



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room-2nd Floor Norbert Hill Center

August 17, 2016 9:00 a.m.

- I. Call to Order and Approval of the Agenda**
- II. Minutes to be approved**
 - 1. August 3, 2016 LOC Meeting Minutes
- III. Current Business**
 - 1. Vendor Licensing Law Amendments
 - 2. Conflict of Interest Policy Emergency Amendments
 - 3. Employment Law
 - 4. Landlord-Tenant law
 - 5. Eviction and Termination law
 - 6. Election Law Permanent Amendments
- IV. New Submissions**
 - 1. Nonprofit Incorporation Law
 - 2. Tobacco Ordinance Amendments
 - 3. Election Law – Campaign Financing
- V. Additions**
- VI. Administrative Updates**
 - 1. Rulemaking Format Administrative Update
- VII. Executive Session**
- VIII. Recess/Adjourn**



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2nd Floor Norbert Hill Center

August 3, 2016 9:00 a.m.

Present: Brandon Stevens, David P. Jordan, Jennifer Webster, Fawn Billie, Tehassi Hill

Others Present: Jennifer Falck, Taniquelle Thurner, Maureen Perkins, Krystal John, Danelle Wilson, Rae Skenandore, Nancy Barton, Bradley Graham, Tonya Webster, Mike Debraska (via SEOTS), Rhiannon Metoxen

I. Call to Order and Approval of the Agenda

Brandon Stevens called the August 3, 2016 Legislative Operating Committee meeting to order at 9:43 a.m.

Motion by Tehassi Hill to adopt the agenda; seconded by Jennifer Webster. Motion carried unanimously.

II. Minutes to be approved

1. July 20, 2016 LOC Meeting Minutes

Motion by Jennifer Webster to approve the July 20, 2016 LOC meeting minutes; seconded by David P. Jordan. Motion carried with one abstention (Tehassi Hill).

III. Current Business

1. Mortgage and Foreclosure

Motion by Jennifer Webster to approve the Mortgage and Foreclosure adoption packet and forward to the Oneida Business Committee for consideration; seconded by Tehassi Hill. Motion carried unanimously.

Motion by Tehassi Hill to forward the resolution titled “Defining Comprehensive Housing Division in the Mortgage and Foreclosure Law” to the Oneida Business Committee for consideration; seconded by David P. Jordan. Motion carried unanimously.

2. Marriage Rules

Motion by Fawn Billie to certify that the Marriage License Fee Schedule (Rule #1) and Marriage Law Fine Schedule (Rule #2), rules have been promulgated in accordance with the Administrative Rulemaking law; and to forward the rules to the Oneida Business Committee for review, seconded by Tehassi Hill. Motion carried unanimously.

3. Petition: Debraska – Per Capita Distribution

Legislative Operating Committee Meeting Minutes of August 3, 2016

Motion by Jennifer Webster to accept the updated statement of effect for Petition-Debraska Per Capita Distribution and forward to the Oneida Business Committee for consideration; seconded by David P. Jordan. Motion carried unanimously.

IV. New Submissions

1. Conflict of Interest Policy Emergency Amendments

Motion by David P. Jordan to approve the Conflict of Interest Policy Emergency Amendments resolution and forward to the Oneida Business Committee for consideration; seconded Jennifer Webster. Motion carried unanimously.

2. LOC Priorities

Motion by Jennifer Webster to accept the LOC Priorities memo and forward to the Oneida Business Committee as FYI, with the noted changes, seconded by Fawn Billie. Motion carried unanimously.

Note: The changes included deleting two laws which were listed twice, adding the Research Protection Act back onto the Active Files List as a medium priority, and to remove Garnishment Law Amendments from the list, as that item is complete.

3. FY 17 Budget Statement of Effect

Motion by David P. Jordan to enter into the record the e-poll results approving the FY17 Budget Statement of Effect; seconded by Tehassi Hill. Motion carried unanimously.

V. Additions

VI. Administrative Updates

VII. Executive Session

VIII. Recess/Adjourn

Motion by David P. Jordan to adjourn the August 3, 2016 Legislative Operating Committee meeting at 10:22 a.m.; seconded by Fawn Billie. Motion carried unanimously.



Legislative Operating Committee
August 17, 2016

Vendor Licensing Amendments

Submission Date: 11/18/15	Public Meeting: 7/21/16
LOC Sponsor: Jennifer Webster	Emergency Enacted: n/a Expires: n/a

Summary: *A request was made to amend the law after SEOTS staff ran into issues while trying to obtain a new vendor. Additional changes are made to update the law and to remove various administrative requirements; and to clearly identify the Licensing Department's administrative rulemaking authority.*

- 11/18/15 LOC:** Motion by Fawn Billie to add the Vendor Licensing Law Amendments to the active files list with either Jennifer Webster or Brandon Stevens as the sponsor; seconded by David P. Jordan. Motion carried unanimously.
- 12/2/15 LOC:** Motion by Jennifer Webster to identify Jennifer Webster as the sponsor for the Vendor Licensing Law; seconded by Fawn Billie. Motion carried unanimously.
- 1/4/16:** *Work meeting held.* Attendees include Jennifer Webster, Brandon Stevens, Tehassi Hill, David P. Jordan, Fawn Billie, Nicolas Reynolds, Mark Powless, Tonya Webster, Douglass McIntyre.
- 1/20/16 LOC:** Motion by David P. Jordan to defer the draft of the Vendor Licensing Law Amendments to the Legislative Reference Office for legislative analysis and to the Finance Department for a fiscal impact statement; seconded by Fawn Billie. Motion carried unanimously.
- 2/8/16:** *Work meeting held.* Attendees include Jennifer Webster, Tehassi Hill, Fawn Billie, Patrick Stensloff, Tonya Webster, Douglass McIntyre.
- 3/28/16:** *Work meeting held.* Attendees include Jennifer Webster, Brandon Stevens, Tehassi Hill, David P. Jordan, Lisa Summers, Nicolas Reynolds, Tonya Webster, Douglass McIntyre, Tani Thurner.
- 6/15/16 LOC:** Motion by David P. Jordan to accept the legislative analysis for Vendor Licensing Law Amendments and to approve the public meeting packet for a public meeting date on July 21, 2016; seconded by Fawn Billie. Motion carried unanimously.
- 7/21/16:** Public Meeting held.

Next Steps:

- Review the public comments received, determine whether any additional changes need to be made to the draft and direct any additional changes (if appropriate)
- Consider directing the LRO to prepare an adoption packet for the Oneida Business Committee.



Memorandum

TO: Legislative Operating Committee (LOC)
FROM: Patricia Garvey, Oneida Law Office *PG*
DATE: August 1, 2016
RE: Vendor Licensing Law Amendments: Public Meeting Comment Review

On July 21, 2016 a public meeting was held regarding amendments to the Vendor Licensing law. The public meeting notice stated that these amendments would:

- Remove references to the non-existent License Commission and instead allow Department decisions to be appealed to the Judiciary.
- Remove various procedural requirements from the law and authorize the Licensing Department to promulgate rules or SOPs instead.
- Remove fees from the law and provide the Oneida Licensing Department rulemaking authority to promulgate a fee schedule by rule.
- Delete the listed exemptions and deferments from the licensing/fee requirements (except for services/products provided by another federally recognized tribe or another government, and allow the Department to promulgate rules that establish additional exemptions and deferments.

This memorandum is submitted as a review of the public comments received during the public comment period which ended on July 28, 2016. No comments were received during the public meeting, however written comments were submitted. The public meeting draft with comments, as well as the transcript of the public meeting and written comments received, are attached for your review.

Comment 1. Definition of "Business Entity"

Sherrole Benton: The definition of a "business entity" is so broad that includes both natural and artificial persons. I believe this statement conflicts with the statement on line 89 (Section 56.6-1) where license fees will be based upon the "revenue as generated by the business entity with the Nation."

If the proposed license fees, only apply to those business entities that produce revenue with the Oneida Nation and there are implied exemptions to these fees, than my concerns may be alleviated.

However, considering past interpretations of conflicting statements in other mandates, policies, motions, etc., I gather that there aren't any implied exemptions for "business entities" that don't produce revenue with the Oneida Nation.

Response.

Ms. Benton's comment is with the definition of "Business Entity" as being overbroad and the law fails to provide a provision for implied exemptions for entities that don't produce revenue. The definition of "Business Entity" states "[t]he term "entity" is intended to be as broad and encompassing as possible to ensure the jurisdiction of this law." By design the law is as broad as

possible to ensure jurisdiction. The term is also consistent with other Laws of the Oneida Nation. **See:** Oneida Indian Preference Law. In addition, the term does not list implied exceptions but again this is by design. One of the purposes of the amendments to the Vendor Licensing Law is to allow the Department to promulgate rules that establish additional exemptions and deferments therefore exemptions do not need to be listed in the definition. The definition of “Business entity” is also consistent with the definition of “Vendor’s license” which “means a license issued by the Department to a business entity that provides a service for, or that does business with the Nation.”

There are no recommended changes based on this comment

Comment 2. Vendor Information

Sherrole Benton (written): I’m opposed with making all information from any vendor available to any request from anyone. As a buyer for the Oneida Nation Arts Program, my requests for vendor licenses on behalf of our contractors or interns includes information on a W-9 Tax Form and banking information on Direct Deposit forms for check releases, payments, honorariums, and etc.

There is nothing in this section that states the Oneida Nation and/or Vendor Department would hold confidential and financial information in a secure and confidential manner and withhold that information from any and all requests from entities that don’t have a valid reason and/or explicit permission from the vendors to see that information or have copies of it. On a side note, I also have concerns with how many times those same documents (W -9 tax forms and direct deposit banking forms) are forwarded via email to other tribal departments and tribal employees and how many computers those confidential documents are on.

Response

Ms. Benton is concerned that the Law makes all information from any vendor available to any request from anyone, and wants the Law to state that confidential and financial information will be held in a secure and confidential manner, withheld from requestors that don’t have a valid reason and/or explicit permission from the vendors to access such information.

The specific language of 56.4-2 states “All information given for the purpose of receiving a vendor’s license is:

- (a) Subject to a request for information and available for public inspection as provided in applicable laws and rules of the Nation.

Requests for information are governed by the Open Records and Open Meetings Law. Section 7.4-1 of that law lists various types of records which are to be kept confidential, and exempt from inspection and coping, including:

- (b) Information that, if disclosed, would constitute an unreasonable invasion of personal privacy, unless the disclosure is consented to in writing by the subject of the information.
- (e) Trade secrets and commercial or financial information obtained from a person or business, or such information belonging to the Tribe where the trade secrets or information are proprietary, privileged, or confidential, or where disclosure of the trade secrets or information may cause competitive harm. Nothing contained in this paragraph shall be construed to prevent a person or business from consenting to disclosure.

These Open Records and Open Meetings Law appears to cover most of the issues the commenter was concerned with. Further – the Department would not only be subject to the limitations set out by the Open Records and Open Meetings law, but also by various other Tribal laws and policies, including:

- Section 3.4-8 of the Code of Ethics: “Program personnel shall protect the privileged information to which they have access in the course of official duties and be prudent in the use of information acquired in the course of their duties. Further, they should not use confidential information for any personal gain or in a manner which would be detrimental to the welfare of the employer.”
- Section 1-2 of the Conflict of Interest Policy: The Oneida Tribe asserts its proprietary rights to client lists, trade secrets and any other confidential data generated, developed or commissioned for the Oneida Tribe in the course of an employee’s duties and responsibilities and that all employees, and prospective employees, be made aware of their obligation to uphold such rights.
- The Personnel Policies and Procedures, Section V. D.2.c.I.c., which penalizes employees for “unauthorized disclosure of confidential information or records”

In short, there are several other Tribal laws and policies which already set out requirements that protect information submitted by vendors. An example of a Tribal law that specifically addresses vendor information is the Oneida Indian Preference Law. Section 57.6-8 of the Indian Preference Law states:

Open Records. In accordance with the Open Records and Open Meetings law, general, non-proprietary and non-private information provided for the purposes of acquiring certification shall be considered open records and available for public inspection. Provided further, that all information given for purposes of receiving certification, including financial information, is subject to internal audit of the Tribe.

This is a policy call to specifically include exceptions however no change is recommended. As noted above, exceptions were excluded from the Law to give the Department the opportunity to promulgate rules that establish additional exemption and deferments.

Comment 3. Determining levels of Adequate Insurance Coverage

Sherrole Benton (written): I'm opposed to the allowing the Vendor Department to have sole discretion on determining levels of adequate insurance coverage and whether insurance is required for vendors in all cases. It should be left to Oneida Risk Management to determine whether a vendor requires insurance coverage and what the adequate level would be for each vendor as stated in the current law.

Response

Ms Benton disagrees with the Department having sole discretion to determine the levels of insurance a vendor should carry. The current law states: “insurance verification must be provided to the agent before the vendor’s license is issued, the licensing agent will forward the information to Oneida Risk Management for approval; if the applicant/entity has inadequate insurance coverage, the vendor’s license will not be issued.” **56.5-1(b)(4)**. Draft 4 of the amended law states: “All business entities shall obtain and maintain adequate insurance coverage, as determined by the Department.” **56.5-1(a)**.

Ms Benton is correct in that the amended law does not contain any checks and balances for determining what insurance is “adequate”. An alternative is to provide a blanket amount for all vendors and include the requirement in the application. The application for Indian preference requires a \$1million dollar policy naming the Nation as the insured. The language in 56.5-1(b)(4) could be changed to: “All business entities shall obtain and maintain insurance coverage. The department could establish a process through an internal SOP, or by Rule, for determining whether an applicant has adequate insurance coverage and whether Risk Management would need to be part of the process.

Comment 4. External Revenue Transfer

Sherrole Benton (written): I'm concerned with the amount of external revenue generated by the vendor fees.

The proposed amendments on line 94-96 (Section 56.6-2 Fees for Licensure) states the Vendor Department would transfer 50% of revenue collected from vendor fees to the Trust Department to be placed in the Elder Per Capita Fund.

In 2015, the Vendor Department had a total budget of \$148,911.00 dollars and their external revenue generated from vendor fees was \$183,255.00 dollars. In the proposed amendments, the Vendor Department states, they would only keep 50% of the external revenue generation in vendor fees and transfer the balance to the Trust Dept.

I suggest the Vendor Department keep 100% of the revenue generated from vendor fees in their own budget and use the revenue to 1.) off set Tribal Contribution to the Department, and 2.) add budget line items to use the revenue for professional development of the Vendor Department staff/employees, or for hiring additional or part time staff.

There's always room for improvement in some areas. The excess revenues generated from vendor fees could be used for travel, tuition, and related expenses for the Vendor Dept. staff/employees to seek additional training, education, continuing education units, workshops or refresher courses on such subjects as: Vendor Management, Financial and Banking regulations or confidentiality, Data Management, Supply Management, or other relevant educational programs from educational institutions within the State of Wisconsin.

Response

Ms. Benton wants the amount generated from vendor fees to be retained by the vendor department to off-set tribal contributions. The current law and the amended law require transfer of 50% of the vendor fee to the Trust Department to be placed in the Elder Per Capita Fund.

This is a policy call as budget and revenue allocation are not typically included in laws. According to the figures included in Ms. Benton's analysis, the vendor fees collected in 2015 were \$183,255.00 and the budget for the department was \$148,911.00. Allowing the Department to retain the balance would be an increase in the budget by \$34,344.00.

The provision for transfer to the Elder Per Capita Fund could remain as is in the law or deleted altogether or amended to read: “56.6-2. The Department shall retain the fees collected in accordance with this law to off-set the Tribal contribution necessary for Department operations.” This amendment would give the Department unfettered discretion to determine how to spend the increased budget amount. As mentioned, this is a policy call.

Comment 5

Sherrole Benton (written): My fourth concern is about the proposed removal the Section 56.10-1 "Exempt Status" in the current law for some vendors who currently aren't required to pay licensing fees. The Oneida Nation Arts Program contracts artistic and creative persons, from professional artists to interns. They perform and/or teach the subjects in the creative arts in five categories of art including: music, performing arts, fine art, literature, film/photography, and arts & crafts including traditional and contemporary arts. We also issue honorariums to some individuals who provide services to the Art Program or win prizes in various artistic creative endeavors.

Our independent contractors/consultants, artists, teachers, and interns aren't producing revenue with the Oneida Nation, and most cases wouldn't be required to have insurance to cover the activities and/or services they perform.

I urge the LRO to retain the list of types of vendor that fall in the categories listed in the "Exempt Status and Deferments" section of the current Oneida Vendor Licensing law. I also believe retaining the emergency deferments of license fee payments is important, especially for Social Service, Health Care programs, and/or when emergency hazardous situations arise for the prompt delivery of service to clients or the local community. In addition, tribal members who receive stipends, including elected officials of tribal boards, committees, and commissions, ought to be exempt from vendor fees.

Response

Ms. Benton wants the list of entities that are exempt from paying the vendor licensing fee to remain in the law. In addition, Ms. Benton requests the one-time deferment of paying the vendor licensing fee for up to 30 days in emergency situations to remain in the law.

The list of exceptions was removed from the law and a new provision was added which authorized the Department to promulgate rules that establish additional exemptions and deferments from the licensing/fee requirements. The Department may promulgate rules creating any exemptions/deferments as may be necessary, following the rulemaking process. By enabling the Department to establish rules governing these matters, the Department can create or remove exemptions/deferments as may be necessary, without it being necessary to amend the law each time.

This is a policy call, but no change is recommended.

Comment 6 - Rulemaking Authority

Sherrole Benton (written)

My next concern is on lines 118-119 of the (Section 56.8-2) where it states and infers that the Department will have to sole authority to establish additional exemptions and deferments from the licensing or fee requirements. My fear is that the Department may make rash and arbitrary decisions about exemptions and deferments or sudden changes without notifying the buyers employed with the Oneida Nation or the vendors who hold or apply for vendor licenses. I urge the LRO to build in some checks and balances into this section of the proposed amendments to ensure that the list of exemption categories and deferments is fair, announced in a public and/or inter-departmental manner, and that public hearings be held when changes are being made to the categories of exemptions and deferments.

Response

Ms. Benton is requesting the LRO to put in place checks and balances over the Department's authority to establish exemption/deferment categories through the rulemaking process. Ms Benton is concerned the Department may make rash and arbitrary decisions without notifying the affected parties.

In the amended draft 5 the affected section is 56.8-2 which states: "The Department may promulgate rules that establish additional exemptions and deferments from the licensing or fee requirements of this law."

Through the rulemaking process, all rules are required to be promulgated through a process which requires the Department to publish notice in the Kalihwisaks and on the Tribal website; conduct a public meeting, hold open a public comment period, and to review and consider all public comments received. Further, the rule cannot be adopted until the Department has prepared and submitted a comprehensive list of information to the LOC, including a financial impact statement, which must include statements from all potentially affected entities, identifying how they would be financially affected by the change. The checks and balances requested by Ms. Benton are already in place in the Administrative Rulemaking Law.

There are no recommended changes regarding this comment.

Conclusion

There were written comments provided during the public comment period, which the LOC should consider and may incorporate if determined appropriate.

Chapter 56
ONEIDA VENDOR LICENSING
Lonatkehlun\$ kanakt\$tha>
they are permitted to sell to one

56.1. Purpose and Policy.	56.6. Fees for Licensure
56.2. Adoption, Amendment Repeal.	56.7. Revocation of Vendor's License
56.3. Definitions	56.8. Exemptions and Deferments
56.4. Scope	56.9. Appeals of Licensing Decisions
56.5. Application/Renewal Procedures	
56.1-1. Purpose and Policy	56.6-1. Fees for Licensure
56.2-1. Adoption, Amendment Repeal	56.7-1. Appeal of Agency and License Commission Decisions
56.3-1. Definitions	56.8-1. Revocation of Vendor's License
56.4-1. Scope of the Requirement	56.9-1. Specific Requirements
56.5-1. Application/Renewal Procedures	56.10-1. Exempt Status

56.1-

56.1. Purpose and Policy.

56.1-1. Purpose. The purpose of this Ordinance law is to:

- (a) regulate and license all vendors who provide a service for and do business with the Oneida Tribe of Indians of Wisconsin Nation, and
- (b) ~~56.1-2.~~ Furthermore, it is the purpose of this ordinance to provide regulations, criteria and procedures for the issuance of licenses to all vendors who provide a service for or do business with the Tribe.

~~56.1-3.~~ It is also the purpose of this ordinance to generate revenue for the Oneida Tribe of Indians of Wisconsin Nation by implementing and enforcing a collection of collecting fees from vendors for a license to perform a service for or do business with the Tribe Nation.

~~56.1-4.~~ ~~56.1-2.~~ **Policy.** It is the policy of the Oneida Tribe of Indians of Wisconsin to utilize the Oneida Compliance Division as the authority Nation to establish a system to implement and enforce the issuance of vendor's licenses and for the collection of fees.

56.2-1. Adoption, Amendment Repeal.

56.2-1. This ordinance is law was adopted by the Oneida Business Committee by resolution # BC-3-5-97-E 02-19-92-C and amended by resolution resolutions BC-3-5-97-E, BC-02-25-15-C: and _____.

56.2-2. This ordinance law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Oneida Administrative Legislative Procedures Act by the Oneida Business Committee or the Oneida General Tribal Council.

56.2-3. Should a provision of this ordinance law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this ordinance law which are considered to have legal force without the invalid portions.

~~56.2-4.~~ All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with this ordinance as related to the licensing of vendors

by the Compliance Division are hereby repealed unless specifically re-enacted after adoption of this ordinance.

56.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

56.2-5. This law is adopted under ~~the~~ authority of the Constitution of the Oneida ~~Tribe of~~ Indians of Wisconsin Nation.

56.3-1. Definitions

56.3-1. This ~~Article~~section shall govern the definitions of words ~~or~~and phrases ~~as~~ used ~~herein~~within this law. All words not defined herein shall be used in their ordinary and everyday sense.

~~56.3-2. "Emergency Situation" means an unforeseen occurrence that requires immediate attention, the absence of which would endanger the health or safety of others, cause the loss of perishable goods, or create an economic hardship due to the unavoidable imminent nature of the circumstance.~~

56.3-3.(a) "Business Day" means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays recognized by the Nation.

(b) "Business entity" means that which exists as a particular and discrete unit, but not limited to, any person, partnership, corporation, joint venture, franchise, governmental enterprise, or any other natural or artificial person or organization. The term "entity" is intended to be as broad and encompassing as possible to ensure the jurisdiction of the Oneida Vendor's Licensing Ordinancethis law.¹

~~56.3-4. "Vendor's License" (c) "Department" means a permit granted by an appropriate governmental body to a person, business, or corporation to pursue some occupation or to carry on some business or service, and which is subject to regulations of the Oneida Nation.~~

~~56.3-5. "License Fee" means that fee imposed upon all vendors who apply to perform a service for or do business with the Oneida Tribe of Indians of Wisconsin as established and calculated by the Compliance Division pursuant to the regulatory grant of power afforded them by this ordinance.~~

~~56.3-6. "Licensing Agent" means an employee of the Oneida Licensing Department of the Oneida Compliance Division with the delegated authority and responsibility to implement and enforce this ordinance.~~

~~56.3-7. "Oneida Compliance Division" means that division within the Oneida administration with the purpose and authority to oversee adherence to laws, ordinances, policies and procedures of the Oneida Tribe.~~

~~56.3-8. "Oneida License Commission" means the regulatory entity formed to conduct hearings and decide cases of licensing disputes as they relate to those licenses, certificates or permits issued by the Compliance Division.~~

¹ Sherrole Benton (written): The definition of a "business entity" is so broad that includes both natural and artificial persons. I believe this statement conflicts with the statement on line 89 (Section 56.6-1) where license fees will be based upon the "revenue as generated by the business entity with the Nation."

If the proposed license fees, only apply to those business entities that produce revenue with the Oneida Nation and there are implied exemptions to these fees, than my concerns may be alleviated.

However, considering past interpretations of conflicting statements in other mandates, policies, motions, etc., I gather that there aren't any implied exemptions for "business entities" that don't produce revenue with the Oneida Nation.

~~56.3-9. “Oneida Licensing Department” means that department located within the organizational structure of the Compliance Division of the Oneida Tribe which is responsible for administering licensing programs on behalf of the Tribe, hereafter referred to as department.~~

~~56.3-10. “Oneida Nation” means the Oneida Tribe of Indians of Wisconsin.~~

~~56.3-11. “Training Session” means an educational experience contracted wholly for the education of tribal members or employees.~~

~~56.3-12. “Tribal Members” means persons who are enrolled with the Oneida Tribe of Indians of Wisconsin.~~

~~56.3-13.(d)~~ “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the ~~Tribe~~Nation.

(e) “License fee” means that fee charged for a vendor’s license issued in accordance with this law.

(f) “Nation” means the Oneida Nation.

(g) “Rule” means a set ~~56.4-1. Scope~~ of the Requirement. The provisions and requirements enacted in accordance with the Administrative Rulemaking law.

(h) “Vendor’s license” means a license issued by the Department to a business entity that provides a service for, or that does business with the Nation.

56.4. Scope

~~56.4-1. of these regulations~~This law shall be adhered to by all business entities and shall apply to every ~~one and every~~ business entity that performs services and/or does business with the ~~Oneida Nation~~ separate from and in addition to those requirements imposed by other ~~Tribal entities, such as, the Oneida Gaming Commission and the Division of Land Management~~laws and rules of the Nation.

~~56.4-2. A grace period of sixty (60) days from the date of the original passage of the Oneida Vendor’s Licensing Ordinance shall be granted in order that all business entities may be brought into compliance with this Ordinance.~~

~~56.4-3. Notice shall be given for implementation of the Oneida Vendor’s Licensing Ordinance pursuant to the requirements of the Administrative Procedures Act adopted by resolution GTC-8-19-91 A.~~

~~56.4-4. All information given information given for purposes of receiving a vendor’s license for doing business with the Oneida Nation, excluding financial information, is considered~~the purpose of receiving a vendor’s license is:

(a) subject to a request for information and available for public inspection. Provided further, that all information given for purposes of receiving a vendor’s license for doing business with the Oneida Nation, including financial information, is as provided in applicable laws and rules of the Nation².

² Sherrole Benton (written): I’m opposed with making all information from any vendor available to any request from anyone. As a buyer for the Oneida Nation Arts Program, my requests for vendor licenses on behalf of our contractors or interns includes information on a W-9 Tax Form and banking information on Direct Deposit forms for check releases, payments, honorariums, and etc.

There is nothing in this section that states the Oneida Nation and/or Vendor Department would hold confidential and financial information in a secure and confidential manner and withhold that information from any and all requests from entities that don’t have a valid reason and/or explicit permission from the vendors to see that information or

(b) subject to internal audit of the ~~Oneida~~ Nation.

