public meeting; seconded by David P. Jordan. Motion carried unanimously.
- 11/4/15 LOC:** Motion by Jennifer Webster to forward the draft of Comprehensive Policy Governing Boards, Committees and Commissions Amendments with the noted changes to a public meeting held on December 3, 2015; seconded by Tehassi Hill. Motion carried unanimously.
- 12/16/15 LOC:** Motion by David P. Jordan to enter the Administrative Rulemaking Law and Comprehensive Policy Governing Boards, Committees and Commissions Amendments e-poll into the record; seconded by Jennifer Webster. Motion carried unanimously.
- 2/3/16 LOC:** Motion by David P. Jordan to accept the Public Meeting comments and defer consideration of the comments to a work meeting to be held on Friday February 5, 2016 at 10:00 am; seconded by Tehassi Hill. Motion carried unanimously.
- 2/5/16:** Work meeting held. Attendees include Brandon Stevens, Tehassi Hill, David P. Jordan, Jennifer Webster, Fawn Billie, Tina Danforth, Lisa Summers, Lisa Liggins, Dawn Moon-Kopetsky, Maureen Perkins and Krystal John.
- 2/16/16:** Work meeting held. Attendees include Brandon Stevens, Jennifer Webster, Tehassi Hill, Fawn Billie, Lisa Liggins, Raquel Hill, Matt Denny and Krystal John.

Next Steps:

- Accepted the updated draft based on the LOC's consideration of the public meeting comments received and determine whether an additional public meeting is required based on the revisions made in light of the public meeting comments. Direct the LRO to prepare an updated legislative analysis.

Draft 07 – Redline to Draft 6
2016 03 02

Comprehensive Policy Governing Boards, Committees and Commissions
Yolihwakwe'kú Kayanl'ahsla' yethiya'tanú'nha tsi' ka'yá lonatlihu'tú'

all of the matters – laws and policies – they're watching over them – the ones that have been appointed

Article I. Purpose and Policy
Article II. Adoption, Amendment, Repeal
Article III. Definitions
Article IV. Applications
Article V. Vacancies
Article VI. Appointed Entities
Article VII. Elected Entities
Article VIII. By-laws of Boards, Committees and Commissions
Article IX. Minutes
Article X. Dissolution of Entities
Article XI. Stipends, Reimbursement and Compensation for Service
Article XII. Confidential Information
Article XIII. Conflicts of Interest
Article I. Purpose and Policy
Article II. Adoption, Amendment, Repeal

Article III. Definitions
Article IV. Applications
Article V. Vacancies
Article VI. Appointed Entities
Article VII. Elected Entities
Article VIII. By-laws of Boards, Committees and Commissions
Article IX. Official Oneida E-mail Address Required for all Entity Members
Article X. Minutes
Article XI. Dissolution of Entities
Article XII. Stipends, Reimbursement and Compensation for Service
Article XIII. Confidential Information
Article XIV. Conflicts of Interest

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Article I. Purpose and Policy

1-1. It is the purpose of this Policy to govern the standard procedures regarding the appointment and election of persons to boards, committees and commissions, creation of by-laws, maintenance of official records, compensation, and other items related to boards, committees and commissions. This Policy does not apply to the ~~Tribe's~~Nation's corporations due to the corporate structure and autonomy of those Entities.

1-2. It is the ~~Tribe's~~Nation's policy to have consistent and standard procedures for choosing and appointing the most qualified persons to boards, committees and commissions, for creation of by-laws governing boards committees and commissions, and for the maintenance of information created by and for boards, committees and commissions.

Article II. Adoption, Amendment, Repeal

2-1. This Policy was adopted by the Oneida Business Committee by resolution # BC-8-2-95-A and amended by resolutions # BC-5-14-97-F, # BC-09-27-06-E, # BC-09-22-10-C and # BC-

2-2. This Policy may be amended 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 does 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 law or policy, this Policy controls, provided that the requirements of the Oneida Nation Gaming Ordinance supersede the provisions of this Policy in regards to the Oneida Gaming Commission.

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

Draft 07 – Redline to Draft 6
2016 03 02

29 **Article III. Definitions**

30 3-1. This Article governs the definitions of words and phrases as used herein. All words not
31 defined herein are to be used in their ordinary and everyday sense.

- 32 | a. “Application” means the form by which a person seeks to be appointed to fill a
33 | Vacancy or considered as a candidate for an election.
- 34 | b. “Appointment” means the process by which a person is chosen to fill a Vacancy.
- 35 | c. “Chairperson” means the current elected Chairperson of the TribeNation or his or
36 | her designee.
- 37 | d. “Conference” means any ~~training~~, seminar, meeting, or other assembly of persons
38 | which is not an assembly of the Entity.
- 39 | e. “Entity” means a board, committee or commission created by the General Tribal
40 | Council or the Oneida Business Committee whose Members are appointed by the
41 | Oneida Business Committee or elected by the Tribe’sNation’s membership.
- 42 | f. “Immediate Family” means the husband, wife, mother, father, step mother, step
43 | father, son, daughter, step son, step daughter, brother, sister, step brother, step sister
44 | grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law,
45 | brother-in-law, sister-in-law.
- 46 | g. “Member” means any person appointed or elected to membership on an Entity.
- 47 | h. “Stipend” means that amount paid by the TribeNation to persons serving on boards,
48 | committees and commissions of the TribeNation to offset the expenses of being a
49 | member on the board, committee or commission in the form of cash or cash
50 | equivalent.
- 51 | i. “Task Force or Ad Hoc Committee” means a group of persons gathered to pursue a
52 | single goal, the accomplishment of which means the disbanding of the group. The
53 | goal is generally accomplished in a short time period, i.e. less than one year, but the
54 | goal itself may be long-term.
- 55 | j. “Transaction” means any activity wherein a provider of goods and/or services is
56 | compensated in any form.
- 57 | k. “~~Tribe~~” or “TribalNation” means the Oneida ~~Tribe of Indians of Wisconsin~~Nation.
- 58 | l. “Secretary” means the current elected Secretary of the TribeNation or his or her
59 | designee.
- 60 | m. “Vacancy” means any position on any board, committee or commission caused by
61 | resignation, end of term, removal, termination, creation of a new position or end of
62 | an designated interim term.

63
64 **Article IV. Applications**

65 4-1. The Secretary shall generate, and the Oneida Business Committee must approve, the
66 application form required to be used by all applicants.

67 4-2. Application forms must contain:

- 68 | a. questions designed to obtain the applicant’s
- 69 | 1. name;
- 70 | 2. address address and, if a residency requirement is included in the Entity’s by-
71 | laws, proof of residency;

Draft 07 – Redline to Draft 6
2016 03 02

- 72 | 3. date of birth;
73 | 4. phone number;
74 | 45. enrollment number; and
75 | 56. position applied for.

76 | b. additional questions, if necessary, to obtain information necessary to make an
77 | informed decision as to the qualifications of any individual to fill a Vacancy.

78 | 4-3. All applicants shall file their Applications with the Secretary by 4:30 p.m. of the deadline
79 | date. Postmarked envelopes are accepted as filed if postmarked by the deadline date and
80 | received by the Secretary within five (5) business days of the deadline.

81 | 4-4. The Election Board shall verify all Applications for elected positions in accordance with
82 | the Oneida Election Law to ensure the eligibility and qualification requirements are met. as
83 | identified in the Entity's by-laws. The Secretary shall verify all Applications for appointed
84 | positions ~~as needed or as required by the Entity's by-laws~~ to ensure the eligibility and
85 | qualification requirements are met as identified in the Entity's by-laws.

86 | 4-5. ~~At the completion of~~ After five (5) business days have passed since the posted
87 | ~~deadline~~ deadline for filing Applications, the Election Board shall provide notice to all persons
88 | who have filed an Application for an elected position and the Secretary shall provide notice to
89 | all persons who have filed an Application for an appointed position.

90 | a. Such notice must be formatted the same for all applicants and must minimally
91 | include the following:

- 92 | 1. the date the applicant's Application was filed;
93 | 2. whether the applicant meets the eligibility requirements as determined by the
94 | Entity's by-laws and will be considered for the election/appointment;
95 | 3. a note that further information can be requested by contacting the party
96 | sending the notice and providing such contact information;
97 | 4. the applicable duties should the applicant be selected; and
98 | 5. if eligible for election/appointment:

99 | "The Oneida TribeNation reports all income paid by the TribeNation in
100 | whatever form. The Internal Revenue Service of the United States
101 | considers stipends paid to members of boards, committees, and
102 | commissions to be income which may be offset by expenses related to
103 | that income. You will receive ~~an IRS Form 1099~~ the applicable tax
104 | form(s), which is also forwarded to the Internal Revenue Service; it is
105 | also your responsibility to keep documentation of expenses related to this
106 | income."

107 | 4-6. In the event that there are insufficient applicants after the deadline date has passed for
108 | appointed positions, ~~the Chairperson shall elect to either:~~ in accordance with Article 4-3, the
109 | Secretary shall request permission from the Oneida Business Committee to repost the vacancy
110 | for an additional timeframe equal to the initial posting, provided that in considering the
111 | Secretary's request, the Oneida Business Committee has no discretion to waive any applicable
112 | deadlines or eligibility/qualification requirements contained in the Entity's by-laws. In the
113 | event of a reposting, prior applicants will be considered to have filed Applications within the
114 | deadline period.

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- 115 | ~~a. Allow late Applications to be included within the applicant pool, or~~
116 | ~~b. Repost the Vacancy for an additional time period. In the event of reposting, prior~~
117 | ~~applicants will be considered to have filed Applications within the deadline period.~~
118 |

119 | **Article V. Vacancies**

120 | 5-1. This Article governs when Vacancies occur, and where and when notice of the Vacancies
121 | must be posted. Notwithstanding the initial determination of membership to an Entity, the
122 | Member's status as appointed or elected is based entirely on the Entity's classification as an
123 | appointed or elected Entity pursuant to the Entity's by-laws.

124 | 5-2. The following Vacancies are effective as listed herein:

- 125 | a. End of Term. A Vacancy is effective as of 4:30 p.m. of the last day of the month in
126 | which the term ends according to the Entity's by-laws.
127 | b. Removal. Removal is effective as identified in the Removal Law.
128 | c. Resignation. A resignation is effective upon:
129 | 1. Deliverance of a resignation letter to the Entity; or
130 | 2. The Entity's acceptance by motion of a verbal resignation.
131 | d. Termination of Appointment. A termination is effective upon a two-thirds (2/3)
132 | majority vote of the entire Oneida Business Committee in favor of a Member's
133 | termination of appointment.
134 | e. New Positions. Vacancies on new Entities and for new positions on existing Entities
135 | are effective upon adoption/amendment of by-laws.
136 | f. Interim Positions. Vacancies of interim positions are effective upon creation by the
137 | Oneida Business Committee or General Tribal Council.

138 | 5-3. Entities shall notify the Secretary as soon as any position(s) becomes vacant so that the
139 | Secretary may post the notice of Vacancy in order to fill the Vacancy in accordance with the
140 | requirements of this Article.

141 | 5-4. Except as expressly stated otherwise, the Secretary shall request permission from the
142 | Oneida Business Committee prior to posting notice of a Vacancy as set out in this Article and
143 | shall post notices of Vacancy within a reasonable time of the Oneida Business Committee's
144 | grant of permission, in accordance with the following:

- 145 | a. End of Term. The Secretary may request permission to post notice of Vacancies for
146 | positions becoming vacant due to term completions on an annual basis; the notice of
147 | Vacancy for each term completion must be posted thirty (30) days in advance of each
148 | term completion.
149 | b. Removal. Permission to post notice of Vacancies based on removal must be
150 | requested no later than the first Oneida Business Committee meeting following the
151 | effective date of the removal.
152 | c. Resignation. Permission to post notice of Vacancies based on resignation must be
153 | requested no later than the first Oneida Business Committee meeting following the
154 | Secretary's receipt of notice of an effective resignation from the Entity.
155 | d. New Positions. If the Oneida Business Committee or General Council does not
156 | specify a date for posting new positions when creating an Entity, the Secretary shall
157 | request permission to post Vacancies for new positions no later than the first Oneida

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158 Business Committee following the later of either the creation of the Entity or the
159 adoption of the Entity's by-laws.

160 e. Interim Members. Permission to post notice of Vacancies of interim Members must
161 be requested no later than the first Oneida Business Committee meeting following the
162 completion of the term the interim Member was designated to hold.

163 f. Termination of Appointment. Permission to post notice of Vacancies based on
164 termination of Appointment must be requested no later than the first Oneida Business
165 Committee meeting following the effective date of the termination.

166 5-5. After receiving permission from the Oneida Business Committee, the Secretary shall post
167 notice of Vacancies in each of the following locations:

- 168 a. on the Tribe's Nation's website;
- 169 b. in the Kalihwisaks; and
- 170 c. any reasonable location requested by the Entity.

171 5-6 In the event that there is an administrative/clerical error in the Secretary's posted notice of
172 Vacancy, the Secretary may correct such error by reposting the notice of Vacancy as soon as
173 practicable after noticing such error. Under these limited circumstances, the Secretary does not
174 require permission from the Oneida Business Committee to repost notice of the Vacancy.
175 provided that the Secretary shall provide notice of the reposting to the Oneida Business
176 Committee at the first available Oneida Business Committee meeting following notice of the
177 error requiring the reposting. In the event of reposting, prior applicants will be considered to
178 have filed Applications within the deadline period.

179

180 **Article VI. Appointed Entities**

181 6-1. All appointments must be made by the Oneida Business Committee at regular or special
182 Oneida Business Committee meetings, provided that, no applicant may be appointed who fails
183 to meet the requirements set out in the Entity's by-laws.

184 ~~a. Notwithstanding the initial determination of membership to an Entity, the Member's~~
185 ~~status as appointed or elected is based entirely on the Entity's classification as an~~
186 ~~appointed or elected Entity pursuant to the Entity's by laws.~~

187 6-2. The following procedures must be used to determine which applicant is appointed:

188 a. Within five (5) business days after the application deadline and notice has been
189 provided pursuant to Article 4-5, the Secretary shall deliver to the Chairperson all
190 eligible Applications, as verified by the Secretary, along with a summary of
191 qualifications to hold office.

192 b. When selecting an applicant(s) for appointment, the Chairperson may consider the
193 Entity's recommendations, if such recommendations are provided. Within ~~a reasonable~~
194 ~~time~~ thirty (30) calendar days from the date the Chairperson received the eligible and
195 qualified applicants from the Secretary, the Chairperson shall ~~either:~~ select an
196 applicant(s) for appointment.

197 ~~1. choose an applicant(s) for appointment, or~~
198 ~~2. ask the Secretary to repost the notice of Vacancy because of an ineligible,~~
199 ~~unqualified, or under qualified applicant pool.~~

200 c. Once the Chairperson has made a selection, he or she shall forward the list of

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201 qualified applicants along with his or her selected applicant(s) to all Oneida Business
202 Committee members. Based on the information provided, the Oneida Business
203 Committee shall, by a majority vote of a quorum at any regular or special Oneida
204 Business Committee meeting, either accept or reject the Chairperson's selected
205 applicant(s).

206 1. If the Chairperson's applicant(s) are rejected by the Oneida Business
207 Committee, the Oneida Business Committee shall, by a majority vote of a
208 quorum at any regular or special Oneida Business Committee meeting, take one
209 (1) of the following actions, provided that they must be taken in progressive
210 order to provide deference to the Chairperson's decision making authority:

- 211 A. Direct the Chairperson to prepare another recommendation; or
212 B. Approve another applicant from the list of qualified applicants; or
213 C. Direct the Vacancy to be re-posted.

214 6-3. The Chairperson shall forward a list of all applicants to the Secretary and the final decision
215 regarding the selection after the procedures in Article 6-2 are completed. The Secretary shall
216 then notify all applicants of the final status of their Application. Notices to those selected for
217 appointment must notify the appointee when they are required to appear for taking the oath and
218 must include the following:

219 "The Oneida Nation reports all income paid by the Oneida Nation in whatever form.
220 The Internal Revenue Service of the United States considers stipends paid to members
221 of boards, committees, and commissions to be income which may be offset by expenses
222 related to that income. You will receive the applicable tax form(s), which is also
223 forwarded to the Internal Revenue Service; it is also your responsibility to keep
224 documentation of expenses related to this income."

225 6-4. All appointments are official upon taking an oath at a regular or special Oneida Business
226 Committee meeting and all rights and delegated authorities of membership in the Entity vest
227 upon taking the oath. ~~The Secretary shall notify the chosen persons when they should appear~~
228 ~~for taking the oath.~~

- 229 a. The Secretary shall maintain originals of the signed oath.
230 b. The Secretary shall forward copies of the oath to the new Member and the Entity.
231 c. Wording of oaths must be approved by the Oneida Business Committee and kept on
232 file by the Secretary.

233 1. The following oath is the standard oath to be used unless a specific oath for
234 the Entity is pre-approved by the Oneida Business Committee:

235 I, (name), do hereby promise to uphold the laws and regulations of the
236 Oneida ~~Tribe~~Nation, the General Tribal Council, and the ~~Tribe's~~Nation's
237 Constitution. I will perform my duties to the best of my ability and on behalf of
238 the Oneida people with honor, respect, dignity, and sincerity and with the
239 strictest confidentiality.

240 I will carry out the duties and responsibilities as a member of the (Entity
241 name), and shall make all recommendations in the best interest of the Oneida
242 ~~Tribe~~Nation as a whole.

- 243 d. Revisions of oaths must be approved by the Oneida Business Committee prior to

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244 usage.
245 e. All oaths must be sufficient to make the appointee aware of his or her duty to the
246 TribeNation as a Member of the Entity.

247 ~~6-4. The Chairperson shall forward a list of all applicants to the Secretary and the final decision~~
248 ~~regarding the selection after the procedures in Article 6-2 are completed. The Secretary shall~~
249 ~~then notify all applicants of the final status of their Application. Notices to those selected for~~
250 ~~appointment must include the following:~~

251 ~~“The Oneida Tribe reports all income paid by the Oneida Tribe in whatever form. The~~
252 ~~Internal Revenue Service of the United States considers stipends paid to members of~~
253 ~~boards, committees, and commissions to be income which may be offset by expenses~~
254 ~~related to that income. You will receive an IRS Form 1099 which is also forwarded to~~
255 ~~the Internal Revenue Service, it is also your responsibility to keep documentation of~~
256 ~~expenses related to this income.”~~

257 6-5. *Termination of Appointment.* Appointed Members of Entities serve at the discretion of the
258 Oneida Business Committee. Upon the recommendation of the Chairperson, a Member of an
259 appointed Entity may have his or her appointment terminated by the Oneida Business
260 Committee by a two-thirds (2/3) majority vote of the entire Oneida Business Committee.

261 a. An Appointed Entity may bring a request for termination of a Member to the
262 Oneida Business Committee by asserting that there is cause for termination based on
263 one (1) or more of the following:

- 264 1. Failure to meet and maintain the requisite qualifications as identified in the
- 265 Entity’s bylaws.
- 266 2. Breach of confidentiality.
- 267 3. Accumulation of three (3) or more unexcused absences from required
- 268 meetings or other Entity responsibilities in the Member’s term, where an
- 269 absence is unexcused if the appointed Member fails to provide twenty-four
- 270 (24) hours of notice of an anticipated absence.
- 271 4. Accumulation of four (4) or more consecutive absences from required
- 272 meetings or other Entity responsibilities in the Member’s term, whether
- 273 excused or unexcused.
- 274 5. Any other cause for termination established in the Entity’s by-laws.
- 275 6. Violations of Tribal law.
- 276 7. Conducting him or herself in a manner that is detrimental to the Entity’s
- 277 reputation or that inhibits the Entity’s ability to fulfill its responsibilities.

278 b. The Oneida Business Committee’s decision to terminate an appointment is final and
279 not subject to appeal.

280

281 **Article VII. Elected Entities**

282 7-1. To serve on an elected Entity, a person must either be nominated at a caucus called by the
283 Oneida Election Board, or petition for ballot placement in accordance with the Oneida Election
284 Law, except as otherwise provided herein.

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285 | ~~a. Notwithstanding the initial determination of membership to an Entity, the Member's~~
286 | ~~status as appointed or elected is based entirely on the Entity's classification as an~~
287 | ~~appointed or elected Entity pursuant to the Entity's by-laws.~~

288 | 7-2. All other processes must be as directed in the Oneida Election Law. In addition to these
289 | processes, the Oneida Election Board shall notify all applicants ~~must be notified~~ of the final
290 | results of the election: within five (5) business days from the date the Oneida Election Board
291 | receives the results from the Oneida Business Committee. Notices to those elected must notify
292 | the elected person when they are required to appear for taking the oath and must include the
293 | following:

294 | "The Oneida TribeNation reports all income paid by the Oneida TribeNation in whatever
295 | form. The Internal Revenue Service of the United States considers stipends paid to
296 | members of boards, committees, and commissions to be income which may be offset by
297 | expenses related to that income. You will receive ~~an income report~~ the applicable tax
298 | form(s), which is also forwarded to the Internal Revenue Service; it is also your
299 | responsibility to keep documentation of expenses related to this income."

300 | 7-3. All elected positions are official upon taking an oath at a regular or special Oneida
301 | Business Committee meeting and all rights and delegated authorities of membership in the
302 | Entity vest upon taking the oath.

303 | a. The Secretary shall maintain originals of the signed oath.
304 | b. The Secretary shall forward copies of the oath to the new Member and the Entity.
305 | c. Wording of oaths must be approved by the Oneida Business Committee and kept on
306 | file by the Secretary. The following oath is the standard oath to be used unless a specific
307 | oath for the Entity is pre-approved by the Oneida Business Committee:

308 | I, (name), do hereby promise to uphold the laws and regulations of the
309 | Oneida TribeNation, the General Tribal Council, and the Tribe'sNation's
310 | Constitution. I will perform my duties to the best of my ability and on behalf of
311 | the Oneida people with honor, respect, dignity, and sincerity and with the
312 | strictest confidentiality.

313 | I will carry out the duties and responsibilities as a member of the (entity
314 | name), and shall make all recommendations in the best interest of the Oneida
315 | TribeNation as a whole.

316 | d. Revisions of oaths must be approved by the Oneida Business Committee prior to
317 | usage.

318 | e. All oaths must be sufficient to make the ~~appointee~~ elected Member aware of his or her
319 | duty to the TribeNation as a Member of the Entity.

320 |

321 | **Article VIII. By-laws of Boards, Committees and Commissions**

322 | 8-1. By-laws of all Boards, Committees and Commissions must conform to this outline. All
323 | existing Entities shall comply with this format and present by-laws for adoption within a
324 | reasonable time after creation of the Entity. By-laws must contain this minimum information,
325 | although more information is not prohibited.