~~56.5-1.~~ **56.5. Application/Renewal Procedures**

~~(a) 56.5-1.~~ The Department shall notify all new applicants of the ~~Oneida Vendor's Licensing Ordinance requirements and procedures for application. Upon request of the licensing agent, the applicant shall be required to provide the~~requirements of this law; including any applicable rules and any necessary documentation ~~to verify the following information; that the Department may ask the applicant to provide.~~

~~(1) The name of the~~ a) All business entity, with proof of identification

~~(2) The type of business;~~

~~(3) The business address~~ entities shall obtain and the name of the agent for service of process;

~~(4) Verification of required~~ maintain adequate, insurance coverage ~~or bonding;~~

~~(5) Federal I.D. number or Social Security number;~~

~~(6) Accounts Payable Vendor Number, this information may be provided, as determined by the licensing agent,~~ Department.³

~~56.5-2. (7) Food vendor~~

~~(8) Name of buyer, buyer's address, items sold or services offered~~

~~(9) Signature of applicant and date of application~~

~~(b) The licensing agent~~ Department shall ~~deny, or approve the~~ or deny an application based on compliance with the criteria set in this ~~ordinance, verification of the requested information, and; whether or not the following exist:~~ law, other Oneida and applicable rules.

~~(1) payment of the fee paid at the time of application; if the fee is not paid the vendor's license will not be issued. If a business entity is doing business with the Oneida Nation without a vendor's license~~ 56.5-3. The Department shall notify the Accounting Department to recover the fee by retaining the amount from compensation for the product or services rendered by the vendor;

~~(2) first time vendor fees may be prorated per licensing agent's guidelines;~~

~~(3) any outstanding fees owed to the Oneida Nation, all outstanding fees must be paid before a vendor's license will be issued;~~

~~(4) inadequate insurance coverage; insurance verification must be provided to the agent before the vendor's license is issued, the licensing agent will forward the information to Oneida Risk Management for~~ applicant of the approval; if the applicant/entity has inadequate insurance coverage, the vendor's license will not be issued;

~~(5) other factors which relate to the protection of Tribal and/or public health, safety, or welfare.~~

~~(c) The licensing agent shall notify the applicant of the approval,~~ or denial of the application within ten (10) ~~working~~ business days, and:

have copies of it. On a side note, I also have concerns with how many times those same documents (W -9 tax forms and direct deposit banking forms) are forwarded via email to other tribal departments and tribal employees and how many computers those confidential documents are on.

³ Sherrole Benton (written): I'm opposed to the allowing the Vendor Department to have sole discretion on determining levels of adequate insurance coverage and whether insurance is required for vendors in all cases. It should be left to Oneida Risk Management to determine whether a vendor requires insurance coverage and what the adequate level would be for each vendor as stated in the current law.

(1a) if approved, the ~~licensing agent~~Department shall issue the vendor's license to the business entity; ~~and or~~

(2b) if ~~the vendor's license is~~ denied, the ~~reasons~~Department shall provide the reason(s) for denial of the vendor's license; and

(3) ~~notification of a~~ notify the applicant of his or her right to ~~request an~~ appeal ~~to~~ the decision.

(d) ~~A number shall be assigned to each vendor's license by the licensing agent for identification.~~

~~(e) 56.5-4.~~ All applications for a vendor's license and a copy of each ~~certificate of~~ vendor's license shall be retained by the ~~licensing agent for one (1) year from date of application; thereafter, said documents shall be retained by Oneida Records Management for seven years.~~ Department in accordance with applicable laws and rules of the Nation.

~~56.5-5. 56.5-2.~~ Renewal procedures shall be as follows:

~~(a) The vendor's license shall be applied for annually.~~

~~(b)~~ Vendor's license renewal shall be on a yearly basis, from the date of issuance of the vendor's license.

56.6-1. Fees for Licensure

~~(a) The fee for a vendor's license shall be pursuant to an equitable fee schedule as established initially by the department, and as reviewed annually by the License Commission, with recommendations from the Oneida Finance Committee and approval of the Oneida Business Committee.~~

~~(b) The department shall retain not more than 50% of the vendor's license fees collected; the balance of the fees collected will be transferred to the Trust Department to be placed in the Elderly Per Capita Fund.~~

~~(c) The vendor's license fee shall cover a twelve (12) month period, and~~

~~(1) The fee shall be paid annually at the time of the application. The fee shall be returned if application is denied.~~

~~(2) The licensing agent shall keep fee records.~~

~~(3) Late fee payment may be added to cost of annual license fee. If fee is due, the applicant/entity may be charged \$3 per month, see sec. 5-1(b)(1-3).~~

~~(d) The vendor's license shall be prepared and sent out by the licensing agent. All vendor's licenses shall be conspicuously placed on or in the premises of the place of business or service.~~

~~(e) The fee~~ 56.6-1. License fees shall be determined and based upon the revenue as generated by the business entity with the ~~Oneida~~ Nation the year directly preceding ~~that year and the~~ date ~~in upon~~ which the business entity applies for licensure. ~~Business'~~ Business entities with no revenue history shall pay a fee determined by the Department based upon a projected revenue figure. The Department may establish, by rule, any other fees that may be imposed in accordance with this law.

~~56.7-1.~~ Appeal of Agency and License Commission Decisions

~~Oneida License Commission Hearings.~~

~~(a) Parties who disagree with the decisions of the licensing agent on matters of dispute regarding issues of licensing, certification or permits issued by the Compliance Division, may request a hearing before the License Commission.~~

(b) ~~Hearings before the License Commission will be pursuant to the original hearing procedures as set out in the Administrative Procedures Act.~~

~~56.7 2. Appeal of License Commission Decisions. A party may appeal to the Judiciary for an appellate review and final determination of the License Commission decision.~~

~~56.8 1~~ 56.6-2. The Department shall retain not more than fifty percent (50%) of the fees collected in accordance with this law; the balance of the fees collected shall be transferred to the Trust Department to be placed in the Elderly Per Capita Fund.⁴

56.6-3. The vendor's license fee shall cover a twelve (12) month period, and:

(a) The fee shall be paid annually at the time of the application. The Department shall return the fee if the application is denied.

(b) A late fee payment may be added to the cost of the annual license fee.

56.7. Revocation of Vendor's License

56.7-1. A vendor's license issued by the Licensing Department may be revoked by the ~~licensing agent~~ Department if the business entity is in non-compliance with this ~~ordinance, law, has~~ inadequate insurance coverage, or for any other reasons related to protection of ~~Tribal~~ the Nation and/or public health, safety, or welfare, ~~pursuant to the following procedures:~~

(a) ~~Prior to revoking a~~ vendor's license, the Department shall notify the business entity ~~is notified~~ of the effective date of the revocation ~~by the licensing agent~~ and the reasons for the revocation; and

(b) ~~shall allow~~ the business entity ~~is given~~ thirty (30) days in which to rectify the non-compliance, except in the case of inadequate insurance coverage, in which case the vendor's license ~~will~~ shall be revoked ~~when the information~~ immediately upon verification of inadequate coverage ~~is verified; and~~

(c) ~~should the business entity come into compliance or secure adequate insurance coverage, the vendor's license shall be reinstated;~~

(d) ~~if compliance is unattainable, the business entity is notified of his/her right to appeal the licensing agent's decision to revoke the vendor's license.~~

~~56.8 2. Procedures for non-compliance and revocation of a vendor's license after thirty (30) days shall be as follows:~~

⁴ Sherrole Benton (written): I'm concerned with the amount of external revenue generated by the vendor fees. The proposed amendments on line 94-96 (Section 56.6-2 Fees for Licensure) states the Vendor Department would transfer 50% of revenue collected from vendor fees to the Trust Department to be placed in the Elder Per Capita Fund.

In 2015, the Vendor Department had a total budget of \$148,911.00 dollars and their external revenue generated from vendor fees was \$183,255.00 dollars. In the proposed amendments, the Vendor Department states, they would only keep 50% of the external revenue generation in vendor fees and transfer the balance to the Trust Dept.

I suggest the Vendor Department keep 100% of the revenue generated from vendor fees in their own budget and use the revenue to 1.) off set Tribal Contribution to the Department, and 2.) add budget line items to use the revenue for professional development of the Vendor Department staff/employees, or for hiring additional or part time staff.

There's always room for improvement in some areas. The excess revenues generated from vendor fees could be used for travel, tuition, and related expenses for the Vendor Dept. staff/employees to seek additional training, education, continuing education units, workshops or refresher courses on such subjects as: Vendor Management, Financial and Banking regulations or confidentiality, Data Management, Supply Management, or other relevant educational programs from educational institutions within the State of Wisconsin.

(a) ~~Notice will be given to the Oneida Accounting Department that vendor's license has been revoked, whereupon the Accounting Department shall suspend all future payment to said vendor for all services or goods.~~

(b) ~~Upon revocation of the vendor's license, the business entity shall be prevented from doing business with the Oneida Nation until such time the former licensee is able to comply with the Ordinance and submits a new application.~~

~~(1) Any fees owed shall be deducted from any potential compensation due to the provider.~~

~~(2) Verification and approval of required insurance coverage shall be provided by the Oneida Risk Management Department.~~

56.8. Exemptions and Deferments

56.9-1. Specific Requirements

~~Applicants subject to approval must be in compliance with requirements as set forth in all related Tribal ordinances, including but not limited to, Oneida Indian Preference laws, Oneida Food Vendors Ordinance, Real Property Law, and Oneida gaming laws.~~

~~56.9-2. A food vendor shall be issued a vendor's license contingent upon the requirements of the Oneida Environmental Health Department which includes a certificate of training and written notice to the department. A certificate from the Oneida Environmental Health Department certifying completion of necessary requirements and instructions for safe food handling must be presented at time of application.~~

~~56.9-3 Applicants who are contracting for construction work must have their bid awarded by the Oneida Tribe in accordance with the Construction Improvement Process Policy.~~

~~56.9-4. Applicants who are selling, brokering, or leasing real estate must have approved real estate licenses as required by the Real Property Law.~~

~~56.9-5. Applicants who are contracting for electrical, plumbing, /air conditioning or building work must be licensed by the Oneida Zoning Department as required by the Building Code of the Oneida Reservation.~~

56.108-1. Exempt Status

~~The following must be licensed but are exempt from the required fee:~~

~~(a) Those individuals who receive stipend revenue for Oneida Nation as members of entities of the Oneida Nation.~~

~~(b) Vendors whose revenue from Tribe is less than \$1,000 per year.~~

~~(c) Consultants, means all individuals, businesses or corporations who have a consultant relationship with the Oneida Nation for the purpose of providing professional advice, training or any other service for profit and whose revenue from the Oneida Nation is less than \$500 per year.~~

~~(d) Training sessions where the focus is wholly upon the education and/or training of Tribal members or employees and where the amount contracted for does not exceed \$2,000. Those training sessions that exceed the \$2,000 limit will be subject to the usual fees assessed for licensure.~~

~~(e) One-time deferment for payment of vendor's license fees of up to thirty (30) days for emergency situations may be granted. Application for fee deferment must be made at the~~

time of application with specific explanation of the emergency situation filed in writing by the applicant.

(f) A failure to pay or payment after the deferment date has expired, may be grounds for denial of a vendor's license or assessment of late fee penalties.

56.10-2. from Licensure. The following are exempt from licensure:

(a) Services or products provided by another federally recognized tribe, subject to all the laws and the Ordinances rules of the Oneida Tribe Nation.

(b) Services or products provided by another government, subject to all the laws and ordinances rules of the Oneida Tribe Nation.⁵

56.8-2. The Department may promulgate rules that establish additional exemptions and deferments from the licensing or fee requirements of this law.⁶

56.9. Appeals of Licensing Decisions

56.9-1. Decisions of the Department may be appealed to the Judiciary in accordance with applicable rules of procedure.

ATTACHMENT A VENDORS LICENSING FEE SCHEDULE FOR 1996 FLAT FEE AMOUNT

Yearly Oneida Vendors Fee \$100.00

Approved by:

ONEIDA BUSINESS COMMITTEE:

⁵ Sherrole Benton (written): My fourth concern is about the proposed removal the Section 56.10-1 "Exempt Status" in the current law for some vendors who currently aren't required to pay licensing fees. The Oneida Nation Arts Program contracts artistic and creative persons, from professional artists to interns. They perform and/or teach the subjects in the creative arts in five categories of art including: music, performing arts, fine art, literature, film/photography, and arts & crafts including traditional and contemporary arts. We also issue honorariums to some individuals who provide services to the Art Program or win prizes in various artistic creative endeavors. Our independent contractors/consultants, artists, teachers, and interns aren't producing revenue with the Oneida Nation, and most cases wouldn't be required to have insurance to cover the activities and/or services they perform. I urge the LRO to retain the list of types of vendor that fall in the categories listed in the "Exempt Status and Deferments" section of the current Oneida Vend or Licensing law. I also believe retaining the emergency deferments of license fee payments is important, especially for Social Service, Health Care programs, and/or when emergency hazardous situations arise for the prompt delivery of service to clients or the local community. In addition, tribal members who receive stipends, including elected officials of tribal boards, committees, and commissions, ought to be exempt from vendor fees.

⁶ My next concern is on lines 118-119 of the (Section 56.8-2) where it states and infers that the Department will have to sole authority to establish additional exemptions and deferments from the licensing or fee requirements. My fear is that the Department may make rash and arbitrary decisions about exemptions and deferments or sudden changes without notifying the buyers employed with the Oneida Nation or the vendors who hold or apply for vendor licenses. I urge the LRO to build in some checks and balances into this section of the proposed amendments to ensure that the list of exemption categories and deferments is fair, announced in a public and/or inter-departmental manner, and that public hearings be held when changes are being made to the categories of exemptions and deferments.

321
322 Signature: _____ Date: _____
323 ~~Debra Doxtator, Chairwoman~~

324
325
326
327 Signature: _____ Date: _____
328 ~~Julie Barton, Secretary~~

329
330 *End.*

331
332 Adopted- BC-2-~~47~~¹⁹-92-C
333 ~~Adopted~~^{Amended}- BC-3-5-97-E
334 Amended- BC-02-25-15-C

Chapter 56
VENDOR LICENSING
Lonatkehlun\$ kanakt%tha>
they are permitted to sell to one

56.1. Purpose and Policy.	56.6. Fees for Licensure
56.2. Adoption, Amendment Repeal.	56.7. Revocation of Vendor's License
56.3. Definitions	56.8. Exemptions and Deferments
56.4. Scope	56.9. Appeals of Licensing Decisions
56.5. Application/Renewal Procedures	

56.1. Purpose and Policy.

56.1-1. *Purpose.* The purpose of this law is to:

- (a) regulate and license all vendors who provide a service for and do business with the Oneida Nation, and
- (b) provide revenue for the Nation by collecting fees from vendors for a license to perform a service for or do business with the Nation.

56.1-2. *Policy.* It is the policy of the Oneida Nation to establish a system to implement and enforce the issuance of vendor's licenses and collection of fees.

56.2. Adoption, Amendment Repeal.

56.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-19-92-C and amended by resolutions BC-3-5-97-E, BC-02-25-15-C and _____.

56.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

56.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

56.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

56.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

56.3. Definitions

56.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Business Day" means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays recognized by the Nation.

(b) "Business entity" means that which exists as a particular and discrete unit, but not limited to, any person, partnership, corporation, joint venture, franchise, governmental enterprise, or any other natural or artificial person or organization. The term "entity" is intended to be as broad and encompassing as possible to ensure the jurisdiction of this law.

(c) "Department" means the Oneida Licensing Department.

(d) "Judiciary" means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

(e) “License fee” means that fee charged for a vendor’s license issued in accordance with this law.

(f) “Nation” means the Oneida Nation.

(g) “Rule” means a set of requirements enacted in accordance with the Administrative Rulemaking law.

(h) “Vendor’s license” means a license issued by the Department to a business entity that provides a service for, or that does business with the Nation.

56.4. Scope

56.4-1. This law shall be adhered to by all business entities and shall apply to every business entity that performs services and/or does business with the Nation separate from and in addition to those requirements imposed by other laws and rules of the Nation.

56.4-2. All information given for the purpose of receiving a vendor’s license is:

(a) subject to a request for information and available for public inspection as provided in applicable laws and rules of the Nation.

(b) subject to internal audit of the Nation.

56.5. Application/Renewal Procedures

56.5-1. The Department shall notify all new applicants of the requirements of this law; including any applicable rules and any necessary documentation that the Department may ask the applicant to provide.

(a) All business entities shall obtain and maintain adequate insurance coverage, as determined by the Department.

56.5-2. The Department shall approve or deny an application based on compliance with the criteria set in this law, other Oneida and applicable rules.

56.5-3. The Department shall notify the applicant of the approval or denial of the application within ten (10) business days, and:

(a) if approved, the Department shall issue the vendor’s license to the business entity; or

(b) if denied, the Department shall provide the reason(s) for denial of the vendor’s license; and notify the applicant of his or her right to appeal the decision.

56.5-4. All applications for a vendor’s license and a copy of each vendor’s license shall be retained by the Department in accordance with applicable laws and rules of the Nation.

56.5-5. Vendor’s license renewal shall be on a yearly basis, from the date of issuance of the vendor’s license.

56.6. Fees for Licensure

56.6-1. License fees shall be determined and based upon the revenue as generated by the business entity with the Nation the year directly preceding the date upon which the business entity applies for licensure. Business entities with no revenue history shall pay a fee determined by the Department based upon a projected revenue figure. The Department may establish, by rule, any other fees that may be imposed in accordance with this law.

56.6-2. The Department shall retain not more than fifty percent (50%) of the fees collected in accordance with this law; the balance of the fees collected shall be transferred to the Trust Department to be placed in the Elderly Per Capita Fund.

56.6-3. The vendor’s license fee shall cover a twelve (12) month period, and:

(a) The fee shall be paid annually at the time of the application. The Department shall return the fee if the application is denied.

(b) A late fee payment may be added to the cost of the annual license fee.

56.7. Revocation of Vendor's License

56.7-1. A vendor's license issued by the Licensing Department may be revoked by the Department if the business entity is in non-compliance with this law, has inadequate insurance coverage, or for any other reasons related to protection of the Nation and/or public health, safety, or welfare. Prior to revoking a vendor's license, the Department shall notify the business entity of the effective date of the revocation and the reasons for the revocation, and shall allow the business entity thirty (30) days in which to rectify the non-compliance, except in the case of inadequate insurance coverage, in which case the vendor's license shall be revoked immediately upon verification of inadequate coverage.

56.8. Exemptions and Deferments

56.8-1. *Exempt from Licensure.* The following are exempt from licensure:

(a) Services or products provided by another federally recognized tribe, subject to all the laws and rules of the Nation.

(b) Services or products provided by another government, subject to all the laws and rules of the Nation.

56.8-2. The Department may promulgate rules that establish additional exemptions and deferments from the licensing or fee requirements of this law.

56.9. Appeals of Licensing Decisions

56.9-1. Decisions of the Department may be appealed to the Judiciary in accordance with applicable rules of procedure.

End.

Adopted- BC-2-19-92-C

Amended- BC-3-5-97-E

Amended- BC-02-25-15-C



LEGISLATIVE OPERATING COMMITTEE
Public Meeting on Vendor Licensing Law Amendments and Landlord Tenant Law
Business Committee Conference Room-2nd Floor Norbert Hill Center
July 21, 2016 12:15 p.m.

Present: David P. Jordan, Fawn Billie, Jennifer Falck, Taniquelle Thurner, Maureen Perkins, Rae Skenandore

Vendor Licensing Law Amendments

Fawn Billie: Good afternoon. The time is 12:19 p.m. and today's date is Thursday July 21st, 2016. I will now call the public meeting for the Landlord Tenant law and Vendor Licensing law amendments to order. The Legislative Operating Committee is hosting this public meeting to gather feedback from the community regarding these legislative proposals. All persons who wish to present oral testimony need to register on the sign in sheet at the back of the room. Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person, by U.S. mail, interoffice mail, e-mail or fax as provided on the public meeting notice. These comments must be received by close of business on Thursday July 28th, 2016. In today's attendance is myself Fawn Billie and councilmember David Jordan.

[...](*Landlord Tenant Public Meeting held first*)

With these amendments:

- ◆ Remove references to the non-existent License Commission and instead allow Department decisions to be appealed to the Judiciary [56.9];
- ◆ Remove various procedural requirements from the law and authorize the Licensing Department to promulgate rules or SOPs instead [current law 56.5-1(a); 56.5-1(b)(4); 56.8-2; 56.5-1(b)(1); 56.5-2(d), 56.6-1(d)];
- ◆ Remove fees from the law and provide the Oneida Licensing Department rulemaking authority to promulgate a fee schedule by rule [56.6-1];
- ◆ Delete the listed exemptions and deferments from the licensing/fee requirements (except for services/products provided by another federally recognized tribe or another government [56.8-1]) and allow the Department to promulgate rules that establish additional exemptions and deferments[56.8-2];

Fawn Billie: With that we did not have anyone signed up for comments at this time. Anything from Rae or Don for vending?

Thank you everyone for coming today. With there being no more speakers registered for the public meeting for the Landlord tenant law and the Vendor Licensing Law Amendments this is now closed at 12:26 PM, and also written comments may be submitted until close of business on Thursday July 28th, 2016. Thank Again the comments will go to the Tribal Secretaries office or the LRO. Thank you again.

-End of meeting-

Sherrole Benton
PO Box 123
Oneida, WI 54155
July 28, 2016

Oneida Legislative Reference Office
PO Box 365
Oneida, WI 54155

Dear LRO Representatives,

I have several concerns about the proposed amendments to Chapter 56 Vendor Licensing law. I have some experience in working with the Oneida Licensing Department as a buyer for the Oneida Nation Arts Program. My concerns include issues with vendor's license requirements and fees, and the amount of external revenue generated from the vendor fees.

My first concern is in reference to lines 44-48 in the list of Definitions (Section 56.3-1 (b) of the Draft 4 (clean) – Public Meeting Draft 2016 07 21) version of the proposed amendments. The definition of a “business entity” is so broad that includes both natural and artificial persons. I believe this statement conflicts with the statement on line 89 (Section 56.6-1) where license fees will be based upon the “revenue as generated by the business entity with the Nation.”

If the proposed license fees, only apply to those business entities that produce revenue with the Oneida Nation and there are implied exemptions to these fees, than my concerns may be alleviated.

However, considering past interpretations of conflicting statements in other mandates, policies, motions, etc., I gather that there aren't any implied exemptions for “business entities” that don't produce revenue with the Oneida Nation.

My second concern is with 61 of the proposed amendments (Section 56.4-2 (a) Scope) where it states that “All information given for the purpose of receiving a vendor's license: (a) subject to a request for information and available for public inspection as provided in applicable laws and rules of the Nation.” I'm opposed with making all information from any vendor available to any request from anyone. As a buyer for the Oneida Nation Arts Program, my requests for vendor licenses on behalf of our contractors or interns includes information on a W-9 Tax Form and banking information on Direct Deposit forms for check releases, payments, honorariums, and etc.

There is nothing in this section that states the Oneida Nation and/or Vendor Department would hold confidential and financial information in a secure and confidential manner and withhold that information from any and all requests from entities that don't have a valid reason and/or explicit permission from the vendors to see that information or have copies of it. On a side note, I also have concerns with how many times those same documents (W-9 tax forms and direct deposit banking forms) are forwarded via email to

other tribal departments and tribal employees and how many computers those confidential documents are on.

My third concern is on lines 74-75 (Section 56.5-1 (a) Application/Renewal Procedures) where it states, "All business entities shall obtain and maintain adequate insurance coverage, as determined by the Department." I'm opposed to the allowing the Vendor Department to have sole discretion on determining levels of adequate insurance coverage and whether insurance is required for vendors in all cases. It should be left to Oneida Risk Management to determine whether a vendor requires insurance coverage and what the adequate level would be for each vendor as stated in the current law.

My fourth concern is about the proposed removal the Section 56.10-1 "Exempt Status" in the current law for some vendors who currently aren't required to pay licensing fees. The Oneida Nation Arts Program contracts artistic and creative persons, from professional artists to interns. They perform and/or teach the subjects in the creative arts in five categories of art including: music, performing arts, fine art, literature, film/photography, and arts & crafts including traditional and contemporary arts. We also issue honorariums to some individuals who provide services to the Art Program or win prizes in various artistic creative endeavors.

Our independent contractors/consultants, artists, teachers, and interns aren't producing revenue with the Oneida Nation, and most cases wouldn't be required to have insurance to cover the activities and/or services they perform.

I urge the LRO to retain the list of types of vendor that fall in the categories listed in the "Exempt Status and Deferments" section of the current Oneida Vendor Licensing law. I also believe retaining the emergency deferments of license fee payments is important, especially for Social Service, Health Care programs, and/or when emergency hazardous situations arise for the prompt delivery of service to clients or the local community. In addition, tribal members who receive stipends, including elected officials of tribal boards, committees, and commissions, ought to be exempt from vendor fees.

My next concern is on lines 118-119 of the (Section 56.8-2) where it states and infers that the Department will have to sole authority to establish additional exemptions and deferments from the licensing or fee requirements. My fear is that the Department may make rash and arbitrary decisions about exemptions and deferments or sudden changes without notifying the buyers employed with the Oneida Nation or the vendors who hold or apply for vendor licenses. I urge the LRO to build in some checks and balances into this section of the proposed amendments to ensure that the list of exemption categories and deferments is fair, announced in a public and/or inter-departmental manner, and that public hearings be held when changes are being made to the categories of exemptions and deferments.

Lastly, I'm concerned with the amount of external revenue generated by the vendor fees. The proposed amendments on line 94-96 (Section 56.6-2 Fees for Licensure) states the

Vendor Department would transfer 50% of revenue collected from vendor fees to the Trust Department to be placed in the Elder Per Capita Fund.

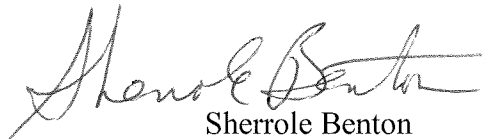
In 2015, the Vendor Department had a total budget of \$148,911.00 dollars and their external revenue generated from vendor fees was \$183,255.00 dollars. In the proposed amendments, the Vendor Department states they would only keep 50% of the external revenue generation in vendor fees and transfer the balance to the Trust Dept.

I suggest the Vendor Department keep 100% of the revenue generated from vendor fees in their own budget and use the revenue to 1.) off set Tribal Contribution to the Department, and 2.) add budget line items to use the revenue for professional development of the Vendor Department staff/employees, or for hiring additional or part time staff.

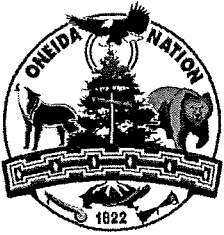
There's always room for improvement in some areas. The excess revenues generated from vendor fees could be used for travel, tuition, and related expenses for the Vendor Dept. staff/employees to seek additional training, education, continuing education units, workshops or refresher courses on such subjects as: Vendor Management, Financial and Banking regulations or confidentiality, Data Management, Supply Management, or other relevant educational programs from educational institutions within the State of Wisconsin.

Thank you for this opportunity to express my concerns and suggestions in this public meeting on the proposed amendments to the Oneida Vendor Licensing law.

Sincerely,



Sherrole Benton



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



TO: Legislative Operating Committee
FROM: Jennifer Falck, LRO Director
RE: Conflict of Interest Emergency Amendments, Active Files List
DATE: August 10, 2016

BACKGROUND

On August 3, 2016, the LOC approved the Conflict of Interest Policy Emergency Amendments resolution and forwarded them to the Business Committee.

On August 10, 2016, the Business Committee adopted the resolution entitled "Conflict of Interest Policy Emergency Amendments."

REQUESTED ACTION

In order to keep the Active Files List accurate and complete- The LOC needs to place the Conflict of Interest Policy Emergency Amendments on the Active Files list and identify a sponsor for this item.



Legislative Operating Committee August 17, 2016

Employment Law

Submission Date: 9/17/16	Public Meeting: 3/31/16
LOC Sponsor: Brandon Stevens	Emergency Enacted: n/a Expires: n/a

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.
- 2/29/16:** Employment Law information meeting for managers and supervisors held at Norbert Hill Center.
- 3/1/16:** Employment Law information meeting for managers and supervisors at Main Casino.
- 3/3/16:** Employment Law information meeting for managers and supervisors held at Norbert Hill Center.
- 3/4/16:** Employment Law information meeting for employees held at Norbert Hill Center.
- 3/7/16:** Employment Law information meeting for employees held at Norbert Hill Center.
- 3/10/16:** Employment Law information meeting for managers and supervisors held at Little Bear Development Center.
- 3/14/16:** Employment Law information meeting for employees held at Little Bear Development Center.
- 3/16/16:** Employment Law information meeting employees at Mohawk Room (Radisson). Morning Session
- 3/16/16:** Employment Law information meeting employees at Mohawk Room (Radisson). Afternoon Session
- 3/17/16:** Employment Law information meeting for managers and supervisors held at Social Services (OLC).
- 3/18/16:** Employment Law information meeting for managers and supervisors held at Social Services (OLC).
- 3/21/16:** Employment Law information meeting employees held at Social Services (OLC). Morning Session
- 3/21/16:** Employment Law information meeting employees held at Social Services (OLC). Afternoon Session
- 3/23/16:** Employment Law information meeting for Gaming Panels at Employee Services Morning Session
- 3/23/16:** Employment Law information meeting for Gaming Panels at Employee Services Afternoon Session
- 3/25/16:** Employment Law information meeting for managers and supervisors held at Oneida Health Center.
- 3/28/16:** Employment Law information meeting for managers and supervisors held at Oneida Health Center.
- 3/29/16:** Employment Law information meeting for employees held at Oneida Health Center.

- 3/30/16:** Employment Law information meeting for employees held at Oneida Health Center.
- 3/31/16:** Employment Law Public Meeting held.
- 4/7/16:** Work meeting held. Attendees include Lucy Neville, Marianne Close, Wendy Alvarez, and Krystal John.
- 4/29/16:** Work meeting held. Attendees include Brandon Stevens, Geraldine Danforth, Lucy Neville, Marianne Close, Maureen Perkins and Krystal John.
- 5/4/16 LOC:** Motion by Jennifer Webster to accept the Employment law public meeting comments and defer the consideration of the comments to a work meeting to be held on Thursday, May 12, 2016 in the Business Committee Conference Room from 10:30 a.m. - 1:30 p.m.; seconded by David P. Jordan. Motion carried unanimously.
- 5/13/16:** Work meeting held. Attendees include Geraldine Danforth, Matt Denny, Wendy Alvarez and Krystal John.
- 5/18/16 LOC:** Motion by Jennifer Webster to accept the updated draft of the Employment law based on the public meeting comments; noting the revision to be made to section 300.11-4 changing the language from a fee waiver to a statement that prohibits the Judiciary from assessing court fees upon employees disputing employment matters; and deferring to the Legislative Reference Office for an updated legislative analysis; seconded by David P. Jordan. Motion carried unanimously.
- 6/1/16 LOC:** Motion by Jennifer Webster to accept the updated legislative analysis for the Employment Law and direct the sponsor and the drafting attorney to conduct an informational meeting for the Oneida Business Committee to solicit input and, provided there are no major changes, bring an adoption packet back once all input has been collected; seconded by David P. Jordan. Motion carried unanimously.
- Note: This meeting is scheduled for Friday June 3, 2016.*
- 6/3/16 OBC:** Employment Law update provided to OBC with OBC feedback requested. Attendees include Brandon Stevens, Melinda Danforth, Lisa Summers, Tehassi Hill, Fawn Billie, Jennifer Webster, David P. Jordan, Leyne Orosco, Mitzi Kopetsky, R.C. Metoxen and Krystal John.
- 6/15/16 OBC:** Employment Law update concluded to OBC with OBC feedback requested. Employment Law update provided to OBC with OBC feedback requested. Attendees include Brandon Stevens, Melinda Danforth, Lisa Summers, Tehassi Hill, Fawn Billie, David P. Jordan, Leyne Orosco, Mitzi Kopetsky, R.C. Metoxen and Krystal John.
- 8/03/16 OBC:** Motion by Lisa Summers to accept the updated written report; to direct this item be placed on the 2017 Annual General Tribal Council meeting agenda; and included in that item will be a request for General Tribal Council to schedule a special General Tribal Council meeting to specifically address this item, seconded by Brandon Stevens. Motion carried unanimously:
- Ayes: Fawn Billie, Tehassi Hill, David Jordan, Brandon Stevens, Lisa Summers
Not Present: Melinda J. Danforth, Trish King, Jennifer Webster

Motion by Lisa Summers to request the team working on this item include in the communication plan that Employment Law and handbook be provided and distributed 30 (thirty) days prior to the 2017 Annual General Tribal Council meeting, seconded by Brandon Stevens. Motion carried unanimously:

Ayes: Fawn Billie, Tehassi Hill, David Jordan, Brandon Stevens, Lisa Summers
Not Present: Melinda J. Danforth, Trish King, Jennifer Webster

Next Steps: Accept the most recent draft of the Employment Law which incorporates Oneida Business Committee feedback from the Employment Law work meetings held with the OBC on June 3, 2016 and June 15, 2016.

Note: Updates have also been made to the Employee Handbook based on OBC feedback; the current draft is available on the Oneida Register.

Title 2 Employment – Chapter 201

EMPLOYMENT

~~Laotiy%t<hse> laotiyant^hsla>~~

Their work their law

201.1. Purpose and Policy	201.7. Compensation and Benefits
201.2. Adoption, Amendment, Repeal	201.8. General
201.3. Definitions	201.9. Employee Responsibilities
201.4. Applicability	201.10. Layoffs and Furloughs
201.5. Human Resources Department	201.11. Employee Discipline and Appeals
201.6. Hiring	201.12. Violations

201.1. Purpose and Policy

201.1-1. It is the purpose of this law to provide a fair, consistent and efficient structure to govern all employment matters and to provide employment preference to Oneida Tribal members and members of other federally recognized tribes.

201.1-2. 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. The Nation's hiring philosophy is to recruit, hire, retain and develop individuals who are culturally respectful, professionally competent and familiar with the Oneida community.

201.2. Adoption, Amendment, Repeal

201.2-1. This law was adopted by the Oneida General Tribal Council by resolution _____ and is effective six (6) months from the date of adoption.

201.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

201.2-3. 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.

201.2-4. 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 and any and all amendments made thereto;
- (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 Policy Leave 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.

201.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

201.3. Definitions

201.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

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

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

(c) "Corrective Action" means any initiative taken by an employee supervisor with the goal of correcting an employee's prohibited behavior as identified in the rules created by HRD.

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

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

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

(g) "Entity" means any of the Nation's divisions having employees and may include, but is not limited to, divisions, departments, areas, programs, enterprises, board, committees, commissions and the like.

(h) "Equal Employment Opportunity" or "EEO" means the Nation's consideration for hiring selection and position retention and compensation and benefit distribution that is free from discrimination against any person on the basis of race color, religion, sex (including pregnancy, sexual orientation and gender identification), national origin, age, disability, economic status or genetic information. Oneida and Indian Preference are allowable and are not considered a deprivation of an EEO,

(i) "HRD" means the Oneida Human Resources Department.

(j) “Immediate Family Member” means an individual’s husband, wife, mother, father, step mother, step father, son, daughter, step son, step daughter, brother, sister, step brother, step sister, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law or sister-in-law and any of the these relations attained through legal adoption.

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

(l) “Nation” means the Oneida Nation.

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

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

(o) “Handbook” means the Oneida Employee Handbook, which contains the set of requirements enacted by HRD in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law.

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

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

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

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

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

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

201.4. Applicability

201.4-1. *Applicability to Elected Officials.* The provisions of Sections 201.6 - 201.8 apply to the Nation’s elected officials that work full-time (30 hours or more per week) and receive salaries for their service, provided that, because other laws govern discipline of the elected officials, the Removal law for example, elected officials may not be subjected to corrective action pursuant to this law or handbook.

201.4-2. *Oneida Nation School Board.* To the extent that the provisions of this law and handbook conflict with the provisions of the memorandum of agreement between the Oneida Business Committee and the Oneida Nation School Board and any rules promulgated pursuant to authority delegated under said agreement, the memorandum and corresponding rules govern.

201.4-3. *Oneida Police Commission.* To the extent that any provisions of this law and handbook conflict with the provisions of the Law Enforcement Ordinance and the Oneida Police Commission’s rulemaking authority as delegated under that law, the Law Enforcement Ordinance and corresponding rules govern.

201.5. Human Resources Department

201.5-1. General Responsibilities. The HRD shall:

- (a) Develop and amend the Handbook as necessary to carry out the intent of this law.
- (b) Implement, interpret and enforce this law and the associated handbook.
- (c) Provide all employees with a copy of this law and the handbook and shall further notify employees of how such materials and all other employment related laws and policies may be electronically accessed.
- (d) Review and approve all entities' employment related standard operating procedures to ensure compliance with this law and the handbook.
- (e) Keep a record of all employment related decisions made by the employee supervisors, reviewing supervisors and the Oneida Judiciary.
- (f) Collect and maintain data on human resource related information including, but not limited to, information on hiring, appointments, terminations, separations, transfers, employee development, grievances, policy issues and insurances.

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

(2) The Oneida Business Committee may not have direct access to employee information and/or personnel files, especially information relating to individual compensation or corrective actions; provided that, Oneida Business Committee members that are also employee supervisors may access the employee records of any of his or her direct employees pursuant to 201.5-1(f)(3)(B).

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

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

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

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

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

201.5-2. HRD shall uphold the Nation's sovereignty, laws and policies in its hiring and employment practices.

201.5-3. HRD Oversight by the Oneida Business Committee. HRD shall report to the Oneida Business Committee, or its designee, as directed by the Oneida Business Committee.

201.6. Hiring

201.6-1. Equal Employment Opportunities. The Nation and HRD shall afford all applicants and employees equal employment opportunities; however, the Nation shall follow the preferences

outlined in 201.6-2 and such preferences may not be considered a violation of this law.

201.6-2. *Oneida and Indian Preference.* The Nation shall apply Oneida and Indian Preference to all hiring practices. HRD shall provide a quarterly and annual report to the Oneida Business Committee regarding the trending data for Oneida and Indian preference in hiring and shall post such results on the Nation's website and newspaper.

(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:

(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.

(b) If a law or grant funding requirement prohibits the application of Oneida and Indian Preference in accordance with 201.6-2(a), the Nation shall make staffing decisions in accordance with the Indian Preference requirements of the said law or grant.

(c) Oneida and Indian Preference applies only when an applicant meets all the minimum requirements of the position applied for.

(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 no Tribal members apply who are qualified and eligible and possess the necessary skills or licensing to assume the vacancy, only then may a non-tribal member be selected to fill the vacancy. In the event that a non-Tribal member is hired for a position originally designated as Oneida-only based on this provision, HRD shall hire the employee under contract so that the Nation may consider whether a Tribal member may be available to assume the position upon the expiration of the contract term.

201.6-3. *Education.* Employees shall have or obtain a high school diploma, a high school equivalency diploma or a general equivalency diploma within one (1) year of being hired. Exceptions and/or extensions to this requirement may be included in the handbook developed by HRD pursuant to 201.5-1(a).

201.6-4. *Workplace Safety.* The handbook shall contain requirements and procedures as necessary to protect the safety, health and well-being of all employees and other individuals in the workplace.

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

201.6-5. *Conflicts.* An applicant is ineligible for positions for which he or she has a conflict of interest, as defined by the Conflict of Interest Policy, and/or if he or she would be directly supervised by an immediate family member.

201.6-6. *Right to Work.* No person may be required to do any of the following in order to become or remain an employee of the Nation:

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.

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

201.7. Compensation and Benefits

201.7-1. *Compensation Plan.* HRD shall develop and institute an Employee Compensation Plan to assure equitable salary and wage levels and shall consider data from the Bureau of Labor Statistics for average earnings in the Green Bay area; the said plan must be approved by the Oneida Business Committee prior to becoming effective.

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

201.7-2. *Designation of Employees.* The Nation shall use the standards created under the Fair Labor Standards Act to designate its employees as either nonexempt or exempt and to set minimum wage and maximum hour restrictions for employees receiving an hourly wage.

201.7-3. *Insurance and Retirement.* Any modification to the insurance and employment benefits offered by the Nation requires approval by Oneida Business Committee resolution.

201.7-4. *Time Off.* The Nation shall afford employees accumulated paid time off based on continuous service to the Nation. HRD shall ~~establish rates of accrual and~~ the process for requesting paid time off in the handbook created pursuant to 201.5-1(a).

- (a) Employees accrue paid time off based on years of continuous service, provided that temporary employees are not eligible to accrue paid time off.

(1) Paid time off accrual rates for full-time employees are as follows:

(A) 0-3 years of service – 144 hours annually

(B) 4-7 years of service – 184 hours annually

(C) 8-15 years of service – 240 hours annually

(D) 16 + years of service – 296 hours annually

(2) Part-time employees accrue time off based on the hours worked as a ratio of full-time hours.

- (b) Once an employee reaches 280 hours of accrued PTO, he or she ceases to accrue paid time off. Employee supervisors shall notify employees in danger of reaching the accrual cap when the employee reaches 201 hours of accrued PTO.

201.7-5. *Leaves.* Employees of the Nation may be allowed leave as provided in the handbook created pursuant to 201.5-1(a) and any other applicable laws and policies of the Nation.

201.8. General

201.8-1. *Employee Development.* The Nation encourages the advancement and transfer of Employees in order to make the best possible use of human resources. Employees who wish to advance in the organization may work with the HRD to develop a career ladders plan.

201.8-2. *Entities.* Individual entities shall comply with this law and the handbook promulgated under 201.5-1(a) and, if necessary, shall develop internal rules and standard operating procedures for the implementation of this law and its associated handbook.

201.8-3. *Safety and Fitness-for-Duty*. In order to create a safe and healthy work environment for employees and to keep the number of job-related illnesses and/or injuries to a minimum, the Nation shall maintain safety standards in accordance with the Nation's applicable laws and policies. The Nation shall also maintain standards requiring employees to perform their job duties in a safe, secure, productive and effective manner.

201.8-4. *Unemployment Insurance*. The Nation shall comply with the State of Wisconsin's unemployment insurance program; the Nation's employees may be eligible for unemployment benefits in accordance with the provisions of the laws of the State of Wisconsin.

201.9. Employee Responsibilities

201.9-1. *Harassment and Ensuring Equal Employment Opportunities*. All employees are expressly prohibited from committing sexual harassment of another individual or engaging in any conduct that deprives another of an equal employment opportunity.

201.9-2. *Anonymous Information*. Employees who receive anonymous information of any type shall maintain the confidentiality of the said information and forward a summary of the information to the Chief of the Oneida Police Department expressly noting that the information was provided anonymously.

201.9-3. *Employee Protection*. The Nation may not retaliate against any employee who reports an employee's, political appointee's and/or any official of the Nation's violation(s) of laws, policies or rules of the Nation and shall protect any employees who report such violations from retaliatory actions.

(a) HRD shall include procedures in the handbook designed to protect employees reporting others' violations of the Nation's laws, policies or rules from any and all forms of retaliation.

201.10. Layoffs and Furloughs

201.10-1. Employees may be laid off and/or furloughed to the extent necessary for the Nation to operate effectively and efficiently in varying conditions pursuant to the Nation's laws, policies and rules.

201.10-2. Layoffs and furloughs may not be used for disciplinary reasons and may not under any circumstances be considered adverse employment actions.

201.10-3. The Nation's decision to layoff and/or furlough an employee is not subject to appeal.

201.11. Employee Discipline and Appeals

201.11-1. Employee supervisors shall use the corrective action procedures in the handbook to address employees' unacceptable work performance and/or behavior.

201.11-2. Employees, excluding at-will employees, who disagree with a corrective action or allege that a supervisor's actions amount to an adverse employment action may contest the action using the handbook, and based on the following available levels of review:

(a) *Internal Review by the Nation – Reconsideration by the Reviewing Supervisor*. An employee may request reconsideration of any corrective action or other action which may amount to an adverse employment action taken by his or her employee supervisor to his or her reviewing supervisor. The reviewing supervisor may affirm, modify or overturn the decision of the employee supervisor.

(b) *First Level of Appeal*. Any employee, excluding at-will employees, alleging a wrongful suspension or termination or that a supervisor's actions amount to an adverse employment action may contest the action to the Trial Court using the Rules of

Administrative Procedure so long as the employee has requested reconsideration from his or her reviewing supervisor according to 201.11-2(a).

(1) An employee supervisor may not initiate a first level appeal in the event that the reviewing supervisor overturns the employee supervisor's action.

(2) In considering an appeal of a corrective action, the Trial Court may consider previous corrective actions upon which the suspension or termination was based, provided that, the employee must demonstrate that he or she requested a reviewing supervisor's reconsideration of such prior corrective actions in accordance with Article 13-1. When reviewing prior corrective actions, the Trial Court shall only consider whether the corrective action was justified based on the employee's behavior; procedural compliance may not be considered.

(c) *Second Level of Appeal.* Any party, excluding at-will employees, that is dissatisfied with the Trial Court's decision, may appeal the Trial Court's decision to the Oneida Judiciary's Appellate Court.

201.11-3. *Compensatory Damages.* Should the Oneida Judiciary determine that there was an intentional deprivation of an equal employment opportunity, the Oneida Judiciary may award compensatory damages, including, but not limited to, attorney's or advocate's fees and court costs, as against the individual(s) found to have engaged in the intentional deprivation of an equal employment opportunity. Said compensatory damages may not be awarded against the Nation.

201.11-4. The Oneida Judiciary may, in its discretion, waive any ~~not charge employees appealing employment matters any~~ court filing fees that may be assessed against an employee appealing an employment matter.

201.12. Violations

201.12-1. Unless expressly stated otherwise in this law, claims of alleged violations of this law may be filed with the Oneida Judiciary.

End.



Employment Law

5

<i>Analysis by the Legislative Reference Office</i>					
Title	Employment Law				
Sponsor	Brandon Stevens	Drafter	Krystal L. John	Analyst	Maureen Perkins
Requester & Reason for Request	OBC Directive 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 201.1-1].				
Authorized/ Affected Entities	Human Resources Department (HRD), current and future Tribal employees, Tribal Entities, Supervisors, Reviewing Supervisors, Oneida Business Committee (OBC)				
Related Legislation	Anonymous Letters Policy, Lay Off Policy, Furlough Policy, Conflict of Interest Policy, Drug and Alcohol Free Workplace, Garnishment Ordinance, Military Services Employee Protection Act, Early Return to Work, Oneida Safety Law, Oneida Worker's Compensation Law, Computer Resources Ordinance, Clean Air Policy, Paper Reduction Policy, Social Media Policy, Oneida Travel and Expense Policy				
Enforcement & Due Process	Employee supervisors shall use the corrective action procedures in the handbook to address employees' unacceptable work performance and/or behavior [see 201.10-1]. Reviewing Supervisor and/or Judiciary [see 201.10]. Employees, excluding at-will employees, may contest a corrective action internally [see 201.11-2(a)], appeal to the Trial Court [see 201.11-2(b)], and appeal to the Appellate Court [see 201.11-2(c)].				
Public Meeting Status	A public meeting was held on March 31, 2016. The LOC has reviewed the public comments received during the public comment period; and any changes made based on the public comments received have been incorporated into this draft.				

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Overview

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9 This is a new Law that will replace the current Personnel Policies and Procedures. The
 10 Law provides a fair, consistent and efficient structure to govern all employment matters. The
 11 Law streamlines current processes to reduce cost, time and resources. The Law contains the
 12 framework and much of the detailed content of the current Policies and Procedures have moved
 13 to the Handbook. The GTC retains authority to amend or repeal the law under the Legislative
 14 Procedures Act. Under the Administrative Rulemaking Law, the HRD would be delegated the
 15 authority under the Employment Law to create and amend the Handbook [see 201.5-1(a)] with
 16 OBC approval. The Law dissolves the Personnel Commission and redirects the duties currently
 17 assigned. Hearing Body Authority will move to Oneida Judiciary and the duties within the
 18 hiring process will move to HRD.

- 18 ■ Dissolves Personnel Commission moving duties to HRD.
- 19 ■ Oneida Judiciary will hear appeals.
- 20 ■ 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

The following resolutions are being repealed and placed into the Law or Handbook.

Repealed Resolution	Analysis
(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;	The Employment Law and accompanying Handbook will replace the Tribal Management System, including the Personnel Policies and Procedures.
(b) BC Resolution BC-05-11-11-A entitled Establish Tuberculosis Control Program	The TB program is included in the Law [see 201.5-5 (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;	Employee Protection is included 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 is included in the Law [see 201.6-3] and the Handbook [see IV 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;	Color Guard leave is included in the Handbook [see XI 9-8].
(f) The Parent Leave Policy adopted pursuant to BC-03-02-94-A;	Parent leave is included in the Handbook [see XI 9-7].
(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 is included in the Handbook [see VIII 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 201.5].
(i) 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 [see 201.1-1 and 201.6-2] and Handbook [see III 3-4], 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 to improve efficiency in hiring
- Temporary employees changed to at-will with no appeal rights
- Temporary employees will no longer receive holiday pay

Current Policies and Procedures	Proposed Law	Analysis
Section II Recruiting		
1. Recruiting Strategy	Removed	This is an outdated HRD process that is being removed.

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(d) (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 (2) Request that a hiring representative complete a pre-screening of the labor pool based on the applications submitted and the screening process contained in Article 5-6 to provide the supervisor with the top (3) qualified applicants for the position. The supervisor may then interview the top three (3) applicants in the labor pool pursuant to Article 5-8(a) and (b), and rank them, pursuant to Article 5-9. When all interviews and rankings are complete, the supervisor shall make a selection, provided that, if there is one (1) or more Oneida applicant in the top three (3) most qualified, an Oneida applicant must be selected.	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 employed by the Tribe".	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. The reasoning behind this change is that it is creating inefficiency within hiring.

Current Policies and Procedures	Proposed Law	Analysis
Emergency Temporary Positions 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.	Handbook V 5-17. At-Will Employees. (k) 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 do not have access to appeal process.
4. Benefits Emergency Temporary...eligible for benefits as defined in this section of the Personnel Policies and Procedures as Mandatory Benefits and Holiday pay.	Handbook XII 7-11. Paid Holidays. (d) The following employees are not eligible for paid holidays: (4) Temporary at-will employees;	Temporary employees no longer receive holiday pay.

Current Policies and Procedures Section III Selection Policy

- 39 • Oneida and Indian Preference changed for descendants per GTC resolution and BC
- 40 action.
- 41 • Step relationships added to the immediate family definition for purposes of determining
- 42 nepotism and conflict of interest.
- 43 • Electronic submission of applications added.
- 44 • Initial posting for Oneida applicants only has been removed; Oneida's are still given
- 45 preference in the interview process and Oneida and Indian Preference still apply to all
- 46 hiring decisions.
- 47 • Selection has changed from the top two to the top three candidates.
- 48 • Interim transfers have been reduced to a maximum of one year.
- 49 • Change in the transfer process.
- 50 • Employees separated or terminated during probationary period no longer receive credit
- 51 for accrued personal time off.

Current Policies and Procedures	Proposed Law	Resolution	Analysis
Priorities of Indian Preference 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).	201.6-2. Oneida and Indian Preference. The Nation shall apply Oneida and Indian Preference to all hiring practices. HRD shall provide a quarterly and annual report to the Oneida Business Committee regarding the trending data for Oneida and Indian preference in hiring and shall post such results on the Nation's website and newspaper. (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: (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. (b) If a law or grant funding requirement prohibits the application of Oneida and Indian Preference in accordance with 201.6-2(a), the Nation shall make staffing decisions in accordance with the Indian Preference requirements of the said law or grant. (c) Oneida and Indian Preference applies only when an applicant meets all the minimum requirements of the position applied for. (d) Oneida-Only Positions. To the extent possible, all top administrative and political appointee positions must be held by tribal members. If a position requires specific skills and/or licensing by the state or federal government and no Tribal members apply who are qualified and eligible and possess the necessary skills or licensing to assume the vacancy, only then may a non-tribal member be selected to fill the vacancy. In the event that a non-Tribal member is hired for a position originally designated as Oneida-only based on this provision, HRD shall hire the employee under contract so that the Nation may consider whether a Tribal member may be available to assume the position upon the expiration of the contract term.	GTC Resolution 5-23-11-A Personnel Policies and Procedures Amendments to Strengthen Indian Preference in Hiring	Added requirement for HRD to report on trends regarding Oneida and Indian preference published on the website and in the newspaper. Change in preference for descendants per BC work meeting 10/8/15 and GTC Resolution. Oneida preference was strengthened by requiring contracts for non-Oneida candidates hired to fill an Oneida only

			position in the absence of a qualified Oneida candidate.
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Current Policies and Procedures	Proposed Law	Analysis
B. HIRING PROCEDURE		
e. Conflict of Interest and Nepotism	Step relationships added	

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2. Hiring Procedures	Removed	The Personnel Commission will be dissolved with the passage of the Law.
b. Personnel Commission		

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d(3) Application Deadline	Mailed application removed Electronic submission added	HRD does not receive mailed applications any longer.
d(4) All applications will be acknowledged.	Removed	This is an outdated HRD process that does not fit the current organization.

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Current Policies and Procedures	Proposed Law	Resolutions	Analysis
2. Advertising 2(e)(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 IV. 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. 5-8. Interviews. (a) (1) If there are two (2) or more qualified and eligible Oneida applicants the hiring representative shall schedule interviews with the Oneida applicants first. In such circumstances, the remaining applicants, if any, may only be scheduled for interviews if an Oneida applicant has not been selected pursuant to Article 5-10. (2) If there are not two (2) or more qualified and eligible Oneida applicants, the hiring representative shall schedule interviews if there are three (3) or more qualified and eligible applicants in total. 5-10. Selection. (b) 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	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, which saves time in the hiring process; if two (2) or more qualified Oneida’s apply, they will be interviewed first and a selection made as long as there are at least two (2) eligible Oneida’s after the interview process has been completed. This Law requests GTC to repeal GTC Resolution 5-23-11-A.