326 | 8-2. Specifically excepted from this Article are Task Forces and Ad Hoc Committees.
327 | However, these Entities must have, at a minimum, mission or goal statements for completion of

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- 328 the task.
- 329 8-3. All by-laws must contain the following Articles:
- 330 a. Article I. Authority.
- 331 b. Article II. Officers
- 332 c. Article III. Meetings
- 333 d. Article IV. Reporting
- 334 e. Article V. Amendments
- 335 8-4. Sub-articles. Articles must be divided into the sub-articles provided below.
- 336 a. "Article I. Authority" is to consist of the following information:
- 337 1. Name. State the full name of the Entity and any short name that will be
- 338 officially used.
- 339 2. Authority. State the name of the creation document and provide the citation
- 340 for such creation document, if any.
- 341 3. Office. Provide the official office or post box of the Entity.
- 342 4. Membership. Provide the following information:
- 343 A. Number of Members;
- 344 B. Whether the Entity is an elected or appointed body and how Members
- 345 are elected or appointed;
- 346 C. How Vacancies are filled
- 347 D. The requisite qualifications for ~~Membership~~membership. provided
- 348 that, at a minimum, Members must:
- 349 i. Be a Tribal Member, an Oneida descendant or an enrolled
- 350 member of another federal recognized Indian tribe; and
- 351 ii. Have a high school diploma, a high school equivalency
- 352 diploma, or a general equivalency diploma.
- 353 E. Causes for termination or removal, if any, in addition to those
- 354 contained under Article 6-5.a. hereof and the Removal Law.
- 355 5. Stipends. Provide a comprehensive list of all Stipends Members are eligible
- 356 to receive and the requirements for collecting each Stipend, if any in addition to
- 357 those contained in this Policy.
- 358 6. Trainings. Provide a comprehensive list of all trainings that the Entity deems
- 359 necessary for Members to responsibly serve the Entity: non-essential training is
- 360 not required to be listed.
- 361 b. "Article II. Officers" is to consist of the following information:
- 362 1. Chair and Vice-Chair. This section creates the positions of the Entity. Other
- 363 positions may also be created here.
- 364 2. Chair duties. Because of the importance of this position, specifically list the
- 365 chairperson's duties and limitations.
- 366 3. Vice-Chair duties. Because of the importance of this position, specifically list
- 367 the vice-chairperson's duties and limitations.
- 368 4. Additional ~~Offices~~Officers and Duties. Include additional sub-articles to
- 369 specifically list duties and limitations for every ~~office~~officer created in sub-
- 370 article 1 above and specifically identify which officers have the authority to sign

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- 371 off on travel on behalf of the Entity.
- 372 5. How chosen. Specifically state how a Member of the Entity will be chosen to
- 373 occupy an officer’s position.
- 374 6. Budgetary Sign-Off Authority. State the Entity’s varying levels of budgetary
- 375 sign-off authority and which Members are authorized to sign-off at each level,
- 376 provided that all sign-off designations must be approved by the Purchasing
- 377 Department.
- 378 6. Personnel. State the Entity’s authority for hiring personnel, if any, and the
- 379 duties of such personnel.
- 380 c. "Article III. Meetings" is to consist of the following information:
- 381 1. Regular meetings. StateIn accordance with the Open Records and Open
- 382 Meetings Law, state when and where regular meetings are to be held, and,
- 383 explain how notice of the meeting, agenda, documents, and minutes will be
- 384 provided. ~~At a minimum, the Entity shall provide public notice of regular~~
- 385 ~~meetings by posting the dates, time and location for all regular meetings once~~
- 386 ~~annually in the Tribe’s newspaper and by submitting the same to the~~
- 387 ~~Intergovernmental Affairs and Communications Department to be included on~~
- 388 ~~the community calendar on the Tribe’s website.~~
- 389 2. Emergency meetings. StateIn accordance with the Open Records and Open
- 390 Meetings Law, state how emergency meetings may be called and must be
- 391 noticed, ~~provided that, at a minimum, the Entity shall provide public notice of~~
- 392 ~~emergency meetings by submitting the date, time and location of the emergency~~
- 393 ~~meeting to the Intergovernmental Affairs and Communications Department to be~~
- 394 ~~included on the community calendar on the Tribe’s website no later than twenty-~~
- 395 ~~four (24) hours prior to the time of the emergency meeting. Further, the, The~~
- 396 ~~Entity shall provide the Secretary’s office with notice of the meeting and the~~
- 397 ~~basis of the emergency based on the following required justification:~~
- 398 “In order to justify holding an emergency meeting, the [insert Entity
- 399 name] must provide the reason for the emergency meeting and why the
- 400 matter cannot wait for a regularly scheduled meeting. The emergency
- 401 meeting must be necessary to maintain order and/or protect public health
- 402 and safety.”
- 403 3. Special meetings. ~~State how special meetings may be called and must be~~
- 404 ~~noticed, provided that, at a minimum, the Entity shall provide public notice of~~
- 405 ~~special meetings by submitting the date, time and location of the special meeting~~
- 406 ~~to the Intergovernmental Affairs and Communications Department to be~~
- 407 ~~included on the community calendar on the Tribe’s website no later than twenty-~~
- 408 ~~four (24) hours prior to the time of the special meeting~~Special meetings are
- 409 meetings that are not scheduled regular meetings, but also do not rise to the level
- 410 of emergency justification required in Article 8-4.c.2. In accordance with the
- 411 Open Records and Open Meetings Law, state how special meetings may be
- 412 called and must be noticed.
- 413 4. Quorum. State how many Members create a quorum, provided that, at a

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- 414 | minimum. Entities shall require a majority of the Entity's current Members to
 415 | create a quorum.
- 416 | 5. Order of Business. Explain how the agenda will be set.
- 417 | 6. Voting. Provide voting requirements, including the requisite percentages for
 418 | passing different items and when, if at all, the chairperson may vote.
- 419 | d. "Article IV. Reporting" is to consist of the following information:
- 420 | 1. Agenda items. Agenda items must be in an identified and consistent format.
- 421 | 2. Minutes and Attachments. Minutes must be typed and in a consistent format
 422 | designed to generate the most informative record of the meetings of the Entity.
- 423 | ~~3. Attachments.~~ Handouts, reports, memoranda, and the like may be attached to
 424 | the minutes and agenda, or may be kept separately, provided that all materials
 425 | can be identified based on the meeting in which they were presented. The Entity
 426 | shall maintain its meeting materials and records in accordance with the Open
 427 | Records and Open Meetings Law.
- 428 | 4. Reporting. Entities shall report to their Oneida Business Committee member
 429 | who is their designated liaison intermittently as the Entity and the liaison agree
 430 | to, but not less than as required in any policy on reporting developed by the
 431 | Oneida Business Committee or Oneida General Tribal Council. Entities shall
 432 | also make quarterly reports to the Oneida Business Committee and annual and
 433 | semi-annual reports to the Oneida General Tribal Council as described below,
 434 | provided that all reports must be approved by official Entity action prior to be
 435 | submitted to the Oneida Business Committee and/or the General Tribal Council:
- 436 | A. Quarterly Reporting:— Entities shall make quarterly reports to the
 437 | Oneida Business Committee based on the reporting schedule created by
 438 | the Secretary, approved by the Oneida Business Committee and posted
 439 | on the Tribe's Nation's website. At a minimum, the quarterly reports must
 440 | contain the following information:
- 441 | i. Names: Provide the name of the Entity, the Member
 442 | submitting the report, and the Oneida Business Committee liaison,
 443 | and a list of the Members and their titles, their term expiration
 444 | dates and contact information.
- 445 | ii. Minutes: Any required updates to meeting minutes previously
 446 | submitted and approved by the Oneida Business Committee
 447 | including any actions that have been taken and were not included
 448 | in the meeting minutes previously approved by the Oneida
 449 | Business Committee. No action or approval of minutes is
 450 | required by the Oneida Business Committee unless specifically
 451 | required by the by-laws of the Entity.
- 452 | iii. Financial Reports: Include if specifically requested by the
 453 | Oneida Business Committee or if required by the Entity's by-
 454 | laws.
- 455 | iv. Special Events and Travel During the Reporting Period:
 456 | Report any special events held during the reporting period and

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- 457 any travel by the Members and/or staff. Travel reports must
458 include the following:
- 459 a. Which Member(s) and/or staff traveled;
 - 460 b. Where the Member(s) and/or staff traveled to and the
461 travel dates;
 - 462 c. The purpose for the travel and a brief explanation of
463 how the travel benefited the TribeNation;
 - 464 d. The cost of the travel and how the cost of the travel
465 was covered by the Entity; and
 - 466 e. Whether the cost of travel was within their budget and,
467 if not, an explanation as to why travel costs were incurred
468 that exceeded the Entity's budget.
- 469 v. Anticipated Travel for the Upcoming Reporting Period: Report
470 any travel Members and/or staff are anticipating in the upcoming
471 reporting period. Future travel reports must include the
472 following:
- 473 a. Which Member(s) and/or staff will to travel;
 - 474 b. Where the Member(s) and/or staff will to travel to and
475 the anticipated travel dates;
 - 476 c. The purpose for the travel and a brief explanation of
477 how the travel will benefit the TribeNation;
 - 478 d. The cost of the travel and how the cost of the travel
479 will be covered by the Entity; and
 - 480 e. Whether the cost of travel is within their budget and, if
481 not, an explanation as to why the Entity anticipates
482 incurring travel costs that exceeds its budget.
- 483 vi. Goals and Accomplishments: Provide the Entity's annual
484 goals established in its annual report pursuant to section Article 8-
485 4.d.4.B.v. and how the Entity has worked towards achieving such
486 goals during the reporting period.
- 487 vii. Meetings: Indicate when and how often the Entity is
488 meeting and whether any emergency and/or special meetings have
489 been held. If emergency and/or special meetings have been held,
490 indicate the basis of the emergency or the reason for the special
491 meeting and topic of the meeting.
- 492 viii. Follow-up: Report on any actions taken in response to
493 Oneida Business Committee Oneida Business Committee and/or
494 General Tribal Council directives, if any.
- 495 B. Annual Reporting: Entities shall make annual reports to the Oneida
496 General Tribal Council based on their activities during the previous fiscal
497 year using the format proscribed by the Secretary. At a minimum, the
498 annual reports must contain the following information:
- 499 i. Names: Provide the name and purpose of the Entity, a list of

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- 500 the Members and their titles and the contact person for the Entity
501 and their contact information including phone number, mailing
502 address, email address, and the Entity’s website.
- 503 ii. Meetings: Provide when meetings held, where they are held,
504 at what time they are held and whether they are open or closed.
- 505 iii. Stipends: Provide the amount of the stipend that is paid per
506 meeting.
- 507 iv. Budget: Provide the Entity’s original budget for the previous
508 fiscal year, what the actual budget expensed was at the close of
509 the fiscal year, and, if not within the Entity’s original budget, an
510 explanation for why the budget was exceeded.
- 511 v. Goals and Accomplishments: Provide up to three (3)
512 accomplishments the Entity achieved in the previous fiscal year
513 and how each accomplishment impacted the Oneida community.
514 Also, provide three (3) strategic goals the Entity will pursue in the
515 new fiscal year.
- 516 vi. Logo and Images: Provide the Entity’s logo that may be
517 included in the report and any other pictures or images that the
518 Entity would like to be considered by Secretary for inclusion in
519 the report.
- 520 vii. Department Reporting: Entities with oversight of a
521 Department shall also provide a report on the Department
522 overseen by the Entity; at a minimum, the report must contain the
523 following information:
- 524 a. Names: Provide the name and purpose of the
525 Department as well as the contact person for the
526 Department and their contact information including
527 phone number, mailing address, email address, and the
528 Department’s website.
- 529 b. Budget: Provide the total budget for the previous
530 fiscal year and the funding sources including Tribal
531 contribution, grants, and other sources. Also provide
532 what the actual budget expensed was at the close of the
533 fiscal year, and, if not within the Department’s original
534 budget, an explanation for why the budget was
535 exceeded.
- 536 c. Employees: Provide how many employees the
537 Department has and how many of those employees are
538 enrolled Tribal members.
- 539 d. Service Base: Provide a brief description of who the
540 Department serves as its service base.
- 541 e. Goals and Accomplishments: Provide up to three (3)
542 accomplishments the Department achieved in the

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- 543 previous fiscal year and how each accomplishment
544 impacted the Oneida community. Also, provide three
545 (3) strategic goals the Department will pursue in the
546 new fiscal year.
- 547 f. Logo and Images: Provide the Department’s logo that
548 may be included in the report and any other pictures or
549 images that the Department would like to be
550 considered by Secretary for inclusion in the report.
- 551 C. Semi-Annual Reporting: Entities shall make semi-annual reports to
552 the Oneida General Tribal Council based on their activities during the
553 current fiscal year using the format proscribed by the Secretary. At a
554 minimum, the annual reports must contain the following information:
- 555 i. Names: Provide the name of the Entity and, if there have been
556 any changes since the annual report, provide an update of the
557 following information:
- 558 a. the purpose of the Entity;
559 b. a list of the Entity’s Members and their titles;
560 c. the contact person for the Entity and their contact
561 information including phone number, mailing address,
562 email address, and the Entity’s website.
- 563 ii. Meetings: If there have been any changes since the annual
564 report, provide an update of when meetings held, where they are
565 held, at what time they are held and whether they are open or
566 closed.
- 567 iii. Stipends: If there have been any changes since the annual
568 report, provide an update of the amount of the stipend that is paid
569 per meeting.
- 570 iv. Goals and Accomplishments: Provide on update on the three
571 (3) strategic goals the Entity named in its annual report.
- 572 v. Logo and Images: Provide any pictures or images that the
573 Entity would like to be considered by Secretary for inclusion in
574 the report and, if the Entity’s logo has changed since the annual
575 report, provide the new logo that may be included in the report.
- 576 vi. Department Reporting: Entities with oversight of a
577 Department shall also provide a report on the Department
578 overseen by the Entity; at a minimum, the report must contain the
579 following information:
- 580 a. Names: Provide the name of the Department and, if
581 there have been any changes since the annual report,
582 provide an update of the Department’s purpose and/or
583 the contact person for the Department and their contact
584 information including phone number, mailing address,
585 email address, and the Department’s website.

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- b. Budget: Provide the total budget for the current fiscal year and the funding sources including Tribal Contribution, grants, and other sources.
 - c. Employees: Provide how many employees the Department has and how many of those employees are enrolled Tribal members.
 - d. Logo and Images: Provide any pictures or images that the Department would like to be considered by Secretary for inclusion in the report and, if the Department's logo has changed since the annual report, provide the new logo that may be included in the report.
 - e. "Article V. Amendments" is to consist of:
 - 1. Amendments to By-laws. Explain how amendments to the by-laws may be initiated by the Entity, provided that, amendments must conform to the requirements of this and any other policy and must be approved by the Oneida Business Committee prior to implementation.

604 **Article IX. Official Oneida E-mail Address Required for all Entity Members Minutes**

605 9-1. Upon election or appointment to an Entity, the Secretary shall work with the Management
606 Information Systems to provide each Entity Member with an official Oneida e-mail address,
607 which, for employees of the Nation, must be a separate e-mail address from his or her work e-
608 mail address. Members shall sign the acknowledgment form provided by the Secretary
609 indicating notice of applicable computer and media related Tribal laws, policies and rules. The
610 Secretary shall maintain a record of all such acknowledgment forms.

611 9-2. Entity Members shall use the official Tribal e-mail address for conducting all electronic
612 business of the Entity. Entity Members may not use any personal e-mail address to conduct any
613 business of the Entity.

614 9-3. Immediately upon receipt of notice of an Entity Vacancy, the Secretary shall instruct the
615 Management Information Systems to disable the e-mail address for the said Member.

616
617
618 **Article X. Minutes⁹**

619 10-1. All minutes must be submitted to the Secretary within a reasonable time after approval by
620 the Entity.

621 10-2. Actions taken by an Entity are valid when minutes are approved, provided that, minutes
622 are filed in accordance with this Article and the Entity's approved by-laws.

623 10-3. No action or approval of minutes is required by the Oneida Business Committee on
624 minutes submitted by an Entity unless specifically required by the by-laws of that Entity.

625 10-4. In the event of dissolution of an Entity, all files and documents are required to be
626 forwarded to the Secretary for proper storage and disposal in accordance with the Open Records
627 and Open Meetings Law.
628

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629 | **Article ~~XXI~~. Dissolution of Entities**

630 | ~~1011~~-1. Entities of the TribeNation may be dissolved according to this Article; however,
631 | additional specific directions may be included in an Entity's by-laws.

632 | ~~1011~~-2. A Task Force or Ad Hoc Committee dissolves upon a set date or acceptance of a final
633 | report. Unless otherwise indicated, the materials generated by a Task Force or Ad Hoc
634 | Committee must be forwarded to the Secretary for proper disposal within two (2) weeks of
635 | dissolution in accordance with the Open Records and Open Meetings Law.

636 | ~~1011~~-3. All other Entities may only be dissolved by motion of the Oneida General Tribal
637 | Council or the Oneida Business Committee, provided that an Entity created by the General
638 | Tribal Council may only be dissolved by a motion of the Oneida General Tribal Council.
639 | Unless otherwise indicated, the materials generated by these Entities must be forwarded to the
640 | Secretary for proper disposal within two (2) weeks of dissolution in accordance with the Open
641 | Records and Open Meetings Law.

642 | ~~1011~~-4. All chairpersons and secretaries of dissolved Entities shall close out open business of
643 | the Entities and forward materials to the Secretary.

644

645 | **Article ~~XIXII~~. Stipends, Reimbursement and Compensation for Service**

646 | ~~1112~~-1. Compensation and reimbursement for expenses must be as set out in this Article and
647 | according to procedures for payment as set out by the TribeNation. For the purpose of this
648 | Article, compensation means payment to a Member in the form of cash or cash equivalent.

649 | ~~1112~~-2. The TribeNation recognizes that persons serving on Entities of the TribeNation incur
650 | some expense. Therefore, ~~the Tribe~~, in order to attract persons to serve on Entities, the Nation
651 | shall pay Stipends to ~~these Entity~~ Members in accordance with this Article, unless otherwise
652 | declined by a Member(s).

653 | 11a. Members are to be paid a maximum of a \$25 stipend for each of the following:

654 | 1. One (1) Member's administration of a rulemaking hearing pursuant to the
655 | Administrative Rulemaking Law;

656 | 2. One (1) Member's attendance at a hearing before the Oneida Judiciary where
657 | attendance is discretionary;

658 | 3. Each Member's attendance at a hearing before the Oneida Judiciary where
659 | multiple Member's attendance is required by official subpoena; and

660 | 4. One Member's attendance at an Oneida Business Committee meeting for the
661 | purpose of representing the Entity's business before the Oneida Business
662 | Committee.

663 | b. Members are to be paid a maximum of a \$50 stipend for hearings administered by
664 | the Entity. For the purposes of this Article, a hearing consists of all functions related to
665 | the resolution of the matter, including, but not limited to, any continuations and decision
666 | drafting.

667 | c. Members are to be paid stipends for attending Entity meetings as provided in
668 | Articles 12-3 through 12-6 below.

669 | d. Members are to be paid stipends for attending Conferences and trainings as provided
670 | in Article 12-7.

671 | 12-3. Meeting Stipends for Members of Appointed Entities. Except as provided in sub-article

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672 | (a) ~~and unless otherwise declined by the Entity, or declined by a Member(s),~~ appointed
673 | Members serving on appointed Entities are to be paid a Stipend of no more than \$50 per month
674 | when at least one (1) meeting is conducted where a quorum has been established in accordance
675 | with the duly adopted by-laws of that Entity. Such meeting must last for at least one (1) hour
676 | and Members collecting Stipends must be present for at least one (1) hour of the meeting.

677 | a. ~~Members serving on the Oneida Child Protective Board are exempt from the \$50~~
678 | ~~Stipend per month limitation and are to receive a \$50 Stipend for each meeting held in~~
679 | ~~accordance with 11-3.~~ Should an Entity require more than one (1) meeting per month and
680 | seek stipends for those additional meetings, the Entity may request an exception from
681 | the one (1) stipend meeting per month requirement from the Oneida Business
682 | Committee, provided that the exception must be approved in advance of the additional
683 | meeting(s).

684 | 11-12-4. Meeting Stipends for Members of Elected Entities. ~~Unless otherwise declined by the~~
685 | ~~Entity, or declined by a Member(s),~~ Members serving on elected Entities are to be paid a
686 | minimum Stipend of \$50 for each meeting which has established a quorum in accordance with
687 | the duly adopted by-laws of that Entity for at least one (1) hour, regardless of the length of the
688 | meeting. Members collecting Stipends shall be present for at least one (1) hour of the meeting,
689 | regardless of the length of the meeting.

690 | 11-12-5. The Oneida Business Committee shall periodically review the amounts provided for
691 | meeting Stipends and, based on the availability of funds, shall adjust those amounts accordingly
692 | by amending this Policy.

693 | 11-12-6. If an Entity, other than the Oneida Gaming Commission, fails to comply with the
694 | requirements of this Policy, the Oneida Business Committee may suspend the Entity's
695 | Members' Stipends with payment of Stipends resuming moving forward once the Entity has
696 | demonstrated to the satisfaction of the Oneida Business Committee that it has attained
697 | compliance herewith.

698 | a. If the Oneida Gaming Commission fails to comply with the requirements of this
699 | Policy in regards to requirements that are not matters governed by the Oneida Nation
700 | Gaming Ordinance, the Oneida Business Committee may impose a fine on any/all
701 | Member(s) found to be in noncompliance with this Policy. The fine must be an amount
702 | of no less than \$50 but not more than \$100. In addition, either in lieu of the fine or in
703 | addition to the fine, the Oneida Business Committee may suspend all employment
704 | benefits that are not essential to the Member's employment requirements as a condition
705 | of gaming licensing, for example, non-essential travel.

706 | 11-12-7. Conferences or Trainings. A Member of any Entity must be reimbursed in accordance
707 | with the Oneida Travel and Expense Policy for travel and per diem to offset the Member's costs
708 | for attending a Conference or training, provided that:

709 | a. A Member is eligible for a \$100 Stipend for each full day the Member is present at
710 | the Conference or training, when attendance at the Conference or training is required by
711 | law, by-law or Oneida Business Committee or General Tribal Council resolution.

712 | b. A Member is not eligible for a Conference or training Stipend if that Conference is
713 | not required by law, by-law or Oneida Business Committee or General Tribal Council
714 | resolution.

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715 c. No Stipend payments may be made for those days spent traveling to and from the
716 Conference or training.

717 ~~11~~12-8. All Members of Entities are eligible for reimbursement for normal business expenses
718 naturally related to membership in the Entity.

719 ~~11~~12-9. Task Force and Ad Hoc Committee Members and Members of subcommittees are not
720 eligible for Stipends unless a specific exception is made by the Oneida Business Committee or
721 the Oneida General Tribal Council.

722

723 **Article ~~XII~~XIII. Confidential Information**

724 ~~12~~13-1. The TribeNation is involved in numerous business ventures and governmental
725 functions where it is necessary that private information be kept in the strictest confidence to
726 assure the continued success and welfare of the TribeNation. It is in the best interest of the
727 TribeNation that all Members maintain all information in a confidential manner, whether of
728 historical, immediate, or future use or need. The TribeNation desires that all Members who
729 have access to the Tribe's Nation's confidential information be subject to specific limitations in
730 order to protect the interest of the TribeNation. It is the intention of the TribeNation that no
731 persons engaged by the TribeNation, nor their relatives or associates, benefit from the use of
732 confidential information.

733 ~~12~~13-2. Confidential information means all information or data, whether printed, written, or
734 oral, concerning business or customers of the TribeNation, disclosed to, acquired by, or
735 generated by Members in confidence at any time during their elected or appointed term or
736 during their employment.

737 ~~12~~13-3. Confidential information must be considered and kept as the private and privileged
738 records of the TribeNation and may not be divulged to any person, firm, corporation, or other
739 entity except by direct written authorization of the Oneida Business Committee.

740 ~~12~~13-4. A Member will continue to treat as private and privileged any confidential information,
741 and will not release any such information to any person, firm, corporation, or other entity, either
742 by statement, deposition, or as a witness, except upon direct written authority of Oneida
743 Business Committee, and the TribeNation is entitled to seek an injunction by any competent
744 court to enjoin and restrain the unauthorized disclosure of such information. Such restriction
745 continues after termination of the Member's relationship with the TribeNation and the Entity.

746 ~~12~~13-5. Members shall surrender to the TribeNation, in good condition, all records kept by the
747 Member pertaining to Entity membership upon completion of their term of membership, for any
748 cause whatsoever.

749 ~~12~~13-6. No Member may disclose confidential information acquired by reason of his/her
750 relationship or status with the TribeNation for his/her personal advantage, gain, or profit, or for
751 the advantage, gain, or profit of a relative or associate.

752

753 **Article ~~XIII~~XIV. Conflicts of Interest**

754 *Subpart A. General.*

755 ~~13~~14-1. The TribeNation recognizes the ability of all persons to serve on an Entity. However,
756 it is also recognized that the delegated authority and responsibilities of an Entity may cause
757 conflict with membership on other Entities or employment.

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758 | ~~1314~~-2. The TribeNation shall request all candidates to disclose possible conflicts of interest
759 | prior to election or appointment in order to allow any potential conflicts to be resolved in a
760 | timely manner.

761 | ~~1314~~-3. Members shall disclose and resolve conflicts of interest in a reasonable and timely
762 | manner. Failure to resolve conflicts may result in removal from office from an elected Entity
763 | and may result in termination from an appointed Entity. All applicants shall submit, with the
764 | Application forms, a signed conflict of interest declaration disclosing all known conflicts.

765 | ~~1314~~-4. This Article sets forth specifically prohibited conflicts of interests. However, for any
766 | individual candidate or Member of an Entity, additional conflicts may arise within the by-laws
767 | of that Entity or employment relationships.

768 | ~~1314~~-5. No Member may act as a consultant, agent, representative for, or hold any position as
769 | an officer, director, partner, trustee, or belong as a Member in a board, committee or
770 | commission, or the like without first disclosing such activity to determine possible conflicts of
771 | interest.

772

773 | *Subpart B. Employment Interests.*

774 | ~~1314~~-6. No Member may hold office in an Entity which has authority over the area in which
775 | the Member is employed by the ~~Tribe or elsewhere.~~Nation. The TribeNation recognizes the
776 | ability of all persons to serve on the Nation's ~~Entities of the Tribe~~, but also recognizes the
777 | conflict arising out of membership on an Entity and employment in an area over which the
778 | Entity has authority.

779 | ~~1314~~-7. Employment is defined for this subpart as that area which the employee supervises or
780 | is supervised in regards to a specific subject matter.

781 | ~~1314~~-8. Authority of an Entity is defined for this subpart as that area over which the Entity has
782 | subject matter jurisdiction delegated either by the Oneida Business Committee or the Oneida
783 | General Tribal Council, and for which such authority may be regulatory, oversight, or
784 | otherwise.

785

786 | *Subpart C. Financial Interests, Investments, and Gifts.*

787 | ~~1314~~-9. No Member, or their Immediate Family, may have a financial interest in any
788 | transaction between the Entity and an outside party.

789 | a. For the purposes of this Policy, financial interest means any profit sharing
790 | arrangements, rebates, payments, commissions, or compensation, in any form, and
791 | includes any form of ownership, regardless of ability to control the activities of the
792 | business, provided that, this does not include ownership of shares which, other than in
793 | combination others, cannot exert a controlling influence on the activities of the business
794 | and in relation to the outstanding shares, the ownership of shares represents a small part
795 | of the whole.

796 | ~~1314~~-10. As referred to in this Subpart C, for the purposes of defining conflicts, Entity
797 | includes the programs or enterprises over which the Entity has delegated authority.

798 | ~~1314~~-11. Members shall avoid personal investment in any business with which the TribeNation
799 | has or is expected to have a contractual or other business relationship. Notwithstanding the
800 | foregoing, an investment by a Member in a business with which the TribeNation has dealings is

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801 permissible if the Oneida Business Committee or other delegated authority determines in
802 writing that:

803 a. the investment cannot be considered to have been made on the basis of confidential
804 information; and

805 b. the investment cannot be expected to adversely affect or influence the Member's
806 judgment in the performance of any services or obligations on behalf of the TribeNation.

807 ~~1314~~-12. Members may not use their relationship with the TribeNation to exercise undue
808 influence to obtain anything which is not freely available to all prospective purchasers.

809 ~~1314~~-13. Members may not accept gifts, payments for personal gain, opportunities to invest,
810 opportunities to act as an agent, a consultant, or a representative for actual or potential
811 purchasers, sales sources, contractors, consultants, customers or suppliers, or accept any direct
812 or indirect benefit from any actual or potential purchaser, sales source, contractor, consultant,
813 customer, or supplier.

814 ~~1314~~-14. Members may not accept any gift, entertainment, service, loan, promise of future
815 benefits or payment of any kind which the Oneida Business Committee, or other delegated
816 authority, determines may adversely affect or influence the Members' judgment in the
817 performance of any services, duties, obligations or responsibilities to the TribeNation, or may
818 impair confidence in the TribeNation and the Tribe'sNation's Entities.

819 ~~1314~~-15. Notwithstanding the foregoing, Members may accept or provide business-related
820 meals, entertainment, gifts or favors when the value involved is insignificant and the Oneida
821 Business Committee or other delegated authority has determined that it clearly will not place
822 him or her under any obligation.

823
824 *Subpart D. Competition with the TribeNation.*

825 ~~1314~~-16. Members shall not enter into competition with the TribeNation regarding the purchase
826 or sale of any property, property rights or property interests, without prior consent of the
827 TribeNation.

828 ~~1314~~-17. A Member may enter into competition with the TribeNation when the activity
829 engaged in is approved through an Oneida entrepreneur development program or other similar
830 Oneida program and does not otherwise violate this Policy.

831
832 *Subpart E. Use of the Tribe'sNation's Assets.*

833 ~~1314~~-18. All bank accounts for the Tribe'sNation's funds must be maintained in the name of
834 the TribeNation and will be reflected on the Tribe'sNation's books in accordance with the
835 Generally Accepted Accounting Principles.

836 ~~1314~~-19. Each Member shall comply with the system of internal accounting controls sufficient
837 to provide assurances that:

838 a. all transactions are executed in accordance with management's authorization; and

839 b. access to assets is permitted only in accordance with management's authorization; and

840 c. all transactions are recorded to permit preparation of financial statements in
841 conformity with the Generally Accepted Accounting Principles or other applicable
842 criteria.

843 ~~1314~~-20. Any records created or obtained as a Member of an Entity are the property of the
844 TribeNation and can only be removed or destroyed if approved by the Entity via a majority vote

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845 of a quorum of the Entity at a duly called meeting. All removal or destruction of documents
846 must be conducted in accordance with the Open Records and Open Meetings Law.

847

848 *Subpart F. Disclosure.*

849 ~~13~~14-21. Each Member shall disclose any outside activities or interests that conflict or suggest
850 a potential conflict with the best interests of the TribeNation by completely filling out the
851 Application for membership or informing the Oneida Business Committee or other designated
852 authority after election or appointment of a conflict arising during membership on an Entity.

853

854 *Subpart G. Reporting.*

855 ~~13~~14-22. All conflicts or potential conflicts that arise during membership on an Entity must be
856 immediately reported to the Secretary. Upon receiving information of a potential conflict of
857 interest, the Secretary shall request a determination from the Oneida Law Office whether further
858 action must be taken by the TribeNation regarding the status of the Member.

859 ~~13~~14-23. Any evidence of noncompliance with any Policy regarding the use of the
860 Tribe'sNation's assets must be immediately reported to the internal audit staff. If the internal
861 audit staff finds evidence of noncompliance, they shall notify the Oneida Law Office. The
862 Oneida Business Committee and/or the Oneida Law Office shall then make a determination of
863 further action to be taken, if any.

864

865 *Subpart H. Enforcement and Penalties.*

866 ~~13~~14-24. Members found to be in violation of this Policy may be removed pursuant to the
867 Removal Law, if a Member of an elected Entity, or have their appointment terminated, if a
868 Member of an appointed Entity.

869 a. A Member who has been terminated or removed is ineligible for Appointment or
870 election to any Entity for at least one (1) year from the effective date of the termination or
871 removal.

872 ~~13~~14-25. Candidates for appointment or election to an office found to be in violation of this
873 Policy may be disqualified from taking office.

874

875 *End.*

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Adopted - BC-8-2-95-A
Amended - BC-5-14-97-F
Emergency Amendments - BC-03-06-01-A (expired)
Emergency Amendments - BC-04-12-06-JJ
Emergency Amendments - BC-11-12-09-C
Emergency Amendments Extension - BC-05-12-10-I (expired)
Amended - BC-9-27-06-E (permanent adoption of emergency amendments)
Amended - BC-09-22-10-C
Amended -



Legislative Operating Committee

March 2, 2016

Employment Law

Submission Date: 9/17/14

Public Meeting:
 Emergency Enacted:
 Expires:

LOC Sponsor: Brandon Stevens

Summary: *This item was carried over into the current term by the LOC. The original proposal is for the development of an employment law to replace the current Personnel Policies and Procedures (Previously titled "Personnel Policies and Procedures-Revisions").*

- 9/17/14 LOC:** Motion by Jennifer Webster to add the Employment Law to the Active Files List, with Brandon Stevens as the sponsor; seconded by Tehassi Hill. Motion carried unanimously.
- 10/8/14 OBC:** Motion by Lisa Summers to accept the Legislative Operating Committee update with the following answers: 4) With regard to the Personnel Commission legislation, the Business Committee agrees that the Employment Law should continue forward and shall include consideration regarding how the Personnel Commission and/or their processes are incorporated into the Employment Law legislation; seconded by Trish King. Motion carried unanimously.
- 5/6/15 LOC:** Motion by Jennifer Webster to defer the Employment Law to a Legislative Operating Committee work meeting; seconded by Fawn Billie. Motion carried unanimously.
- 6/15/15:** Work meeting held. Attendees include Brandon Stevens, David Jordan, Matthew Denny, Gina Buenrostro, Don White, Yvonne Jordan, Lynn Franzmeier, Candice Skenandore, Douglass McIntyre, Krystal John.
- 10/5/15 LOC:** Work meeting held. Attendees include Brandon Stevens, David Jordan, Jennifer Webster, Danelle Wilson, Rhiannon Metoxen, Nick Reynolds, Krystal John, and Candice Skenandore.
- 10/8/15 OBC:** Work meeting held. Attendees include Brandon Stevens, David Jordan, Jennifer Webster, Melinda Danforth, Trish King, Tehassi Hill, Jessica Wallenfang, Mitzi Kopetsky, Nathan King, Apache Danforth, Rhiannon Metoxen, Danelle Wilson, Leyne Orosco, and Krystal John.
- 11/18/15:** Gaming Supervisory Advisor Panel held. Attendees include Brandon Stevens, Krystal John, Frank Cornelius, Robert Sundquist, Louise Cornelius, Lisa Duff, Georgianna Mielke, Donna Smith, Luke Schwab, Donald Solecki, Gabrielle Metoxen, Michelle Schneider, Martin Prevost and Laura Laitinen-Warren.
- 11/19/15:** Gaming Management Advisory Panel held. Attendees include Brandon Stevens, Krystal John, Frank Cornelius, Andrew Doxtator, Cherice Santiago, Fawn Teller, Julie Clark, Larae Gower, Shelly Stevens, Jacqueline Smith, Jay Rasmussen, Laura Laitinen-Warren, Michelle Schneider, Travis Cottrell, Louise Cornelius, Jessalyn Marvath, Brenda Mendolla-Buckley, Lucy Neville, David Emerson, Gabrielle Metoxen and Lambert Metoxen.

- 11/30/15:** Work meeting held. Attendees include Brandon Stevens, Geraldine Danforth, Wendy Alvarez, Lucy Neville, Matt Denny, Marianne Close and Krystal John.
- 12/3/15:** Work meeting held. Attendees include Brandon Stevens, Geraldine Danforth, Lucy Neville, Marianne Close, Matt Denny, Wendy Alvarez and Krystal John.
- 12/22/15:** Work meeting held. Attendees include Geraldine Danforth, Wendy Alvarez, Lucy Neville, Matt Denny, Marianne Close and Krystal John.
- 1/6/16:** Work meeting held. Attendees include Brandon Stevens, Geraldine Danforth, Lucy Neville, Marianne Close, Matt Denny, Wendy Alvarez and Krystal John.
- 1/8/16:** Work meeting held. Attendees include Geraldine Danforth, Lucy Neville, Marianne Close, Matt Denny, Wendy Alvarez and Krystal John.
- 2/1/16:** Work meeting held. Attendees include Geraldine Danforth, Lucy Neville, Marianne Close, Matt Denny, Wendy Alvarez and Krystal John.
- 2/8/16:** Work meeting held. Attendees include Brandon Stevens, Rhiannon Metoxen, Geraldine Danforth, Lucy Neville, Marianne Close, Matt Denny, Wendy Alvarez, Krystal John and Maureen Perkins.
- 2/15/16:** Work meeting held. Attendees include Lorena Metoxen, Larry Smith, Donna Smith, Larae Gower, Matt Denny, Geraldine Danforth and Krystal John.
- 2/17/16:** Employment Law information meeting for managers and supervisors held at Skenandoah.
- 2/18/16:** Employment Law information meeting for managers and supervisors held at Skenandoah.
- 2/22/16:** Employment Law information meeting for employees held at Skenandoah.
- 2/25/16:** Employment Law information meeting for employees held at Skenandoah.
- 2/26/16:** Work meeting held. Attendees include Brandon Stevens, Geraldine Danforth, Matt Denny, Lucy Neville, Maureen Perkins and Krystal John.

- **Next Steps:** Accept the legislative analysis and approve the public meeting packet setting the public meeting date for March 31, 2016.

PUBLIC MEETING

TO BE HELD

March 31, 2016 at 12:15 p.m.

IN THE

OBC CONFERENCE ROOM

(2nd FLOOR—NORBERT HILL CENTER)

In accordance with the Legislative Procedures Act, the Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal.

TOPIC: EMPLOYMENT LAW

This is a proposal for a new Tribal law which would:

- ◆ Replace the current Personnel Policies and Procedures;
- ◆ Provide a fair, consistent and efficient structure to govern all employment matters;
- ◆ Streamline current processes to reduce cost, time and resources;
- ◆ Provide the framework for Employment matters with the detailed content currently contained in the Personnel Policies and Procedures being delegated to HRD in the form of rules HRD shall create pursuant to the Administrative Rulemaking Law;
- ◆ Allow tribal entities the latitude to adjust certain employment practices to best fit their individual entities;
- ◆ Dissolve the Personnel Commission and redirect its currently assigned duties; the Oneida Judiciary will absorb the hearing body authority and the duties related to hiring process are transferred to HRD.

To obtain copies of the Public Meeting documents for this proposal, or to learn about the LOC public meeting process, please visit www.oneida-nsn.gov/Register/PublicMeetings or contact the Legislative Reference Office.

PUBLIC COMMENT PERIOD OPEN UNTIL APRIL 7, 2016

During the Public Comment Period, all interested persons may submit written comments and/or a transcript of any testimony/spoken comments made during the Public Meeting. These may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person (Second floor, Norbert Hill Center) or by U.S. mail, interoffice mail, e-mail or fax.

Legislative Reference Office
PO Box 365 Oneida, WI 54155
LOC@oneidation.org
Phone: (920) 869-4376 or (800) 236-2214
Fax: (920) 869-4040



Employment Law

Handout 3/2/16 Draft 1 to Draft 15

<i>Analysis by the Legislative Reference Office</i>					
Title	Employment Law (Law)				
Requester	OBC Directive	Drafter	Krystal L. John	Analyst	Maureen Perkins
Reason for Request	To develop an employment law to replace the Personnel Policies and Procedures (PPP), also known as the blue book.				
Purpose	To provide a fair, consistent and efficient structure to govern all employment matters [See 300.1-1].				
Authorized/Affected Entities	Human Resources Department (HRD), current and future Tribal employees, Tribal Entities, Supervisors, Reviewing Supervisors, Oneida Business Committee (OBC)				
Due Process	Reviewing Supervisor and/or Judiciary [See 300.10].				
Related Legislation	Anonymous Letters Policy, Lay Off Policy, Furlough Policy, Conflict of Interest Policy, Drug and Alcohol Free Workplace				
Enforcement	Corrective Action including verbal & written warnings, suspension and/or termination [See 300.3-1 (c)].				

Overview

This is a new Law that will replace the current Personnel Policies and Procedures. The Law provides a fair, consistent and efficient structure to govern all employment matters. The Law streamlines current processes to reduce cost, time and resources. The Law contains the framework and much of the detailed content of the current Policies and Procedures have moved to the Handbook. The GTC retains authority to amend or repeal the law. Under the Administrative Rulemaking Law, the HRD would have the authority to amend the Handbook with OBC approval. The Law dissolves the Personnel Commission and redirects the duties currently assigned. Hearing Body Authority will move to Oneida Judiciary and the duties within the hiring process will move to HRD.

- Dissolves Personnel Commission moving duties to HRD.
- Oneida Judiciary will hear appeals.
- Change to at-will employment for all temporary and probationary employees.
- Temporary employees no longer receive holiday pay.
- Funeral Leave for immediate family has increased to five (5) days and is non-discretionary.

Repealed Resolutions

- (a) The Oneida Tribal Management System and amendments to the Tribal Management System, including the Personnel Policies and Procedures adopted by the Oneida Business Committee on May 7, 1985;
- (b) BC Resolution BC-05-11-11-A entitled Establish Tuberculosis Control Program;
 - The TB program appears in the Law [see 300.5-5 (a)].
- (c) The Employee Protection Policy adopted by emergency pursuant to BC-4-20-95-B, permanently adopted pursuant to BC-12-6-95-B and subsequently amended pursuant to BC-1-20-99-B and BC-6-30-04-J;

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- Employee Protection appears in the Handbook [see XIV 14-1 to 14-3].
- (d) The GED Policy approved by the Oneida Business Committee on October 21, 1992;
 - GED Policy appears in the Law [see 300.5-4] and the Handbook [see 4-3(b)].
- (e) BC Resolution BC-07-22-09-B entitled Oneida Nation Veterans Affairs Committee, Paid Time Off for Selected Color Guard Members Who Are Employees;
 - Included in the Handbook [see 9-8].
- (f) The Parent Leave Policy adopted pursuant to BC-03-02-94-A;
 - Parent leave is included in the Handbook [see 9-6].
- (g) BC Resolution 04-05-95-A regarding a paid break for donating blood at a blood drive coordinated by the Nation;
 - Paid blood donation break appears in the Handbook [8-1(d)].
- (h) BC Resolution 05-12-93-J regarding HRD’s role in the interpretation, implementation and enforcement of the Personnel, Policies and Procedures;
 - HRD’s role and responsibilities are included in the law [see 300.4].
- (j) GTC Resolution 05-23-11-A entitled Personnel Policies and Procedures Amendments to Strengthen Indian Preference in Hiring.
 - Some of the content of this resolution appears in the Law and Handbook, some of the content has changed.

Proposed Amendments

Current Policies and Procedures Section II Recruiting

- Repeal GTC Resolution 5-23-11-A
- Change policy regarding labor pools
- Remove Limited Term Employment
- Temporary employees are at-will with no appeal rights.
- Temporary employees no longer receive holiday pay.

Current Policies and Procedures	Proposed Law	Analysis
Section II Recruiting		
1. Recruiting Strategy	Removed	
2. Applicant Pool	Removed	

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Current Policies and Procedures	Proposed Law	Resolutions	Analysis
Section II B Labor Pools 3. ...All qualified applicants will then be placed in a pool according to the Tribe's Oneida and Indian Preference Policy and the date the application was received. All applicants will be notified of acceptance into or rejection from the pool.	Handbook 5.7 (1) Work with a Hiring Representative to interview, pursuant to Article 5-8, and rank, pursuant to Article 5-9, each applicant in the labor pool. When all interviews and rankings of the labor pool are complete, the Supervisor shall make a selection pursuant to Article 5-10; or	GTC Resolution 5-23-11-A Personnel Policies and Procedures Amendments to Strengthen Indian Preference in Hiring: "...requiring that all Labor Pool Positions will be considered based, first on Indian Preference and second, on the date the application was received would also increase the number of Tribal members who are	Indian Preference still applies to Labor Pools. This Law requests GTC to repeal GTC Resolution 5-23-11-A and changes the policy removing the date the application was received as a place in the pool.

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		employed by the Tribe".	
Emergency Temporary Positions			
Limited Term Employee	Removed. The supervisor still has discretion to hire an employee through contract.	BC approval 8-4-93	This is a policy call the LOC may accept.
e. Temporary employees will be paid within the Grade in which the job is classified and salary will be negotiated within the first three (3) steps of respective grade. 1. Any negotiated salary beyond step three will require written justification and approval from the respective General Manager.	Handbook 5-11. Hiring Negotiations. The supervisor shall review the Wage and Salary charts created by HRD pursuant to Article 7-1(a) and shall determine the Wage or Salary to offer the applicant, which must be approved by HRD to ensure procedural compliance with Article 7-1(b). Should the supervisor seek to deviate from the standard Grade placement, HRD must approve the selected Wage or Salary.		The final wage negotiation has moved from the General Manager to HRD.
g. Temporary employees that are terminated due to documented cause will have the right to the appeal process as outlined in the personnel policies and procedures.	5-18. At-Will Employees. (i) At-will Employees may be terminated at any time, for any reason, provided that, if the at-will Employee has not demonstrated behavior related issues but is not a good fit for the position, the supervisor shall separate, not terminate, the at-will Employee. (j) At-will employees, excluding political appointees that are hired through the normal hiring process, do not have access to the grievance process provided in Article 13.		Change to at-will employment for temporary employees. Temporary employees can be let go at any time and do not have access to appeal process.
4. Benefits ET...eligible for benefits as defined in this section of the Personnel Policies and Procedures as Mandatory Benefits and Holiday pay.	7-11. Paid Holidays. (a) The following employees are not eligible for paid holidays: (1) Temporary at-will employees;		Temporary employees no longer receive Holiday pay.

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Current Policies and Procedures Section III Selection Policy

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- Hiring Philosophy condensed.
- Oneida and Indian Preference changed for descendants per GTC resolution and BC action.
- Step relationships added to nepotism and conflict of interest.
- Electronic submission of applications added.
- Initial posting for Oneida applicants only has been removed; Oneida and Indian Preference are now in the selection process.
- Selection has changed from the top two to the top three.
- Interim transfers have been reduced to a maximum of one year.
- Change in the transfer process.
- Employees separated or terminated during probationary period no longer receive credit for accrued personal time off.

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Current Policies and Procedures	Proposed Law	Analysis
<p>A. ONEIDA PREFERENCE AND INDIAN PREFERENCE POLICY STATEMENT</p> <p>“...As a sovereign Indian Tribe and a unique cultural group, the Oneida Tribe has determined that a highly desirable employment characteristic is a knowledge of Oneida culture that can be attained only by membership (or eligibility for membership) in the Oneida Tribe. Further, the Tribe recognizes the unique, shared culture of Native American Indians and has determined that a desirable employment characteristic is status as a member of an American Indian tribe. At a minimum, the Tribe has determined that some knowledge of Indian culture is a desirable employment characteristic...”</p>	<p>Hiring Philosophy</p> <p>300.5-1. Hiring Philosophy. The Nation shall recruit, hire, retain and develop individuals who are culturally respectful, professionally competent and familiar with the Oneida community.</p>	<p>Condensed. See Oneida and Indian Preference section for additional detail.</p>

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Current Policies and Procedures	Proposed Law	Resolution	Analysis
<p>Priorities of Indian Preference</p> <ol style="list-style-type: none"> 1. Enrolled Oneida Tribal member; 2. Oneida Indians eligible for enrollment in the Oneida Tribe; 3. Documented first generation Oneida descendant; 4. Other Native American Indian; 5. Other (non-Indian). 	<p>300.5-3. Oneida and Indian Preference. The Nation shall apply Oneida and Indian Preference to all hiring practices.</p> <p>(a) Unless otherwise prohibited by law or grant funding requirements, the Nation shall apply the following order of Oneida and Indian Preference in staffing decisions:</p> <ol style="list-style-type: none"> (1) Persons who are tribal members. (2) Persons who meet the blood quantum requirements contained in the Membership Ordinance, but are not currently tribal members, and/or persons who are documented first generation descendants of a tribal member. (3) Persons enrolled in any federally recognized tribe other than this Nation. (4) All other non-Indian persons. <p>(b) If a law or grant funding requirement prohibits the application of Oneida and Indian Preference in accordance with 300.5-3(a), the Nation shall make staffing decisions in accordance with the Indian Preference requirements of the said law or grant.</p> <p>(c) Oneida and Indian Preference applies only when an applicant meets all the minimum requirements of the position applied for.</p> <p>(d) Oneida-Only Positions. To the extent possible, all top administrative and political appointee positions must be held by tribal members.¹ If a position requires specific skills and/or licensing by the state or federal government and there are no available tribal members who possess the necessary skills or licensing to assume the vacancy, only then may a non-tribal member be selected to fill the vacancy.</p>	<p>GTC Resolution 5-23-11-A Personnel Policies and Procedures Amendments to Strengthen Indian Preference in Hiring</p>	<p>Change in preference for descendants per BC work meeting 10/8/15 and GTC Resolution.</p>

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Current Policies and Procedures	Proposed Law	Analysis
B. HIRING PROCEDURE		
1. Statement of Policy	Removed	

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e. Conflict of Interest and Nepotism	Step relationships added	
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2. Hiring Procedures b. Personnel Commission	Removed	
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4. Job Descriptions	Detail removed	
d. Applications	Detail removed	
3) Application Deadline	Mailed application removed Electronic submission added	
4) All applications will be acknowledged.	Removed	

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Current Policies and Procedures	Proposed Law	Resolutions	Analysis
e. Advertising 2) Unless otherwise prohibited by external grant source or federal law, the first posting for a position vacancy shall be limited to enrolled Oneida members and shall be posted for a minimum of seven (7) calendar days.	Handbook 5-3. Posting Vacancies. (a) New Positions. All new positions, excluding those intended to be filled with an At-Will Employee, must simultaneously be posted internally and externally for a minimum of seven (7) days. 5-10. Selection. (a) When all interviews have been conducted, if applicable, the supervisor shall select an applicant for the position based on the following, provided that if there are two (2) or more qualified and eligible Oneida applicants, one (1) of the Oneida applicants must be selected:	GTC Resolution 5-23-11-A Personnel Policies and Procedures Amendments to Strengthen Indian Preference in Hiring: “...Initially posting all vacant positions as “Oneida Only” would increase the number of Tribal members who are employed by the Tribe”.	All postings are now completed at one time; there is no initial review of Oneida applicants. Oneida preference has moved to the selection process. This Law requests GTC to repeal GTC Resolution 5-23-11-A. LOC may consider incorporating GTC directive into Proposed Handbook or repeal the GTC Resolution 5-23-11-A.