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	applicants must be selected: ...		
Current Policies and Procedures	Proposed Law	Analysis	
2(f)(2) Screening of Applicants 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	This is an outdated HRD process that does not fit the current organization.	
2(h)(1) Selection 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) When all interviews have been conducted, 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: (1) For single vacancies, the supervisor must select one (1) of the top three (3) ranked applicants. (2) For multiple positions, the supervisor shall make a selection from the top three (3) ranked applicants for the first position and the hiring representative shall provide the next ranked applicant for each subsequent position to be filled so that the supervisor is picking from a pool of three (3) applicants for each position.	Selection has changed from the top two to the top three ranked applicants, unless only two qualified Oneida's apply, in which case one of the two will be selected. Oneida and Indian Preference apply.	

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Current Policies and Procedures	Proposed Law	Analysis	
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	Handbook 5-3(b) Existing Vacant Positions. Existing vacant positions must be posted internally for a minimum of seven (7) days. In addition to posting internally, a supervisor may also direct the hiring representative to post the position externally for a minimum of seven (7) days, during which time the position must remain posted internally. The external posting may occur simultaneously with the internal posting or may be done after the internal posting deadline has closed. If a position is not filled through the initial internal and/or external posting based on the hiring procedures contained in this article, it may be reposted until filled.	The initial five (5) day posting for transfers has been removed. Under the proposed law, the supervisor must post internally for seven days, but also has discretion to open the position up to external applicants. 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	

<p>Committee will:</p> <ul style="list-style-type: none"> i. Establish selection criteria; and ii. Review each bid. <p>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.</p> <p>c) If the Committee does not fill the position from the transfer/promotion process, the process will continue 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 required to complete a three (3) month probation period (all conditions of the Tribe's Probation Policy shall apply).</p>	<p>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.</p> <p>(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.</p> <p>(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>transfer and the detail regarding transfers being considered prior to all other applicants is not included in the Handbook.</p> <p>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.</p> <p>Transfers for medical reasons are not mentioned in the Law or Handbook.</p> <p>The probationary period for transfers has been removed but the evaluation period has remained.</p>
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Current Policies and Procedures	Proposed Law	Analysis
D. Probation		
<p>D. PROBATION</p> <p>1. The first three (3) months after an employee's starting date shall be considered a period of probation. At the end of six (6) weeks, the employee's performance shall be reviewed with him/her by the supervisor by completing an employee evaluation.</p> <p>a. At the end of the three-month probation period, a second performance evaluation will be conducted. This evaluation will recommend either the end of probation and regular status for the employee, an extension of probation, or termination for cause.</p>	<p>Handbook</p> <p>5-13. Probationary Period. All employees are subject to a probationary period lasting a minimum of ninety (90) days and a maximum of six (6) months. An employee supervisor that has timely performed an employee's evaluations as required in sub-article (d)(1) may request an extended probationary period for the employee, provided that the extension may not cause the probationary period to exceed six (6) months in duration and must be approved by HRD for procedural compliance.</p> <p>(a) Employee supervisors shall provide each probationary employee with two entry evaluations:</p> <ul style="list-style-type: none"> (1) The first occurring within the first six (6) weeks from the employee's start date; and (2) The second occurring within seventy-five (75) to ninety (90) days from the date the employee completed the position's training requirements. <p>(b) If an employee supervisor extends an employee's probationary period, the supervisor shall provide the employee with an additional evaluation upon completion of the probationary period.</p>	<p>The probationary period has been extended to a maximum of 6 months to accommodate those departments that have a training period before actual work begins. This allows supervisors to observe the employee during actual work performed which may not start until 30-90 days after employment, rather than just during their 30-90 day training period. Supervisors are still required to perform evaluations after the extended probationary period has expired.</p>
<p>3. Completion of Probation Period</p> <p>(b) Employees who are</p>	<p>Handbook VI</p> <p>5-13. Probationary Period.</p> <p>(b) Employees accrue paid time off during their</p>	<p>Employees separated or terminated during probationary period no</p>

terminated during the probation period will receive credit for accrued vacation/personal days in their final paycheck.	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.	longer receive credit for accrued personal time. Employees may not use accrued Paid Time Off until after their initial 90 day probationary period .
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Current Policies and Procedures Section IV Compensation and Benefits

- Change in notice to supervisor for PTO for unforeseen circumstances.
- Change from PTO taken without 24 hour notice limited to 6 occurrences with no supervisor discretion in a 12 month period after which a corrective action may be initiated.
- A 12th floater holiday was added.
- 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.
- Change from meeting attendance to speaker responsibilities with a change in the amount of compensation an employee can keep.
- Additional funeral leave was added.
- Change in leaves of absence to personal leave.
- Change in maternity leave to include adoption and both men and women. This leave is covered under the family medical leave section of the Handbook.
- Change in accruals for military leave.

Current Policies and Procedures	Proposed Law	Analysis
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.	Handbook VII 7-13. Paid Time Off (PTO). (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) occurrence's 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.	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 with no supervisor discretion in a twelve (12) month period.

Current Policies and Procedures	Proposed Law	Analysis
4. Holidays. a. Tribal holidays	Handbook VII 7-12. Paid Holidays.	A 12 th floater holiday was

<p>consist of the following:</p> <ol style="list-style-type: none"> 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>(a). The Nation observes the following paid holidays:</p> <ol style="list-style-type: none"> (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. <p>(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.).</p> <p>(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>added to the list of paid holidays.</p>
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Current Policies and Procedures	Proposed Law	Analysis
<p>5. Vacation/Personal Days</p> <p>c. Except as provided for in section g, the accrual of personal days shall be as follows:</p> <ol style="list-style-type: none"> 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; <p>d. Except as provided for in section g, the accrual of vacation days shall be as follows,:</p> <ol style="list-style-type: none"> 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>201.7-4. Time Off. The Nation shall afford employees accumulated paid time off based on continuous service to the Nation. HRD shall the process for requesting paid time off in the handbook created pursuant to 201.5-1(a).</p> <p>(a) Employees accrue paid time off based on years of continuous service, provided that temporary employees are not eligible to accrue paid time off.</p> <ol style="list-style-type: none"> (1) Paid time off accrual rates for full-time employees are as follows: <ol style="list-style-type: none"> (A) 0-3 years of service – 144 hours annually (B) 4-7 years of service – 184 hours annually (C) 8-15 years of service – 240 hours annually (D) 16 + years of service – 296 hours annually (2) Part-time employees accrue time off based on the hours worked as a ratio of full-time hours. <p>(b) Once an employee reaches 280 hours of accrued PTO, he or she ceases to accrue paid time off. Employee supervisors shall notify employees in danger of reaching the accrual cap when the employee reaches 200 hours of accrued PTO.</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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Current Policies and Procedures	Proposed Law	Analysis
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1) Employees who have used the Tribally-sponsored loan program will be required to honor the terms of the loan agreement.	Removed	The Nation does not currently offer a loan program.
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Current Policies and Procedures	Proposed Law	Analysis
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. (BC Action, 5-16-89) 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.	Handbook VII 7-9. 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.	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.

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Current Policies and Procedures	Proposed Law	Analysis
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: 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.	Handbook IX 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 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. (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. (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. (b) An employee, excluding at-will employees, may, at the employee supervisor's discretion, take up to twenty-four (24) additional hours of unpaid	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 available for those who are responsible for funeral arrangements outside of the immediate family. Immediate family has been extended to include step-relationships [see 201.3-1(j)]. Twenty-four (24) additional hours 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>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>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</p> <p>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.</p> <p>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 IX</p> <p>9-2. Personal Leaves.</p> <p>(e) 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.</p> <p>(f) 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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Current Policies and Procedures	Proposed Law	Analysis
<p>4. Maternity Leave</p> <p>a. Maternity leave will be granted for a period of six (6) weeks without pay.</p> <p>1) An employee may elect to cover any portion of this time by using accumulated sick days.</p> <p>2) Any maternity-related absences for longer than six (6) weeks must be taken as a medical leave of absence.</p>	<p>Handbook XI</p> <p>9-1. Family Medical Leave.</p> <p>(a) Employees are entitled to up to ninety (90) calendar days of FML in a rolling twelve (12) month period in accordance with the qualifying events recognized by the Family and Medical Leave Act, which includes the birth, adoption, and/or placement for adoption of a child.</p>	<p>Family medical leave is new under this Handbook and applies to both men and women.</p> <p>Adoption was added to this leave.</p>

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Current Policies and Procedures	Proposed Law	Analysis
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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

- Employees will no longer be placed on probation for unsatisfactory evaluations.
- 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 employee: 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>	<p>Handbook VI 6-1. Annual Performance Evaluations. (a) Employee supervisors shall evaluate each of their employees annually in the same month as the employee's date of hire for his or her current position and shall meet with each employee to discuss the contents of the annual performance evaluation. (e) Employees who disagree with their annual performance evaluation may seek mediation with their employee supervisor at HRD. (f) 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 evaluation, must receive an annual evaluation score that is an average of the initial evaluation score and the re-evaluation score. 7-1. Tribal Compensation Plan. (1) Merit based increases where a merit based increase is an increase in an employee's compensation based on performance as</p>	<p>Employees will now be evaluated on the annual date of hire. Regular status employees will no longer be placed on probation for unsatisfactory evaluations. 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>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> <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>6. Grievance</p> <p>(a)(2) The Area Manager, for all disciplinary action investigations, will have ten (10) working days from the receipt of the employee's appeal to complete the investigation. One extension of no more than five (5) working days may be requested of and granted by the Oneida Human Resources Manager (or designee) at his or</p>	<p>supervisor personally witnessed the prohibited behavior meriting corrective action.</p> <p>Handbook XII</p> <p>12-6. Progressive Corrective Actions.</p> <p>(c) Termination. A termination is the release of an employee from employment against the employee's will.</p> <p>(1) Termination must be used as the corrective action under the following circumstances:</p> <p>(A) The employee accumulates any three (3) corrective actions provided under Article 12-5 within any twelve (12) month period where the termination itself constitutes the third corrective action; or</p> <p>(B) The employee has engaged in a prohibited action that rises to the level of a criminal or otherwise illegal act.</p> <p>(2) At-will employees may be terminated at any time, for any reason.</p> <p>(3) If the employee supervisor determines that the terminated employee is likely to create a potentially hostile and/or dangerous situation, he or she shall contact the Internal Security Director or the Oneida Police Department for assistance.</p> <p>Handbook XIII</p> <p>13-1. Requesting Reconsideration of a Corrective Action and/or Adverse Employment Action. Prior to initiating a formal appeal of a corrective action and/or adverse employment action, an employee shall request reconsideration of the said action with his or her reviewing supervisor, provided that such requests must be made within ten (10) business days from the date of the employee supervisor's action.</p>	<p>handled correctly [<i>see Handbook 12-4</i>].</p> <p>The third accumulated corrective action in a twelve (12) month period is now grounds for termination. The current policy is unclear and the practice has been that the fourth written warning is termination. The Handbook clarifies that the accumulation of any three corrective actions requires termination.</p> <p>The first level of review for grievances is conducted by the Reviewing Supervisor and extensions are no longer available. This level is now called a request for reconsideration rather than a formal appeal. This level of review must be requested in order for any actions taken to be brought before the Trial Court in subsequent corrective actions.</p>
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<p>her discretion.</p> <p>b. The employee may appeal the Area Manager's decision to the Oneida Personnel Commission. The appeal must be filed with the Oneida Personnel Commission within ten (10) working days from employee's receipt of the Area Manager's decision. Upon receipt of the appeal the Commission shall, within ten business day, notify the Oneida Human Resources Manager (or designee) that an appeal has been filed by the employee.</p>	<p>Law 201.11 Employee Discipline and Appeals 201.11-2(a) <i>First Level of Review. Internal Review by the Nation – Reconsideration by the Reviewing Supervisor.</i> An employee may request reconsideration of any corrective action or other action which may amount to an adverse employment action taken by his or her employee supervisor to his or her reviewing supervisor. The reviewing supervisor may affirm, modify or overturn the decision of the employee supervisor.</p> <p>(b) <i>First Level of Appeal.</i> Any employee, excluding at-will employees, alleging a wrongful suspension or termination or that a supervisor's actions amount to an adverse employment action may contest the action to the Trial Court using the Rules of Administrative Procedure so long as the employee has requested reconsideration from his or her reviewing supervisor according to 201.11-2(a).</p> <p>(1) An employee supervisor may not initiate a first level appeal in the event that the reviewing supervisor overturns the employee supervisor's action.</p> <p>(2) In considering an appeal of a corrective action, the Trial Court may consider previous corrective actions upon which the suspension or termination was based, provided that, the employee must demonstrate that he or she requested a reviewing supervisor's reconsideration of such prior corrective actions in accordance with Article 13-1. When reviewing prior corrective actions, the Trial Court shall only consider whether the corrective action was justified based on the employee's behavior; procedural compliance may not be considered.</p> <p>(c) <i>Second Level of Appeal.</i> Any party, excluding at-will employees, that is dissatisfied with the Trial Court's decision, may appeal the Trial Court's decision to the Oneida Judiciary's Appellate Court.</p>	<p>The first level of appeal is now heard by the Oneida Trial Court. Appeals to the Trial Court decision are made to the Oneida Appeals Court.</p> <p>The Personnel Commission has been removed and formal appeals moved to the Oneida Judiciary.</p> <p>Appeals of Personnel Commission decisions are currently heard by the Judiciary.</p>
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- Applicability to Elected Officials *[see 201.4-1]*. The Law codifies the current practice of including Elected Officials in sections 201.6 – 201.8 with respect to compensation and benefits, general and employee responsibilities. Elected officials are governed by a different set of laws with respect to discipline; therefore sections of this law related to discipline do not apply to elected officials.
- Suspension and terminations are now contested to the Trial Court appealable to the Appellate Court *[see 201.11-2]*.
- The Oneida Judiciary may, at its discretion, waive any court filing fees that may be assessed against an employee appealing an employment matter *[see 201.11-4]*.

Other

Please refer to the fiscal impact statement for any financial impacts. Public comment regarding the Handbook can be directed to bstevens@oneidanation.org or kjohn4@oneidanation.org.



Legislative Operating Committee

August 17, 2016

Landlord-Tenant Law

Submission Date: October 7, 2015

☒ Public Meeting: 7/21/16
☐ Emergency Enacted:

LOC Sponsor: David P. Jordan

Summary: *Is a new law that will explain 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.*

10/7/15 LOC: Motion by David P. Jordan to add the Real Property Law Amendments, Probate Law, Mortgage Law, Landlord-Tenant Law and Land Commission Bylaws Amendments to the Active Files List with himself as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

12/16/15 LOC: Motion by Fawn Billie to accept the memorandum update as FYI and to defer the Landlord-Tenant Law back to the sponsor and to bring back when ready; seconded by Jennifer Webster. Motion carried unanimously.

4/20/16 LOC: Motion by Tehassi Hill to accept the draft Landlord-Tenant Law and forward it to the Legislative Reference Office for a legislative analysis; seconded by Fawn Billie. Motion carried unanimously.

6/15/16 LOC: Motion by David P. Jordan to accept the legislative analysis for Landlord-Tenant law and to approve the public meeting packet for a public meeting date on July 21, 2016; seconded by Fawn Billie. Motion carried unanimously.

8/2/16: Update meeting held with sponsor, drafter, analyst, LRO Director

Next Steps:

- Accept the Landlord-Tenant law's public meeting comment.
- Direct the LRO to prepare an adoption packet, including an updated legislative analysis if any revisions are directed based on the public meeting comment.



TO: Legislative Operating Committee (LOC)
FROM: Krystal L. John, Staff Attorney
DATE: August 17, 2016
RE: Landlord-Tenant Law: Public Meeting Comment Review

On July 21, 2016, a public meeting was held regarding a new Landlord-Tenant law, which:

- Provides rental programs offered to Tribal member by the Nation within the reservation boundaries and includes eligibility requirements and tenant selection criteria [see 710.4].
- Provides detail related to rental agreement provisions and terminations and specifies that assignments of rental agreements are not permitted [see 710.5].
- Details the rights and responsibilities of the Nation as landlord and Tribal members as tenants including disposition of personal property, repairs, damage, pest control, check-in sheet, required notice to enter, and annual inspections [see 710.6].
- Provides provisions related to domestic abuse and sex offender registration [see 710.7 and 710.8].
- Details the process required in the event of a tenant's death [see 710.9].
- Identifies the Comprehensive Housing Division as the entity delegated authority to develop rules under this law [see 710.3-1(f)].
- Identifies the Oneida Judiciary as the original hearing body authority for all actions taken under this law [see 710.10].

This memorandum is submitted as a review of the oral comments received during the public meeting process; there were not any written comments received within the public comment period. The public meeting draft with comments is attached for your review.

Comment 1 – Delegation of Rulemaking Authority

710.3-1(f) “Rule” means a set of requirements, including citation fees and penalty schedules, enacted by the Comprehensive Housing Division in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law.

Comment

Rae Skenandore: Speaking from the Land Commission perspective, I disagree that all the rule making authorities should be solely with the Comprehensive Housing Division because Landlord, tenants, DOLM, and the Land Commission have some authority and responsibilities

over those areas and this affects our funding that's going back into the land acquisition fund so there should be some joint rule making authority within the document.

Response

Mrs. Skenandore has a valid point that rentals currently managed by the Division of Land Management would continue to contribute towards the Land Commission's land acquisition budget and accordingly they have a direct interest in the policy setting related to such rentals. The sponsor and I discussed this item with Mrs. Skenandore and explained that the only consideration against a blanket joint delegation of such authority is that the Land Commission currently has no authority over Oneida Housing Authority Rentals and a blanket delegation would expand the Commission's scope of authority, which is not the intent of this law. The sponsor and Mrs. Skenandore agreed that a fair compromise would be to delegate joint rulemaking authority in all instances except where the rule is specifically related to rental administered using federal funding. In order to incorporate this compromise, I recommend revisions the definition of "Rule" as follows:

"Rule" means a set of requirements, including citation fees and penalty schedules, enacted jointly by the Land Commission and the Comprehensive Housing Division in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law, provided that where such requirements relate solely to premises administered pursuant to federal funding, the Comprehensive Housing Division has sole authority.

This would also require additional revisions throughout the document to change all rulemaking references to joint authority.

Title 7. Property - Chapter 710
LANDLORD-TENANT
Tsi> Yuhw<tsyaw@ku Aolihw@ke
where it bound to the earth - issues

6	710.1.	Purpose and Policy	11	710.6.	Rights and Duties of Landlords and Tenants
7	710.2.	Adoption, Amendment, Repeal	12	710.7.	Domestic Abuse Protections
8	710.3.	Definitions	13	710.8.	Sex Offender Registry
9	710.4.	Rental Programs	14	710.9.	Termination of Tenancy at Death of Tenant
10	710.5.	Rental Agreement Documents	15	710.10.	Appeals
			16		

710.1. Purpose and Policy

710.1-1. *Purpose.* The purpose of this law is to provide mechanisms for protecting the rights of the landlords and tenants within the reservation.

710.1-2. *Policy.* Is it the Nation's policy to provide a fair process to all landlords and tenants that preserves the peace, harmony, safety, health, general welfare and the Nation's resources.

710.2. Adoption, Amendment, Repeal

710.2-1. This law was adopted by the Oneida Business Committee by resolution _____.

710.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

710.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

710.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

710.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.

710.3. Definitions

710.3-1. This section shall govern the definitions of words and phrases as used herein. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Landlord" means the Nation in its capacity to rent real property subject to a rental agreement.

(b) "Nation" means the Oneida Nation.

(c) "Premises" means the property covered by a rental agreement, including not only the real property and fixtures, but also any personal property furnished by the landlord pursuant to a rental agreement.

(d) "Rental Agreement" means a written contract between a landlord and a tenant, whereby the tenant is granted the right to use or occupy the premises for a residential purpose for one (1) year or less.

(e) “Reservation” means all property within the exterior boundaries of the reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

(f) “Rule” means a set of requirements, including citation fees and penalty schedules, enacted by the Comprehensive Housing Division in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law.¹

(g) “Tenant” means the person granted the right to use or occupy a premises pursuant to a rental agreement.

(h) “Security Deposit” means a payment made to the landlord by the tenant to ensure that rent will be paid and other responsibilities of the rental agreement performed.

710.4. Rental Programs

710.4-1. *Available Rental Programs.* Consistent with available funds, the Comprehensive Housing Division shall provide residential rental programs for providing housing to the following types of tenants and shall establish rules naming said programs and providing the specific requirements and regulations that apply to each program:

- (a) Elder tribal members;
- (b) Low-income Oneida tribal members and families; and
- (c) Tribal members in general.

710.4-2. *Rental Eligibility Requirements.* In order to be eligible for a rental agreement, applicants shall meet the following conditions:

- (a) Be eighteen (18) years of age at the time of the application;
- (b) Have no felony or drug convictions within the past two (2) years from the date of application, provided that a pardon or forgiveness received pursuant to the Pardon and Forgiveness law may provide an exception to this condition;
- (c) Meet the local governments’ laws’ requirements regarding residency restrictions for convicted sex offenders;
- (d) Meet the income requirements for entering the rental agreement as determined by the rental program’s governing rules;
- (e) Not hold a residential lease with the Nation; and
- (f) Meet any other eligibility requirements set by the rental program’s rules, which may not be less strict than this law, but may be stricter than this law.

710.4-3. *Tenant Selection.* The Comprehensive Housing Division shall develop rules governing the selection of applicants for the issuance of rental agreements.

- (a) At a minimum, the Comprehensive Housing Division shall ensure that the rental agreement selection rules provide a preference to applicants:

¹ **Rae Skenandore:** Speaking from the Land Commission perspective, I disagree that all the rule making authorities should be solely with the Comprehensive Housing Division because Landlord, tenants, DOLM, and the Land Commission have some authority and responsibilities over those areas and this affects our funding that’s going back into the land acquisition fund so there should be some joint rule making authority within the document.

Fawn Billie: Thank you very much you said that’s with Land Management and the Land commission? I am just asked for clarification. She did state it I was just taking note of what she wanted the joint team to be with, and it’s with the Land Commission.

(1) With a disability recognized by a medical professional, and/or

(2) Having veteran status with relevant proof of service, which may include, but is not limited to, a DD214 Discharge Form, Reservist Identification Card, or National Guard Identification Card.

(b) Nothing in this section may be interpreted to place a requirement on a landlord to modify existing rental units in order to provide additional housing that is handicap accessible.

710.5. Rental Agreement Documents

710.5-1. *Severability of Rental Agreement Provisions.* The provisions of a rental agreement are severable. If any provision of a rental agreement is void or unenforceable by reason of any law, rule, regulation, or judicial order, the invalidity or unenforceability of that provision does not affect other provisions of the rental agreement that can be given effect without the invalid or unenforceable provision.

710.5-2. *Requirements of Rental Agreements and Terminations.* A rental agreement or termination of a rental agreement is not enforceable unless it meets the requirements of this law and is in writing.

(a) All rental agreements shall:

(1) Set forth the amount of rent or other consideration provided in exchange for the ability to use/occupy the premises;

(2) Set forth the required amount of security deposit and require payment of the security deposit prior to the tenant(s) taking use/occupancy of the premises;

(3) Set the time of commencement and expiration of the rental agreement;

(4) Provide a reasonably definite description of the premises;

(5) State that nothing in the agreement may be considered a waiver of the Nation's sovereign immunity, provided that tenants may seek enforcement of a rental agreement or dispute an action taken pursuant to a rental agreement with the Oneida Judiciary; and

(6) Be signed by both the landlord and the tenant(s) prior to the tenant(s) taking use/occupancy of the premises;

(A) The rental agreement is not required to be signed by all adults using/occupying the premises, provided that the rights and responsibilities contained in the rental agreement do not extend to persons that are not named as tenants in the rental agreement.

(B) Unless legally separated, if a tenant(s) is married, the landlord shall require that each spouse sign the rental agreement.

(b) Any provision of a rental agreement that does any of the following is void and unenforceable.

(1) Allows a landlord to do or threaten to do any of the following because a tenant has contacted an entity for law enforcement services, health services or safety services:

(A) Increase rent;

(B) Decrease services;

(C) Bring an action for eviction pursuant to the Eviction law; and/or

(D) Refuse to renew a rental agreement.

(2) Except as otherwise provided in this law in regards to domestic abuse, authorizes the eviction or exclusion of a tenant from the premises other than through the process described in the Eviction law.

(3) Requires the tenant to pay attorney's fees or costs incurred by the landlord in any legal action or dispute arising under the rental agreement except as supported by a court order.

(4) States that the landlord is not liable for property damage or personal injury caused by negligent acts or omissions of the landlord. This subsection does not affect ordinary maintenance obligations of a tenant under 710.6-3(b) or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.

(5) Imposes liability on the tenant for any of the following:

(A) Personal injury arising from causes clearly beyond the tenant's control.

(B) Property damage caused by natural disasters or by persons other than the tenant or the tenant's guests or invitees. This subsection does not affect ordinary maintenance obligations of a tenant under 710.6-3(b) or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.

(6) Waives any obligation on the part of the landlord to deliver the premises in a fit and habitable condition or to maintain the premises during the tenant's tenancy.

(7) Allows for periodic tenancy, which for the purposes of this section means when a tenant uses/occupies a premises without an effective and valid rental agreement by paying rent on a periodic basis including, but not limited to, day-to-day, week-to-week and month-to-month.

710.5-3. *Assignment of Rental Agreements Not Permitted.* Assignments of rental agreements are not permitted under any circumstances.

710.6. Rights and Duties of Landlords and Tenants

710.6-1. This section governs the rights and duties of the landlord and tenant in the absence of any inconsistent provision found in a valid rental agreement.

710.6-2. *Disposition of Personal Property Left by the Tenant.* If the tenant moves from or is evicted from the premises and leaves personal property, the landlord may presume that the tenant has abandoned the personal property and may dispose of said property in any manner that the landlord, in his or her sole discretion, determines is appropriate, provided that:

(a) The landlord shall hold personal property for a minimum of five (5) business days and the tenant may retrieve said personal property by contacting the landlord.

(b) The landlord shall keep a written log of the date and the work time that the Nation's staff expends storing and/or removing personal property and/or removing/disposing of debris left at the property after the expiration of the timeframe provided in the order to vacate.

(c) The Comprehensive Housing Division shall create rules further governing the disposition of personal property.

710.6-3. *Repairs; Untenability.* This section applies to all leases if there is no contrary provision in writing signed by both parties.

(a) *Duties of the Landlord.*

(1) Except for repairs made necessary by the negligence of, or improper use of the premises by the tenant, the landlord has a duty to do all of the following:

(A) Keep in a reasonable state of repair portions of the premises over which the landlord maintains control.

(B) Keep in a reasonable state of repair all equipment under the landlord's control necessary to supply services that the landlord has expressly or impliedly agreed to furnish to the tenant, such as heat, water, elevator, or air conditioning.

(C) Make all necessary structural repairs.

(D) Except as provided in section 710.6-3(b)(2), repair or replace any plumbing, electrical wiring, machinery, or equipment furnished with the premises and no longer in reasonable working condition.

(E) Comply with any laws or rules of the Nation that are applicable to the premises.

(2) If the premises are part of a building where other parts are occupied by one (1) or more other tenants, negligence or improper use by one (1) tenant does not relieve the landlord from the landlord's duty to make repairs as provided in 710.6-3(a)(1), provided that the landlord may require the responsible tenant to pay for such repairs.

(3) A landlord shall disclose to a prospective tenant, before entering into a rental agreement with or accepting any earnest money or security deposit from the prospective tenant, any violation of either the Building Code of the Oneida Nation or the Zoning and Shoreland Protection Ordinance if all of the following apply:

(A) The landlord has actual knowledge of the violation;

(B) The violation affects the dwelling unit that is the subject of the prospective rental agreement or a common area of the premises;

(C) The violation presents a significant threat to the prospective tenant's health or safety; and

(D) The violation has not yet been corrected but the landlord shall correct the violation prior to the tenant taking occupancy of the premises.

(4) If the premises are damaged by fire, water or other casualty, not the result of the negligence or intentional act of the landlord, this subsection is inapplicable and either section 710.6-3(b) or (c) governs.

(5) The landlord is responsible for all required pest control to keep the premises in a safe and healthy condition, provided that where an infestation has occurred due to the acts or inaction of the tenant the pest control costs may be assessed against the tenant.

(b) Duties of the Tenant.

(1) If the premises are damaged, including by an infestation of insects or other pests, due to the acts or inaction of the tenant, the landlord may elect to allow the tenant to remediate or repair the damage and restore the appearance of the premises by redecorating. However, the landlord may elect to undertake the remediation, repair, or redecoration, and in such case the tenant shall reimburse the landlord for the reasonable cost thereof; the cost to the landlord is presumed reasonable unless proven otherwise by the tenant.

(2) The tenant shall keep plumbing, electrical wiring, machinery and equipment furnished with the premises in reasonable working order.

(3) Tenants shall comply with all laws and rules of the Nation.

(c) *Untenability.* If the premises become untenable because of damage by fire, water or other casualty or because of any condition hazardous to health, or if there is a substantial violation of section 710.6-3(a) materially affecting the health or safety of the tenant, the tenant may move from the premises unless the landlord promptly repairs, rebuilds or eliminates the health hazard or the substantial violation of 710.6-3(a) materially affecting the health or safety of the tenant.

(1) The tenant may also move and terminate the rental agreement if the inconvenience to the tenant by reason of the nature and period of repair, rebuilding or elimination would impose undue hardship on the tenant.

(2) If the tenant remains in possession, the landlord shall decrease rent for each month to the extent the tenant is deprived of the full normal use of the premises. The Comprehensive Housing Division shall develop rules governing how and when rent is decreased pursuant to this section. This subsection does not authorize rent to be withheld in full, if the tenant remains in possession.

(3) If the tenant justifiably moves out under this subsection, the tenant is not liable for rent after the premises become untenable and the landlord shall repay any rent paid in advance apportioned to the period after the premises become untenable. This subsection is inapplicable if the damage or condition is caused by negligence or improper use by the tenant.

(d) *Check-in sheet.* Landlords shall provide all new tenants with a check-in sheet when the tenant commences his or her occupancy of the premises that the tenant may use to make comments, if any, about the condition of the premises. The landlord shall provide the tenant with seven (7) days from the date the tenant commences his or her occupancy to complete the check-in sheet and return it to the landlord. The landlord is not required to provide the check-in sheet to a tenant upon renewal of a rental agreement.

(e) *Notice to Enter Required.* The landlord shall provide twenty-four (24) hour written notice prior to entering the tenant's premises where notice is required to either be personally served to the tenant or posted on the premises. A landlord is exempt from this notice requirement in the case of an emergency welfare check. The basis of a welfare check may include, but is not limited to the following:

(1) The landlord believes the tenant's or a child's wellbeing may be in jeopardy based on reports of child abuse or neglect, medical concerns, suspicious activity or other reported information;

(2) The landlord suspects the tenant has abandoned the premises; and/or

(3) The landlord receives notice that the premise's utilities have been disconnected.

(f) *Acts of tenant not to affect rights of landlord.* No act of a tenant in acknowledging as landlord a person other than the tenant's original landlord can prejudice the right of the original landlord to possession of the premises.

(g) *Annual Inspection Required.* In the event the tenant renews the rental agreement for additional terms, the landlord shall, at a minimum, inspect the premises once annually.

710.7. Domestic Abuse Protections

710.7-1. If a tenant notices the landlord of domestic abuse with of any of the following documentation, regardless of marital status, the landlord shall change the locks to the premises and, if the tenant is unmarried, allow the tenant to modify the rental agreement to remove the domestic abuser:

- (a) An injunction order under Wis. Stat. 813.12(4) protecting the tenant from a co-tenant;
- (b) An injunction order under Wis. Stat. 813.122 protecting a child of the tenant from a co-tenant;
- (c) An injunction order under Wis. Stat. 813.125(4) protecting the tenant or child of the tenant from a co-tenant, based on the co-tenant's engaging in an act that would constitute sexual assault under Wis. Stat. 940.225, 948.02 or 948.025, or stalking under Wis. Stat. 940.32, or attempting or threatening to do the same;
- (d) A condition of release under Wis. Ch. 969 ordering the co-tenant not to contact the tenant;
- (e) A criminal complaint alleging that the co-tenant sexually assaulted the tenant or a child of the tenant under Wis. Stat. 940.225, 948.02 or 948.025;
- (f) A criminal complaint alleging that the co-tenant stalked the tenant or a child of the tenant under Wis. Stat. 940.32; or
- (g) A criminal complaint that was filed against the co-tenant as a result of the co-tenant being arrested for committing a domestic abuse offense against the tenant under Wis. Stat. 968.075.

710.7-2. If a tenant is no longer eligible to maintain the rental agreement upon removing a co-tenant domestic abuser from the rental agreement, the landlord shall permit the tenant to remain on the premises for the longer of either the duration of the rental agreement or ninety (90) days from the date the rental agreement is modified. If the latter applies, in addition to removing the co-tenant that is the domestic abuser, the landlord shall also revise the rental agreement to extend its duration.

710.7-3. The Eviction law provides tenants that are victims of domestic abuse with a defense to eviction should the abusers actions be the cause for eviction.

710.8. Sex Offender Registry

710.8-1. Should a tenant request information about whether any other tenants are required to register as a sex offender, the landlord shall provide the tenant with written notice that he or she may obtain information about the sex offender registry and persons registered within the registry by contacting the department of corrections. The landlord shall include in such notice the appropriate telephone number and internet site of the department of corrections.

710.9. Termination of Tenancy at Death of Tenant

710.9-1. If a tenant dies, his or her tenancy is terminated on the earlier of the following:

- (a) Sixty (60) days after the landlord receives notice, is advised, or otherwise becomes aware of the tenant's death;
- (b) The expiration of the term of the rental agreement.

710.9-2. The deceased tenant or his or her estate is not liable for any rent after the termination of his or her tenancy. A landlord may not contact or communicate with a member of the deceased tenant's family for the purpose of obtaining from the family member rent for which the family member has no liability.

710.9-3. Nothing in this section relieves another adult tenant of the deceased tenant's premises from any obligation under a rental agreement or any other liability to the landlord.

710.9-4. If the deceased tenant is a Tribal member whose death renders a co-tenant no longer eligible for a rental agreement, the non-Tribal member tenant may remain in the premises for the longer of either the duration of the rental agreement or ninety (90) days from the date of the Tribal member tenant's death. If the latter applies, the landlord shall revise the rental agreement to extend its duration.

710.10. Appeals

710.10-1. Parties may appeal actions taken pursuant to this law and/or a rental agreement to the Oneida Judiciary.

End.

Adopted – BC



LEGISLATIVE OPERATING COMMITTEE
Public Meeting on Vendor Licensing Law Amendments and Landlord Tenant Law
Business Committee Conference Room-2nd Floor Norbert Hill Center
July 21, 2016 12:15 p.m.

Present: David P. Jordan, Fawn Billie, Jennifer Falck, Taniquelle Thurner, Maureen Perkins, Rae Skenandore

Landlord Tenant Law

Fawn Billie: Good afternoon. The time is 12:19 p.m. and today's date is Thursday July 21st, 2016. I will now call the public meeting for the Landlord Tenant law and Vendor licensing law amendments to order. The Legislative Operating Committee is hosting this public meeting to gather feedback from the community regarding these legislative proposals. All persons who wish to present oral testimony need to register on the sign in sheet at the back of the room. Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person, by U.S. mail, interoffice mail, e-mail or fax as provided on the public meeting notice. These comments must be received by close of business on Thursday July 28th, 2016. In today's attendance is myself Fawn Billie and councilmember David Jordan.

We will begin today's public meeting for Landlord Tenant law. This is a proposal for a new law that would:

- Provides rental programs offered to Tribal member by the Nation within the reservation boundaries and includes eligibility requirements and tenant selection criteria *[see 710.4]*.
- Provides detail related to rental agreement provisions and terminations and specifies that assignments of rental agreements are not permitted *[see 710.5]*.
- Details the rights and responsibilities of the Nation as landlord and Tribal members as tenants including disposition of personal property, repairs, damage, pest control, check-in sheet, required notice to enter, and annual inspections *[see 710.6]*.
- Provides provisions related to domestic abuse and sex offender registration *[see 710.7 and 710.8]*.
- Details the process required in the event of a tenant's death *[see 710.9]*.
- Identifies the Comprehensive Housing Division as the entity delegated authority to develop rules under this law *[see 710.3-1(f)]*.
- Identifies the Oneida Judiciary as the original hearing body authority for all actions taken under this law *[see 710.10]*.

The first speaker we have today is Don. Don did you have any inquiries or concerns? No? okay.

Next we have Rae Skenandore.

Rae Skenandore: Speaking from the Land Commission perspective, I disagree that all the rule making authorities should be solely with the Comprehensive Housing Division because Landlord, tenants, DOLM, and the Land Commission have some authority and responsibilities over those areas and this affects our funding that's going back into the land acquisition fund so there should be some joint rule making authority within the document.

Fawn Billie: Thank you very much you said that's with Land Management and the Land commission? I am just asked for clarification. She did state it I was just taking note of what she wanted the joint team to be with, and it's with the Land Commission.

Okay going once, going twice? We are going to go on to the next item Vendor Licensing Law Amendments.

Vendor Licensing Law Amendments

With these amendments:

- ◆ Remove references to the non-existent License Commission and instead allow Department decisions to be appealed to the Judiciary [56.9];
- ◆ Remove various procedural requirements from the law and authorize the Licensing Department to promulgate rules or SOPs instead [current law 56.5-1(a); 56.5-1(b)(4); 56.8-2; 56.5-1(b)(1); 56.5-2(d), 56.6-1(d)];
- ◆ Remove fees from the law and provide the Oneida Licensing Department rulemaking authority to promulgate a fee schedule by rule [56.6-1];
- ◆ Delete the listed exemptions and deferments from the licensing/fee requirements (except for services/products provided by another federally recognized tribe or another government [56.8-1]) and allow the Department to promulgate rules that establish additional exemptions and deferments[56.8-2];

Fawn Billie: With that we did not have anyone signed up for comments at this time. Anything from Rae or Don for vending?

Thank you everyone for coming today. With there being no more speakers registered for the public meeting for the Landlord tenant law and the Vendor Licensing Law Amendments this is now closed at 12:26 PM, and also written comments may be submitted until close of business on Thursday July 28th, 2016. Thank Again the comments will go to the Tribal Secretaries office or the LRO. Thank you again.

-End of meeting-



Legislative Operating Committee

August 17, 2016

Eviction and Termination

Submission Date: January 6, 2016

☒ Public Meeting: 8/4/2016
☐ Emergency Enacted:

LOC Sponsor: Brandon Stevens

Summary: *Is a new law that will create a streamlined eviction and termination process which provides the rights and responsibilities of all parties involved and applies to leases held pursuant to the Leasing law and rental agreements held pursuant to 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.
- 3/2/16 LOC:** Motion by Jennifer Webster to accept the Eviction Law status update memorandum and defer to the sponsor to bring this item back when ready; seconded by Tehassi Hill. Motion carried unanimously.
- 4/19/16 LOC:** Work meeting held. Attendees include: Diane Wilson, Michelle Hill, Corrine Robelia-Zhuckkahos, Scott Denny, Rebecca Webster and Krystal John.
- 4/26/16 LOC:** Work meeting held. Attendees include: Brandon Stevens, Diane Wilson, Corrine Robelia-Zhuckkahos, Scott Denny, Rebecca Webster and Krystal John.
- 5/4/16 LOC:** Motion by David P. Jordan to accept the draft of the Eviction and Termination law and defer to the Legislative Reference Office for a legislative analysis; seconded by Jennifer Webster. Motion carried unanimously.
- 7/6/16 LOC:** Motion by Tehassi Hill to accept the legislative analysis for the Eviction and Termination law and to approve the public meeting packet which schedules a public meeting for August 4, 2016; seconded by David P. Jordan. Motion carried unanimously.
- 8/2/16:** Update meeting held with sponsor, drafter, analyst.
- 8/4/16:** Public meeting held.

Next Steps:

- Accept the Eviction and Termination law's public meeting comments.
- Direct the LRO to prepare an adoption packet, including an updated legislative analysis if any revisions are directed based on the public meeting comments.



TO: Legislative Operating Committee (LOC)
FROM: Krystal L. John, Staff Attorney
DATE: August 17, 2016
RE: Eviction and Termination Law: Public Meeting Comment Review

On August 4, 2016, a public meeting was held regarding a new Eviction and Termination law, which:

- Contains the minimum framework for the Nation's termination and eviction processes.
- Delegates rulemaking authority to the Comprehensive Housing Division to develop rules to further govern the processes contained in this law *[see 709.4]*.
- Details early contract termination, including causes and notice requirements, and names domestic abuse as defense to eviction *[see 709.6]*.
- Details the process regarding failure to vacate following the notice of eviction or contract expiration *[see 709.6]*.
- Details the withholding from and return of security deposits *[see 709.7]*.
- Provides an appeal process to the Oneida Judiciary *[see 709.8]*.

This memorandum is submitted as a review of the oral comments received during the public meeting process; there were not any written comments received within the public comment period. The public meeting draft with comments is attached for your review.

Comment 1 – Definition of Nuisance

709.3-1(d) “Nuisance” means an occupant’s interference with another occupant’s use and enjoyment of the premises. Nuisance activities include, but are not limited to, allegations of harassment, disorderly conduct, battery, lewd and lascivious behavior, prostitution, theft, possession of stolen property, arson, illegal drug activity, gambling, animal violations, trespassing, weapons violations, noise violations, execution of warrants, alcohol violations, obstruction/resisting, inspection related calls in which a law enforcement agency responds.

Comment

Rae Skenandore: The last one is on the definition of nuisance; it includes a noise violation which seems to be on a totally different level than the other ones listed here, such as battery and drug activity, because if you go further to the evictions under Line 139, see eviction for violation of applicable law or rule or nuisance by occupant. Essentially if I play my music too loud and my neighbor calls OPD, I can be evicted within five days. So I totally understand the rest of the definition of things under nuisance, but I think that noise is on a different level and I don’t know if it should necessarily be included in there, but that’s at the discretion of the LOC. I believe that’s all I have. Thank you.

Response

Mrs. Skenandore is correct that a noise violation is a less extreme nuisance than the other examples provided in the definition. The noise violations were included in the definition of nuisance based on the Division of Land Management's current Due Process standard operating procedure's definition of "Chronic Nuisance Activity." That SOP defines "Chronic Nuisance Activity" as "Harassment, disorderly conduct, battery, lewd and lascivious behavior, prostitution, theft, possession of stolen property, arson, illegal drug activity, gambling, animal violations, trespassing, weapons violations, noise violations, execution of warrants, alcohol violations, obstructing/resisting, inspection related calls in which the police department responds." The decision of whether or not "noise violations" should be included in the definition of "nuisance" is a policy call for the Legislative Operating Committee.

Comment 2 – Delegation of Rulemaking Authority

709.3-1(j) "Rule" means a set of requirements, including citation fees and penalty schedules, enacted by the Comprehensive Housing Division in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law.

Comment

Rae Skenandore: The first comment is on the rulemaking authority being delegated to the Comprehensive Housing Division. While the Division of Land Management may be a part of that, rentals are also under the Land Commission and there should be joint authority just like there is in the Mortgage and Foreclosure Law. This also ties to the Leasing Law, which we have one provision for residential, but also for agricultural and business, so it should be a joint rule making authority with the Land Commission. And I have some concerns that the Comprehensive Housing Division does not exist and it is the only one stated in this law.

Response

Mrs. Skenandore has a valid point that rentals currently managed by the Division of Land Management would continue to contribute towards the Land Commission's land acquisition budget and accordingly they have a direct interest in the policy setting related to such rentals. The sponsor and I discussed this item with Mrs. Skenandore and explained that the only consideration against a blanket joint delegation of such authority is that the Land Commission currently has no authority over Oneida Housing Authority Rentals and a blanket delegation would expand the Commission's scope of authority, which is not the intent of this law. The sponsor and Mrs. Skenandore agreed that a fair compromise would be to delegate joint rulemaking authority in all instances except where the rule is specifically related to rental administered using federal funding. In order to incorporate this compromise, I recommend revisions the definition of "Rule" as follows:

“Rule” means a set of requirements, including citation fees and penalty schedules, enacted jointly by the Land Commission and the Comprehensive Housing Division in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law, provided that where such requirements relate solely to premises administered pursuant to federal funding, the Comprehensive Housing Division has sole authority.

This would also require additional revisions throughout the document to change all rulemaking references to joint authority.

In response to the Mrs. Skenandore’s concern that rulemaking authority has been delegated to the Comprehensive Housing Division which is still under development as part of the Oneida Business Committee’s reorganization, I recommend that a definition of Comprehensive Housing Division be included in the law. This was also done for the Mortgage and Foreclosure law. The definition would read as follows:

“Comprehensive Housing Division” means the entity responsible for housing matters specifically related to mortgages and foreclosures as defined by Oneida Business Committee Resolution.

The Business Committee resolution for the Eviction and Termination law would then define that the Comprehensive Housing Division means:

For purposes of all leases and general rental agreements, the Division of Land Management; for purposes of elder rental agreements, Elder Services; and for purposes of income-based rental agreements, the Oneida Housing Authority.

This approach allows the Comprehensive Housing Division to be incorporated into the law right away without requiring immediate amendments upon implementation, which is anticipated for FY 2017.

Title 7 Land and Property - Chapter 709
EVICTION AND TERMINATION
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709.1.	Purpose and Policy	709.5.	Early Contract Termination
709.2.	Adoption, Amendment, Repeal	709.6.	Failure to Vacate Following Notice of Eviction or
709.3.	Definitions		Contract Expiration
709.4.	Comprehensive Housing Division Administrative	709.7.	Withholding From and Return of Security Deposits
	Rulemaking Authority	709.8.	Appeals

709.1. Purpose and Policy

709.1-1. *Purpose.* The purpose of this law is to provide consistent procedures for terminating a contract and/or evicting an occupant which affords the applicant due process and protects all parties involved.

709.1-2. *Policy.* Is it the Nation's policy to provide fair termination and eviction processes that preserves the peace, harmony, safety, health, general welfare and the Nation's resources.

709.2. Adoption, Amendment, Repeal

709.2-1. This law was adopted by the Oneida Business Committee by resolution _____.

709.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

709.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

709.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

709.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.

709.3. Definitions

709.3-1. This section shall govern the definitions of words and phrases as used herein. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Contract" means either a lease document pursuant to the Leasing law or a rental agreement pursuant to the Landlord-Tenant law.

(b) "Eviction" means to expel an occupant from the premises.

(c) "Nation" means the Oneida Nation.

(d) "Nuisance" means an occupant's interference with another occupant's use and enjoyment of the premises. Nuisance activities include, but are not limited to, allegations of harassment, disorderly conduct, battery, lewd and lascivious behavior, prostitution, theft, possession of stolen property, arson, illegal drug activity, gambling, animal violations, trespassing, weapons violations, noise violations, execution of warrants,

alcohol violations, obstruction/resisting, inspection related calls in which a law enforcement agency responds.¹

(e) “Occupant” means the person granted the right to use or occupy a premises pursuant to a lease or rental agreement entered into in accordance with the Leasing law or Landlord-Tenant law respectively.

(f) “Owner” means the Nation in its capacity as a lessor as defined in the Leasing law or as a landlord as defined in the Landlord Tenant law.

(g) “Premises” means the property covered by a contract, including not only the real property and fixtures, but also any personal property furnished by the owner pursuant to a contract.

(h) “Rent” means the sum or amount agreed in the contract to be paid by the occupant to the owner for exclusive possession of the property for the period of time set by the contract.

(i) “Reservation” means all property within the exterior boundaries of the reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

(j) “Rule” means a set of requirements, including citation fees and penalty schedules, enacted by the Comprehensive Housing Division in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law.²

(k) “Security Deposit” means a payment made to the owner by the occupant to ensure that payments will be made and other responsibilities of the contract performed.

(l) “Waste” means physical damage or deterioration caused to the premises, whether intentional or negligent.

709.4. Comprehensive Housing Division Administrative Rulemaking Authority

709.4-1. The Comprehensive Housing Division may create rules to further govern the processes contained in this law.

709.5. Early Contract Termination

709.5-1. *Causes for Early Contract Termination.* The owner may terminate the contract prior to the contract term and evict the occupant, if the occupant:

- (a) Violates the terms of the contract;
- (b) Is alleged to have violated any applicable law or rule; and/or
- (c) Is alleged to have committed one or more nuisance activities.

¹ **Rae Skenandore:** The last one is on the definition of nuisance; it includes a noise violation which seems to be on a totally different level than the other ones listed here, such as battery and drug activity, because if you go further to the evictions under Line 139, see eviction for violation of applicable law or rule or nuisance by occupant. Essentially if I play my music too loud and my neighbor calls OPD, I can be evicted within five days. So I totally understand the rest of the definition of things under nuisance, but I think that noise is on a different level and I don’t know if it should necessarily be included in there, but that’s at the discretion of the LOC. I believe that’s all I have. Thank you.

² **Rae Skenandore:** The first comment is on the rulemaking authority being delegated to the Comprehensive Housing Division. While the Division of Land Management may be a part of that, rentals are also under the Land Commission and there should be joint authority just like there is in the Mortgage and Foreclosure Law. This also ties to the Leasing Law, which we have one provision for residential, but also for agricultural and business, so it should be a joint rule making authority with the Land Commission. And I have some concerns that the Comprehensive Housing Division does not exist and it is the only one stated in this law.

709.5-2. *Domestic Abuse Defense to Eviction.* An occupant has a valid defense to eviction if he or she alleges that if not for the alleged domestic abuse, which is noticed to the owner with any of the following documentation, there would not be cause for eviction under section 709.5-1:

- (a) An injunction order under Wis. Stat. 813.12(4) or any other law of the Nation protecting the tenant from a co-tenant;
- (b) An injunction order under Wis. Stat. 813.122 or any other law of the Nation protecting a child of the tenant from a co-tenant;
- (c) An injunction order under Wis. Stat. 813.125(4) or any other law of the Nation protecting the tenant or child of the tenant from a co-tenant, based on the co-tenant's engaging in an act that would constitute sexual assault under Wis. Stat. 940.225, 948.02 or 948.025, or stalking under Wis. Stat. 940.32, or attempting or threatening to do the same;
- (d) A condition of release under Wis. Ch. 969 ordering the co-tenant not to contact the tenant;
- (e) A criminal complaint alleging that the co-tenant sexually assaulted the tenant or a child of the tenant under Wis. Stat. 940.225, 948.02 or 948.025;
- (f) A criminal complaint alleging that the co-tenant stalked the tenant or a child of the tenant under Wis. Stat. 940.32; or
- (g) A criminal complaint that was filed against the co-tenant as a result of the co-tenant being arrested for committing a domestic abuse offense against the tenant under Wis. Stat. 968.075.

709.5-3. *Notice.* This section governs the amount of notice required to evict as well as the manner and form of notice required. When an owner provides notice in compliance with these requirements, the occupant is not entitled to possession or use of the premises after the date of the termination provided in the notice.

(a) *Eviction for Failure to Pay Rents.*

- (1) If an occupant fails to pay any installment of rent when due, the occupant's contract is terminated if the owner gives the occupant notice requiring the tenant to pay rent or vacate on or before a date at least thirty (30) calendar days after the giving of the notice and if the occupant fails to pay accordingly.
- (2) If an occupant has been given notice under 709.5-3(a)(1) and has paid the rent on or before the specified date, or been permitted by the owner to remain in possession contrary to such notice, and thereafter fails to pay a subsequent installment of rent on time within one (1) year of said notice, the occupant's contract is terminated if the owner, while the occupant is in default in payment of rent, gives the occupant notice to vacate on or before a date at least fourteen (14) calendar days after the giving of the notice.

(b) *Eviction for Waste or Contract Breach other than Rent Payment.*

- (1) If an occupant commits waste or breaches any covenant or condition of the occupant's contract, other than for payment of rent, the occupant's tenancy is terminated if the owner gives the occupant a notice requiring the occupant to remedy the default or vacate the premises on or before a date at least thirty (30) calendar days after the giving of the notice, and if the occupant fails to comply with such notice. An occupant is deemed to be complying with the notice if promptly upon receipt of such notice the occupant takes reasonable steps to remedy the default and proceeds with reasonable diligence, or if damages are

adequate protection for the owner and the occupant makes a bona fide and reasonable offer to pay the owner all damages for the occupant's breach.

(2) If within one (1) year from the giving of any notice under 709.5-3(b)(1), the occupant again commits waste or breaches the same or any other covenant or condition of the occupant's contract, other than for payment of rent, the occupant's contract is terminated if the owner, prior to the occupant's remedying the waste or breach, gives the occupant notice to vacate on or before a date at least fourteen (14) calendar days after the giving of the notice.

(c) *Eviction for Violation of Applicable Law or Rule or Nuisance by Occupant.* The owner may terminate an occupant's contract based on an alleged violation of an applicable law or rule or if the occupant commits a nuisance act.