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Current Policies and Procedures	Proposed Law	Analysis
f. Screening of Applicants 2) The HRD Office shall notify screened out applicants within five (5) working days after the initial screening and reserve these applications in the general recruiting pool.	Removed	
h. Selection 1) The supervisor shall select one of the top two (2) candidates as ranked through the rating scale.	Handbook 5-10. Selection. All hiring decisions must adhere to the Oneida and Indian preference policy as contained in the Employment Law. (a) The Hiring Representative shall provide the supervisor(s) with the top three (3) ranked applicants.	Selection has changed from the top two to the top three ranked applicants. Oneida and Indian Preference apply.

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Current Policies and Procedures	Proposed Law	Analysis
<p>C. TRANSFERS AND PROMOTIONS POLICY Procedure a. Internal Posting and Bidding 1) Open positions as determined by a supervisor and his/her Area Manager will be posted internally for five (5) working days. This internal posting will be concurrent with the external (public) posting of positions. 2) Tribal employees may bid for transfers by notifying their immediate supervisor and submitting an Application Form to the HRD Office. a) The HRD Manager will inform all affected Area Managers of each transfer bid. 3) At the end of the five day internal posting period, the HRD Manager will schedule a conference with the open position's supervisor and the Area Manager. a) The conference committee will consist of the supervisor, the Area Manager and the HRD Manager (or designate) acting as this Committee will: i. Establish selection criteria; and ii. Review each bid. b) The Committee may select the best-qualified applicant but is not required to choose an applicant to fill the open position from those employees who have submitted an application for a transfer or promotion. c) If the Committee does not fill the position from the transfer/promotion process, the process will continue</p>	<p>Handbook 5-2. Approval Process for Posting Employment Vacancies. (2) Interim transfers may be requested in six (6) months increments, provided that transfers for positions that require posting prior to being filled on an interim basis may not exceed one (1) year. 5-14. Career Ladders: Student Internships and Promotions. (a) Promotions. Supervisors may reward an employee's performance achievements by promoting the employee. 5-15. Employee Transfers. Employee transfers must be approved by HRD for procedural compliance and by the prospective transfer's employee supervisor and reviewing supervisor. (a) Upon approval of a transfer, the employee's current employee supervisor and prospective employee supervisor shall discuss and agree upon a transition plan for the employee which will allow the current employee supervisor adequate time to respond to the newly vacant position. Unless otherwise agreed to by the employee and the supervisors, all transfers must be complete within forty-five (45) days of the date notice of the transfer was provided to the employee's current employee supervisor. (b) Employees become eligible to transfer within their entity after achieving six (6) months of continuous employment with the Nation and are eligible to transfer organization-wide after achieving one (1) year of continuous employment with the Nation. (c) Transferring employees are not subject to an additional probationary period, but are subject to the evaluation requirements for probationary employees as provided in Article 5-13(d).</p>	<p>Current Tribe Wide SOP: Interim transfers are up to two (2) years. Proposed interim capped at one (1) year. The initial five (5) day posting for transfers has been removed. Transfers can be considered at any time in the posting and selection process. Positions can be posted internally first to consider transfers at the supervisor's discretion. Positions may also be posted both internally and externally at the supervisor's discretion. The process to apply for a transfer and the detail regarding transfers being considered prior to all other applicants is not included in the Handbook. The length of employment to be considered for transfer has remained at one year external to the employee's department and changed from one year to six months internally within employee's department. Transfers for medical reasons are not mentioned in the Law or Handbook. The probationary period for transfers has been removed but the evaluation period has remained.</p>

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<p>through the full advertising, screening and interview steps.</p> <p>c) An employee must have completed one year of service to the Tribe before being eligible for a promotion or transfer (requests for transfers for documented medical conditions will be handled on a case by case basis and only when in the best interests of both the employee and the Tribe);</p> <p>d) The newly transferred or promoted employee shall be require to complete a three (3) month probation period (all conditions of the Tribe's Probation Policy shall apply).</p>		
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Current Policies and Procedures	Proposed Law	Analysis
D. Probation		
<p>3. Completion of Probation Period</p> <p>b. Employees who are terminated during the probation period will receive credit for accrued vacation/personal days in their final paycheck.</p>	<p>(a) Employees accrue paid time off during their probationary period. An Employee may not use or, in the event of Separation or termination, be paid out for any accrued paid time off until the Employee has successfully completed his or her probationary period, except that Employees whose probation period is extended may begin using accrued paid time off beginning after the close of the initial ninety (90) probation period.</p>	<p>Employees separated or terminated during probationary period no longer receive credit for accrued personal time.</p> <p>Employees may not use accrued PTO until after their initial 90 day probationary period.</p>

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Current Policies and Procedures Section IV Compensation and Benefits

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- Change in notice to supervisor for PTO for unforeseen circumstances.

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- Change from PTO taken without 24 hour notice limited to 6 occurrences in a 12 month period after which a corrective action may be initiated.

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- A 12th floater holiday was added.

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- Change in personal and vacation time combined into Personal Time Off (PTO) without a change in the number of hours. Change from days off to hours off.

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- Change from meeting attendance to speaker responsibilities with a change in the amount of compensation an employee can keep.

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- Funeral leave has changed.

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- Change in leaves of absence to personal leave.

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- Change in maternity leave to include paternity leave.

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- Change in accruals for military leave.

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<p>2. Workday b. 2) In case of an unavoidable delay or absence, the supervisor must be notified no later than thirty (30) minutes after the scheduled starting time. Employees are encouraged to notify their supervisor before their scheduled starting time. a) Employees failing to report to their assigned jobs or failing to call in within the thirty (30) minute time allowed will be subject to disciplinary action.</p>	<p>Handbook 8-1. Business Day. (h) In the case of an illness or unforeseen circumstances, an employee must notify his or her employee supervisor that he or she will be absent no less than fifteen (15) minutes prior to the employee’s scheduled starting time. Employees may use PTO based the reduced notice requirements in this Article a maximum of six (6) occurrences in twelve (12) month period. (i) Entities may develop their own standard operation procedures that deviate from the requirements contained in sub-Articles (g) and (h), provided that, in regards to sub-Article (h), Entities may not provide Employees with less than six (6) occurrences to request PTO using the reduced notice requirements and may not require greater than two (2) hours of notice. Such standard operating procedures may include blackout dates deemed critical to business during which no PTO may be taken regardless of whether it is proposed to be taken pursuant to sub-Article (g) or (h) above.</p>	<p>Change from required notice to supervisor 30 minutes after to a minimum of 15 minutes before scheduled work start time. Entities may develop their own standard operating procedure to require increased notice. Employees are entitled to six (6) occurrences of reduced notice PTO in a twelve (12) month period.</p>
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Current Policies and Procedures	Proposed Law	Analysis
<p>4. Holidays. a. Tribal holidays consist of the following: 1) One-half day Christmas Eve 2) Christmas Day 3) New Year's Day 4) Memorial Day 5) Veteran's Day 6) Independence Day 7) Labor Day 8) Thanksgiving Day 9) Indian Day (day after Thanksgiving) 10) One-half day Good Friday 11) Code Talkers Day (National Oneida Day) (Friday prior to Memorial Day)</p>	<p>7-11. Paid Holidays. (a). The Nation observes the following paid holidays: (1) New Year’s Day; (2) Good Friday (half day); (3) Oneida Code Talkers Day (observed the Friday prior to Memorial Day); (4) Memorial Day; (5) Independence Day; (6) Labor Day; (7) Veteran’s Day; (8) Thanksgiving Day; (9) Indian Day (observed the day after Thanksgiving); (10) Christmas Eve (half day); (11) Christmas Day; and (12) Possibly a floater holiday. (A) Employees of an entity that does not operate under the Nation’s standard business day may, if approved by his or her employee supervisor, substitute one (1) of the above holidays for a holiday not listed (i.e. Cinco de Mayo, Hanukah, etc.). (B) Prior to offering employees a floating holiday, the entity shall create a standard operating procedure to govern the approval process for such requests and the standard operating procedure must be submitted to and approved by HRD.</p>	<p>A 12th floater holiday was added to the list of paid holidays.</p>

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Current Policies and Procedures	Proposed Law	Analysis
<p>5. Vacation/Personal Days c. Except as provided for in section g, the accrual of personal days shall be as follows: 1) 0-3 years service - 6 days per year; 2) 4-7 years service - 8 days per year; 3) 8-14 years service - 10 days per year; 4) 15 + years service - 12 days per year; d. Except as provided for in section g, the accrual of vacation days shall be as follows,; 1) 0-3 years service - 12 days per year; 2) 4-7 years service - 15 days per year; 3) 8-14 years service - 20 days per year; 4) 15 + years service - 25 days per year.</p>	<p>Handbook 7-12. Paid Time Off (PTO). Employees accrue PTO based on years of continuous service, provided that temporary employees are not eligible to accrue PTO. (a) PTO accrual rates for full-time employees are as follows: (1) 0-3 years of service – 144 hours annually (2) 4-7 years of service – 184 hours annually (3) 8-15 years of service – 240 hours annually (4) 16 + years of service – 296 hours annually</p>	<p>Personal and vacation combined into paid time off. Accruals remain the same. Days have been calculated at 8 hours each.</p>

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<p>1) Employees who have used the Tribally-sponsored loan program will be required to honor the terms of the loan agreement.</p>	<p>Removed</p>	
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<p>D. Leaves 1. Meeting Attendance a) Approval for attending any meetings inside normal working hours must be approved in advance by the employee's immediate supervisor. <u>(BC Action, 5-16-89)</u> b) Employees who receive stipends or honoraria in excess of \$50.00 for attending meetings during working hours will forfeit the amount in excess of \$50.00 from their regular paycheck. Stipends for travel or per diem will not be deducted if accompanied by receipts for such expenses. c) Stipends or honoraria for intra-tribal meetings during normal working hours will result in the employee's paycheck being reduced by the full amount of the stipend.</p>	<p>Handbook 7-8. Speaker and/or Presenter Compensation. An employee whom is offered compensation by a third party for participating in an event as a speaker and/or presenter as related to his or her position's duties must either: (a) Request paid time off to attend the event for which the employee will speak and/or present and keep the compensation offered by the third party; or (b) Collect his or her normal compensation from the Nation for the time spent speaking and/or presenting as related to his or position's duties and forward the compensation provided by the third party to the Nation's Accounting Department to be added to the employee's entity's budget as income. (c) Employees receiving compensation, including gifts and gift cards, equal or less than fifty dollars (\$50.00) in value are exempt from this requirement.</p>	<p>Change from meeting attendance to speaker and/or presenter compensation. Compensation received in excess of \$50.00 will be forfeited if earned during working hours.</p>
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Current Policies and Procedures	Proposed Law	Analysis
<p>2. Funeral Leave a) All regular employees will be given a three (3) day leave without loss of pay for funeral services for immediate family. Immediate family includes:</p>	<p>Handbook 9-5. Funeral/Bereavement Leave. (a) An employee may take up to five (5) days of paid funeral/bereavement leave for the death of an immediate family member, which the employee supervisor may not deny. An employee that is primarily responsible for</p>	<p>Funeral leave has been increased from three (3) to five (5) days for the loss of an immediate family member and this leave is not discretionary. Five (5) days of discretionary leave is</p>

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<p>Husband, Mother, Brother, Wife, Father, Sister, Mother-in-law, Son, Grandparent, Father-in-law, Daughter, Grandchild, b) Three (3) day leave for other persons will be given only if the employee is responsible for making funeral arrangements, subject to prior approval of supervisor. c) All other funeral leave will be limited to no more than one (1) day with pay subject to the notification and approval of the immediate supervisor.</p>	<p>making funeral arrangements for the death of someone outside of his or her immediate family may also take up to five (5) days of paid funeral/bereavement leave, provided that such leave is at the discretion of his or her employee supervisor.</p> <p>(1) Persons primarily responsible for making funeral arrangements are those responsible for making major decisions including, but not limited to, the place of the service, the date and time of the services, the type of service and/or burial.</p> <p>(2) The five (5) days of paid funeral/bereavement leave is not required to be taken consecutively and may be split into different work weeks to the extent that it is related to funeral services.</p> <p>(b) An employee, excluding at-will employees, may, at the employee supervisor's discretion, take up to three (3) additional days of unpaid funeral/bereavement leave if the employee is assisting with funeral arrangements, which may include but are not limited to, being a fire-keeper, coordinating meals, or being a pall-bearer, speaker or singer.</p> <p>(c) An employee may take up to three (3) paid hours of funeral/bereavement leave for the death of someone outside of his or her immediate family, provided that his or her employee supervisor must approve such leave.</p>	<p>available for those who are responsible for funeral arrangements outside of the immediate family.</p> <p>Immediate family has been extended to immediate step-relationships.</p> <p>Three (3) days of funeral unpaid leave is extended to individuals assisting with funeral arrangements (being a fire-keeper, coordinating meals, or being a pall-bearer, speaker or singer).</p> <p>Three (3) hours are available for employees for the death of someone outside of the immediate family.</p>
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Current Policies and Procedures	Proposed Law	Analysis
<p>3. Leave of Absence 3) No later than fifteen (15) working days prior to the expiration of the leave period the employee must give notice in writing of his/her intent to return to the position. Notice must be presented to the supervisor. i. Failure to provide written notice will be interpreted to mean that the employee does not intend to return following the leave. The position will be posted and filled through the selection process.</p>	<p>Handbook 9-2. Personal Leaves. (a) So long as an employee is able to return to work following a personal leave, his or her job must be made available upon return, unless a business need of the Nation has eliminated the position, in which case the employee must be placed within the closest comparable and available position for which the employee is eligible. (b) If an employee is not able to return to work following a personal leave, he or she must be separated.</p>	<p>Leaves of absence have been changed to personal leaves.</p> <p>The 15 day notice to return from a leave does not appear in the Handbook.</p>

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<p>4. Maternity Leave a. Maternity leave will be granted for a period of six (6) weeks without pay. 1) An employee may elect to cover any portion of this time by using accumulated sick days. 2) Any maternity-related absences for longer than six (6) weeks must be taken as a medical leave of absence.</p>	<p>9-3. Maternity and Paternity Leave. Employees, both male and female, are eligible for six (6) weeks of unpaid maternity/paternity leave for the birth and/or adoption of the employee’s child. (a) An employee may elect to use accrued PTO to cover any portion of this six (6) week period. (b) Any maternity/paternity related absence for a period of longer than six (6) weeks must be taken as either FML or personal leave, with guidance provided by HRD.</p>	<p>Paternity leave was added making the leave applicable to women and men. Adoption was added to this leave.</p>
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<p>5. Military Leave Time off for inactive duty training, examinations to determine fitness for duty and funeral honors duty shall be afforded to employees without the accumulation or loss of holiday, vacation or personal time. An employee will receive pay from the Tribe for any hours work that the employee was required to miss due to reservist training.</p>	<p>9-4. Military Leave. (b) Leave for inactive duty training, examinations to determine fitness for duty and funeral honors duty is afforded to employees and during such leave employees will continue to accrue PTO and to be eligible for holiday pay. Further, the Nation shall pay employees for any absences attributed to required reservist training, provided that; the employee shall provide documentation from the military of such training dates.</p>	<p>Personal time off has changed for military leave. Employees on leave for inactive duty will accumulate personal time off and holiday pay.</p>
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Current Policies and Procedures Section V Employee Relations

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- Employees will no longer be placed on probation for unsatisfactory evaluations.

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- Career development has been eliminated.

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- The formal complaint process has been eliminated.

Current Policies and Procedures	Proposed Law	Analysis
<p>Evaluations 4. Satisfactory evaluations may result in the employee receiving an increase in pay within their grade level provided that the employee has not attained the highest step within the grade. a. Unsatisfactory evaluations will result in probation status for the employee. The supervisor shall provide documentation to the Area Manager and to the employee detailing the deficiency(s). A repeat evaluation will be conducted three (3) months after the unsatisfactory evaluation. This second evaluation will result in the</p>	<p>Handbook 6-1. Annual Performance Evaluations. (e) Employees who receive and disagree with an overall unsatisfactory score for their annual performance evaluation may seek mediation with their employee supervisor at HRD. All employees receiving an overall unsatisfactory score on their annual performance evaluation must be re-evaluated by their employee supervisor within ninety (90) days of their signed annual performance evaluation. (1) During the re-evaluation, the employee supervisor shall follow up on and reassess the employee development plan with the employee. (2) Employee’s receiving a re-evaluation based on an initial unsatisfactory</p>	<p>Employees will now be evaluated on the annual date of hire. Supervisors will receive an email near the time when the employee evaluation is due. The supervisor’s supervisor will be emailed if evaluations are not timely received. 360 evaluations will be implemented.</p>

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<p>employee:</p> <ol style="list-style-type: none"> 1) Being removed from probation and receiving a salary increase if the second evaluation results in an overall satisfactory rating; or 2) Receiving appropriate disciplinary actions if the second evaluation also results in an unsatisfactory rating. 	<p>evaluation, must receive an annual evaluation score that is an average of the initial evaluation score and the re-evaluation score.</p> <p>7-1. Tribal Compensation Plan.</p> <ol style="list-style-type: none"> (1) Merit based increases where a merit based increase is an increase in an employee's compensation based on performance as reflected in the employee's annual performance evaluation; (2) Entities may also independently initiate merit based increases through their annual budgets. Entities must develop and submit to HRD a standard operation procedure for awarding merit based increases. Prior to implementation, merit based increases must be approved by HRD for procedural compliance with the standard operating procedure. 	<p>Regular status employees will no longer be placed on probation for unsatisfactory evaluations.</p> <p>Merit based increases are included in the Tribal Compensation Plan which must be adopted by the Business Committee annually. Merit based increases may also be initiated by the department in the budget with approval of a standardized SOP.</p>
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<p>C. CAREER DEVELOPMENT</p> <ol style="list-style-type: none"> 1. Tribal employees are encouraged to develop their skills and abilities by pursuing education at a local educational institution. <ol style="list-style-type: none"> a. Tribal employees must provide a general Career Development Plan to the supervisor listing the goals and objectives of the training and education to be undertaken. 2. Tribal employees may be eligible for assistance for one (1) course per semester. The employee must attempt to arrange to take the class outside his/her normal working hours. <ol style="list-style-type: none"> a. Where a class conflicts with the employee's work schedule, the needs of the Tribal unit take precedence; however, the supervisor shall attempt to accommodate the employee's request. b. In no case shall the accommodation exceed actual class hours plus reasonable travel time. c. Employees must obtain the approval of their immediate supervisor to take a course on Tribal time. 3. The supervisor's approval and estimated cost must be submitted to the HRD Office, the Area Manager and the General Manager. 4. The cost of the books, tuition and fees for the course shall be paid by the Tribe through funds budgeted in programs or through the Higher Education program. 	<p>Removed</p>	<p>Employees can no longer take classes during work time and the Nation will no longer fund employee education.</p>
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Employment Law

Handout 3/2/16 Draft 1 to Draft 15

<p>a. Reimbursement for books, tuition and fees is contingent upon the employee receiving at least a C (2.0 on a 4.0 point scale).</p> <p>b. Employees who receive less than the required grade point will be required to reimburse the program for whatever costs were incurred.</p>		
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122

Current Policies and Procedures	Proposed Law	Analysis
<p>D. COMPLAINTS, DISCIPLINARY ACTIONS, AND GRIEVANCES</p> <p>1.COMPLAINTS</p> <p>a. Should an employee have a disagreement with another employee, he/she may lodge an informal (verbal) or formal (written) complaint with the employee's supervisor.</p> <p>b. The supervisor will investigate the complaint and attempt to resolve the disagreement.</p> <p>c. If the employee lodging the complaint is dissatisfied with the attempted resolution, he/she may ask the Area Manager to attempt a resolution.</p> <p>d. There is no further appeal of this process.</p>	<p>Removed</p>	<p>The formal complaint process has been removed. Employees can still submit written complaints but there is no process or timelines attached.</p>

123

Current Policies and Procedures	Proposed Law	Analysis
<p>3. Accumulated Disciplinary Actions Warranting Termination</p> <p>a. The accumulation of three (3) upheld warning notices within any twelve (12) month period. (T)</p> <p>b. The accumulation of two (2) upheld suspensions within any twelve (12) month period.(T)</p> <p>c. The accumulation of three (3) of any combination of upheld warning notices and/or upheld suspensions within any twelve (12) month period. (T)</p> <p>5. Disciplinary Procedure</p> <p>The following procedure shall be adhered to</p>	<p>Handbook</p> <p>VII. Corrective Actions</p> <p>(a) Within ten (10) business days of the date the employee supervisor learns of prohibited behavior meriting corrective action, the employee supervisor shall:</p> <p>(1) Investigate the alleged prohibited behavior meriting corrective action through a meeting with the employee and, if applicable, witnesses to determine if corrective action is appropriate, provided that, an investigation is not required if the supervisor personally witnessed the prohibited behavior meriting corrective action.</p>	<p>Change in process where three (3) corrective actions in a 12 month period is grounds for termination.</p> <p>The timeframe for a supervisor to correct behavior warranting a corrective action has changed from five (5) working days to ten (10).</p> <p>The EEO officer through HRD will guide supervisors through the corrective action process to ensure all corrective actions are handled correctly.</p>

Employment Law

Handout 3/2/16 Draft 1 to Draft 15

<p>whenever disciplinary action is taken:</p> <p>a. Supervisor becomes aware of unsatisfactory work performance or violation.</p> <p>1) Supervisor investigates through a meeting with the employees and determines whether disciplinary action is warranted.</p> <p>b. If disciplinary action is warranted, within five (5) working days the supervisor will fill out the five (5) part disciplinary action form stating the behavior for which the action is being taken, the time and date of its occurrence, and the specific policy section under which action is being taken.</p>		
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Considerations

- Sections 300.2-3 and 300.2.4 of the Law are not compliant with the exact wording required by the Legislative Procedures Act (LPA).
 - Section 16.11-1(b) of the LPA contains required language. Sections 300.2-3 and 300.2-4 required language has changed.
 - For section 3- “Definitions”, LPA required language has changed.
- The LOC may reconsider the six (6) occurrences of PTO that trigger a corrective action [See 12.1]. Currently personal time off for emergencies or unforeseen circumstances are not subject to the advance 24 notice and do not count negatively on the employee. The LOC may consider removing the occurrences for documented emergencies and unforeseen circumstances.
- The LOC may reconsider removing Limited Term Employment from the temporary employment section. Limited Term Employment (LTE) is often used with grants which have a predetermined length, rather than hiring a regular status employee and separating when funding is no longer available. Additionally, LTE is useful for supervisors who may lose a key staff member and require an employee with the necessary background to quickly fill the position providing time for the key staff member to train the LTE staff.
- The LOC may reconsider the Hiring Philosophy to expressly state the original intent of identifying Oneida tribal members as ideal candidates for employment with the Nation.
- The LOC may consider increasing the length of time for interim transfers which are capped at one year under the current Handbook considering the fact that the appeal process may take longer than one year. The current maximum length for interim transfers is two years.

Miscellaneous

A public meeting has not been held. Please refer to the fiscal impact statement for any financial impacts.

**CHAPTER 300
EMPLOYMENT LAW**

300.1. Purpose and Policy	300.7. General
300.2. Adoption, Amendment, Repeal	300.8. Employee Responsibilities
300.3. Definitions	300.9. Layoffs and Furloughs
300.4. Human Resources Department	300.10. Employee Discipline and Grievances
300.5. Hiring	300.12. Violations
300.6. Compensation and Benefits	

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300.1. Purpose and Policy

300.1-1. It is the purpose of this Law to provide a fair, consistent and efficient structure to govern all employment matters.

300.1-2. It is the Nation’s policy to provide entities latitude to create human resource practices to fit their individual industry standards, while creating a strong and healthy work environment. In addition, although certain federal and state laws, specifically Title VII, do not apply to the Nation, the Nation’s employment policy is to afford applicants and employees equal employment opportunities while recognizing the Nation’s Oneida and Indian employment preference.