(1) In order to terminate based on this section, the owner must have received notice, which may be from, but is not limited to, another occupant, law enforcement agency or a local government's office of the district attorney, which reports:

(A) a violation of an applicable law or rule on behalf of the occupant or in the occupant's unit, or

(B) a nuisance that exists in that occupant's unit or was caused by that occupant on the owner's property. In order to terminate the contract, the owner shall give the occupant written notice requiring the occupant to vacate on or before a date at least five (5) calendar days after the giving of the notice.

(2) The occupant may contest a termination based on a violation of applicable law or rule or nuisance by filing a complaint challenging the basis of the eviction with the Judiciary.

(3) If the occupant contests the termination prior to the termination date provided in the notice, the eviction is stayed and the contract may not be terminated without proof to the Judiciary by the owner by the greater preponderance of the credible evidence of the allegation that a violation of law and/or rule and/or nuisance exists in that occupant's unit or was caused by that occupant.

(4) Despite an owner's satisfaction of the proof requirements in section 709.5(c)(3), the Judiciary may, at its discretion, stay an eviction by honoring any alternative agreement regarding pending actions entered into by the occupant and a court of competent jurisdiction pending successful completion of the alternative agreement.

(d) *Content, Form and Manner of Giving Notice.*

(1) *Notice Content.* Notices required to be provided under this law shall include the following:

(A) The violation of law and/or rule, committing of nuisance and/or breach of the contract, with citations to the applicable law, rule and/or contract clause;

(B) If the notice is pursuant to section 709.5-3(a), the current delinquent balance due;

(C) If the notice is pursuant to section 709.5-3(a) or (b):

(i) A statement that the occupant has a thirty (30) day period to cure;

- (ii) The date the period to cure expires and the termination becomes effective in the event occupant does not cure; and
(iii) Potential consequences for failure to cure, which may include, but are not limited to eviction and the assessment of damages against the occupant.

(D) If notice is pursuant to section 709.5-3(c), a statement that the occupant may request a hearing with the Oneida Judiciary prior to the effective date of the termination provided on the notice, and that, if the occupant timely files for a hearing, there is an automatic stay on the eviction pending the determination of the Oneida Judiciary;

(E) The contact information for the Comprehensive Housing Division staff available to answer questions and/or hear concerns of the occupant related to the notice.

(2) *Notice to Individuals.* When providing notice to an occupant that is an individual, the owner shall use one of the following methods:

(A) Giving a copy of the notice personally to the occupant or by leaving a copy at the occupant's usual place of abode in the presence of some competent member of the occupant's family at least fourteen (14) years of age, who is informed of the contents of the notice, provided that the owner may request that the notice be personally served to the occupant by the Oneida Police Department;

(B) Leaving a copy with any competent person apparently in charge of the premises or occupying the premises or a part thereof, and by mailing a copy by first class mail to the occupant's last-known address;

(C) If notice cannot be given under subsection (A) or (B) with reasonable diligence, by affixing a copy of the notice on an entrance to the rented premises where it can be conveniently read and by mailing a copy by first class mail to the occupant's last-known address;

(D) By mailing a copy of the notice by registered or certified mail to the tenant at the tenant's last-known address;

(E) By serving the occupant as prescribed in the Rules of Civil Procedure for the service of a summons.

(3) *Notice to Corporations or Partnerships.* If notice is to be given to a corporation notice may be given by any method provided in subsection (1) except that notice under subsection (1)(A) may be given only to an officer, director, registered agent or managing agent, or left with an employee in the office of such officer or agent during regular business hours. If notice is to be given to a partnership, notice may be given by any method in subsection (1) except that notice under subsection (1)(A) may be given only to a general partner or managing agent of the partnership, or left with an employee in the office of such partner or agent during regular business hours, or left at the usual place of abode of a general partner in the presence of some competent member of the general partner's family at least fourteen (14) years of age, who is informed of the contents of the notice.

(4) *Notice to One (1) of Several Parties.* If there are two (2) or more co-occupants of the same premises, notice given to one (1) is deemed to be given to the others also.

(5) *Effect of Actual Receipt of Notice.* If notice is not properly given by one (1) of the methods specified in this section, but is actually received by the other party, the notice is deemed to be properly given; but the burden is upon the owner alleging actual receipt to prove the fact by clear and convincing evidence.

(e) *Contrary Provision in the Contract.* Except for leases entered into pursuant to the Leasing law, any termination provisions in a contract that are contrary to those provided in this law are invalid.

709.6. Failure to Vacate Following Notice of Eviction or Contract Expiration

709.6-1. *Changing of Locks and Removal of Occupant.* If an occupant fails to vacate the premises following notice of termination based on eviction, occupant termination or expiration and non-renewal of a contract, the owner shall secure and take possession of the premises once the timeframe in the notice of termination has expired.

(a) The Comprehensive Housing Division shall contact the Oneida Police Department to request that an Oneida Police Officer be on the scene while the locks are being changed.

(b) In the event the occupant has left personal property in the home, the occupant may retrieve the said personal property by contacting the Comprehensive Housing Division staff listed on the notice of termination. The Comprehensive Housing Division shall hold personal property for a minimum of five (5) business days, where a business day is Monday through Friday from 8:00 a.m. to 4:30 p.m. and excludes holidays recognized by the Nation.

(1) The Comprehensive Housing Division shall keep a written log of the date and the work time the Comprehensive Housing Division's staff expends storing and/or removing personal property and/or removing/disposing of debris left at the premises after the expiration of the timeframe provided in the notice of termination.

(2) The Comprehensive Housing Division shall create rules further governing the disposition of personal property.

709.6-2. *Effect of Failure to Vacate.* A failure to vacate following notice of termination based on eviction, occupant termination or expiration and non-renewal of a contract does not in any circumstances, regardless of acceptance of rent payments, create a periodic tenancy. For the purposes of this section, a periodic tenancy means when an occupant uses/occupies a premises without an effective and valid contract by paying rent on a periodic basis including, but not limited to, day-to-day, week-to-week and month-to-month.

709.6-3. *Damages for Failure to Vacate.* If an occupant remains in possession of the premises without consent of the owner after notice of termination based on eviction, occupant termination or expiration and non-renewal of a contract, the owner may, at the owner's discretion, recover from the occupant damages suffered by the owner because of the failure of the occupant to vacate within the time required. In absence of proof of greater damages, the landlord shall

recover as minimum damages twice the rental value apportioned on a daily basis for the time the occupant remains in possession. As used in this section, rental value means the amount for which the premises might reasonably have been rented, but not less than the amount actually paid or payable by the occupant for the prior rental period, and includes the money equivalent of any obligations undertaken by the occupant as part of the contract, such as regular property maintenance and repairs. Nothing in this section prevents the owner from seeking and recovering any other damages to which the owner may be entitled.

709.7. Withholding From and Return of Security Deposits

709.7-1. *Applicability.* This section applies only to contracts that require a security deposit.

709.7-2. *Standard Withholding Provisions.* When the owner returns a security deposit to an occupant after the occupant vacates the premises, the owner may withhold from the full amount of the security deposit only amounts reasonably necessary to pay for any of the following:

- (a) Occupant damage, waste, or neglect of the premises;
- (b) Unpaid rent for which the occupant is legally responsible;
- (c) Payment that the tenant owes under the contract for utility service provided by the owner but not included in the rent;
- (d) Payment that the tenant owes for direct utility service provided by a government-owned utility, to the extent that the landlord becomes liable for the tenant's nonpayment.
- (e) Unpaid monthly municipal permit fees assessed against the occupant by a local unit of government, to the extent that the owner becomes liable for the occupant's nonpayment; and
- (f) Any other payment for a reason provided in a nonstandard provision document described in 709.7-3.

709.7-3. *Nonstandard Withholding Provisions.* A contract may include one or more nonstandard withholding provisions that authorize the owner to withhold amounts from the occupant's security deposit for reasons not specified in 709.7-2(a) through (f). The owner shall provide any such nonstandard withholding provisions to the occupant in a separate written document entitled "Nonstandard Withholding Provisions." The owner shall specifically identify each nonstandard withholding provision with the occupant before the occupant enters into a contract with the owner. If the occupant signs his or her name, or writes his or her initials, by a nonstandard withholding provision, it is rebuttably presumed that the owner has specifically identified the nonstandard withholding provision with the occupant and that the occupant has agreed to it.

709.7-4. *Normal Wear and Tear.* This section does not authorize the owner to withhold any amount from a security deposit for normal wear and tear, or for other damages or losses for which the occupant cannot reasonably be held responsible under the terms of the contract, and applicable laws and/or rules of the Nation.

709.7-5. *Timing for Return of the Security Deposit.* The owner shall deliver or mail to an occupant the full amount of any security deposit paid by the occupant, less any amounts that may

be withheld under subsections 709.7-2 and 709.7-3, within thirty (30) calendar days after any of the following:

(a) If the occupant vacates the premises on the original termination date of the contract, the date on which the contract terminates.

(b) If the occupant vacates the premises or is evicted before the original termination date of the contract, the date on which the occupant's rental agreement terminates or, if the owner re-rents the premises before the occupant's rental agreement terminates, the date on which the new occupant takes occupancy/use of the premises.

(c) If the occupant vacates the premises untimely or is removed from the premises pursuant to 709.6-1, the date on which the owner learns that the occupant has vacated the premises or has been removed from the premises under section 709.6-1.

709.8. Appeals

709.8-1. Parties may appeal actions taken pursuant to this law to the Oneida Judiciary.

End.

Adopted – BC



LEGISLATIVE OPERATING COMMITTEE
Public Meeting on the Eviction and Termination Law
Business Committee Conference Room-2nd Floor
Norbert Hill Center
August 4, 2016 12:15 p.m.

Present: Jennifer Webster, Taniquelle Thurner, Rae Skenandore, Leyne Orosco

Eviction and Termination

Jennifer Webster: Greetings. The time is 12:18 p.m. and today's date is Thursday August 4, 2016. I will now call the public meeting for the Eviction and Termination Law to order. The Legislative Operating Committee is hosting this public meeting to gather feedback from the community regarding this legislative proposal. All persons who wish to present oral testimony need to register on the sign in sheet at the back of the room. Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person, by U.S. mail, interoffice mail, e-mail or fax as provided on the public meeting notice. These comments must be received by close of business day on Thursday August 11, 2016. In attendance from the LOC is Jenny Webster.

We will begin today's public meeting for the Eviction and Termination law. This is a proposal for a new law that would:

- Provide rental programs offered to Tribal members by the Nation within the reservation boundaries and includes eligibility requirements and tenant selection criteria;
- Provide detail related to rental agreement provisions and terminations and specify that assignments of rental agreements are not permitted;
- Detail the rights and responsibilities of the Nation as landlord and Tribal members as tenants including disposition of personal property, repairs, damage, pest control, check-in sheet, required notice to enter, and annual inspections;
- Provide provisions related to domestic abuse and sex offender registration;
- Detail the process required in the event of a tenant's death;
- Identify the Comprehensive Housing Division as the entity delegated authority to develop rules under this law;
- Identify the Oneida Judiciary as the original hearing body authority for all actions taken under this law.

And time limits are optional.

Did you want to sign in, Rae?

Rae Skenandore: The first comment is on the rulemaking authority being delegated to the Comprehensive Housing Division. While the Division of Land Management may be a part of that, rentals are also under the Land Commission and there should be joint authority just like there is in the Mortgage and Foreclosure Law. This also ties to the Leasing Law, which we have one provision for residential, but also for agricultural and business, so it should be a joint rule making authority with the Land Commission. And I have some concerns that the Comprehensive Housing Division does not exist and it is the only one stated in this law.

The last one is on the definition of nuisance; it includes a noise violation which seems to be on a totally different level than the other ones listed here, such as battery and drug activity, because if you go further to the evictions under Line 139, see eviction for violation of applicable law or rule or nuisance by occupant. Essentially if I play my music too loud and my neighbor calls OPD, I can be evicted within five days. So I totally understand the rest of the definition of things under nuisance, but I think that noise is on a different level and I don't know if it should necessarily be included in there, but that's at the discretion of the LOC. I believe that's all I have. Thank you.

Jennifer Webster: With there being no more speakers registered, the public meeting for the Eviction and Termination law is now closed at 12:23.

Written comments may be submitted until close of business day on Thursday, August 11, 2016. Thank you.

-End of meeting-



Legislative Operating Committee
August 17, 2016

Election Law Amendments

Submission Date: 4/20/16	Public Meeting: 9/15/16
LOC Sponsor: David P. Jordan	Emergency Enacted: 4/27/16 Expires: 10/27/16

Summary: *This request was submitted to change the voting age from 21 to 18, and to create a process for changing the constitution and the Election Board by-laws.*

4/20/16 LOC: Motion by Fawn Billie to move the amendment lowering the voting age to 18 years old, to emergency status; seconded by Tehassi Hill. Motion carried unanimously.

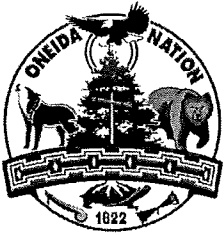
Note: All other changes will continue to be processed through the regular process for permanent amendments.

Motion by Tehassi Hill to forward the Election Law Emergency Amendments packet to the Oneida Business Committee for emergency adoption; seconded by Fawn Billie. Motion carried unanimously.

4/27/16 OBC: Motion by Jennifer Webster to adopt resolution #4-27-16-B Election Law Emergency Amendments, seconded by Brandon Stevens. Motion carried unanimously.
Motion by Brandon Stevens to approve the draft letter to the 18-20 year old Tribal Members notifying them of their ability to participate in elections and General Tribal Council meetings, seconded by Trish King. Motion carried unanimously.

Next Steps:

- Review the draft and the legislative analysis
- Direct any necessary changes to the draft
- Approve the public meeting packet
- Direct the Legislative Reference Office to hold a public meeting Election Law Amendments.



TO: Legislative Operating Committee
FROM: Jennifer Falck, LRO Director *OF*
RE: Election Law Amendments Timeline
DATE: August 11, 2016

BACKGROUND

An emergency amendment was made to the Election Law in April of 2016. The amendment will expire in October 2016. There is an opportunity to extend the emergency status to April- but that will not give the LOC time to adopt permanent amendments before the July 2017 elections.

TIMELINE

January will be the first opportunity LOC will have to get these amendments adopted by the GTC. In order to get these amendments to the January GTC meeting, the LOC will need to follow this timeline;

8/17/16	LOC reviews draft and analysis, and approves the public meeting packet.
9/1/16	Public Meeting Notice published
9/15/16	Public Meeting
9/22/16	Public Comment period closes
9/23/16	Attorney begins work on public comment memo. Schedules work meetings as needed.
10/5/16	LOC accepts the updated draft and directs LRO to create an adoption packet
10/26	OBC approves adoption packet for the Annual GTC Meeting in January.

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Election Law Amendments

<i>Analysis by the Legislative Reference Office</i>					
Title	Election Law (the Law)				
Sponsor	Tehassi Hill	Drafter	Krystal John	Analyst	Tani Thurner
Requester & Reason for Request	The Constitutional Amendments Implementation Team has requested these changes in order to implement the Constitutional amendments approved through the May 2, 2015 Secretarial Election.				
Purpose	This Law governs the Nation's process for electing officials.				
Authorized/ Affected Entities	<p>Election Board is created by this law, and delegated primary responsibilities. General Tribal Council (GTC), the Oneida Business Committee (OBC), Judiciary, Tribal Secretary, Trust Enrollment Department, Zoning Administrator, Records Management Department and Oneida Police Department are all delegated specific authorities or responsibilities in this Law.</p> <p>All elected entities will be affected by this law – Oneida Nation Commission on Aging (ONCOA), Land Commission, Land Claims Commission, Gaming Commission and School Board, as well as the Election Board, Trust Enrollments Department, and Judiciary mentioned above.</p>				
Related Legislation	Election Board Bylaws; Comprehensive Policy Governing Boards, Committees and Commissions; Open Records and Open Meetings Law, Removal Law, Zoning Law; Oneida Nation Gaming Ordinance (ONGO) and various laws identifying responsibilities/authority for elected entities.				
Enforcement & Due Process	The Law allows for the Election Board to impose fines for violations of the law's contribution restrictions and campaign sign restrictions. The Zoning Administrator may remove noncompliant campaign signs. The Law provides appeal processes for applicants who are found to be ineligible to run for elected positions, for voters found to be ineligible to vote, and for challenging the results of an election.				
Public Meeting Status	A public meeting has not been held.				

Overview

On May 2, 2015, the Oneida Nation voted in a Secretarial Election, approving five amendments to the Oneida Nation Constitution (hereinafter: "Constitution"):

- Lowering the minimum voting age for Tribal elections from 21 to 18 years old.
- Establishing a different process for making future amendments to the Constitution; and giving the Secretary of the US Department of the Interior less approval/oversight authority over the Nation.
- Changing the name of the Oneida Tribe of Indians of Wisconsin to "Oneida Nation".
- Formally establishing the Judiciary in the Constitution
- Allowing GTC Annual and Semi-Annual meetings to be held at any time during the

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months of January and July, instead of on the first Mondays of those months.

These proposed amendments to the Election Law (Law) are being submitted to update the Law to reflect the Constitutional amendments.

Lowering the minimum voting age for Tribal elections from 21 to 18 years old.

After the Constitution was amended, provisions in the Election Law (Law) conflicted with the new requirements – specifically, the Law still defined “qualified voters” as persons who are at least 21 years old, but the voting age had been lowered to 18 by the Constitution.

On April 27, 2016, the OBC adopted emergency amendments to the Law which lowered the minimum voting age to 18 and replaced references to the “Tribe” with references to the “Nation.” [2.3-15]. Those amendments were adopted on an emergency basis in order to reconcile the different voting age requirements before a caucus that was scheduled for May 7, 2016. Emergency amendments to Oneida laws expire after six months, so these emergency amendments are set to expire on October 27, 2016.

These proposed amendments to the Law would permanently adopt the changes made by the emergency amendments.

Establishing a different process for making future amendments to the Constitution

Currently, the Election Law does not address how the Constitution can be amended; the only requirements are set out in the Constitution. In addition to permanently adopting the emergency amendments, these proposed changes create a new section in the Law, identifying how the Constitution can be amended in the future.

The amended Constitution now sets out two different processes by which Constitutional amendments can be placed on a ballot for the membership to vote on:

1. **OBC Process.** Amendments may be proposed by the OBC
2. **Petition Process.** Amendments may be proposed by a petition signed by Oneida members.

OBC Process

The new section in the Law essentially repeats most of the requirements set out in the Constitution for the petition process; but for the OBC process, this Law does not repeat the requirements set out in the Constitution. Instead, the Law states that the requirements for the OBC process are “provided in the Constitution and as further detailed in the supporting standard operating procedures which the [OBC] shall adopt.” [2.13-1] The Constitution does not specifically authorize the OBC to adopt supporting SOPs for when they propose amendments; that language only appears in the proposed new language for the Election Law.

Petition Process

The Constitution sets out specific requirements for the petition process; and most of those requirements are repeated in the new section of the Election Law. The Constitution also identifies additional requirements that may/must be established by law. Most of those are established in the new section in this Law:

Requirement in the Constitution	Provisions that would be added to the Election Law
On the ballot, proposed Constitutional amendments must be accompanied by a statement of the purpose of	Authorizes the Oneida Law Office to prepare the statement of purpose that will appear on the ballot. [2.13-4]

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the amendments, prepared by “the person who is so authorized by law.”	
Petitions to amend the Constitution must be filed with the “person authorized by law” to receive them.	Authorizes the Office of the Nation’s Secretary (<i>i.e.</i> Tribal Secretary) to receive the petitions. [2.13-1]
After receiving a petition, the authorized person must, “as provided by law,”: <ol style="list-style-type: none"> determine the validity and sufficiency of the signatures, and at least 60 days before the election, make an official announcement about the <u>validity/sufficiency of the signatures</u>, 	The Law makes: <ol style="list-style-type: none"> The Trust Enrollment Department responsible for verifying petition signatures, and The Election Board responsible for making an official announcement <u>of the proposed amendments</u>, once signatures are verified. [2.13-1]
Petitions must be in the form, and signed and circulated in the manner prescribed by Oneida law.	Qualified voters may request a petition form from the Tribal Secretary: <ul style="list-style-type: none"> Then, the Tribal Secretary/designee must direct the Trust Enrollment Department to calculate the number of signatures the petitioner must collect. (This will be calculated as of the date the petition form is requested.) Then, the Secretary must give the petition form to the requester, and inform the requester of how many signatures they must collect. Petition forms must be circulated with all supporting materials (if any); each person signing the petition must also initial the form to acknowledge the supporting materials were available for review at the time s/he signed the petition. 2.13-1.
Notice: 3 things must be <u>published in full, as provided by Oneida Law</u> : <ul style="list-style-type: none"> The proposed amendment The existing provision of the Constitution and Bylaws that would be changed/deleted. The question as it shall appear on the ballot. 	Proposed amendments must be published by publishing a sample ballot. The Election Board is responsible for mass-mailing the sample ballot no less than 10 days before the election. The Election Board Chair must notify the Trust Enrollment Department no less than 20 days before the requested mailing. 2.13-3.
Notice must be “prominently posted at Tribal <u>administration</u> offices.”	The sample ballot must be prominently posted at Tribal <u>administrative</u> offices; defined as “the location where the [OBC] conducts business.” [2.13-3]
Notice must be “furnished to news media as provided [by] Oneida law.”	The sample ballot must be published in official Oneida media outlets, which must be identified by OBC resolution.

58
59 Although not required by the Constitution, one other additional requirement is established
60 in this Law: The Constitution does not identify who is responsible for putting proposed
61 amendments on the ballot for an election. This Law adds that the Election Board is responsible
62 for doing so. [2.13-2]

63
64 **Other**
65 Various references to the “Enrollment Department” are changed to refer to the “Trust
66 Enrollment Department.” All other relevant references to the “Tribe” were changed to “Nation”
67 – including references to the “Tribal Secretary”, which were changed to the “Nation’s
68 Secretary”; and all references to the Constitution were revised to “Oneida Nation Constitution.”

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Section 2.2 is updated to incorporate the language requirements set out in the Legislative Procedures Act.

A public meeting has not been held.

Considerations

The following are issues that may need consideration:

Issue #1. Notice Requirements- Media Outlets

The amended Law requires notice of an election for Constitutional Amendments to be published “*in official Oneida media outlets, which will be identified by Oneida Business Committee resolution.*”

Impact:

Currently, there is no OBC resolution which identifies “official media outlets”.

Potential ways to address the issue:

Option 1. The OBC could adopt a resolution identifying “official Oneida media outlets.” This could be done in conjunction with these amendments.

Option 2. Leave as-is.

Issue #2: OBC & Member Petition Process for Constitutional Amendments.

The new section in the Law identifies the two processes for bringing forward Constitutional amendments and having them placed on the ballot at an election:

- **Petition Process.** This is the process by which Oneida members submit a signed petition. The Law repeats most of the Constitution’s requirements, spelling out all of the required steps.
- **OBC Process.** This is the process by which the OBC can initiate amendments to the Constitution. The Law does not spell out the steps for this process, stating only that the requirements are provided in the Constitution. The law adds that the OBC can adopt SOP’s to add further detail, The Constitution does not state this.

Impact: Because the level of detail appears to be different for each process, this has the potential to confuse the reader.

Potential ways to address the issue:

Option 1. Add the details for the OBC process, as set out in the Constitution. If this option is chosen, it may also be beneficial to separate this provision, creating two sections – one for the OBC process, and one for the petition process. *Note: The missing OBC process requirements are:*

- That 8 members of the OBC, excluding the Chair, must agree to the proposed amendments.
- That once agreed upon, the issue will be put before GTC for a vote.
- That a majority of the voting GTC members must vote in favor of the proposed amendment; and that if they do, the amendment must be placed upon the ballot of the next General election, or Special election called for that purpose.

Option 2. Remove the details for the petition process which repeat the provisions found in the Constitution.

Option 3: Leave as-is.

Issue #3: Notice Requirements – Constitutional Amendments and Special Elections

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The following are provisions in the Law, as proposed:

2.13-3: Notice for Constitutional Amendments must be published:	2.12-7: Notice for Special Elections must be published:
<ul style="list-style-type: none"> • prominently posted in each polling place and at the location where the OBC conducts business • in official Oneida media outlets • no timeline requirements 	<ul style="list-style-type: none"> • prominent locations (polling places, main doors of the Norbert Hill Center, main doors of the Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida Community Health Center, the SEOTS building and all One-Stop locations) • in the Nation's newspaper • not less than 10 days prior to the Special Election.

- The Law sets out different notice requirements for Constitutional Amendments and for Special Elections. However, a special election may be held to consider proposed constitutional amendments [2.13-2].

Impact: In those situations, it may not be clear which set of notice requirements must be followed.

Potential ways to address the issue:

Option 1. Clarify in the Law which notice requirements would apply when Constitutional Amendments are scheduled for a special election.

Option 2. Revise the notice requirements from the Law to eliminate the conflicting notice requirements.

Option 3. Leave as-is.

- The Election Law already contains several requirements for publishing various other types of notice. Most of those require notice to be published in the "Nation's newspaper" and in "prominent locations"; both of which are defined in the Law.
- This new provision establishes notice requirements for Constitutional amendments which are different from the notice requirements commonly used for elections:
 - Notice would not be required to be posted in most "prominent places," just in the location where the OBC conducts business.
 - Notice must be posted in all Oneida media outlets, not just the "Nation's newspaper".

Impact: If the notice requirements appear to conflict, it may create confusion for the reader.

Potential ways to address the issue:

Option 1. Revise the Law so that all requirements match as far as where and how notice must be posted.

Option 2. Amend this new requirement so that notice is required to be posted in the same manner as other notice mentioned in the Law.

Option 3. Leave as-is.

Issue #4: Notice Requirements- Timelines

- The new language identifies where notice must be posted, but does not identify timeline

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requirements for publishing notice (i.e. how long before an election the notice must be published.)

- Various other provisions in the Law set establish a timeline for publishing notice – for example, 2.12-7, 2.7-2, and 2.7-3 all require that notice of elections and polling information be posted no less than 10 days before the election.

Impact: The lack of a timeline may not be as clear as it could be for the reader.

Potential ways to address the issue:

Option 1: Add timeline requirements to 2.13-3 for posting and publishing notice of the election.

Option2: Leave as-is.

Chapter 2

ONEIDA ELECTION LAW

Onayote'a'ká· Tho Ni· Yót Tsi' Ayethiyataláko Tsi' Kayanl'hsla

People of the Standing Stone how it is we will appoint them the kind of laws we have

2.1. Purpose and Policy

2.2. Adoption, Amendment, Repeal

2.3. Definitions

2.4. Election Board

2.5. Candidate Eligibility

2.6. Selection of Candidates

2.7. Notice of Polling Places

2.8. Registration of Voters

2.9. Election Process

2.10. Closing Polls and Securing Ballots

2.11. Election Outcome and Ties

2.12. Elections

2.1. Purpose and Policy

2.1-1. It is the policy of the ~~Tribe~~Nation that this law shall govern the procedures for the conduct of orderly ~~Tribal~~elections of the Nation, including pre-election activities such as caucuses and nominations. Because of the desire for orderly and easily understood elections, there has not been an allowance made for write-in candidates on ballots.

2.1-2. This law defines the duties and responsibilities of the Election Board members and other persons employed by the Oneida ~~Tribe~~Nation in the conduct of elections. It is intended to govern all procedures used in the election process.

2.2. Adoption, Amendment, Repeal

2.2-1. This law was adopted by the Oneida General Tribal Council by resolution ~~#GTC 707-06-98-A~~ and amended by resolutions ~~#GTC-01-04-10- A~~ and ~~BC-02-25-15-C~~. ~~The amendments adopted by resolution #GTC-01-04-10-A shall be effective January 4, 2010.~~

2.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the ~~Oneida Administrative~~Legislative Procedures Act ~~by the Business Committee or the Oneida General Tribal Council.~~ Actions of the Election Board regarding amendments to this law and policies adopted regarding implementation of this law are to be presented to the Business Committee who shall then adopt or forward action(s) to the General Tribal Council for adoption.

2.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

2.2-4. ~~Any law, policy, regulation, rule, resolution or motion, or portion thereof, which directly conflicts with the provisions of this law is hereby repealed to the extent that it is inconsistent with or is contrary to this law.~~ In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

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

2.3. Definitions

2.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

2.3-2. "Alternate" shall mean an individual appointed by the Business Committee to serve on the Election Board during an election and until election results have been certified.

2.3-3. "Applicant" shall mean a potential candidate who has not yet been officially approved for acceptance on a ballot.

2.3-4. "Business day" shall mean Monday through Friday, 8:00 a.m. – 4:30 p.m., excluding

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~~Tribal~~ holidays of the Nation.

2.3-5. "Campaigning" shall mean all efforts designed to influence ~~Tribal~~ members of the Nation to support or reject a particular ~~Tribal~~ candidate of the Nation including, without limitation, advertising, rallying, public speaking, or other communications with ~~Tribal~~ members of the Nation.

2.3-6. "Candidate" shall mean a petitioner or nominee for an elected position whose name is placed on the ballot by the Election Board after successful application.

2.3-7. "Clerk" shall mean the election official who identifies proper registration for the purpose of determining voter eligibility.

2.3-8. "Close of business" shall mean 4:30 p.m. Monday through Friday.

2.3-9. "Conflict of Interest" shall mean any interest, whether it be personal, financial, political or otherwise, in which a ~~Tribal~~Nation elected official, employee, consultant, appointed or elected, member of any board, committee or commission, or their immediate relatives, friends or associates, or any other person with whom they have contact, that conflicts with any right of the ~~Tribe~~Nation to property, information, or any other right to own and operate its enterprises, free from undisclosed competition or other violation of such rights of the Oneida ~~Tribe~~Nation, or as defined in any law or policy of the ~~Tribe~~Nation.

2.3-10. "Election" shall mean every primary and election.

2.3-11. "General election" shall mean the election held every three (3) years in July to elect the Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members of the Business Committee and may include contests for elected boards, committees and commissions positions.

2.3-12. "Judge" shall mean the election official who informs and advises the Chairperson of discrepancies, complaints and controversy regarding voter eligibility.

2.3-13. "Judiciary" means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the ~~Tribe~~Nation.

2.3-14. "Lot drawing" shall mean the equal chance method used to select a candidate as the winner of an elected position, in the case of a tie between two (2) or more candidates.

2.3-15. ~~"Oneida Police Officer" shall mean an enrolled member of the Oneida Tribe of Indians who is a police officer on any police force~~ "Nation" means the Oneida Nation.

2.3-16. "Nation's newspaper" shall mean the Kalihwisaks, or any other newspaper operated by the Nation for the benefit of transmitting news to members of the Nation, which is designated by the Election Board as a source for election related news.

2.3-17. "Oneida Police Officer" shall mean an enrolled member of the Oneida Nation who is a police officer on any police force.

2.3-18. "Private property" shall mean any lot of land not owned by the ~~Tribe~~Nation, a residential dwelling or a privately owned business within the boundaries of the Reservation.

2.3-~~17~~19. "Prominent locations" shall mean the polling places, main doors of the Norbert Hill Center, main doors of the Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida Community Health Center, the SEOTS building and all One-Stop locations.

2.3-~~18~~20. "Qualified voter" shall mean an enrolled ~~Tribal~~ member of the Nation who is ~~24~~eighteen (18) years of age or older.

2.3-~~19~~21. "Rejected Ballots" shall mean those ballots which are rejected by the vote tabulating

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machine.

2.3-~~20~~22. “Spoiled Ballot” shall mean a ballot which contains a voter error or is otherwise marred and is not tabulated.

2.3-~~21~~23. “Teller” shall mean the election official in charge of collecting and storing of all ballots.

~~2.3-22. “Tribal newspaper” shall mean the Kalihwisaks, or any other newspaper operated by the Tribe for the benefit of transmitting news to Tribal members which is designated by the Election Board as a source for election related news.~~

~~2.3-23. “Tribe” means the Oneida Tribe of Indians of Wisconsin.~~

2.4. Election Board

Section A. Establishment, Composition and Election

2.4-1. An Election Board is hereby created for the purpose of carrying out the provisions of this law and Article III, Sections 2 and 3 of the Oneida Nation Constitution.

2.4-2. The Election Board shall consist of nine (9) elected members. All members shall be elected to terms of three (3) years, not to exceed two (2) consecutive terms.

2.4-3. *Recusal*. An Election Board member shall recuse himself/herself from participating as an Election Board member in any pre-election, election day, or post-election activities while he or she is a petitioner, applicant or candidate in any election or there is otherwise a conflict of interest.

2.4-4. *Removal*. Removal of members shall be pursuant to the Oneida Removal Law. A member who is removed from the Election Board shall be ineligible to serve on the Board for three (3) years from the time he or she is removed from the Election Board.

2.4-5. *Vacancies*. Any vacancy in an unexpired term shall be filled by appointment by the Business Committee for the balance of the unexpired term. The filling of a vacancy may be timed to correspond with the pre-election activities and the needs of the Election Board.

2.4-6. The Election Board shall identify tellers, judges and clerks in advance of an election.

2.4-7 The Business Committee may appoint or reappoint a sufficient number of alternates to the Election Board, as recommended by the Election Board, to assist with election day and pre-election activities.

2.4-8. The Election Board shall choose a Chairperson from amongst themselves as set out in the By-laws of the Election Board, to preside over the meetings. This selection shall be carried out at the first meeting of the Election Board following an election. The Chairperson shall then ask the Election Board to select a Vice-Chairperson and Secretary.

Section B. Duties of the Election Board

2.4-9. The Election Board shall have the following duties, along with other responsibilities listed throughout this law.

- (a) The Election Board shall be in charge of all registration and election procedures; and
- (b) Upon completion of an election, the Election Board shall make a final report on the election results as set out in this law.

Section C. Specific Duties of Officers and Election Board Members

2.4-10. Specific duties of the Chairperson and other Election Board members, in addition to

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being present at all Election Board meetings and assisting the handicapped through the voting process, are as set out herein:

- (a) Chairperson: Shall preside over meetings of the Election Board; shall select the hearing body for applicants found to be ineligible in accordance with 2.5-6 in the event of an appeal; shall oversee the conduct of the election; shall dismiss the alternates and ~~OneidaTrust~~ Enrollment Department personnel when their election day duties are complete; and shall post and report election results.
- (b) Vice-Chairperson: Shall preside over all meetings in the absence of the Chairperson.
- (c) Secretary: Shall keep a record of the meetings and make them available to the ~~Tribal~~Nation's Secretary, other Election Board members and the public as required in the Open Records and Open Meetings Law.
- (d) Clerks: Shall implement the requirements of identifying and registering all voters and determining voter eligibility. Clerks shall work in conjunction with the ~~OneidaTrust~~ Enrollment Department personnel in the registration process, and assist the Chairperson as directed in conducting the election. Clerks cannot be currently employed by the ~~OneidaTrust~~ Enrollment Department.
- (e) Tellers: Shall collect and keep safe all ballots, until the election is complete, as determined by this law. Shall assist the Chairperson in conducting the election.
- (f) Judges: Shall inform and advise the Chairperson of all aspects of the election conducted under this law. In case of disputes among Election Board members, or between ~~Tribal~~members of the Nation and Election Board members, or any controversy regarding voter eligibility, the Judge(s) shall assist the Chairperson in making a determination. The Judge(s) shall also ensure that all ballots of voters whose eligibility may be in question, remain confidential.

Section D. Compensation Rates

2.4-11. Election Board members are to be compensated at an hourly rate when conducting elections as provided for in the Election Board's bylaws as approved by the Business Committee. The Election Board shall have a budget, approved through the Nation's budgeting process ~~of the Tribe~~.

2.4-12. The ~~OneidaTrust~~ Enrollment Department personnel and Oneida Police Officer(s) shall be compensated at their regular rate of pay out of their respective budgets.

2.5. Candidate Eligibility

Section A. Requirements

2.5-1. In addition to any specific requirements and/or exceptions set out in duly adopted by-laws or other documents, all applicants shall meet the minimum requirements set out in this section in order to become a candidate.

2.5-2. Minimum Requirements. In order to be eligible to be a candidate, applicants shall:

- (a) be an enrolled ~~Tribal~~member of the Nation, as verified by membership rolls of the ~~Tribe~~Nation.
- (b) be a qualified voter on the day of the election.
- (c) provide proof of physical residency as required for the position for which they have been nominated or for which they have petitioned. Proof of residency may be through

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one (1) or more of the following:

- (1) a valid Wisconsin driver's license;
- (2) a bill or pay check stub showing name and physical address of the candidate from the prior or current month;
- (3) another form of proof that identifies the candidate and that the candidate has physically resided at the address and identifies that address as the primary residence.

2.5-3. No applicant may have a conflict of interest with the position for which they are being considered, provided that any conflict of interest which may be eliminated within thirty (30) calendar days of being elected shall not be considered as a bar to nomination or election.

2.5-4. Applications and petitions where the applicant was not nominated during caucus shall be filed by presenting the information to the ~~Tribal~~Nation's Secretary, or designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, within five (5) business days after the caucus. No mailed, internal ~~Tribal~~Nation mail delivery, faxed or other delivery method shall be accepted.

2.5-5. The names of the candidates and the positions sought shall be a public record and made available to the public upon the determination of eligibility by the Election Board or the Board's designated agent.

Section B. Eligibility Review

2.5-6. Applicants found to be ineligible shall have two (2) business days to request an appeal. At least four (4) Election Board members shall constitute a hearing body. The Chairperson shall select the hearing body. The hearing shall be held within two (2) business days of receipt of the appeal. The applicant shall be notified by phone of time and place of the hearing. The decision of the hearing body shall be sent via certified mail or hand delivery within two (2) business days of the hearing. Any appeal from a decision of the Election Board hearing body shall be to the Judiciary on an accelerated schedule.

2.5-7. The Election Board shall be responsible for reviewing the qualifications of applicants to verify eligibility. Any applicant found to be ineligible for a nominated or petitioned for position shall be notified by certified mail return receipt requested. The notice shall provide the following information:

- (a) Position for which they were considered
- (b) Qualification of the position and citation of the source. (Copies of source may be attached.)
- (c) A brief summary explaining why the applicant was found to be ineligible.
- (d) That the applicant has two (2) business days from notification to make an appeal. Appeals must be filed at the location designated on the notice by hand delivery. The location designated shall be on the Reservation. No mailed, internal ~~Tribal~~Nation mail, faxed or other delivery method will be accepted.

Section C. Campaign Financing

2.5-8. Contributions:

- (a) Solicitation of Contributions by Candidates.

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(1) Candidates shall only accept contributions from individuals who are members of the ~~Tribe~~Nation or individuals related by blood or marriage to the candidate. Candidates may not accept contributions from any business, whether sole proprietorship, partnership, corporation, or other business entity.

(2) Candidates shall not solicit or accept contributions in any ~~Tribal~~ office or business/facility of the Nation.

(b) Fines. Violation of the contribution restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

2.5-9. Campaign Signs and Campaigning:

(a) Placement of campaign signs:

(1) Campaign signs shall not be posted or erected on any ~~Tribal~~ property of the Nation except for private property with the owner/tenant's permission.

(2) No campaign sign shall exceed sixteen (16) square feet in area. A maximum of seven (7) such signs may be placed on a building or on a lot.

(3) No campaign sign shall project beyond the property line into the public right of way.

(b) Removal of campaign signs. All campaign signs shall be removed within five (5) business days after an election.

(c) Employees of the ~~Tribe~~Nation shall not engage in campaigning for ~~Tribal~~ offices of the Nation during work hours. ~~Tribal~~The Nation's employees shall be subject to disciplinary action under the personnel policies and procedures for political campaigning during work hours.

(d) Enforcement. The Zoning Administrator shall cause to be removed any campaign signs that are not in compliance with this law, in accordance with the Zoning and Shoreland Protection Law.

(e) Fines. Violation of the campaign sign restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

Section D. Candidate Withdrawal

2.5-10 Any candidate may withdraw his or her name from a ballot if submitted in writing by the candidate prior to submission of the ballot for printing to any Election Board member, excluding alternates.

2.5-11 After printing of the ballot, any candidate may withdraw his or her name from the election by submitting in writing a statement indicating they are withdrawing from the election prior to the opening of the polls to any Election Board member, excluding alternates. This statement shall be posted alongside any sample ballot printed prior to the election in the newspaper or any posting at the polling places.

2.5-12. Candidates withdrawing after opening of the polls shall request, in writing to the Election Board members in charge of the polling place, to be removed from the ballot. The written statement shall be posted next to any posted sample ballot.

2.5-13. Candidates withdrawing by any method listed herein shall be denied any position from which they have withdrawn regardless of the number of votes cast for that candidate. A written

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statement shall be considered the only necessary evidence of withdrawal and acceptance of denial of any position withdrawn from.

2.5-14. *Candidate Withdrawal After Winning an Election.*

- (a) In the event a candidate declines an office after winning an election, the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.
- (b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

2.6. Selection of Candidates

Section A. Setting of Caucus

2.6-1. The Election Board shall be responsible for calling a caucus before any election is held. The caucus for the general election shall be held at least ninety (90) calendar days prior to the election date. Caucuses for other elections shall be held at least forty-five (45) calendar days prior to the election date. In a general election year, caucuses shall be combined so that candidates for the Business Committee and elected boards, committees and commissions are nominated at the same caucus.

2.6-2. The procedures for the caucus shall be as follows:

- (a) Candidates shall be nominated from the floor.
- (b) Candidates present at the caucus will accept/decline their nomination at the caucus. Candidates nominated at the caucus, but not present to accept the nomination, shall be required to follow the petition process.
- (c) Nominations shall consist of the following positions: Chairperson, Vice-Chairperson, Treasurer, Secretary, Council Member and other elected positions as required by by-laws or creating documents of a board, committee, or commission.

Section B. Petition

2.6-3. Any eligible ~~Tribal~~ member of the Nation may petition to be placed on a ballot according to the following procedures:

- (a) Each petitioner, not nominated at caucus, shall file a petition containing endorsee's original signatures; photocopies shall not be accepted.
- (b) Petitioners shall use an official petition form as designated by this law which may be obtained in the ~~Tribal~~ Office of the Nation's Secretary's ~~Office~~ or from the mailing for that caucus.
- (c) The petition form shall consist of each endorsee's:
 - (1) printed name and address;
 - (2) date of birth;
 - (3) Oneida ~~Tribal~~ Nation Enrollment Number; and
 - (4) signature.
- (d) Petitioners shall obtain not less than ten (10) signatures of qualified voters as defined under this law.
- (e) Petitions shall be presented to the ~~Tribal~~ Nation's Secretary, or designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, but no later than prior to close of business five (5) business days after the caucus. The location to

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drop-off petitions shall be identified in the mailing identifying the caucus date.

(f) The ~~Tribal~~Nation's Secretary shall forward all petitions to the Election Board Chairperson the next business day following the close of petition submissions.

(g) The Election Board shall have the ~~Oneida~~Trust Enrollment Department verify all signatures contained on the petition.

2.6-4. A person who runs for a position on the Oneida Business Committee, or a position on a judicial court or commission, shall not run for more than one (1) elective office or seat per election.

2.7. Notice of Polling Places

2.7-1. The Election Board shall post a notice in the prominent locations, stating the location of the polling places and the time the polls will be open. This notice shall also be posted in an easily visible position, close to the entrance of ~~Tribal~~the Nation's businesses/facilities.

2.7-2. Polling information shall be posted no less than ten (10) calendar days prior to the election, and shall remain posted until the poll closes on the day of the election.

2.7-3. Except for a Special Election, notice for the election shall be mailed to all ~~Tribal~~Nation members, stating the time and place of the election and a sample of the ballot, no less than ten (10) calendar days prior to the election, through a mass mailing. The ~~Oneida~~Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing.

2.7-4. Notice of the election shall be placed in the ~~Tribal~~Nation's newspaper.

2.8. Registration of Voters

Section A. Requirements

2.8-1. *Registration of Voters.* All enrolled members of the ~~Tribe~~Nation, who are ~~twenty-one~~(21)~~eighteen~~(18) years of age or over, are qualified voters of such election(s) as defined in Article III, Section 2 of the Oneida ~~Tribal~~Nation Constitution.

Section B. Identification of Voters

2.8-2. All voters must present one of the following picture identifications in order to be able to vote:

- (a) ~~Tribal~~Oneida Nation I.D.
- (b) Drivers License.
- (c) Other I.D. with name and photo.

Section C. Registration Procedures

2.8-3. Voters shall physically register, on the day of the election, at the polls.

2.8-4. ~~Oneida~~Trust Enrollment Department personnel shall be responsible for verifying ~~Tribal~~enrollmentwith the Nation. Conduct of ~~Oneida~~Trust Enrollment Department personnel is governed by the Election Officials during the voting period.

2.8-5. Every person who intends to vote must sign his/her name on an official Voter Registration Form containing the voter's following information:

- (a) name and maiden name (if any);
- (b) current address;

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- (c) date of birth; and
- (d) enrollment number.

Section D. Qualification/Verification of Voter Eligibility

2.8-6. Should a question or dispute arise as to the eligibility of a voter being qualified to vote, the Judges of the Election Officials appointed by the Election Board Chairperson shall meet with the ~~Trust~~ Enrollment Department personnel who are registering voters, to decide the voting member's eligibility currently being questioned and shall make such decisions from the facts available, whether the applicant is, in fact, qualified/verifiable under the Oneida ~~Tribal~~Nation Constitution, Article III Section 2, to vote in ~~tribal~~the Nation's elections.

2.8-7. Any voter denied eligibility shall be allowed to vote, provided that the ballot shall be placed in an envelope, initialed by two (2) Election Officials, sealed and numbered. The name of the voter shall be written next to a numbered list which corresponds to the numbered and sealed envelope. The voter shall be required to mail a written appeal to the Election Board at P.O. Box 413, Oneida, Wisconsin, 54155, postmarked within two (2) business days of the election if they desire to challenge the decision made by the Election Officials. The Election Board shall make a final decision, within five (5) business days of receiving the appeal and shall report this decision in the final report sent to the Oneida Business Committee.

2.9. Election Process

Section A. Polling Places and Times

2.9-1. In accordance with Article III, Section ~~4~~5 of the ~~Tribal~~Oneida Nation Constitution, elections shall be held in the month of July on a date set by the General Tribal Council. The General Tribal Council shall set the election date at the January annual meeting, or at the first GTC meeting held during a given year. Special Elections shall be set in accordance with 2.12-6.

2.9-2. Elections shall be held in an Oneida ~~Tribal~~Nation facility(s) as determined by the Election Board.

2.9-3. Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All voters in line to vote at 7:00 p.m. shall be allowed to vote.

- (a) If a ballot counting machine is used, the ballot counting machine shall be prepared prior to 7:00 a.m. on the day of the election. The Judges shall open the polls only after four (4) ~~Tribal~~members of the Nation verify, through signature on the tape, the ballot box is empty and the ballot counting machine printer tape has a zero (0) total count.

2.9-4. At least one (1) Oneida Police Officer shall be present during the time the polls are open, and until the counting of ballots is completed, and tentative results posted.

2.9-5. The Election Board shall provide a voting area sufficiently isolated for each voter such that there is an area with at least two sides and a back enclosure.

2.9-6. No campaigning of any type shall be conducted within two hundred eighty (280) feet of the voting area, excluding private property.

2.9-7. No one causing a disturbance shall be allowed in the voting area.

2.9-8. Election Board members may restrict the voting area to qualified voters only. This restriction is in the interest of maintaining security of the ballots and voting process.

Section B. Ballot Box

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2.9-9. All ballots being votes, shall be placed in a receptacle clearly marked "Ballot Box" and shall be locked until counting at the close of polls. Provided that, with electronic ballot counting, the ballots may be placed within the ballot counting machine as they are received.

Section C. Spoiled Ballots

2.9-10. If a voter spoils his/her ballot, he/she shall be given a new ballot.

2.9-11. The spoiled ballot shall be marked "VOID" and initialed by two (2) Election Officials and placed in an envelope marked as "Spoiled Ballots."

2.9-12. The Spoiled Ballot envelopes shall be retained and secured for no less than fifteen (15) calendar days following finalization of any challenge of the election, at the Records Management Department.

Section D. Rejected Ballots

2.9-13. Rejected Ballots are to be placed in a specially marked container and sealed.

(a) Computer rejected ballots shall be reviewed by the Election Officials to verify the authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final computer total, provided that, a new ballot was not received as set out in sections 2.9-10 through 2.9-12.

(b) Ballots rejected, either during the computer process or during a manual counting, shall be reviewed by the Election Officials to verify that they are authentic. If the Election Officials determine that the ballot is not an official ballot, or that it is an illegal ballot, the ballot shall be designated 'void,' and placed in a sealed container marked "Void Ballots."

2.10. Tabulating and Securing Ballots

Section A. Machine Counted Ballots

2.10-1. When ballots are counted by machine, at the close of polls the Judges shall generate from the ballot counting machine copies of the election totals from the votes cast.

2.10-2. At least six (6) Election Board members shall sign the election totals, which shall include the tape signed by the ~~Tribal~~ members of the Nation before the polls were opened per section 2.9-3(a).

Section B. Manually Counted Ballots

2.10-3. When ballots are manually counted, at the close of polls the Judges shall unlock the ballot box and remove the ballots.

2.10-4. If the ballots need to be counted at a location other than the polling site, the ballots shall be secured in a sealed container for transportation to the ballot counting location. The sealed ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election Officials for counting/tallying of ballots.

2.10-5. The sealed ballots shall be opened at the time of counting by the Election Officials and witnessed/monitored by an Oneida Police Officer.

2.10-6. Ballots must be counted by two different Election Officials until two final tallies are equal in back to back counting. Final tallies shall be verified by the Election Judges.

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Section C. Securing Ballots

2.10-7. The Judges shall place together all ballots counted and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots, and the election totals with the signed tape, if applicable, shall then be secured by the Judges in a sealed container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The Oneida Police Officer shall then deliver, on the day of the election, the sealed container to the Records Management Department for retaining.

2.11. Election Outcome and Ties

Section A. Election Results Announcement

2.11-1. The tentative results of an election shall be announced and posted by the Election Board within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain the following statement:

"The election results posted here are tentative results. Final election results are forwarded by the Oneida Election Board to the Oneida Business Committee via a Final Report after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer"

2.11-2. The Election Board shall post, in the prominent locations, and publish in the [TribalNation's](#) newspaper, the tentative results of an election.

Section B. Tie

2.11-3. In the event of a tie for any office, and where the breaking of a tie is necessary to determine the outcome of an election, the Election Board shall conduct an automatic recount of the votes for each candidate receiving the same number of votes. Any recount conducted shall be the only recount allowed for the tied candidates.

2.11-4. For Business Committee positions, a run-off election between the candidates with the same number of votes shall be held if there remains a tie after the recount. Said run-off election shall be held within twenty one (21) calendar days after the recount. For all other positions, if there remains a tie after the recount, the Election Board shall decide the winner of the tied positions at least two (2) business days after, but no more than five (5) business days after the recount through a lot drawing, which shall be open to the public.

(a) The Election Board shall notify each of the tied candidates and the public of the date, time, and place of the drawing at least one (1) business day before the drawing. Notice to the tied candidates shall be in writing. Notice to the public shall be posted by the Election Board in the prominent locations.

(b) On the date and at the time and place the drawing was noticed, the Election Board Chairperson shall clearly write the name of each tied candidate on separate pieces of paper in front of any witnesses present. The pieces of paper shall be the same, or approximately the same, color, size, and type. The papers shall be folded in half and placed in a container selected by the Election Board Chairperson.

(c) The Election Board Chairperson shall designate an uninterested party to draw a name from the container. The candidate whose name is drawn from the container first shall be declared the winner. An Election Board member other than the Chairperson shall remove the remaining pieces of paper from the container and show them to the witnesses present.

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Section C. Recount Procedures

2.11-5. A candidate may request the Election Board to complete a recount, provided the margin between the requesting candidate's vote total and vote total for the unofficial winner was within two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is greater. A candidate requests a recount by hand delivering a written request to the ~~Tribal~~office of the Nation's Secretary's-Office, or noticed designated agent, within five (5) business days after the election. Requests shall be limited to one (1) request per candidate. The ~~Tribal~~Nation's Secretary shall contact the Election Board Chairperson by the next business day after the request for recounts.

2.11-6. The Election Board shall respond by the close of business on the fifth (5th) day after the request regarding the results of the recount. Provided that, no recount request need be honored where there have been two (2) recounts completed as a result of a request either as a recount of the whole election results, or of that sub-section.

2.11-7. All recounts shall be conducted manually with, if possible, the original Election Officials and Oneida Police Officer present, regardless of the original type of counting process. Manual recounts may, at the discretion of the Election Officials, be of the total election results, or of the challenged sub-section of the election results.

2.11-8. The Oneida Police Officer shall be responsible for picking up the locked, sealed container with the ballots from the Records Management Department and transporting it to the ballot recounting location.

2.11-9. A recount shall be conducted by a quorum of the Election Board, including at least three (3) of the original Election Officials. The locked, sealed ballots shall be opened by the Election Board Chairperson and an Oneida Police Officer shall witness the recount.

2.11-10. Recounting of ballots may be performed manually or by computer. All ballots shall be counted until two (2) final tallies are equal in back to back counting and the total count of ballots reconciles with the total count from the ballot counting machine. Sub-sections of candidates may be recounted in lieu of a full recount.

(a) Manually counted ballots shall be recounted by the Election Board. Ballots shall be counted twice by different persons and certified by the Judges.

(b) Computer counted ballots shall be recounted twice and certified by the Judges. Prior to using an electronic ballot counting device, it shall be certified as correct either by the maker, lessor of the machine, or Election Board.