300.2. Adoption, Amendment, Repeal

300.2-1. This Law was adopted by the Oneida General Tribal Council by resolution _____ and is effective six (6) months from the date of adoption.

300.2-2. This Law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

300.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity does not affect other provisions of this Law which are considered to have legal force without the invalid portions.

300.2-4. In the event of a conflict between a provision of this Law and a provision of another Law, the provisions of this Law control, provided that this Law repeals the following:

- (a) The Oneida Tribal Management System and amendments to the Tribal Management System, including the Personnel Policies and Procedures adopted by the Oneida Business Committee on May 7, 1985;
- (b) BC Resolution BC-05-11-11-A entitled Establish Tuberculosis Control Program;
- (c) The Employee Protection Policy adopted by emergency pursuant to BC-4-20-95-B, permanently adopted pursuant to BC-12-6-95-B and subsequently amended pursuant to BC-1-20-99-B and BC-6-30-04-J;
- (d) The GED Policy approved by the Oneida Business Committee on October 21, 1992;
- (e) BC Resolution BC-07-22-09-B entitled Oneida Nation Veterans Affairs Committee, Paid Time Off for Selected Color Guard Members Who Are Employees;
- (f) The Parent Leave Policy adopted pursuant to BC-03-02-94-A;
- (g) BC Resolution 04-05-95-A regarding a paid break for donating blood at a blood drive coordinated by the Nation;
- (h) BC Resolution 05-12-93-J regarding HRD’s role in the interpretation, implementation and enforcement of the Personnel, Policies and Procedures; and
- (i) GTC Resolution 05-23-11-A entitled Personnel Policies and Procedures Amendments to Strengthen Indian Preference in Hiring.

300.2-6. This Law is adopted under authority of the Constitution of the Oneida Nation.

40 300.3. Definitions

41 300.3-1. This section governs the definitions of words and phrases used within this Law. All
42 words not defined herein are to be used in their ordinary and everyday sense.

43 (a) “Adverse Employment Action” means a supervisor’s failure to comply with the
44 employment rules that results in a significant change in an employee’s employment status
45 that is more disruptive than a mere inconvenience or an alteration of job responsibilities
46 and may include a deprivation of an equal employment opportunity.

47 (b) “At-Will Employee” means an employee working for the Nation on a short term basis
48 that is not hired through the standard hiring procedures, including, but not limited to,
49 political appointees, part-time, seasonal, and volunteer workers, and new Employees that
50 have not yet completed their probationary period pursuant to the Rules developed by
51 HRD.

52 (c) “Corrective Action” means any initiative taken by an employee supervisor with the
53 goal of correcting an employee’s prohibited behavior as identified in the rules created by
54 HRD.

55 (d) “Cost of Living Adjustments” means wage or salary modifications which allow
56 employees to sustain a certain level of living, including basic expenses such as housing,
57 food, taxes and healthcare.

58 (e) “Employee” means any individual who is hired by the Nation through the normal
59 hiring process, works full-time (30 or more hours per week) or part-time (less than 30
60 hours per week) and is subject to the Nation’s direction and control with respect to the
61 material details of the work performed. “Employee” includes, but is not limited to,
62 individuals employed by any entity and individuals employed through an employment
63 contract as a limited term employee, but does not include elected or appointed officials,
64 at-will employees or individuals employed by a tribally chartered corporation.
65 Throughout this Law all references to employee include both employees and at-will
66 employees, unless the term at-will employee is used, in which case only at-will
67 employees are intended.

68 (f) “Employee Supervisor” means the party responsible for directly overseeing the
69 employee and who is responsible for taking corrective actions when employees fail to
70 meet their responsibilities.

71 (g) “Entity” means any of the Nation’s divisions having employees and may include, but
72 is not limited to, departments, areas, programs, enterprises, board, committees,
73 commissions and the like.

74 (h) “Equal Employment Opportunity” or “EEO” means the Nation’s consideration for
75 hiring selection and position retention and compensation and benefit distribution that is
76 free from discrimination against any person on the basis of race color, religion, sex
77 (including pregnancy), national origin, age, disability, economic status or genetic
78 information. Oneida and Indian Preference are allowable and are not considered a
79 deprivation of an EEO,

80 (i) “HRD” means the Oneida Human Resources Department.

81 (j) “Immediate Family Member” means an individual’s husband, wife, mother, father,
82 step mother, step father, son, daughter, step son, step daughter, brother, sister, step
83 brother, step sister, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-
84 law, son-in-law, brother-in-law or sister-in-law.

85 (k) “Involuntarily Separated” means an employee is removed from employment.

86 (l) “Political Appointee” means an individual appointed as an executive assistant by an
87 individual Oneida Business Committee member or as an assistant by a board, committee
88 or commission.

89 (m) “Reviewing Supervisor” means the party responsible for overseeing the employee
90 supervisor and who may hear an appeal of a corrective action taken by an employee
91 supervisor.

92 (n) “Rule” means any exercise of authority delegated to HRD in order to implement,
93 interpret and/or enforce this Law. A “rule” does not include any statements,
94 interpretations, decisions, rules, regulations, policies, standard operating procedures or
95 other matters concerning internal management of an entity, or, which do not affect the
96 private rights or interests of individuals outside of the said entity.

97 (o) “Sexual Harassment” means unwelcome sexual advances, requests for sexual favors
98 and other verbal or physical conduct of a sexual nature where:

99 (1) submission to such conduct is made either explicitly or implicitly a term or
100 condition of an individual’s employment; or

101 (2) submission to or rejection of such conduct by an individual is used as the basis
102 for employment decisions affecting such individual; or

103 (3) such conduct has the purpose or effect of substantially interfering with an
104 individual’s work performance or creating an intimidating, hostile or offensive
105 work environment.

106 (p) “Standard Operating Procedure” means an internal procedure that is created to govern
107 how an Entity operates and performs its designated functions; a standard operating
108 procedure does not affect parties outside of the entity to which the procedure belongs.

109 (q) “Nation” means the Oneida Nation.

110 (r) “Tribal Member” means an individual who is an enrolled member of the Oneida
111 Nation.

112 113 **300.4. Human Resources Department**

114 300.4-1. General Responsibilities. The HRD shall:

115 (a) Develop and amend the rules necessary to carry out the intent of this Law pursuant to
116 the Administrative Rulemaking Law.

117 (b) Implement, interpret and enforce this Law and the associated rules.

118 (b) Provide all employees a copy of all employment rules and all of the Nation’s laws
119 and policies specifically pertaining to employment matters, and shall further notify
120 employees of how such rules, laws and policies may be electronically accessed.

121 (c) Review and approve all entities’ employment related standard operating procedures to
122 ensure compliance with this Law and the rules developed pursuant to this Law.(e) Keep a
123 record of all employment related decisions made by the employee supervisors, reviewing
124 supervisors and the Oneida Judiciary.

125 (f) Collect and maintain data on human resource related information including, but not
126 limited to, information on hiring, appointments, firing, transfers, employee development,
127 grievances, policy issues and insurances.

128 (1) HRD shall provide quarterly reports to the Oneida Business Committee, or its
129 designee, in accordance with the schedule provided by the Nation’s Secretary’s
130 office.

131 (2) The Oneida Business Committee may not have direct access to employee
132 information and/or personnel files, especially information relating to individual
133 compensation or corrective actions; provided that, Oneida Business Committee

134 members that are also employee supervisors may access the employee records of
135 any of his or her direct employees pursuant to Section 300.4-1(f)(3)(B).

136 (3) HRD shall store these employee records in a manner that maintains the
137 records' private and confidential nature. Information contained in employee
138 records may only be released in the following situations:

139 (A) A current or past employee may have access to his or her own
140 employment record; an employee supervisor may have access to his or her
141 current employees' records; a hiring supervisor may have access to the last
142 twelve months of a current or former employee's work history; and HRD
143 managers may have access to any employee's employment record.

144 (B) If required by law, the Nation shall release the information required to
145 be released to the party the law designates as entitled to receive said
146 information.

147 (C) Should an Employee be alleged to have committed an illegal act in the
148 course of his or her employment with the Nation against the Nation, its
149 customers or its employees, the said employee's record may be released to
150 law enforcement agencies.

151 (D) A third party may access an employee's record if the employee
152 provides written consent to release his or her record to a designated third
153 party.

154 300.4-2. HRD shall uphold the Nation's sovereignty, laws and policies in its hiring and
155 employment practices.

156 300.4-3. Memorandum of Understanding. The Oneida Business Committee and HRD shall
157 negotiate and enter into a memorandum of understanding which governs the relationship
158 between the two parties by establishing the responsibilities and expectations of each party with
159 regard to the management of HRD.

160 **300.5. Hiring**

161 300.5-1. Hiring Philosophy. The Nation shall recruit, hire, retain and develop individuals who
162 are culturally respectful, professionally competent and familiar with the Oneida community.

163 300.5-2. Equal Employment Opportunities. The Nation and HRD shall afford all applicants
164 and employees equal employment opportunities; however, the Nation shall follow the
165 preferences outlined in 300.5-3 and such preferences may not be considered a violation of this
166 Law.
167

168 300.5-3. Oneida and Indian Preference. The Nation shall apply Oneida and Indian Preference
169 to all hiring practices.

170 (a) Unless otherwise prohibited by law or grant funding requirements, the Nation shall
171 apply the following order of Oneida and Indian Preference in staffing decisions:

172 (1) Persons who are tribal members.

173 (2) Persons who meet the blood quantum requirements contained in the
174 Membership Ordinance, but are not currently tribal members, and/or persons who
175 are documented first generation descendants of a tribal member.

176 (3) Persons enrolled in any federally recognized tribe other than this Nation.

177 (4) All other non-Indian persons.

178 (b) If a law or grant funding requirement prohibits the application of Oneida and Indian
179 Preference in accordance with 300.5-3(a), the Nation shall make staffing decisions in
180 accordance with the Indian Preference requirements of the said law or grant.

181 (c) Oneida and Indian Preference applies only when an applicant meets all the minimum

182 requirements of the position applied for.

183 (d) Oneida-Only Positions. To the extent possible, all top administrative and political
184 appointee positions must be held by tribal members.¹ If a position requires specific skills
185 and/or licensing by the state or federal government and there are no available tribal
186 members who possess the necessary skills or licensing to assume the vacancy, only then
187 may a non-tribal member be selected to fill the vacancy.

188 300.5-4. Education. Employees shall have or obtain a high school diploma, a high school
189 equivalency diploma or a general equivalency diploma within one (1) year of being hired.
190 Exceptions and/or extensions to this requirement may be included in the rules developed by
191 HRD pursuant to 300.4-1(a).

192 300.5-5. Workplace Safety. The Nation shall develop rules and procedures as necessary to
193 protect the safety, health and well-being of all employees and other individuals in the workplace.

194 (a) The Employee Health Nursing Department shall establish, maintain, implement,
195 evaluate and periodically update a Tuberculosis Control Program, which applies to all
196 employees as well as the Nation's elected and appointed officials. The Employee Health
197 Nursing Department shall make the approved program available to all persons to which it
198 applies.

199 300.5-6. Conflicts. An applicant is ineligible for positions for which he or she has a conflict of
200 interest, as defined by the Conflict of Interest Policy, and/or if he or she would be directly
201 supervised by an immediate family member.

202 300.5-7. Right to Work. No person may be required to do any of the following in order to
203 become or remain an employee of the Nation:

- 204 (a) resign or refrain from being a member of a labor organization;
205 (b) become or remain a member of a labor organization; or
206 (c) pay dues or other charges to a labor organization.

207

208 **300.6. Compensation and Benefits**

209 300.6-1. Compensation Plan. HRD shall develop and institute an Employee Compensation
210 Plan to assure equitable salary and wage levels and shall consider data from the Bureau of Labor
211 Statistics for average earnings in the Green Bay area; the said plan must be approved by the
212 Oneida Business Committee prior to becoming effective.

213 (a) Wage and salary adjustments and benefits available to employees are dependent upon
214 available funding allocations, provided that, the Compensation Plan must require HRD to
215 make reasonable efforts to regularly implement cost of living adjustments based on the
216 United States Department of Labor – Bureau of Labor Statistics' Consumer Price Index
217 for the Midwest Region.

218 300.6-2. Designation of Employees. The Nation shall use the standards created under the Fair
219 Labor Standards Act to designate its employees as either nonexempt or exempt and to set
220 minimum wage and maximum hour restrictions for employees receiving an hourly wage.

221 300.6-3. Insurance and Retirement. The Nation may provide insurances and/or a retirement
222 plan as a benefit to full-time employees. Emergency and temporary Employees are not eligible
223 for these benefits.

¹ January 8, 1990 GTC: Debbie Powless moved that the General Manager's and all top administrative positions be held by enrolled tribal members, motion seconded. ... Main motion carried.

224 300.6-4. Time Off. The Nation shall afford employees accumulated paid time off based on
225 continuous service to the Nation. HRD shall establish rates of accrual and the process for
226 requesting paid time off in the Rules created pursuant to 300.4-1(a).

227 300.6-5. Leaves. Employees of the Nation may be allowed leave as provided in the Rules
228 created pursuant to 300.4-1(a) and any other applicable laws and policies of the Nation.
229

230 **300.7. General**

231 300.7-1. Employee Development. The Nation encourages the advancement and transfer of
232 Employees in order to make the best possible use of human resources. Employees who wish to
233 advance in the organization may work with the HRD to develop a career ladders plan.

234 300.7-2. Entities. Individual entities shall comply with this Law and the rules promulgated
235 under 300.4-1(a) and, if necessary, shall develop internal rules and standard operating procedures
236 for the implementation of this Law and its associated rules.

237 300.7-3. Safety and Fitness-for-Duty. In order to create a safe and healthy work environment
238 for employees and to keep the number of job-related illnesses and/or injuries to a minimum, the
239 Nation shall maintain safety standards in accordance with the Nation's applicable laws and
240 policies. The Nation shall also maintain standards requiring employees to perform their job
241 duties in a safe, secure, productive and effective manner.

242 300.7-4. Unemployment Insurance. The Nation shall comply with the State of Wisconsin's
243 unemployment insurance program; the Nation's employees may be eligible for unemployment
244 benefits in accordance with the provisions of the laws of the State of Wisconsin.
245

246 **300.8. Employee Responsibilities**

247 300.8-1. Harassment and Discrimination Prohibited. All employees are expressly prohibited
248 from committing sexual harassment of another individual or engaging in any conduct that
249 harasses or discriminates against another based on sex, race, religion, national origin, pregnancy,
250 age, marital status, sexual orientation, or disability, provided that employees must comply with
251 the Oneida and Indian Preferences identified in 300.5-3 and such compliance is not a violation of
252 this provision.

253 300.8-2. Anonymous Information. Employees who receive anonymous information of any type
254 shall maintain the confidentiality of the said information and forward a summary of the
255 information to the Chief of the Oneida Police Department expressly noting that the information
256 was provided anonymously.

257 300.8-3. Employee Protection. The Nation may not retaliate against any employee who reports
258 an employee's, political appointee's and/or any official of the Nation's violation(s) of laws,
259 policies or rules of the Nation and shall protect any employees who report such violations from
260 retaliatory actions.

261 (a) HRD shall develop rules designed to protect employees reporting others' violations of
262 the Nation's laws, policies or rules from any and all forms of retaliation.
263

264 **300.9. Layoffs and Furloughs**

265 300.9-1. Employees may be laid off and/or furloughed to the extent necessary for the Nation to
266 operate effectively and efficiently in varying economic conditions pursuant to the Nation's laws,
267 policies and rules.

268 300.9-2. Layoffs and furloughs may not be used for disciplinary reasons and may not under any
269 circumstances be considered adverse employment actions.

270 300.9-3. The Nation's decision to layoff and/or furlough an employee is not subject to appeal.
271

272 **300.10. Employee Discipline and Grievances**

273 300.10-1. Corrective action rules may be used by employee supervisors to correct employees'
274 unacceptable work performance and/or behavior.

275 300.10-2. Employees, excluding at-will employees, who disagree with a corrective action or
276 allege that a supervisor's actions amount to an adverse employment action may contest the action
277 using the rules developed by HRD, and based on the following available levels of review:

278 (a) First Level of Review. Any employee, excluding at-will employees, contesting the
279 validity of a suspension or termination or allege that a supervisor's actions amount to an
280 adverse employment action may contest the action to the Administrative Hearing Court.
281 This is the final level of review unless it is alleged that the adverse employment action
282 and/or corrective action also amounted to a deprivation of an equal employment
283 opportunity.

284 (b) Second Level of Review. An employee, excluding at-will employees, that is
285 dissatisfied with the Administrative Hearing Court's decision regarding a supervisor's
286 action that is alleged to amount to a deprivation of an equal employment opportunity,
287 may appeal the Administrative Hearing Court's decision to the Oneida Judiciary's
288 Appellate Court.

289 (c) Compensatory Damages. Should the Oneida Judiciary determine that there was an
290 intentional deprivation of an equal employment opportunity, the Oneida Judiciary may
291 award compensatory damages, including, but not limited to, attorney's or advocate's fees
292 and court costs, as against the individual(s) found to have engaged in the intentional
293 deprivation of an equal employment opportunity. Said compensatory damages may not
294 be awarded against the Nation.

295 300.10-3. The Administrative Hearing Court and the Oneida Judiciary may waive any and all
296 court fees on behalf of employees seeking to appeal a correction action or an action alleged to be
297 a deprivation of an equal employment opportunity.

298

299 **300.11. Applicability to Elected Officials**

300 300.11-1. The provisions of sections 300.6-8 apply to the Nation's elected officials that work
301 full-time (30 hours or more per week) and receive salaries for their service.

302

303 **300.12. Violations**

304 300.12-1. Unless expressly stated otherwise in this Law, claims of alleged violations of this Law
305 may be filed with the Oneida Judiciary.

306

307 End.

308



Legislative Operating Committee

March 2, 2016

Eviction Law

Submission Date: 1/6/2016

Public Meeting:
 Emergency Enacted:
Expires:

LOC Sponsor: Brandon Stevens

Summary: *This is a new Law that will create a streamlined eviction process which provides the rights and responsibilities of all parties involved and applies to leases held pursuant to the Leasing Law and the Landlord-Tenant Law.*

1/6/16 LOC: Motion by Fawn Billie to add the Eviction Law to the Active Files List with Brandon Stevens as the sponsor; seconded by Tehassi Hill. Motion carried unanimously.

- **Next Steps:** Accept the memo providing the status update and defer to the sponsor to bring the draft to the LOC when it is ready.

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: Legislative Operating Committee
From: Brandon Stevens, LOC Chairperson *BS*
Date: March 2, 2016
Re: Eviction Law

On January 6, 2016, the Legislative Operating Committee (LOC) added the Eviction Law to the active files list, based on my request, with myself as the sponsor. Approximately sixty days have passed since the original submission and this memorandum serves as an update as to where the legislation is at in the LOC process.

The Legislative Reference Office (LRO) is still currently working on developing the other land related laws added to the active files list based on the earlier request of the Land Commission. The LRO plans to begin developing this Law once it has submitted drafts of the other laws that the Land Commission submitted so that it can assess how this Law needs to work with those.

I am asking that you defer this item back to my office for further work and I will bring back the Law when it is ready.

Requested Action

Motion to accept the memorandum regarding the status of the Eviction Law as FYI.



Legislative Operating Committee

March 2, 2016

Garnishment Amendments

Submission Date: 8/5/15

Public Meeting:
 Emergency Enacted:
 Expires:

LOC Sponsor: David P. Jordan

Summary: *This item was brought to the LOC by the Judiciary to request an amendment to the ordinance which would allow the Judiciary to include interest when a garnishment is ordered as some creditors have been requesting interest, and the Judiciary has been denying it because the ordinance is silent.*

8/5/15 LOC: Motion by David P. Jordan to add the Garnishment Ordinance Amendments to the active files list with himself as the sponsor; seconded by Tehassi Hill. Motion carried unanimously.

9/16/15 LOC: Motion by David P. Jordan to defer Garnishment Ordinance Amendments to the sponsor's office to work with the Chief Financial Officer for recommendations, and bring back with the required analysis within 60 days; seconded by Tehassi Hill. Motion carried unanimously.

12/2/15 LOC: Motion by Jennifer Webster to accept the legislative analysis of the Garnishment Amendments with the directed change to the law, and prepare for a public meeting date of January 21, 2016; seconded by Fawn Billie. Motion carried with Fawn Billie abstaining.

Note: the directed change requires Tribal departments to pay filing fees instead of being exempt.

12/16/15 LOC: Motion by Jennifer Webster to approve the public meeting packet and to forward the Garnishment Amendments to a public meeting date of January 21, 2016; seconded by David P. Jordan. Motion carried unanimously.

1/20/16 LOC: Motion by David P. Jordan to approve the public meeting packet for the Garnishment Amendments and to approve the rescheduled public meeting date of February 18, 2016; seconded by Tehassi Hill. Motion carried unanimously.

- **Next Steps:** Accept the comments received during the Public Meeting and comment period. The sponsor recommends considering the comments today. If no further action is required, direct the LRO to prepare the Garnishment Amendments to be prepared for the OBC's consideration.

**Oneida Tribe of Indians of Wisconsin
Legislative Reference Office**

Krystal L. John, Staff Attorney
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<https://oneida-nsn.gov/Laws>

Memorandum

TO: Legislative Operating Committee (LOC)
FROM: Krystal L. John, Staff Attorney *[Signature]*
DATE: March 2, 2016
RE: Garnishment (Law) Amendments

On February 18, 2016, a public meeting was held regarding amendments to the Garnishment (Law) that:

- Remove the specific amount of the garnishment action fee and the administrative fee from the Law and instead the Judiciary is authorized to determine the garnishment action fee amount, while the Accounting Department determines administrative fee amount [See 58.5-2 (a) (1) and 58.5-5 (a) (1)]. The current Law sets the garnishment action fee at \$25.00 and the administrative fee at \$5.00.
- Limit representation to an attorney or advocate [See 58.5-3 (d)]. The current Law allows the parties to be represented by someone to speak on their behalf.
- Require post judgment interest be applied to the amount received beginning on the date of the judgment and ending on the date the garnishment order is satisfied [See 58.5-3 (d)]. The post judgment interest rate is a fixed rate and will be determined by 1) an agreement by both parties or 2) an annual post judgment rate equal to one percent plus the prime rate that was in effect on the date of the judgment [See 58.5-5 (d) (1) & (2)].

This memorandum is submitted as a review of the oral comments received during the public meeting process and the written comments received within the public comment period. The public meeting draft with oral and written comments is attached for your review.

Comment 1. Purpose and Policy

58.1-1. The purpose of this Ordinance-Law is to utilize-exercise the authority of the Oneida Tribe of Indians to provide an effective mechanism for creditors to access an employee's income for reduction of personal debt.

Rae Skenandore: And the second comment then is made from Rae Skenandore GTC member []. On a personal note, I would like this body to consider a mechanism for Tribal debt collection that is not subject to court orders. There is real life examples from federal, state and local government to exercise this right when it comes to the collection of taxes, the Department of Education exercises that right and call it an administrative garnishment when it comes to student loans. There should be another mechanism the Tribe can use to exercise its authority in that way. So that is all I have. Please see attached submission entitled *Who Can Garnish My Wages*.

Response

This is a major policy consideration for the LOC that would require extensive revisions to this Law. If this consideration is implemented, I would recommend a similar process be included for the attachment of per capita payments through the Per Capita Law.

Comment 2. Definition of “Accounting Department”

58.3-1(a) “Accounting Department” means that department of the Tribe charged with managing the finances of the Tribe, specifically, the office charged with responsibility for the payroll of the Tribe.

Rae Skenandore: I have two comments. The first one is from Finance and is regarding the definition for the Accounting Department on line 25. We wrote an alternate definition that I will read it here but I will submit it as well. It is for the Accounting Department, it means the area of the Tribe charged with keeping the records of financial transactions and includes accounts payable and receivable, inventory, payroll, fixed assets and other financial elements. So then I will submit that to LRO.

Response

I would defer to the Finance Department’s suggestion and recommend including the revised definition.

Comment 3. Garnishment’s Applicability to Per Capita Payments

58.3-1(h) “Garnishment” shall ~~mean~~ means the legal process in which money in the hands Earnings of the Oneida Tribe of Indians of Wisconsin as employer, due Debtor is required to be withheld by the respondent and are being claimed by Tribe for a creditor payment of a money judgement.

Jack Denny: Enrollment number []. The only question that I have in here is, because it says I would have to have a judgment. We get a fair amount of thefts through our stores. So if I have a judgment from Brown County or Outagamie County and that gets submitted to this judicial system it doesn’t clearly state are we able to garnishment the per capita. I guess that is my question.

David P. Jordan: I don’t know, I don’t believe we can garnish that from per cap. I think there are only certain things that you can garnish from per capita. Child support is one of them. Tribal debt.

Krystal John: Per capita goes through the Per capita Law and that is called attachment. That is a separate process from garnishment.

David P. Jordan: So that falls underneath the per capita law.

Krystal John: Yes.

David P. Jordan: Oh it does.

Response

I believe the response provided at the public meeting was clear, but just to reiterate, no, garnishment does not apply to per capita payments. Per capita payments may be attached

through the process provided in the Per Capita Law.

Comment 4. Duplicate Definition of "Judge"

58.3-1(I) "Judge" means the member of the Judiciary assigned to hear the Petition for Garnishment.

Layatalati Hill: I just want to point out that on line 53 the definition for judge and also on line 63 the same definition of judge so it is in there twice.

Response

Thank you for pointing this error out; I will remove the additional definition of "Judge."

Comment 5. Notice of Initial Judgment

58.5-1. Judgment Required. A Creditor must obtain a Judgment before filing a Petition.

~~58.5-2. Filing Action. 58.3-11. "Accounting Department" means that department of the Oneida Tribe charged with managing the finances of the Oneida Tribe, specifically, the office charged with responsibility for the payroll of the Oneida Tribe. That office shall designate a representative for receiving garnishment orders, irrevocable voluntary payroll deduction agreements, and child support orders, which shall be forwarded to the Hearing Body.~~

~~58.4-1. Garnishment Action Procedure. Judgment Required. A creditor shall begin a garnishment action against an employee of the Oneida Tribe by first obtaining a final judgment from an appropriate court. A garnishment action under this section shall not begin unless the creditor has already obtained a valid final judgment and can show proof of judgment to the Hearing Officer.~~

~~58.4-2. Filing Action. The creditor shall be responsible for notifying the Hearing Officer of its intent to begin the garnishment action.~~

~~(a) A written notice shall be mailed or given to the Hearing Officer indicating the creditor, the intended respondent, the reason for the claim and the amount of the claim.~~

~~(b) The Hearing Officer shall, within ten days, set a date and time for a garnishment hearing. The date for the hearing shall be within sixty days of receipt of the first notification to the Hearing Officer.~~

~~(c) It is the responsibility of the Hearing Officer to notify the creditor, respondent, and any other parties in interest as to the date, time and place of the garnishment hearing.~~

~~58.4-3. Hearing. The Hearing Officer shall establish a designated date, time, and place to hear evidence in In order to render a determination as to the validity of a claim by the creditor in a garnishment action and the amount of the garnishment order to be entered. Hearings shall not be utilized to initiate a Garnishment, the Creditor must file a petition with the Judiciary. The Petition must identify the Creditor, the intended Debtor, any other interested parties, the reason for the claim, the name of the court that issued the Judgment and the amount awarded. The Creditor must include a copy of the Judgment when filing the Petition.~~

Wesley Martin: So the questions is and really when I go through this ordinance and talk to people is that under the requirements of post judgment interests to apply one of the big issues I

have is whether or not that judgment was ever, the persons were ever notified. Because all that is required in the state statute for someone to bring a foreign judgment to the Court would be that they sent it to the person's last known address whether that person still lives there or nothing. So they are taking a judgment against a party of this Tribe and there is nothing to show that they were given notice. Was there personal service as such? There is nothing to show that that person ever received or that there is an action pending against them. The party goes to Court, gets a judgment and follows the next step is to enforce that judgment. While, then they could come through that with the Full Faith and Credit whether I look at the ordinance and whether that shows or doesn't show that that person was... was he given notice and did they receive notice. That is a big problem not just in the courts in this court system and they go after them and they find them and they get a... now it probably goes back to the same address and did that person receive it. And the second one I would like is the required post judgment. I think there should be language to show that the person got that judgment, that the person was notified in person of that judgment because if you don't know it how can I know that they took it. And all that has to be sent is the last known address. If that person moves or whatever, doesn't live there anymore and most of the persons ... it is just troublesome sometimes when all that has to be shown is the judgment against the person is that you sent the notice to the last known address. So I would ask this body to consider what I asked you. Thank you.

Response

I would not recommend any changes based upon this comment. There is presumption that notice of judgment is provided to the debtor and such judgments are generally publically available. If anything, this should be addressed in our Rules of Civil Procedure. Each jurisdiction could have its own requirements for providing notice that a judgment has been entered and we accept judgments for garnishment from courts other than our own.

Comment 6. Representation Limited to Attorneys and/or Advocates

~~-(d) Throughout the Garnishment proceedings, the parties may choose to Final Decision. The Hearing Officer will make the final decision as to the garnishment action within five days of the garnishment hearing and notify by formal order all parties within ten days of the decision. 58.4 5. Representation. The respondent and creditor may represent themselves or may be represented by someone to speak on their behalf, if they so choose. Both an attorney or advocate.~~

Wesley Martin: Thank you. On the topic of the garnishment ordinance, as some of you as BC members know that I am also the Chair of the [Oneida Nation Commission on Aging] Board which is the elders and one of the concerns is the representation. Sometimes we have legal advocates, sometimes we have elders such as maybe people that are benefit specialists, someone in the ADRS but also persons that are related to that person that might have some input. And then to require it to me, it is a civil action. It is not a criminal action. It's more on them to have to hire an attorney or lay advocate. Sure they can speak for themselves but sometimes they might have a family member that might be able to speak on their behalf or someone else that not necessarily is a licensed to practice or whatever. So I think to take that away, and to reapply it that they have to have an advocate who is licensed with the judiciary or an attorney, I think would do disservice to that person. There are people that can come out there and if they feel that they need an attorney at that time of the hearing, there are other avenues they can do it but for the

first hearing I would ask this body to look at whether it is really in the interest of that person to go hire somebody. They could ask for an adjournment there are times they do it at the initial plea hearing but I think that unless there was something to show that the ones that did speak up for people are not capable of doing it. I didn't see anything that showed what the advantage would be. There might be an advantage to hiring an attorney or advocate but there is also cost for that, especially on our elders. So to me it's ... there are some problems with this and I know we are just here on the amendments but I think the one I would certainly ask this body to look at is looking at, number one, is the representation. Is to have to have somebody go hire an attorney for enforcement when probably they could answer that themselves or some relative or somebody else in the community help them. I don't see anything other than to have what it presently is, to have somebody speak of their behalf.

Response

The Rules of Civil Procedure which govern these garnishment proceedings allow for a party to represent themselves or be represented by an attorney or advocate admitted to practice before the court. If anything, I would recommend clarifying that this requirement is pursuant to the Rules of Civil Procedure.

Comment 7. Implementation by the Accounting Department

58.5-7(a) **Deducting the appropriate amount from the Debtor's paycheck(s) and forward that amount to the Creditor; and**

Layatalati Hill: One other thing. What page was that? When it is talking about the Accounting Department. Starts on line 101. "Where the Accounting Department shall determine the amount of the administrative fee. Oh not that part. I will try to find it, hold on.

Well the question, the question was for the interest that is recommended in the draft, who is going to track that each week. It is going to be a different amount and I talked with someone from Accounting and they said that they would probably need another staff member or a new system to track that because it would be kind of amortization schedule based on taking the interest each week and the payments made, so the interest is going to be the same but it will be lesser amount if the principle is less.

David P. Jordan: Is that by line number 48 to 55. Anywhere in there?

Layatalati Hill: No it was not in the definition. Are you looking at the redline?

Tehassi Hill: 139 is post judgment interests.

Layatalati Hill: Yeah ok line, starting line 151, second sentence: "the Accounting Department shall implement the garnishment by deducting the appropriate amount from the debtor's paychecks." The way I read that is they are the ones that are going to have to figure out what's going to be deducted each week so that would be including with the interest what it will be each week.

So my recommendation is to talk to someone from Accounting on what they would need to do with that or if they have that capability. So I don't really have a comment on ...

David P. Jordan: Would the ...

Layatalati Hill: ... what to change but just a recommendation to talk with someone in Accounting about that particular part.

David P. Jordan: So it wouldn't be like the court clerk to keep track of that. No? Is that where

they would be paying it? No? Ok.

Layatalati Hill: Well it says the Accounting Department would deduct the appropriate amount.

David P. Jordan: Ok.

Layatalati Hill: So to me it means they are going to figure out what. We will decide how much the judgment is but the interest is going to change with each payment. That's all I have.

Response

I did reach out to the Accounting Department manager Bob Chambers and he indicated that without adding additional staff, they could not calculate the post-judgment interest as currently defined. As currently defined post-judgment interest accrues through satisfaction of the garnishment, which means it would require a weekly manual calculation on behalf of the Accounting Department. He did say that they could calculate the post-judgment interest without adding any additional staff if we change the definition of post-judgment interest to stop accruing on the date the garnishment order is entered. Accordingly, I recommend revising Section 58.5-5(d) as follows:

(d) Post Judgment Interest. Post Judgment interest must be applied to the amount recovered from the date of the Judgment until the Garnishment Order ~~is satisfied~~ is entered. The post Judgment interest rate must be fixed for the duration of the Garnishment Order and is determined by one (1) of the following: ...

Comment 8. Child Support Attachments of Per Capita

58.6-1. Orders for child support against any ~~employee shall~~ Employee must be recognized and enforced, provided that the order has been issued from a court of competent jurisdiction.

Laurel Meyer-Spooner: My name is Laurel Spooner. I work for collections with Oneida Housing. I just have one question regarding maybe if the moneys owed are owed to other places besides child support, will they end up changing that back? It used to be at least fifty dollars (\$50) went to Tribal debt and child support got everything but fifty dollars (\$50).

Tehassi Hill: Is that the same question, because child support is in the Per Capita Law.

Krystal John: This law does not do that. If that was the former practice of the Tribe to allow fifty dollars (\$50) to go to the other Tribal debt, this is not addressed by Garnishment. The Per Capita Law does the per cap but it is silent as to the dollar amount that would be reserved for other Tribal debts.

David P. Jordan: Does that answer your question?

Laurel Meyer-Spooner: I think it did. Thank you.

David P. Jordan: Thank you.

Response

I believe the response provided at the public meeting was clear, but just to reiterate, garnishment proceedings do not apply to per capita payments. Per capita payments may be attached through the process provided in the Per Capita Law, which does not include any provision that reserves any per capita funds from a child support attachment for the payment of tribal debts.

Chapter 58
Garnishment Ordinance
Lotihwistáhkwa Olihwáke
 the matter of taking money out

- 58.1. Purpose and Policy
- 58.2. Adoption, Amendment, Repeal
- 58.3. Definitions
- 58.4. General

- 58.5. Garnishment Action Procedure
- 58.6. Recognition of Child Support Orders
- 58.7. Discharge from Employment

<i>Analysis by the Legislative Reference Office</i>	
Title	Garnishment (Law)
Requester	Judiciary Drafter Krystal L. John Analyst Candice E. Skenandore
Reason for Request	To state whether or not the Judiciary can include interest when a garnishment is ordered.
Purpose	The purpose of this Law to utilize the authority of the Tribe to provide an effective mechanism for creditors to access an employee’s income for reduction of personal debt <i>[See 58.1-1]</i> .
Authorized/ Affected Entities	Tribal employees that incur personal debt, the Accounting Department, the Judiciary (excluding the Family Court), creditors (can include Tribal entities), and a court of competent jurisdiction
Due Process	A party can appeal the decision regarding a garnishment order to the Court of Appeals within ten business days from the date of the notice of the Judge’s determination <i>[See 58.5-9]</i> .
Related Legislation	Related Tribal legislation includes the Judiciary Law and Rules of Appellate Procedure. The Child Support Law and Per Capita Law have similar concepts.
Enforcement	The Judiciary can issue a garnishment order against the debtor <i>[See 58.5-4]</i> .

Overview

1
 2 This Law and the Child Support both deal with wage withholdings; however, this Law
 3 sets the hearing process for withholdings of Tribal employees that have personal debt. This
 4 personal debt can include to, but is not limited to child support orders from a court of competent
 5 jurisdiction. Child Support sets the process for child support orders made by the Family Court;
 6 those orders will not follow this Law *[See 58.6 and Child Support 78.9-2]*.

7 This Law explains how a creditor can seek a garnishment order against a debtor. The
 8 creditor must file a petition with the Judiciary and once the petition is received, the Judiciary
 9 must hold a garnishment hearing within 60 days. Within five business days of the garnishment
 10 hearing, the Judge will make a final decision and notify the parties. If the Judge issues a
 11 garnishment order, he/she will calculate a percentage of the debtor’s disposable income that will
 12 be garnished, starting with a presumption that 20 percent of the debtor’s disposable income can
 13 be garnished. However, the debtor can request a lesser percentage be garnished from his/her
 14 disposable income if the debtor meets certain criteria. On the other hand, the debtor can also
 15 request a greater percentage be garnished. Once the garnishment order is issued, the Accounting
 16 Department will begin deducting the appropriate amount from the debtor’s paycheck within ten
 17 business days of receiving a copy of the garnishment order. If the debtor owes \$50 or less, the
 18 Judge can hold a summary proceeding which does not require a formal hearing. A party can
 19 appeal the Judge’s decision regarding the garnishment. An employee cannot be discharged,
 20 disciplined or an applicant cannot be turned away solely because he/she is subject to a
 21 garnishment action.

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Proposed Amendments

Although there are a number of proposed amendments made to this Law, the following amendments have the greatest impact:

- The current Law sets the garnishment action fee at \$25.00 and the administrative fee at \$5.00. These amounts have been removed from the Law and instead the Judiciary is authorized to determine the garnishment action fee amount, while the Accounting Department determines administrative fee amount [See 58.5-2 (a) (1) and 58.5-5 (a) (1)].
- The current Law allows the parties to be represented by someone to speak on their behalf. The proposed amendments limit representation to an attorney or advocate [See 58.5-3 (d)].
- A post judgment interest must be applied to the amount received beginning on the date of the judgment and ending on the date the garnishment order was satisfied [See 58.5-3 (d)]. The post judgment interest rate is a fixed rate and will be determined by 1) an agreement by both parties or 2) an annual post judgment rate equal to one percent plus the prime rate that was in effect on the date of the judgment [See 58.5-5 (d) (1) & (2)].

Considerations

The LOC may want to consider the following:

- These amendments require both Tribal and non-Tribal entities to pay the garnishment action fee [See 58.5-2 (a) (2)]. The purpose of the garnishment action fee is to cover the administrative costs incurred by the Judiciary in a garnishment proceeding [See 58.3-1 (i)]. The Judiciary will still incur these costs even if the creditor is a Tribal entity. The garnishment action fee is ultimately paid by the debtor through the garnishment process; however the fee is paid over time. The Judiciary would prefer to receive the garnishment action fee directly from Tribal entities at the time of filing like all other entities who file garnishments; whereas, Tribal entities do not prefer to pay the garnishment action fee to utilize the Tribe’s judiciary to collect unpaid debts from Tribal employees. The LOC may want to consider the impact the garnishment action fee will have on Tribal entities’ budgets as opposed to the Judiciary budget when a Tribal entity is the creditor in a garnishment action.
- The Law allows the debtor to request the Judiciary to lower the percentage deducted from his or her disposable earnings if he or she can show, among other things, that 1) the debtor receives, is eligible for or within six months from when the petition was filed, received public assistance or 2) the debtor’s household income is below the federal poverty level [See 58.5-5 (c) (1) (A) (ii & iii)]. The Law does not address what happens if one of the above instances occurs after a garnishment order has been issued. The LOC may want to consider clarifying if a debtor can request a modification to the garnishment order.
- This Law defines Judiciary as “the judicial system that was established by . . . GTC Resolution 01-07-13-B to administer the judicial authorities and responsibilities of the Tribe” [See 58.3-1 (n)]. Because the Family Court was adopted pursuant to BC Resolution 05-08-13-A, it not included in the definition for “Judiciary” and cannot hold garnishment hearings in accordance with this Law.
- Because the Law does not define “court of competent jurisdiction”, the LOC may want to specify if Tribal entities are considered courts of competent jurisdiction. In other words, if a Tribal entity issues a judgment, would that judgment satisfy the requirement set forth

- 69 58.5-1?
- 70 ■ The LOC may want to expand the definition for “earnings” to specifically exclude per
- 71 capita payments. The Per Capita Law addresses how attachments are made to per capita
- 72 payments [See 58.3-1 (c) and Per Capita 9.4-6].

73

74 **Miscellaneous**

75 A public meeting has not been held. Additional changes have been made throughout the

76 Law to ensure compliance with Tribal drafting style. In addition, revisions have been made to

77 improve the flow and sequence of the Law without changing the intended content. Please refer

78 to the fiscal impact statement for any financial impacts.

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81 **58.1-1. Purpose and Policy**

82 58.1-1. The purpose of this ~~Ordinance~~ Law is to ~~utilize~~ exercise the authority of the Oneida

83 Tribe of Indians to provide an effective mechanism for creditors to access an employee’s income

84 for reduction of personal debt.¹

85 58.1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin to afford all individuals due

86 process.

87 ~~process.~~

88

89 **58.2-1. Adoption, Amendment, Repeal**

90 58.2-1. This ~~law~~ Law is adopted by the Oneida Business Committee by resolution # BC-4-2-97-

91 G and amended by resolution BC-06-25-14-B and _____.

92 58.2-2. This ~~law~~ Law may be amended or repealed by the Oneida Business Committee or

93 General Tribal Council pursuant to the procedures set out in the Oneida

94 Administrative ~~Legislative~~ Procedures Act ~~by the Oneida Business Committee or Oneida General~~

95 Tribal Council.

96 58.2-3. Should a provision of this ~~law~~ Law or the application thereof to any person or

97 circumstances be held as invalid, such invalidity ~~shall~~ does not affect other provisions of this

98 ~~law~~ Law which are considered to have legal force without the invalid portions.

99 ~~58.2-4. All other Oneida laws, policies, regulations, rules, resolutions, motions and all other~~

100 ~~similar actions which are inconsistent with this law are hereby repealed unless specifically re-~~

101 ~~enacted after adoption of this policy.~~

102 58.2-4. In the event of a conflict between a provision of this Law and a provision of another law,

103 the provision of this Law controls.

104 58.2-5. This ~~law~~ may be cited as the “Garnishment Ordinance.”

105 ~~58.2-6. This law may be interpreted to allow the fullest protections available to respondents~~

106 ~~available by~~ Law is adopted under the ~~federal Consumer Protection Act, 16 U.S.C. §1671, et~~

107 ~~seq., state laws protecting respondents in Child Support Orders, and other federal laws~~ authority

108 of the Constitution of the Oneida Tribe of Indians of Wisconsin.

¹ **Rae Skenandore:** And the second comment then is made from Rae Skenandore GTC member []. On a personal note, I would like this body to consider a mechanism for Tribal debt collection that is not subject to court orders. There is real life examples from federal, state and local government to exercise this right when it comes to the collection of taxes, the Department of Education exercises that right and call it an administrative garnishment when it comes to student loans. There should be another mechanism the Tribe can use to exercise its authority in that way. So that is all I have. Please see attached submission entitled *Who Can Garnish My Wages.*

109

110 **58.3-1. Definitions**

111 ~~58.3-1.~~ This Article ~~shall govern~~governs the definitions of words or phrases as used herein. All
 112 words not defined herein ~~shall~~are to be used in their ordinary and everyday sense.

113 ~~58.3-2.~~ ~~“Compensation” shall mean remuneration paid or~~ (a) “Accounting Department”
 114 means that department of the Tribe charged with managing the finances of the Tribe,
 115 specifically, the office charged with responsibility for the payroll of the Tribe.²

116 ~~(b) “Administrative Fee” means the fee to cover the Accounting Department’s costs~~
 117 ~~associated with enforcing Garnishment Orders, payable for personal services and travel,~~
 118 ~~denominated as wages, bonuses, salary, expenses, and/or mileage. Compensation shall~~
 119 ~~include any trade back for cash benefit or final paycheck involving pay out of benefits~~
 120 ~~for a discharged employee.~~

121 ~~58.3-3.~~ ~~“Creditor” shall refer to one who seeks payment from the respondent through the~~
 122 ~~process of garnishment, pursuant to a Final Judgment through a garnishment action. The~~
 123 ~~Oneida Tribe is not excluded from being the creditor. This includes all departments,~~
 124 ~~programs, enterprises, authorities, or other bodies created pursuant to~~ (c)

125 “Creditor” means anyone who is awarded a money Judgment which may include a
 126 Tribal law or a non-Tribal entity. Should the ~~Oneida~~Tribe be the creditor, a designee ~~of~~
 127 ~~the department, program or enterprise~~from the Tribal entity shall represent the claim of
 128 indebtedness.

129 ~~58.3-4.~~ ~~“ (d) “Debtor” means the Employee” shall mean any employee whom the Judgment~~
 130 ~~has been awarded against.~~

131 ~~(e) “Disposable Earnings” means the part of the Oneida Debtor’s gross Earnings for a pay~~
 132 ~~period remaining after deductions required by state and federal law.~~

133 ~~(f) “Earnings” means compensation payable in exchange for personal services and~~
 134 ~~includes, but is not limited to, wages, salaries, bonuses, commissions, expense~~
 135 ~~reimbursements, trade-back-for-cash benefits and/or final paychecks involving pay-out of~~
 136 ~~benefits.~~

137 ~~(g) “Employee” means any individual hired by the Tribe and on the Tribe’s payroll and~~
 138 ~~encompasses all forms of employment, including but not limited to, full-time, part-time,~~
 139 ~~at-will, elected/appointed officials, political appointees and contracted persons.~~

140 ~~58.3-5.~~ ~~“Oneida Tribe” shall mean the Oneida Tribe of Indians of Wisconsin.~~

141 ~~58.3-6.~~ ~~(h) “Garnishment” shall mean~~means the legal process in which ~~money in the~~
 142 ~~hands~~Earnings of the ~~Oneida Tribe of Indians of Wisconsin as employer, due~~Debtor is
 143 required to be withheld by the respondent and are being claimed by Tribe for a
 144 creditor payment of a money judgement.³

² **Rae Skenandore:** I have two comments. The first one is from Finance and is regarding the definition for the Accounting Department on line 25. We wrote an alternate definition that I will read it here but I will submit it as well. It is for the Accounting Department, it means the area of the Tribe charged with keeping the records of financial transactions and includes accounts payable and receivable, inventory, payroll, fixed assets and other financial elements. So then I will submit that to LRO.

³ **Jack Denny:** Enrollment number []. The only question that I have in here is, because it says I would have to have a judgment. We get a fair amount of thefts through our stores. So if I have a judgment from Brown County or Outagamie County and that gets submitted to this judicial system it doesn’t clearly state are we able to garnishment the per capita. I guess that is my question.

- 145 ~~58.3-7.~~ (i) “Garnishment Action Fee” means the fee paid to the Judiciary to cover the
 146 administrative costs incurred during the Garnishment proceedings.
 147 (j) “Garnishment Hearing” means the time and location where the Judiciary hears
 148 relevant evidence, determines the validity of the Petition for Garnishment and identifies
 149 the amount of the Garnishment Order, if applicable.
 150 (k) “Garnishment Order” means the order issued by the Judiciary which requires the
 151 Tribe to withhold an Employee’s Earnings in order to satisfy a Creditor’s unpaid money
 152 Judgment and must include any fees assessed against the Debtor.
 153 ⁴(l) “Judge” means the member of the Judiciary assigned to hear the Petition for
 154 Garnishment.
 155 (m) “Judgment” means any judgment, decree, or order from a court of competent
 156 jurisdiction, including, but not limited to, the Judiciary, which awards money to one or
 157 more parties.
 158 (n) “Judiciary” means the judicial system that was established by Oneida General Tribal
 159 Council resolution GTC-01-07-13-B to administer the judicial authorities and
 160 responsibilities of the Tribe.
 161 ~~58.3-8.~~ (o) “Petition” means a formal written request to the Judiciary to issue a Garnishment
 162 Order. “Reservation” shall mean all lands within the Oneida Indian Reservation of
 163 Wisconsin as established by the Treaty with the Oneida, 1838.
 164 ~~58.3-9.~~ “Respondent” shall mean the employee (p) “Judge” means the member of the
 165 Oneida Tribe who is subject to a garnishment action within the Oneida Tribe or person subject to
 166 a repayment action.
 167 ~~58.3-10.~~ “Hearing Officer” shall mean the Judiciary and the representative designated assigned
 168 to hear the garnishment action Petition for Garnishment.
 169 (q) “Tribal” or “Tribe” means the Oneida Tribe of Indians of Wisconsin.

170 58.4. General

171 58.4-1. Jurisdiction. By filing a Petition, Creditors are submitting to the jurisdiction of the Tribe
 172 for the subject action.

173 58.4-2. Consumer Protection Act. This Law may be interpreted to allow the fullest protections
 174 available to Debtors by the federal Consumer Protection Act, 16 U.S.C. §1671, et seq., state laws
 175 protecting Debtors in Child Support Orders, and other federal laws.
 176

177 58.5. Garnishment Action Procedure

178 58.5-1. Judgment Required. A Creditor must obtain a Judgment before filing a Petition.

179 58.5-2. Filing Action. ~~58.3-11. “Accounting Department” means that department of the Oneida~~
 180 ~~Tribe charged with managing the finances of the Oneida Tribe, specifically, the office charged~~

David P. Jordan: I don’t know, I don’t believe we can garnish that from per cap. I think there are only certain things that you can garnish from per capita. Child support is one of them. Tribal debt.

Krystal John: Per capita goes through the Per capita Law and that is called attachment. That is a separate process from garnishment.

David P. Jordan: So that falls underneath the per capita law.

Krystal John: Yes.

David P. Jordan: Oh it does.

⁴ **Layatalati Hill:** I just want to point out that on line 53 the definition for judge and also on line 63 the same definition of judge so it is in there twice.

181 ~~with responsibility for the payroll of the Oneida Tribe. That office shall designate a~~
 182 ~~representative for receiving garnishment orders, irrevocable voluntary payroll deduction~~
 183 ~~agreements, and child support orders, which shall be forwarded to the Hearing Body.~~

184
 185 ~~58.4-1. Garnishment Action Procedure. Judgement Required. A creditor shall begin a~~
 186 ~~garnishment action against an employee of the Oneida Tribe by first obtaining a final judgment~~
 187 ~~from an appropriate court. A garnishment action under this section shall not begin unless the~~
 188 ~~creditor has already obtained a valid final judgment and can show proof of judgment to the~~
 189 ~~Hearing Officer.~~

190 ~~58.4-2. Filing Action. The creditor shall be responsible for notifying the Hearing Officer of its~~
 191 ~~intent to begin the garnishment action.~~

192 ~~(a) A written notice shall be mailed or given to the Hearing Officer indicating the~~
 193 ~~creditor, the intended respondent, the reason for the claim and the amount of the claim.~~

194 ~~(b) The Hearing Officer shall, within ten days, set a date and time for a garnishment~~
 195 ~~hearing. The date for the hearing shall be within sixty days of receipt of the first~~
 196 ~~notification to the Hearing Officer.~~

197 ~~(c) It is the responsibility of the Hearing Officer to notify the creditor, respondent, and~~
 198 ~~any other parties in interest as to the date, time and place of the garnishment hearing.~~

199 ~~58.4-3. Hearing. The Hearing Officer shall establish a designated date, time, and place to hear~~
 200 ~~evidence in In order to render a determination as to the validity of a claim by the creditor in a~~
 201 ~~garnishment action and the amount of the garnishment order to be entered. Hearings shall not be~~
 202 ~~utilized to initiate a Garnishment, the Creditor must file a petition with the Judiciary. The~~
 203 ~~Petition must identify the Creditor, the intended Debtor, any other interested parties, the reason~~
 204 ~~for the claim, the name of the court that issued the Judgment and the amount awarded. The~~
 205 ~~Creditor must include a copy of the Judgment when filing the Petition.~~⁵

206 ~~(a) The Creditor shall pay the Garnishment Action Fee before the Judiciary may consider~~
 207 ~~the Petition complete.~~

208 ~~(1) The Judiciary shall determine the amount of the Garnishment Action Fee and~~
 209 ~~post notice of the fee amount at the Judiciary and on the Judiciary's webpage.~~

210 ~~58.5-3. Garnishment Hearing. The Judiciary shall hold a Garnishment Hearing within sixty (60)~~
 211 ~~days of receiving the completed Petition.~~

⁵ **Wesley Martin:** So the questions is and really when I go through this ordinance and talk to people is that under the requirements of post judgment interests to apply one of the big issues I have is whether or not that judgment was ever, the persons were ever notified. Because all that is required in the state statute for someone to bring a foreign judgment to the Court would be that they sent it to the person's last known address whether that person still lives there or nothing. So they are taking a judgment against a party of this Tribe and there is nothing to show that they were given notice. Was there personal service as such? There is nothing to show that that person ever received or that there is an action pending against them. The party goes to Court, gets a judgment and follows the next step is to enforce that judgment. While, then they could come through that with the Full Faith and Credit whether I look at the ordinance and whether that shows or doesn't show that that person was... was he given notice and did they receive notice. That is a big problem not just in the courts in this court system and they go after them and they find them and they get a... now it probably goes back to the same address and did that person receive it. And the second one I would like is the required post judgment. I think there should be language to show that the person got that judgment, that the person was notified in person of that judgment because if you don't know it how can I know that they took it. And all that has to be sent is the last known address. If that person moves or whatever, doesn't live there anymore and most of the persons ... it is just troublesome sometimes when all that has to be shown is the judgment against the person is that you sent the notice to the last known address. So I would ask this body to consider what I asked you. Thank you.

212 (a) The Judiciary shall provide written notice of the garnishment hearing to the Creditor,
 213 Debtor and any other interested parties within ten (10) business days of receiving the
 214 completed petition.
 215 (b) The Debtor may challenge the authenticity of the Judgment document at the
 216 Garnishment Hearing but he or she may not challenge the validity of the final judgement
 217 other than the authenticity of the document. The time may be Judgment.
 218 (c) A Garnishment Hearing may be used to resolve one (1) or more deduction claims of
 219 Petitions for one (1) or more employees. However Debtors; however, each claim
 220 shall Petition must be heard and determined separately. This hearing will be known as the
 221 Garnishment Hearing.
 222 58.4.4. (d) Throughout the Garnishment proceedings, the parties may choose to –Final Decision.
 223 The Hearing Officer will make the final decision as to the garnishment action within five days of
 224 the garnishment hearing and notify by formal order all parties within ten days of the decision.
 225 58.4.5. Representation. The respondent and creditor may represent themselves or may
 226 be represented by someone to speak on their behalf, if they so choose. Both an attorney or
 227 advocate.⁶ All parties shall have an equal opportunity to present evidence as to the action
 228 to be taken before a Hearing Officer at the garnishment hearing at the Garnishment
 229 Hearing.
 230 58.4.6. Notice of Garnishment. 58.5-4. Final Decision. The Hearing Officer will notify the
 231 Accounting Department should a decision to garnish an employee's compensation be made.
 232 Such notice shall be forwarded after the deadline for an appeal has passed. Provided that, no
 233 garnishments shall be allowed where an appeal has been filed by an employee within the appeal
 234 deadline. The notice shall contain the amount to be garnished, how long the garnishment will
 235 take place or the number of garnishment and any related fees authorized under this Ordinance.
 236 58.4.7. The Judge shall make the final decision regarding a Garnishment Order within five (5)
 237 business days of the Garnishment Hearing. The Judge shall provide written notice of the final
 238 decision to all parties within ten (10) business days of his or her decision. If a Garnishment
 239 Order is issued, the written notice must include a copy of the Garnishment Order.

⁶ **Wesley Martin:** Thank you. On the topic of the garnishment ordinance, as some of you as BC members know that I am also the Chair of the [Oneida Nation Commission on Aging] Board which is the elders and one of the concerns is the representation. Sometimes we have legal advocates, sometimes we have elders such as maybe people that are benefit specialists, someone in the ADRS but also persons that are related to that person that might have some input. And then to require it to me, it is a civil action. It is not a criminal action. It's more on them to have to hire an attorney or lay advocate. Sure they can speak for themselves but sometimes they might have a family member that might be able to speak on their behalf or someone else that not necessarily is a licensed to practice or whatever. So I think to take that away, and to reapply it that they have to have an advocate who is licensed with the judiciary or an attorney, I think would do disservice to that person. There are people that can come out there and if they feel that they need an attorney at that time of the hearing, there are other avenues they can do it but for the first hearing I would ask this body to look at whether it is really in the interest of that person to go hire somebody. They could ask for an adjournment there are times they do it at the initial plea hearing but I think that unless there was something to show that the ones that did speak up for people are not capable of doing it. I didn't see anything that showed what the advantage would be. There might be an advantage to hiring an attorney or advocate but there is also cost for that, especially on our elders. So to me it's ... there are some problems with this and I know we are just here on the amendments but I think the one I would certainly ask this body to look at is looking at, number one, is the representation. Is to have to have somebody go hire an attorney for enforcement when probably they could answer that themselves or some relative or somebody else in the community help them. I don't see anything other than to have what it presently is, to have somebody speak of their behalf.

240 58.5-5. Garnishment Orders. Should the Judiciary issue a Garnishment Order, it must include
241 the following:

242 (a) An Administrative Fee which must be assessed against the Debtor each pay period
243 until the Garnishment Order is paid in full.

244 (1) ~~Garnishment Implementation.~~ The Accounting Department shall ~~begin garnishments within~~
245 ~~ten days of notification of the judgment. The Accounting Department shall then:~~

246 ~~(a) Send to the creditor the allowable~~ ~~determine the~~ amount ~~garnished from the~~
247 ~~employee's paycheck following each payroll period~~ ~~of the Administrative Fee and~~
248 ~~provide notice of the fee amount to the Judiciary. The Judiciary shall post notice~~
249 ~~of the Administrative Fee amount in the Judiciary and on the Judiciary's~~
250 ~~webpage.~~

251 (b) The Garnishment Action Fee which must be awarded to the Creditor.

252 (c) The Garnishment amount. The Judge must begin with a presumption that a total of
253 twenty percent (20%) of a Debtor's Disposable Earnings per pay period may be subject to
254 Garnishment(s) at any one time

255 (1) In calculating the amount of the Garnishment per pay period, the Judge may
256 not include amounts garnished pursuant to child support orders when calculating
257 twenty percent (20%) of the Debtor's Disposable Earnings.

258 (A) The Debtor may request the Judiciary to lower the percentage
259 deducted from his or her disposable earnings if the he or she can show that
260 requiring a deduction of the maximum twenty percent (20%) would cause
261 him or her undue harm by demonstrating that one (1) or more of the
262 following apply:

263 (i) The Debtor is subject to child support orders that would leave
264 him or her with less than fifty percent (50%) of his or her
265 Earnings;

266 (ii) The Debtor receives, is eligible for or, within six (6) months
267 of the date the Judiciary received the completed Petition, received
268 public assistance;

269 (iii) The Debtor's household income is below the current federal
270 poverty level;

271 (iv) The Garnishment of twenty percent (20%) of the Debtor's
272 disposable earnings would cause the Debtor's household income to
273 drop below the current federal poverty level; or

274 (v) The Garnishment of twenty percent (20%) of the Debtor's
275 disposable earnings would cause the Debtor undue harm for
276 reasons not identified in this section.

277 (2) The Debtor may request a higher percentage be deducted from his or her
278 disposable earnings. Such requests must be made directly to the Judiciary.

279 (3) Nothing in this Law prohibits the Debtor from making additional payments to
280 satisfy the Garnishment Order, provided that, if a Creditor receives payments
281 from the Debtor outside of the Garnishment process, he or she must provide
282 notice of said payment to the Accounting Department with a copy to the Debtor.

283 (d) Post Judgment Interest. Post Judgment interest must be applied to the amount
284 recovered from the date of the Judgment until the Garnishment Order is satisfied. The
285 post Judgment interest rate must be fixed for the duration of the Garnishment Order and
286 is determined by one (1) of the following:

287 (1) An agreement by the parties to the Garnishment as to a fair annual post
 288 Judgment interest rate; or
 289 (2) An annual post Judgment interest rate equal to one percent (1%) plus the
 290 prime rate in effect on the date in which the Judgment was awarded, as reported
 291 by the Federal Reserve Board in federal reserve statistical release H. 15.
 292 58.5-6. Notice of Garnishment to Accounting Department. The Judiciary shall provide the
 293 Accounting Department with a copy of the Garnishment Order after the timeframe for all appeals
 294 has been exhausted.
 295 58.5-7. Garnishment Implementation. Within ten (10) business days of receiving a copy of the
 296 Garnishment Order the Accounting Department shall implement the Garnishment by:
 297 (a) Deducting the appropriate amount from the Debtor's paycheck(s) and forward that
 298 amount to the Creditor; and⁷
 299 (b) Notify the ~~employee~~Debtor and ~~creditor~~Creditor when the ~~garnishments are~~
 300 ~~terminated~~Garnishment Order has been fulfilled.
 301 58.45-8. Summary Process. ~~Where the claim of indebtedness is \$50.00 or less, it shall be~~
 302 ~~processed~~The Judiciary shall summarily by the Hearing Officer process Petitions when the
 303 ~~Debtor owes fifty dollars (\$50) or less,~~ unless the ~~debtor~~Debtor formally requests a
 304 ~~hearing~~Garnishment Hearing.
 305 (a) For the purposes of this section, to summarily process a Petition means a Judge may
 306 make a determination regarding the Garnishment Order without holding a Garnishment
 307 Hearing.
 308 58.45-9. Appeals. ~~A respondent has~~party may appeal the decision regarding a Garnishment
 309 ~~Order, provided that the appeal must be submitted within~~ ten (10) business days from the date of
 310 ~~receipt of the notice to file an appeal of a garnishment order~~the Judge's determination. The

⁷ **Layatalati Hill:** One other thing. What page was that? When it is talking about the Accounting Department.

Starts on line 101. "Where the Accounting Department shall determine the amount of the administrative fee. Oh not that part. I will try to find it, hold on.

Well the question, the question was for the interest that is recommended in the draft, who is going to track that each week. It is going to be a different amount and I talked with someone from Accounting and they said that they would probably need another staff member or a new system to track that because it would be kind of amortization schedule based on taking the interest each week and the payments made, so the interest is going to be the same but it will be lesser amount if the principle is less.

David P. Jordan: Is that by line number 48 to 55. Anywhere in there?

Layatalati Hill: No it was not in the definition. Are you looking at the redline?

Tehassi Hill: 139 is post judgment interests.

Layatalati Hill: Yeah ok line, starting line 151, second sentence: "the Accounting Department shall implement the garnishment by deducting the appropriate amount from the debtor's paychecks." The way I read that is they are the ones that are going to have to figure out what's going to be deducted each week so that would be including with the interest what it will be each week.

So my recommendation is to talk to someone from Accounting on what they would need to do with that or if they have that capability. So I don't really have a comment on ...

David P. Jordan: Would the ...

Layatalati Hill: ... what to change but just a recommendation to talk with someone in Accounting about that particular part.

David P. Jordan: So it wouldn't be like the court clerk to keep track of that. No? Is that where they would be paying it? No? Ok.

Layatalati Hill: Well it says the Accounting Department would deduct the appropriate amount.

David P. Jordan: Ok.

Layatalati Hill: So to me it means they are going to figure out what. We will decide how much the judgment is but the interest is going to change with each payment. That's all I have.

311 appeal shall be filed with the Judiciary's Court of Appeals in accordance with the Judiciary Law
 312 and any applicable rules and procedures.

313 58.45-10. Records. The ~~Hearing Officer~~Judiciary shall keep ~~complete~~ records of all
 314 ~~garnishment~~Garnishment actions ~~that are started and/or completed.~~ The records ~~shall~~must
 315 contain, at minimum:

- 316 (a) Correspondence and notices to all parties involved;
- 317 (b) Bookkeeping records;
- 318 (c) Garnishment evidence presented by all parties; and
- 319 (d) Decisions made by the ~~Hearing Officer~~Judge.

320

321 ~~58.5-1. Garnishment Action Fee. At the time of creditor's first notice to the Hearing Officer,~~
 322 ~~the creditor shall pay a fee of \$25.00 which shall be known as the Garnishment Action Fee. The~~
 323 ~~Hearing Officer is not required to begin any action on the claim until the fee is paid. The fee~~
 324 ~~shall be charged to the respondent should a decision be made to garnish. The fee will be~~
 325 ~~applicable in each case, except that in cases where indebtedness is with a department, program or~~
 326 ~~enterprise of the Oneida Tribe.~~

327 ~~58.5-2. Administrative Fee. An administrative fee of \$5.00 shall be deducted monthly along~~
 328 ~~with the ordered garnishment until the amount claimed is paid in full. This fee is to cover the~~
 329 ~~cost of garnishing as expended by the Accounting Department.~~

330 58.5-3. Amount of Garnishment. The Hearing Officer may order the employee's compensation
 331 to be subject to a garnishment of up to twenty percent of the employee's disposable weekly
 332 wage, the remainder to be identified as a protected subsistence allowance. Provided that, in
 333 calculating twenty percent, the Hearing Officer shall not include amounts garnished regarding
 334 child support orders. The employee may voluntarily request more to be deducted. The request
 335 shall be made directly to the Accounting Department.

336 58.5-4. Exceptions to 20 % Presumption. It is presumed that the beginning amount to be
 337 deducted in any garnishment hearing shall begin at twenty percent of the employee's weekly
 338 wages. The respondent is responsible for presenting evidence that it is unreasonable to require
 339 the full twenty percent to be deducted. Examples of exceptions shall include, but not be limited
 340 to, pre-existing garnishment orders, child support orders that would leave less than 50% of the
 341 debtor's wages, other evidence presented which would cause garnishments such that additional
 342 garnishment orders would cause undue harm.

343

344 ~~58.6-1. Irrevocable Voluntary Payroll Deduction. An employee may request an irrevocable~~
 345 ~~voluntary payroll deduction negotiated with a creditor for legal debts. The request must be~~
 346 ~~signed by the employee and submitted to the Accounting Department.~~

347 58.6-2. Preemption of Garnishment Action. If the request is made prior to a garnishment action
 348 decision or during a garnishment action:

- 349 (a) ~~The irrevocable voluntary payroll deduction request must be made to the Hearing~~
 350 ~~Officer.~~
- 351 (b) ~~The Hearing Officer shall notify the creditor of the request.~~
- 352 (c) ~~If the parties agree, the Hearing Officer may then cancel the hearing, notify all parties~~
 353 ~~and forward the executed agreement to the Accounting Department.~~

354 58.6-3. Administrative Fee. An administrative fee of \$5.00 shall be assessed monthly so long as
 355 the irrevocable voluntary payroll deduction is in effect.

356

357 | ~~58.7-1.~~ **Recognition of Order Child Support Orders**

358 | ~~58.6-1.~~ Orders for child support against any ~~employee shall~~ **Employee must** be recognized and
 359 | enforced, provided that the order has been issued from a court of competent jurisdiction.⁸

360 | ~~58.76-2.~~ Authenticity of Order. The ~~Hearing Officer shall~~ **Judiciary must** receive such **child**
 361 | **support** orders; and **shall** verify the authenticity of ~~the orders~~ **such orders**. Upon verification of the
 362 | child support order, the ~~Hearing Officer~~ **Judge** shall forward such order to the Accounting
 363 | Department for action.

364 | ~~58.76-3.~~ Administrative Fee. An ~~administrative fee of \$5.00 shall~~ **Administrative Fee must** be
 365 | assessed monthly so long as the child support deduction is in effect.

367 | ~~58.8-17.~~ **Discharge from Employment**

368 | ~~58.7-1.~~ The ~~Oneida~~ Tribe shall not discharge ~~an employee because an employee is being~~
 369 | ~~subjected from employment, refuse to garnishment actions~~ **employ or otherwise take disciplinary**
 370 | **action against an Employee solely because the Employee is subject to a Garnishment action.**

371 | ~~58.8-2. Jurisdiction. All creditor filing a garnishment action must sign a Jurisdiction~~
 372 | ~~Submission Statement. The statement will indicate that the creditor is submitting to the~~
 373 | ~~jurisdiction of the Oneida Tribe in that particular action.~~

374 | *End.*

377 | Adopted - BC-6-2-92

378 | Adopted - BC-6-10-92

379 | Adopted - BC-4-2-97-G

380 | Amended - BC-06-25-14-B

⁸ **Laurel Meyer-Spooner:** My name is Laurel Spooner. I work for collections with Oneida Housing. I just have one question regarding maybe if the moneys owed are owed to other places besides child support, will they end up changing that back? It used to be at least fifty dollars (\$50) went to Tribal debt and child support got everything but fifty dollars (\$50).

Tehassi Hill: Is that the same question, because child support is in the Per Capita Law.

Krystal John: This law does not do that. If that was the former practice of the Tribe to allow fifty dollars (\$50) to go to the other Tribal debt, this is not addressed by Garnishment. The Per Capita Law does the per cap but it is silent as to the dollar amount that would be reserved for other Tribal debts.

David P. Jordan: Does that answer your question?

Laurel Meyer-Spooner: I think it did. Thank you.

David P. Jordan: Thank you.

Legislative Reference Office
P.O. Box 365
Oneida, WI 54155
(920) 869-4375
(800) 236-2214



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

LEGISLATIVE OPERATING COMMITTEE

Public Meeting on the Garnishment Law Amendments
Business Committee Conference Room-2nd Floor
Norbert Hill Center
February 18, 2016 12:15 p.m.

PRESENT: David P. Jordan, Fawn Billie, Tehassi Hill, Rae Skenandore, Layatalati Hill, Dawn Moon-Kopetsky, Becky Skenandore, Jack Denny, Laurel Meyer-Spooner, Julie Cornelius, Maureen Perkins, Douglass McIntyre and Krystal John.

Tehassi Hill: Alright, I will go ahead and call this public meeting to order. It is 12:16. The topic today is the Garnishment Amendments. The Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal for amendments to the Garnishment Law. Some of the basics:

-Removes the specific amount of the garnishment action fee and the administrative fee from the Law and instead the Judiciary is authorized to determine the garnishment action fee amount, while the Accounting Department determines administrative fee amount. The current Law sets the garnishment action fee at twenty-five dollars (\$25) and the administrative fee at five dollars (\$5).

-Also limits representation by an attorney or advocate. The current Law allows the parties to be represented by someone to speak on their behalf.

-Also requires post judgment interest be applied to the amount received beginning on the date of the judgment and ending on the date the garnishment order is satisfied. The post judgment interest rate is a fixed rate and will be determined by 1) an agreement by both parties or 2) an annual post judgment rate equal to one percent (1%) plus the prime rate that was in effect on the date of the judgment.

All community members are invited to attend this meeting to learn more about this proposal. The public comment period is open until February 25, 2016. During the public comment period, all interested persons may submit written comments regarding this legislative proposal and/or a transcript of any testimony/spoken comments made during the Public Meeting. Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person or by U.S. mail, interoffice mail, e-mail or fax.

For more information about the public meeting process, or to obtain copies of the public meeting documents for this proposal, please visit the Tribe's website or contact the Legislative Reference Office, which is located on this floor of the Norbert Hill Center.

So we will go ahead and go down the list. First person on the list is Wes Martin.

Wesley Martin:

Thank you. On the topic of the garnishment ordinance, as some of you as BC members know that I am also the Chair of the [Oneida Nation Commission on Aging] Board which is the elders and one of the concerns is the representation. Sometimes we have legal advocates, sometimes we have elders such as maybe people that are benefit specialists, someone in the ADRS but also persons that are related to that person that might have some input. And then to require it to me, it is a civil action. It is not a criminal action. It's more on them to have to hire an attorney or lay advocate. Sure they can speak for themselves but sometimes they might have a family member that might be able to speak on their behalf or someone else that not necessarily is a licensed to practice or whatever. So I think to take that away, and to reapply it that they have to have an advocate who is licensed with the judiciary or an attorney, I think would do disservice to that person. There are people that can come out there and if they feel that they need an attorney at that time of the hearing, there are other avenues they can do it but for the first hearing I would ask this body to look at whether it is really in the interest of that person to go hire somebody. They could ask for an adjournment there are times they do it at the initial plea hearing but I think that unless there was something to show that the ones that did speak up for people are not capable of doing it. I didn't see anything that showed what the advantage would be. There might be an advantage to hiring an attorney or advocate but there is also cost for that, especially on our elders.

And the other thing that I make comment to, it is not clear whether the Garnishment pertains to per caps for elders. If that is the garnishment part of the ordinance. I understood that there are possibly four garnishment areas. That was for debts to the Tribe, taxes, student loans and I think there was one more and I can't think of what that fourth one was. But I believe they are limited. So the questions is and really when I go through this ordinance and talk to people is that under the requirements of post judgment interests to apply one of the big issues I have is whether or not that judgment was ever, the persons were ever notified. Because all that is required in the state statute for someone to bring a foreign judgment to the Court would be that they sent it to the person's last known address whether that person still lives there or nothing. So they are taking a judgment against a party of this Tribe and there is nothing to show that they were given notice. Was there personal service as such? There is nothing to show that that person ever received or that there is an action pending against them. The party goes to Court, gets a judgment and follows the next step is to enforce that judgment. While, then they could come through that with the Full Faith and Credit whether I look at the ordinance and whether that shows or doesn't show that that person was... was he given notice and did they receive notice. That is a big problem not just in the courts in this court system and they go after them and they find them and they get a... now it probably goes back to the same address and did that person receive it. So to me it's ... there are some problems with this and I know we are just here on the amendments but I think the one I would certainly ask this body to look at is looking at, number one, is the representation. Is to have to have somebody go hire an attorney for enforcement when probably they could answer that themselves or some relative or somebody else in the community help them. I don't see anything other than to have what it presently is, to have somebody speak of their behalf. And the second one I would like is the required post judgment. I think there should be language to show that the person got that judgment, that the person was notified in person of that judgment because

if you don't know it how can I know that they took it. And all that has to be sent is the last known address. If that person moves or whatever, doesn't live there anymore and most of the persons ... it is just troublesome sometimes when all that has to be shown is the judgment against the person is that you sent the notice to the last known address. So I would ask this body to consider what I asked you. Thank you.

Tehassi Hill:

Thank you Wes. David, do you have comments? Rae Skenandore.

Rae Skenandore:

I have two comments. The first one is from Finance and is regarding the definition for the Accounting Department on line 25. We wrote an alternate definition that I will read it here but I will submit it as well. It is for the Accounting Department, it means the area of the Tribe charged with keeping the records of financial transactions and includes accounts payable and receivable, inventory, payroll, fixed assets and other financial elements. So then I will submit that to LRO.

And the second comment then is made from Rae Skenandore GTC member []. On a personal note, I would like this body to consider a mechanism for Tribal debt collection that is not subject to court orders. There is real life examples from federal, state and local government to exercise this right when it comes to the collection of taxes, the Department of Education exercises that right and call it an administrative garnishment when it comes to student loans. There should be another mechanism the Tribe can use to exercise its authority in that way. So that is all I have.

Tehassi Hill:

Alright, thank you. Next on the list is Dawn, Mitzy. Oh just signing in. Becky Skenandore. Just signing in? Just going down the list. Jack Denny?

Jack Denny:

Jack Denny. Enrollment number []. The only question that I have in here is, because it says I would have to have a judgment. We get a fair amount of thefts through our stores. So if I have a judgment from Brown County or Outagamie County and that gets submitted to this judicial system it doesn't clearly state are we able to garnishment the per capita. I guess that is my question.

David P. Jordan:

I don't know, I don't believe we can garnish that from per cap. I think there are only certain things that you can garnish from per capita. Child support is one of them. Tribal debt.

Krystal John:

Per capita goes through the Per capita Law and that is called attachment. That is a separate process from garnishment.

David P. Jordan:

So that falls underneath the per capita law.

Krystal John:

Yes.

David P. Jordan:

Oh it does.

Layatalati Hill:

I just want to point out that on line 53 the definition for judge and also on line 63 the same definition of judge so it is in there twice.

One other thing. What page was that? When it is talking about the Accounting Department. Starts on line 101. “Where the Accounting Department shall determine the amount of the administrate fee. Oh not that part. I will try to find it, hold on.

Well the question, the question was for the interest that is recommended in the draft, who is going to track that each week. It is going to be a different amount and I talked with someone from Accounting and they said that they would probably need another staff member or a new system to track that because it would be kind of amortization schedule based on taking the interest each week and the payments made, so the interest is going to be the same but it will be lesser amount if the principle is less.

David P. Jordan:

Is that by line number 48 to 55. Anywhere in there?

Layatalati Hill:

No it was not in the definition. Are you looking at the redline?

Tehassi Hill:

139 is post judgment interests.

Layatalati Hill:

Yeah ok line, starting line 151, second sentence: “the Accounting Department shall implement the garnishment by deducting the appropriate amount from the debtor's paychecks.” The way I read that is they are the ones that are going to have to figure out what’s going to be deducted each week so that would be including with the interest what it will be each week.

So my recommendation is to talk to someone from Accounting on what they would need to do with that or if they have that capability. So I don’t really have a comment on ...

David P. Jordan:

Would the ...

Layatalati Hill:

... what to change but just a recommendation to talk with someone in Accounting about that particular part.

David P. Jordan:

So it wouldn't be like the court clerk to keep track of that. No? Is that where they would be paying it? No? Ok.

Layatalati Hill:

Well it says the Accounting Department would deduct the appropriate amount.

David P. Jordan:

Ok.

Layatalati Hill:

So to me it means they are going to figure out what. We will decide how much the judgment is but the interest is going to change with each payment. That's all I have.

Tehassi Hill:

We had [Oneida Housing Authority] walk in. Does anyone from Housing have any comments on Garnishment?

Laurel Meyer-Spooner:

My name is Laurel Spooner. I work for collections with Oneida Housing. I just have one question regarding maybe if the moneys owed are owed to other places besides child support, will they end up changing that back? It used to be at least fifty dollars (\$50) went to Tribal debt and child support got everything but fifty dollars (\$50).

Tehassi Hill:

Is that the same question, because child support is in the Per Capita Law.

Krystal John:

This law does not do that. If that was the former practice of the Tribe to allow fifty dollars (\$50) to go to the other Tribal debt, this is not addressed by Garnishment. The Per Capita Law does the per cap but it is silent as to the dollar amount that would be reserved for other Tribal debts.

David P. Jordan:

Does that answer your question?

Laurel Meyer-Spooner:

I think it did. Thank you.

David P. Jordan:

Thank you.

Tehassi Hill:

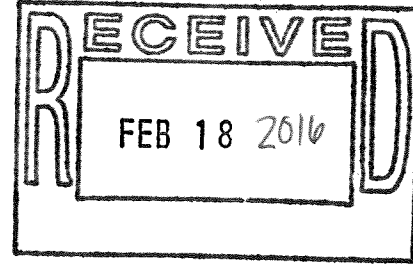
Is there any comment or questions on the Garnishment Law? I guess we will go ahead and close the Garnishment public meeting at 12:34. Thank you everybody for your participation and comments. Please remember you have until February 25th to get your written comments if you have anything else that comes up between now and the 25th please submit it in writing to the Secretary's Office or the LRO Office. Thank you.

David P. Jordan:
By 4:30.

-End of meeting-

Rae M. Skenandore

From: Ralinda R. Ninham-Lamberies
Sent: Thursday, February 18, 2016 11:32 AM
To: Rae M. Skenandore
Subject: RE: Hows this?



Like it

From: Rae M. Skenandore
Sent: Thursday, February 18, 2016 11:26 AM
To: Ralinda R. Ninham-Lamberies
Subject: Hows this?

“Accounting department” means the area of the Tribe charged with keeping the records of financial transactions and includes accounts payable and receivable, inventory, payroll, fixed assets and other financial elements.

Rae Skenandore
Project Manager, Finance
rskenand@oneidanation.org

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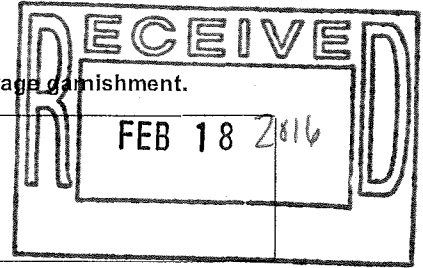
(1)

Who Can Garnish My Wages?

Find out which creditors are allowed to get money directly from your paycheck -- called wage garnishment.

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by: [Baran Bulkat \(/law-authors/baran-bulkat.html\)](/law-authors/baran-bulkat.html), Attorney

If you owe alimony, child support, back taxes, student loans, or have judgments against you for other obligations, your creditors may be able to garnish (take) your wages to collect those debts. Before they can garnish your wages, most creditors must first sue you, get a judgment, and obtain a court order. But there are exceptions. Read on to learn more about who can garnish your wages.

What Is a Wage Garnishment?

A wage garnishment (also called a wage attachment) is a court or government agency order that requires your employer to withhold a certain amount from your wages and send it to your creditor. How much of your wages may be garnished depends on the type of debt as well as federal and state garnishment limits (discussed below).

For information on how wage garnishments work, the garnishment limits of your state, and more, see our [Wage Garnishment and Wage Attachment \(http://www.nolo.com/legal-encyclopedia/wage-garnishments-attachments\)](http://www.nolo.com/legal-encyclopedia/wage-garnishments-attachments) topic.

Types of Debt Which May Be Subject to Wage Garnishment

Generally, any of your creditors may be able to garnish your wages. Most creditors are required to obtain a judgment and court order before they are allowed to garnish your wages. However, depending on the type of debt, certain creditors do not need a court order.

Below, we discuss the most common types of debt your wages may be garnished for.

Child Support and Alimony

Since 1988, all child support orders automatically include a wage withholding order. This means that if you are ordered to pay child support, your wages may be garnished without additional court action. A wage garnishment order can also be obtained against you if you fall behind on your child support or alimony obligations.

Wage garnishment limits for child support and alimony are also usually much higher than for other types of debts. For child support obligations, federal law allows garnishment of up to 50% of your disposable earnings (gross wages less deductions required by law) if you are supporting a spouse or child who isn't the subject of the wage garnishment order. If you don't have another spouse or child to support, this amount can be 60%. Further, the garnishment may be increased by an additional five percent if you are behind 12 weeks or more on your obligations.

Unpaid Income Taxes

If you owe back taxes to the IRS, the federal government can garnish your wages without having to obtain a court order against you. How much the IRS can garnish depends on the number of dependents you have and your deduction amounts.

State and local governments can also garnish your wages to collect unpaid taxes. But the amount they can

State and local governments can also garnish your wages ^{REVISED} to unpaid taxes. But the amount they can garnish and procedures they must follow depend on state law. To find out more about wage garnishment limits for unpaid state and local taxes in your area, contact your state labor department. 112 of 120

Student Loans

If you are behind on your federal student loan payments, the U.S. Department of Education (or any entity collecting on its behalf) can garnish your wages without a court order – this is referred to as an administrative garnishment. The amount of the garnishment is limited to 15% of your disposable earnings or the amount by which your weekly disposable wages exceed 30 times the federal minimum wage, whichever is less.

Court Judgments Against You

For most types of debt such as credit cards and medical bills, creditors must first sue you, obtain a judgment, and get a court order before they can start garnishing your wages. This means that they can't immediately garnish your wages if you default on your obligations.

If a creditor obtains a court order to garnish your wages, federal law limits the amount that can be taken to 25% of your disposable earnings or the amount by which your weekly disposable income exceeds 30 times the federal minimum wage, whichever is lower. However, keep in mind that your state is allowed to impose even stricter limits.

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Zip Code:

54304

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- 1 Briefly tell us about your case
- 2 Provide your contact information
- 3 Connect with local attorneys

Legal Information & Books from Nolo

[Dealing with Debt and Creditors \(http://www.nolo.com/legal-encyclopedia/collection-agencies\)](http://www.nolo.com/legal-encyclopedia/collection-agencies)

[Dealing with Debt \(http://www.nolo.com/legal-encyclopedia/dealing-with-debt-when-you-cant-pay-your-bills\)](http://www.nolo.com/legal-encyclopedia/dealing-with-debt-when-you-cant-pay-your-bills)

[Debt Relief and Debt Settlement Lawyers \(http://www.nolo.com/legal-encyclopedia/debt-relief-consumer-lawyers\)](http://www.nolo.com/legal-encyclopedia/debt-relief-consumer-lawyers)

[Creditor Lawsuits \(http://www.nolo.com/legal-encyclopedia/creditor-lawsuits\)](http://www.nolo.com/legal-encyclopedia/creditor-lawsuits)

[Debt Settlement \(http://www.nolo.com/legal-encyclopedia/debt-settlement-negotiating-with-creditors\)](http://www.nolo.com/legal-encyclopedia/debt-settlement-negotiating-with-creditors)

[Debt Collection Tactics \(http://www.nolo.com/legal-encyclopedia/debt-collection-repossessions-wage-garnishments-property-levies-more\)](http://www.nolo.com/legal-encyclopedia/debt-collection-repossessions-wage-garnishments-property-levies-more)

[Managing Credit Card Debt \(http://www.nolo.com/legal-encyclopedia/managing-credit-card-debt\)](http://www.nolo.com/legal-encyclopedia/managing-credit-card-debt)



Legislative Operating Committee

March 2, 2016

Per Capita Law Amendments

Submission Date: 7/10/2015

Public Meeting:
 Emergency Enacted:
 Expires:

LOC Sponsor: David P. Jordan

Summary: *This request from the Trust Department was submitted to clarify several provisions of the law, modify the frequency of form requirements and in elder distributions, and incorporate fees for stop payments and closed bank accounts.*

7/15/15 LOC: Motion by Jennifer Webster to add the Per Capita Law Amendments to the active files list with David P. Jordan as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

9/16/15 LOC: Motion by David P. Jordan to accept the update as FYI and defer the Per Capita Law Amendments to the Legislative Reference Office and to bring back in 30 days for an update; seconded by Fawn Billie. Motion carried unanimously.

10/21/15 LOC: Motion by David P. Jordan to accept the memorandum as FYI and to defer the Per Capita Law Amendments to the sponsor to continue to work with the Trust/Enrollment Committee and to bring a draft back on November 4, 2015; seconded by Fawn Billie. Motion carried unanimously.

10/23/15: Work meeting held, attendees include: Cheryl Skolaski, David P. Jordan, Caroyl Long, Douglass McIntyre, Bonnie Pigman, Leyne Orosco, Lisa Kelly Skenandore, Candice Skenandore.

10/26/15: Work meeting held, attendees include: Caroyl Long, Bonnie Pigman, Misty Cannon, Leyne Orosco, Lisa Kelly Skenandore, Candice Skenandore, Susan White, Krystal John.

11/4/15 LOC: Motion by Jennifer Webster to defer to Legislative Reference Office for legislative analysis and fiscal impact; seconded by Fawn Billie. Motion carried unanimously.

2/3/16 LOC: Motion by Tehassi Hill to defer the Per Capita Law Amendments to a work meeting with the Trust/Enrollment Department, the Finance Department, Law Office and the sponsor and bring back to the LOC within the next 30 days; seconded by David P. Jordan. Motion carried unanimously.

- **Next Steps:** Accept the memo providing the status update and defer to the sponsor to bring the updated draft back with an updated analysis when prepared.

Oneida Tribe of Indians

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: Legislative Operating Committee
From: David P. Jordan, Councilmember
Date: March 2, 2016
Re: Per Capita Law Amendments

On July 10, 2015, a request to amend the Per Capita Law was submitted to the Legislative Operating Committee (LOC) on behalf of the Trust Department. On July 15, 2015, the LOC added the Per Capita Law Amendments to the active files list, with myself as the sponsor. This item was brought for the said sixty day update on September 16, 2015, at which time the LOC directed that a draft of the law be brought to the analysis for analysis at the October 21, 2015 LOC meeting. At the October 21, 2015 meeting, these amendments were deferred for continued work and a draft was brought to the LOC and sent for the required analyses on November 4, 2015. The analysis was submitted to the LOC on February 3, 2016, but was not accepted because the Trust Enrollment Department raised new issues that may cause conflict between the law and the Trust Agreement. It was directed at that meeting that a new draft be brought back within thirty days following work meetings with the Trust Enrollment Department and the Finance Department.

At that work meeting, the Trust Enrollment Department was advised that a potential solution to the conflicts and gaps in the amendments was to use the newly developed Administrative Rulemaking Law, which was passed by the Oneida Business Committee on February 24, 2016. The revised draft that the Legislative Reference Office (LRO) received from the Trust Enrollment Department did not include any use of the Administrative Rulemaking Law as we had agreed in the work meeting. The LRO asked the director, Susan White, to confirm that the department had changed their direction since our last meeting and she confirmed that they had given that the Administrative Rulemaking Law had not yet passed at the time of her response. I am waiting to hear back from the director as to whether their position has changed in light of the Administrative Rulemaking Law's adoption.

I am asking that you defer this item back to my office for further work and I will bring back the Law with an updated analysis when it is ready.

Requested Action

Motion to accept the memorandum regarding the status of the Per Capita Law Amendments as FYI.

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Brandon Stevens, Chairperson

Tehassi Hill, Vice Chairperson

Fawn Billie, Councilmember

David P. Jordan, Councilmember

Jennifer Webster, Councilmember

Quarterly Report Legislative Operating Committee October - December 2015

1. Purpose and Mission

The purpose and mission of the Legislative Operating Committee (LOC) is to enhance the policymaking capability of the Oneida Business Committee (OBC) and the General Tribal Council (GTC) by drafting laws and policies and reviewing past and current laws, policies and regulations of the Oneida Tribe.

A legislative analysis is completed for proposed laws, policies, regulations, bylaws and amendments. Public meetings are facilitated by the LOC in accordance with the Legislative Procedures Act (LPA). A Resolution and Statement of Effect are prepared for all legislation that is presented for final adoption which is submitted to the OBC and/or GTC for approval.

2. Members

The LOC is comprised of the five council members of the OBC: Brandon Stevens (Chair), Tehassi Hill (Vice-Chair), Jennifer Webster, Fawn Billie, and David P. Jordan.

3. Contact Information

The LOC office is located on the second floor in the Norbert Hill Center. For more information, please contact the Legislative Reference Office (LRO) at (920) 869-4376 or e-mail LOC@oneidanation.org.

4. Meetings

The LOC holds regular meetings on the first and third Wednesday of every month. The meetings begin at 9:00 a.m., and are held in the Norbert Hill Center - Second Floor, Business Committee Conference Room.

5. Prioritization

The LOC continuously reviews the proposals on our Active Files List (AFL). Priorities are identified based on GTC Directive, OBC Directive and by LOC agreement/consensus.

6. Summary

During this reporting period (October, November, and December 2015), the LOC:

- Added 9 legislative items to the Active Files List (AFL) and completed processing one legislative item; bringing the total number of legislative items on the AFL to 56, as of January 1, 2016.

- Added one administrative item (a GTC petition) to the Active Files List and forwarded a statement of effect for this item to the OBC; bringing the total number of legislative analyses/statements of effect prepared for GTC petitions this term to 15.
- Held five Public Meetings.

Legislative Items Added to the Active Files List

Of the 9 legislative items added to the AFL during the reporting period, five are proposals that would create new Tribal laws; three would amend existing Tribal laws, and one would amend the bylaws for a Tribal entity:

1. **New Law: Probate Law.** This proposed law would set out a process for administering the estate of a deceased person, including resolving all claims and distributing the deceased person's property. Currently, the Real Property Law contains various provisions related to probate, but this Law would comprehensively address the topic. *Added to the Active Files List on 10/7/15.*
2. **New Law: Mortgage and Foreclosure Law.** This proposed law set out a process for how the Tribe administers mortgages and foreclosures. This law is being developed because the Land Commission's hearing responsibilities are being transferred to the Judiciary. *Added to the Active Files List on 10/7/15.*
3. **New Law: Landlord-Tenant Law.** This is a proposal for a new law to establish the roles and responsibilities of the Landlord and Tenant. This law is being developed because the Land Commission's hearing authority is being transferred to the Judiciary. *Added to the Active Files List on 10/7/15.*
4. **New Law: Research Protection Act.** This is a proposal for a new law that is intended to assist Oneida with consultation and research from Tribal members. The goal is to use intellectual brain power of Oneida college graduates who are willing to serve as a Tribal resource, ensuring future Tribal growth and prosperity. *Added to the Active Files List on 10/21/15.*
5. **New Law: Severance Law.** This proposal provides a process for the Tribe's offering of severance agreements to employees when it is determined that the financial conditions of the Tribe warrant a need to reduce the workforce. *Added to the Active Files List on 10/21/15.*
6. **Amendments: Marriage Law.** Proposed amendments were requested to provide for a way to waive the standard waiting period between applying for a license and solemnizing the marriage, provide for an administrative fee for amendments to an application after it has been submitted and to provide for a process to adopt a fee schedule. *Added to the Active Files List on 11/4/15.*
7. **Amendments: Vendor Licensing Law.** Amendments were requested because the SEOTS staff ran into issues when trying to obtain a new vendor. Additional changes are also being processed to update and streamline the law. *Added to the Active Files List on 11/18/15.*
8. **Amendments: Real Property Law.** The proposed amendments would, among other things, transfer all Land Commission hearing responsibilities to the Judiciary. Various sections of the Law would also be removed and separate laws would be created to address those topics. *Added to the Active Files List on 10/7/15.*
9. **Amendments: Land Commission Bylaws.** These amendments would remove the hearing authority from the Land Commission and transfer it to the Judiciary. *Added to the Active Files List on 10/7/15.*

Legislative Items Completed

One legislative item was completed during this reporting period and removed from the Active Files List – A new **Furlough Policy** was adopted by the OBC on November 10, 2015.

Emergency Actions

There are currently no laws or policies in effect on an emergency basis.

Added/Processed Administrative Items

GTC Petitions. During this quarter, one new GTC petition was deferred to the LOC for legislative analysis - on November 4, 2015, the LOC added **Petition: Food Pantry** to the Active Files List, and on January 6, 2016, the LOC forwarded the prepared statement of effect for this item to the OBC.

Public Meetings

The LOC held five Public Meetings during the reporting period:

- 10/29/15 – Higher Education Scholarship Policy
- 10/29/15 – Community Support Fund Policy Amendments
- 10/29/15 – Removal Law Amendments
- 10/29/15 – Public Use of Tribal Land Law Amendments
- 10/1/15 – Oneida Flag Policy

Person responsible for this report and contact information: Brandon Stevens, Legislative Operating Committee Chair. Phone: (920) 869-4378.

Oneida Tribe of Indians of Wisconsin

Legislative Reference Office

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Committee Members

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

Memorandum

To: Legislative Operating Committee
From: Brandon Stevens, LOC Chairperson *BS*
Date: March 2, 2016
Re: Legislative Procedures Act

The Legislative Reference Office has updated its drafting standard operating procedures regarding the use of the words “shall,” “must” and “may” which affects language contained in the required text of the Legislative Procedures Act. In addition, the recent constitutional amendments also require language deviations.

In order to fully implement the new standard operating procedure and constitutional amendments, we would be deviating from the required text as displayed in the redline below:

Section 16.11-1(b) requires the following language be included in each law:

2-1. This Law was adopted by the [Oneida Business Committee or Oneida General Tribal Council] by resolution _____.

300.2-2. This Law may be amended or repealed by the [Oneida Business Committee or Oneida General Tribal Council] pursuant to the procedures set out in the Legislative Procedures Act.

300.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity ~~shall~~ does not affect other provisions of this Law which are considered to have legal force without the invalid portions.

300.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law ~~shall~~ controls, provided that this Law repeals the following:

300.2-6. This Law is adopted under authority of the Constitution of the Oneida ~~Tribe of Indians of Wisconsin~~ Nation.

Section 16.11(c) requires the following language be included in each law:

3-1. This section ~~shall~~ governs the definitions of words and phrases used within this Law. All words not defined herein ~~shall~~ are to be used in their ordinary and everyday sense.

These deviations do not affect the validity such law because Section 16.10-1 entitled *Substantial Compliance* reads, “Any law hereafter adopted is valid only if adopted in substantial compliance with this law.” Because these minor revisions being made to maintain consistency throughout the document do not change the intent or implications of these provisions, these provisions remain substantially compliant with the Legislative Procedures Act.

Because these minor revisions remain substantially compliant with the Legislative Procedures Act, I recommend that we implement these minor deviations in order to maintain consistency throughout the document. Further, so long as we agree to move forward with the updated language, I recommend that legislative analyses coming out of the legislative reference office not be required to note such deviations.

March 2016

March 2016						April 2016							
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5						1	2
6	7	8	9	10	11	12	3	4	5	6	7	8	9
13	14	15	16	17	18	19	10	11	12	13	14	15	16
20	21	22	23	24	25	26	17	18	19	20	21	22	23
27	28	29	30	31			24	25	26	27	28	29	30

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