Section D. Challenges and Declaration of Results

2.11-11. *Challenges.* Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall hear and decide a challenge to any election within two (2) business days after the challenge is filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

(a) The person challenging the election results shall prove by clear and convincing evidence that the Election Law was violated or an unfair election was conducted, and that the outcome of the election would have been different but for the violation.

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(b) If the Judiciary invalidates the election results, a Special Election shall be ordered by the Judiciary for the office(s) affected to be held on a date set by the Judiciary for as soon as the Election Law allows for a Special Election.

2.11-12. *The Final Report.* The Election Board shall forward a Final Report to the Tribal Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer. The Final Report shall consist of the following information:

- (a) Total number of persons voting.
- (b) Total votes cast for each candidate by subsection of the ballot.
- (c) List of any ties and final results of those ties, including the method of resolution.
- (d) List of candidates elected and position elected to.
- (e) Number of spoiled ballots.
- (f) Cost of the election, including the compensation paid to each Election Board member.

2.11-13. *Declaration of Results.* The Business Committee shall declare the official results of the election and send notices regarding when the swearing in of newly elected officials shall take place within ten (10) business days after receipt of the Final Report.

2.11-14. Candidates elected to the Business Committee shall resign from any salaried position effective prior to taking a Business Committee oath of office

2.11-15. Except in the event of an emergency, as determined by the Business Committee, newly elected officials shall be sworn into office no later than thirty (30) calendar days after the official results of an election are declared by the Business Committee.

(a) If a newly elected official is not sworn in within thirty (30) calendar days, the seat shall be considered vacant and the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.

(b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

2.11-16. The Election Board shall send notice to the Records Management Department to destroy the ballots thirty (30) calendar days after the election or after the final declaration of official election results occurs, whichever is longer.

2.12. Elections

Section A. Primary Elections; Business Committee

2.12-1. When a primary is required under 2.12-2, it shall be held on a Saturday at least sixty (60) calendar days prior to the election.

2.12-2. There shall be a primary election for Business Committee positions whenever there are three (3) or more candidates for any officer positions or sixteen (16) or more candidates for the at-large council member positions.

- (a) The two (2) candidates receiving the highest number of votes cast for each officer position shall be placed on the ballot.
- (b) The fifteen (15) candidates receiving the highest number of votes cast for the at-large council member positions shall be placed on the ballot.
- (c) Any position where a tie exists to determine the candidates to be placed on the ballot shall include all candidates where the tie exists.

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2.12-3. The Election Board shall cancel the primary election if the Business Committee positions did not draw the requisite number of candidates for a primary by the petitioning deadline set for the primary.

2.12-4. In the event a candidate withdraws or is unable to run for office after being declared a winner in the primary, the Election Board shall declare the next highest primary vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 2.5-11 and 2.5-12 shall be followed, including the requirement to print a notice in the ~~Tribal~~Nation's newspaper if time lines allow.

Section B. Special Elections

2.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as defined in this law, may be placed on the same ballot as the subject matter of an election.

2.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business Committee as recommended by the Election Board or as ordered by the Judiciary in connection with an election challenge.

2.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent locations, and placed in the ~~Tribal~~Nation's newspaper not less than ten (10) calendar days prior to the Special Election.

2.12-8. In the event of an emergency, the Election Board may reschedule the election, provided that no less than twenty-four (24) hours notice of the rescheduled election date is given to the voters, by posting notices in the prominent locations.

Section C. Referendums

2.12-9. Registered voters may indicate opinions on any development, law or resolution, proposed, enacted, or directed by the Business Committee, or General Tribal Council, in a special referendum election.

(a) Referendum elections in which a majority of the qualified voters who cast votes shall be binding on the Business Committee to present the issue for action/decision at General Tribal Council.

(b) Referendum requests may appear on the next called for election.

(c) Referendum questions are to be presented to the ~~Tribal~~Nation's Secretary, in writing, at the caucus prior to election, regarding issues directly affecting the ~~Tribe~~Nation or general membership.

Section D. Initiation of Special Elections

2.12-10. Special Elections may be initiated by a request or directive of the General Tribal Council or the Oneida Business Committee.

2.12-11. Special Election may be requested by a ~~Tribal~~-member of the Nation to the Business Committee or General Tribal Council.

2.12-12. All Special Elections shall follow rules established for all other elections. This includes positions for all Boards, Committees and Commissions.

2.13. Oneida Nation Constitution and By-law Amendments

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2.13-1. Pursuant to Article VI of the Oneida Nation Constitution, amendments to the Oneida Nation Constitution and By-laws may be initiated by the Oneida Business Committee or a petition of qualified voters. The requirements for the Oneida Business Committee's initiation of Constitutional amendments are as provided in the Constitution and as further detailed in the supporting standard operating procedures which the Oneida Business Committee shall adopt. Qualified voters may petition to amend the Oneida Nation Constitution and By-laws by submitting a petition to the Office of the Nation's Secretary which includes the full text of the proposed amendments and signatures that are equal in number to at least ten percent (10%) of all members qualified to vote.

(a) Qualified voters may request a petition form from the Office of the Nation's Secretary.

(b) When a petition form is requested, the Nation's Secretary, or his or her designee, shall direct the Trust Enrollment Department to calculate the number of signatures currently required for a petition submittal, which shall be ten percent (10%) of all members qualified to vote on the date the petition form is requested from the Office of the Nation's Secretary. When the Nation's Secretary receives the calculation from the Trust Enrollment Department, the Nation's Secretary shall provide the requester with the petition form and the number of signatures that are currently required.

(c) Such petitions shall be circulated with all supporting materials and submitted a minimum of ninety (90) days prior to the election at which the proposed amendment is to be voted upon. If a petition includes supporting materials in addition to the petition form, each qualified voter signing the petition shall also acknowledge that the supporting materials were available for review at the time he or she signed the petition by initialing where required on the petition form.

(d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment Department for verification of signatures and to the Election Board to provide notice that the petition may need to be placed on an upcoming ballot.

(e) If the petition is verified by the Trust Enrollment Department to contain a sufficient number of signatures, the Election Board shall make an official announcement of the proposed amendments to the Oneida Nation Constitution at least sixty (60) days prior to the election at which the proposed amendments are to be voted on.

2.13-2. The Election Board shall place any proposed amendments to the Oneida Nation Constitution that meet the requirements contained in 2.13-1 on the ballot at the next general election. Provided that, the Oneida Business Committee or General Tribal Council may order a special election be held to consider the proposed amendments. In such circumstances, the Election Board shall place any proposed amendments to the Oneida Nation Constitution on the ballot for that special election.

2.13-3. The Election Board shall publish any proposed amendments by publishing a sample ballot no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing. Copies of such publications shall be prominently posted in each polling place and at administrative offices of the Nation and shall also be published in official Oneida media outlets, which shall be identified by Oneida Business Committee resolution. For the purposes of this section, Oneida administrative offices means the

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location where the Oneida Business Committee conducts business.

2.13-4. The Election Board shall ensure that the ballot contains a statement of the purpose of the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a true and impartial statement and is written in such a manner that does not create prejudice for or against the proposed amendment.

2.13-5. Pursuant to Article VI of the Oneida Nation Constitution, proposed amendments that are approved by sixty-five percent (65%) of the qualified voters that vote on that amendment shall become part of the Constitution and By-laws, and shall abrogate or amend existing provisions of the Constitution and By-laws at the end of thirty (30) days after submission of the final election report.

2.13-6. If two (2) or more amendments approved by the voters at the same election conflict, the amendment receiving the highest affirmation vote prevails.

End.

Adopted - June 19, 1993

Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

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Chapter 2 ONEIDA ELECTION LAW

Onayote'a'ká· Tho Ni· Yót Tsi' Ayethiyataláko Tsi' Kayanl'hsa

People of the Standing Stone how it is we will appoint them the kind of laws we have

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2.1. Purpose and Policy

2.1-1. It is the policy of the Nation that this law shall govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations. Because of the desire for orderly and easily understood elections, there has not been an allowance made for write-in candidates on ballots.

2.1-2. This law defines the duties and responsibilities of the Election Board members and other persons employed by the Oneida Nation in the conduct of elections. It is intended to govern all procedures used in the election process.

2.2. Adoption, Amendment, Repeal

2.2-1. This law was adopted by the Oneida General Tribal Council by resolution GTC 07-06-98-A and amended by resolutions GTC-01-04-10- A and BC-02-25-15-C.

2.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act. Actions of the Election Board regarding amendments to this law and policies adopted regarding implementation of this law are to be presented to the Business Committee who shall then adopt or forward action(s) to the General Tribal Council for adoption.

2.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

2.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

2.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

2.3. Definitions

2.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

2.3-2. "Alternate" shall mean an individual appointed by the Business Committee to serve on the Election Board during an election and until election results have been certified.

2.3-3. "Applicant" shall mean a potential candidate who has not yet been officially approved for acceptance on a ballot.

2.3-4. "Business day" shall mean Monday through Friday, 8:00 a.m. – 4:30 p.m., excluding holidays of the Nation.

2.3-5. "Campaigning" shall mean all efforts designed to influence members of the Nation to support or reject a particular candidate of the Nation including, without limitation, advertising, rallying, public speaking, or other communications with members of the Nation.

2.3-6. "Candidate" shall mean a petitioner or nominee for an elected position whose name is

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placed on the ballot by the Election Board after successful application.

2.3-7. “Clerk” shall mean the election official who identifies proper registration for the purpose of determining voter eligibility.

2.3-8. “Close of business” shall mean 4:30 p.m. Monday through Friday.

2.3-9. “Conflict of Interest” shall mean any interest, whether it be personal, financial, political or otherwise, in which a Nation elected official, employee, consultant, appointed or elected, member of any board, committee or commission, or their immediate relatives, friends or associates, or any other person with whom they have contact, that conflicts with any right of the Nation to property, information, or any other right to own and operate its enterprises, free from undisclosed competition or other violation of such rights of the Oneida Nation, or as defined in any law or policy of the Nation.

2.3-10. “Election” shall mean every primary and election.

2.3-11. “General election” shall mean the election held every three (3) years in July to elect the Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members of the Business Committee and may include contests for elected boards, committees and commissions positions.

2.3-12. “Judge” shall mean the election official who informs and advises the Chairperson of discrepancies, complaints and controversy regarding voter eligibility.

2.3-13. “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

2.3-14. “Lot drawing” shall mean the equal chance method used to select a candidate as the winner of an elected position, in the case of a tie between two (2) or more candidates.

2.3-15. “Nation” means the Oneida Nation.

2.3-16. “Nation’s newspaper” shall mean the Kalihwisaks, or any other newspaper operated by the Nation for the benefit of transmitting news to members of the Nation, which is designated by the Election Board as a source for election related news.

2.3-17. “Oneida Police Officer” shall mean an enrolled member of the Oneida Nation who is a police officer on any police force.

2.3-18. “Private property” shall mean any lot of land not owned by the Nation, a residential dwelling or a privately owned business within the boundaries of the Reservation.

2.3-19. “Prominent locations” shall mean the polling places, main doors of the Norbert Hill Center, main doors of the Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida Community Health Center, the SEOTS building and all One-Stop locations.

2.3-20. “Qualified voter” shall mean an enrolled member of the Nation who is eighteen (18) years of age or older.

2.3-21. “Rejected Ballots” shall mean those ballots which are rejected by the vote tabulating machine.

2.3-22. “Spoiled Ballot” shall mean a ballot which contains a voter error or is otherwise marred and is not tabulated.

2.3-23. “Teller” shall mean the election official in charge of collecting and storing of all ballots.

2.4. Election Board

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Section A. Establishment, Composition and Election

2.4-1. An Election Board is hereby created for the purpose of carrying out the provisions of this law and Article III, Sections 2 and 3 of the Oneida Nation Constitution.

2.4-2. The Election Board shall consist of nine (9) elected members. All members shall be elected to terms of three (3) years, not to exceed two (2) consecutive terms.

2.4-3. *Recusal.* An Election Board member shall recuse himself/herself from participating as an Election Board member in any pre-election, election day, or post-election activities while he or she is a petitioner, applicant or candidate in any election or there is otherwise a conflict of interest.

2.4-4. *Removal.* Removal of members shall be pursuant to the Oneida Removal Law. A member who is removed from the Election Board shall be ineligible to serve on the Board for three (3) years from the time he or she is removed from the Election Board.

2.4-5. *Vacancies.* Any vacancy in an unexpired term shall be filled by appointment by the Business Committee for the balance of the unexpired term. The filling of a vacancy may be timed to correspond with the pre-election activities and the needs of the Election Board.

2.4-6. The Election Board shall identify tellers, judges and clerks in advance of an election.

2.4-7 The Business Committee may appoint or reappoint a sufficient number of alternates to the Election Board, as recommended by the Election Board, to assist with election day and pre-election activities.

2.4-8. The Election Board shall choose a Chairperson from amongst themselves as set out in the By-laws of the Election Board, to preside over the meetings. This selection shall be carried out at the first meeting of the Election Board following an election. The Chairperson shall then ask the Election Board to select a Vice-Chairperson and Secretary.

Section B. Duties of the Election Board

2.4-9. The Election Board shall have the following duties, along with other responsibilities listed throughout this law.

- (a) The Election Board shall be in charge of all registration and election procedures; and
- (b) Upon completion of an election, the Election Board shall make a final report on the election results as set out in this law.

Section C. Specific Duties of Officers and Election Board Members

2.4-10. Specific duties of the Chairperson and other Election Board members, in addition to being present at all Election Board meetings and assisting the handicapped through the voting process, are as set out herein:

- (a) Chairperson: Shall preside over meetings of the Election Board; shall select the hearing body for applicants found to be ineligible in accordance with 2.5-6 in the event of an appeal; shall oversee the conduct of the election; shall dismiss the alternates and Trust Enrollment Department personnel when their election day duties are complete; and shall post and report election results.
- (b) Vice-Chairperson: Shall preside over all meetings in the absence of the Chairperson.
- (c) Secretary: Shall keep a record of the meetings and make them available to the Nation's Secretary, other Election Board members and the public as required in the Open Records and Open Meetings Law.

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(d) Clerks: Shall implement the requirements of identifying and registering all voters and determining voter eligibility. Clerks shall work in conjunction with the Trust Enrollment Department personnel in the registration process, and assist the Chairperson as directed in conducting the election. Clerks cannot be currently employed by the Trust Enrollment Department.

(e) Tellers: Shall collect and keep safe all ballots, until the election is complete, as determined by this law. Shall assist the Chairperson in conducting the election.

(f) Judges: Shall inform and advise the Chairperson of all aspects of the election conducted under this law. In case of disputes among Election Board members, or between members of the Nation and Election Board members, or any controversy regarding voter eligibility, the Judge(s) shall assist the Chairperson in making a determination. The Judge(s) shall also ensure that all ballots of voters whose eligibility may be in question, remain confidential.

Section D. Compensation Rates

2.4-11. Election Board members are to be compensated at an hourly rate when conducting elections as provided for in the Election Board's bylaws as approved by the Business Committee. The Election Board shall have a budget, approved through the Nation's budgeting process.

2.4-12. The Trust Enrollment Department personnel and Oneida Police Officer(s) shall be compensated at their regular rate of pay out of their respective budgets.

2.5. Candidate Eligibility

Section A. Requirements

2.5-1. In addition to any specific requirements and/or exceptions set out in duly adopted by-laws or other documents, all applicants shall meet the minimum requirements set out in this section in order to become a candidate.

2.5-2. Minimum Requirements. In order to be eligible to be a candidate, applicants shall:

- (a) be an enrolled member of the Nation, as verified by membership rolls of the Nation.
- (b) be a qualified voter on the day of the election.
- (c) provide proof of physical residency as required for the position for which they have been nominated or for which they have petitioned. Proof of residency may be through one (1) or more of the following:
 - (1) a valid Wisconsin driver's license;
 - (2) a bill or pay check stub showing name and physical address of the candidate from the prior or current month;
 - (3) another form of proof that identifies the candidate and that the candidate has physically resided at the address and identifies that address as the primary residence.

2.5-3. No applicant may have a conflict of interest with the position for which they are being considered, provided that any conflict of interest which may be eliminated within thirty (30) calendar days of being elected shall not be considered as a bar to nomination or election.

2.5-4. Applications and petitions where the applicant was not nominated during caucus shall be filed by presenting the information to the Nation's Secretary, or designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, within five (5) business days after the

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caucus. No mailed, internal Nation mail delivery, faxed or other delivery method shall be accepted.

2.5-5. The names of the candidates and the positions sought shall be a public record and made available to the public upon the determination of eligibility by the Election Board or the Board's designated agent.

Section B. Eligibility Review

2.5-6. Applicants found to be ineligible shall have two (2) business days to request an appeal. At least four (4) Election Board members shall constitute a hearing body. The Chairperson shall select the hearing body. The hearing shall be held within two (2) business days of receipt of the appeal. The applicant shall be notified by phone of time and place of the hearing. The decision of the hearing body shall be sent via certified mail or hand delivery within two (2) business days of the hearing. Any appeal from a decision of the Election Board hearing body shall be to the Judiciary on an accelerated schedule.

2.5-7. The Election Board shall be responsible for reviewing the qualifications of applicants to verify eligibility. Any applicant found to be ineligible for a nominated or petitioned for position shall be notified by certified mail return receipt requested. The notice shall provide the following information:

- (a) Position for which they were considered
- (b) Qualification of the position and citation of the source. (Copies of source may be attached.)
- (c) A brief summary explaining why the applicant was found to be ineligible.
- (d) That the applicant has two (2) business days from notification to make an appeal. Appeals must be filed at the location designated on the notice by hand delivery. The location designated shall be on the Reservation. No mailed, internal Nation mail, faxed or other delivery method will be accepted.

Section C. Campaign Financing

2.5-8. Contributions:

- (a) Solicitation of Contributions by Candidates.
 - (1) Candidates shall only accept contributions from individuals who are members of the Nation or individuals related by blood or marriage to the candidate. Candidates may not accept contributions from any business, whether sole proprietorship, partnership, corporation, or other business entity.
 - (2) Candidates shall not solicit or accept contributions in any office or business/facility of the Nation.
- (b) Fines. Violation of the contribution restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

2.5-9. Campaign Signs and Campaigning:

- (a) Placement of campaign signs:
 - (1) Campaign signs shall not be posted or erected on any property of the Nation except for private property with the owner/tenant's permission.
 - (2) No campaign sign shall exceed sixteen (16) square feet in area. A maximum

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of seven (7) such signs may be placed on a building or on a lot.

(3) No campaign sign shall project beyond the property line into the public right of way.

(b) Removal of campaign signs. All campaign signs shall be removed within five (5) business days after an election.

(c) Employees of the Nation shall not engage in campaigning for offices of the Nation during work hours. The Nation's employees shall be subject to disciplinary action under the personnel policies and procedures for political campaigning during work hours.

(d) Enforcement. The Zoning Administrator shall cause to be removed any campaign signs that are not in compliance with this law, in accordance with the Zoning and Shoreland Protection Law.

(e) Fines. Violation of the campaign sign restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

Section D. Candidate Withdrawal

2.5-10 Any candidate may withdraw his or her name from a ballot if submitted in writing by the candidate prior to submission of the ballot for printing to any Election Board member, excluding alternates.

2.5-11 After printing of the ballot, any candidate may withdraw his or her name from the election by submitting in writing a statement indicating they are withdrawing from the election prior to the opening of the polls to any Election Board member, excluding alternates. This statement shall be posted alongside any sample ballot printed prior to the election in the newspaper or any posting at the polling places.

2.5-12. Candidates withdrawing after opening of the polls shall request, in writing to the Election Board members in charge of the polling place, to be removed from the ballot. The written statement shall be posted next to any posted sample ballot.

2.5-13. Candidates withdrawing by any method listed herein shall be denied any position from which they have withdrawn regardless of the number of votes cast for that candidate. A written statement shall be considered the only necessary evidence of withdrawal and acceptance of denial of any position withdrawn from.

2.5-14. *Candidate Withdrawal After Winning an Election.*

(a) In the event a candidate declines an office after winning an election, the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.

(b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

2.6. Selection of Candidates

Section A. Setting of Caucus

2.6-1. The Election Board shall be responsible for calling a caucus before any election is held. The caucus for the general election shall be held at least ninety (90) calendar days prior to the election date. Caucuses for other elections shall be held at least forty-five (45) calendar days prior to the election date. In a general election year, caucuses shall be combined so that

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candidates for the Business Committee and elected boards, committees and commissions are nominated at the same caucus.

2.6-2. The procedures for the caucus shall be as follows:

- (a) Candidates shall be nominated from the floor.
- (b) Candidates present at the caucus will accept/decline their nomination at the caucus. Candidates nominated at the caucus, but not present to accept the nomination, shall be required to follow the petition process.
- (c) Nominations shall consist of the following positions: Chairperson, Vice-Chairperson, Treasurer, Secretary, Council Member and other elected positions as required by by-laws or creating documents of a board, committee, or commission.

Section B. Petition

2.6-3. Any eligible member of the Nation may petition to be placed on a ballot according to the following procedures:

- (a) Each petitioner, not nominated at caucus, shall file a petition containing endorsee's original signatures; photocopies shall not be accepted.
- (b) Petitioners shall use an official petition form as designated by this law which may be obtained in the Office of the Nation's Secretary or from the mailing for that caucus.
- (c) The petition form shall consist of each endorsee's:
 - (1) printed name and address;
 - (2) date of birth;
 - (3) Oneida Nation Enrollment Number; and
 - (4) signature.
- (d) Petitioners shall obtain not less than ten (10) signatures of qualified voters as defined under this law.
- (e) Petitions shall be presented to the Nation's Secretary, or designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, but no later than prior to close of business five (5) business days after the caucus. The location to drop-off petitions shall be identified in the mailing identifying the caucus date.
- (f) The Nation's Secretary shall forward all petitions to the Election Board Chairperson the next business day following the close of petition submissions.
- (g) The Election Board shall have the Trust Enrollment Department verify all signatures contained on the petition.

2.6-4. A person who runs for a position on the Oneida Business Committee, or a position on a judicial court or commission, shall not run for more than one (1) elective office or seat per election.

2.7. Notice of Polling Places

2.7-1. The Election Board shall post a notice in the prominent locations, stating the location of the polling places and the time the polls will be open. This notice shall also be posted in an easily visible position, close to the entrance of the Nation's businesses/facilities.

2.7-2. Polling information shall be posted no less than ten (10) calendar days prior to the election, and shall remain posted until the poll closes on the day of the election.

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2.7-3. Except for a Special Election, notice for the election shall be mailed to all Nation members, stating the time and place of the election and a sample of the ballot, no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing.

2.7-4. Notice of the election shall be placed in the Nation's newspaper.

2.8. Registration of Voters

Section A. Requirements

2.8-1. *Registration of Voters.* All enrolled members of the Nation, who are eighteen (18) years of age or over, are qualified voters of such election(s) as defined in Article III, Section 2 of the Oneida Nation Constitution.

Section B. Identification of Voters

2.8-2. All voters must present one of the following picture identifications in order to be able to vote:

- (a) Oneida Nation I.D.
- (b) Drivers License.
- (c) Other I.D. with name and photo.

Section C. Registration Procedures

2.8-3. Voters shall physically register, on the day of the election, at the polls.

2.8-4. Trust Enrollment Department personnel shall be responsible for verifying enrollment with the Nation. Conduct of Trust Enrollment Department personnel is governed by the Election Officials during the voting period.

2.8-5. Every person who intends to vote must sign his/her name on an official Voter Registration Form containing the voter's following information:

- (a) name and maiden name (if any);
- (b) current address;
- (c) date of birth; and
- (d) enrollment number.

Section D. Qualification/Verification of Voter Eligibility

2.8-6. Should a question or dispute arise as to the eligibility of a voter being qualified to vote, the Judges of the Election Officials appointed by the Election Board Chairperson shall meet with the Trust Enrollment Department personnel who are registering voters, to decide the voting member's eligibility currently being questioned and shall make such decisions from the facts available, whether the applicant is, in fact, qualified/verifiable under the Oneida Nation Constitution, Article III Section 2, to vote in the Nation's elections.

2.8-7. Any voter denied eligibility shall be allowed to vote, provided that the ballot shall be placed in an envelope, initialed by two (2) Election Officials, sealed and numbered. The name of the voter shall be written next to a numbered list which corresponds to the numbered and sealed envelope. The voter shall be required to mail a written appeal to the Election Board at P.O. Box 413, Oneida, Wisconsin, 54155, postmarked within two (2) business days of the election if they

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desire to challenge the decision made by the Election Officials. The Election Board shall make a final decision, within five (5) business days of receiving the appeal and shall report this decision in the final report sent to the Oneida Business Committee.

2.9. Election Process

Section A. Polling Places and Times

2.9-1. In accordance with Article III, Section 5 of the Oneida Nation Constitution, elections shall be held in the month of July on a date set by the General Tribal Council. The General Tribal Council shall set the election date at the January annual meeting, or at the first GTC meeting held during a given year. Special Elections shall be set in accordance with 2.12-6.

2.9-2. Elections shall be held in an Oneida Nation facility(s) as determined by the Election Board.

2.9-3. Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All voters in line to vote at 7:00 p.m. shall be allowed to vote.

(a) If a ballot counting machine is used, the ballot counting machine shall be prepared prior to 7:00 a.m. on the day of the election. The Judges shall open the polls only after four (4) members of the Nation verify, through signature on the tape, the ballot box is empty and the ballot counting machine printer tape has a zero (0) total count.

2.9-4. At least one (1) Oneida Police Officer shall be present during the time the polls are open, and until the counting of ballots is completed, and tentative results posted.

2.9-5. The Election Board shall provide a voting area sufficiently isolated for each voter such that there is an area with at least two sides and a back enclosure.

2.9-6. No campaigning of any type shall be conducted within two hundred eighty (280) feet of the voting area, excluding private property.

2.9-7. No one causing a disturbance shall be allowed in the voting area.

2.9-8. Election Board members may restrict the voting area to qualified voters only. This restriction is in the interest of maintaining security of the ballots and voting process.

Section B. Ballot Box

2.9-9. All ballots being votes, shall be placed in a receptacle clearly marked "Ballot Box" and shall be locked until counting at the close of polls. Provided that, with electronic ballot counting, the ballots may be placed within the ballot counting machine as they are received.

Section C. Spoiled Ballots

2.9-10. If a voter spoils his/her ballot, he/she shall be given a new ballot.

2.9-11. The spoiled ballot shall be marked "VOID" and initialed by two (2) Election Officials and placed in an envelope marked as "Spoiled Ballots."

2.9-12. The Spoiled Ballot envelopes shall be retained and secured for no less than fifteen (15) calendar days following finalization of any challenge of the election, at the Records Management Department.

Section D. Rejected Ballots

2.9-13. Rejected Ballots are to be placed in a specially marked container and sealed.

(a) Computer rejected ballots shall be reviewed by the Election Officials to verify the

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authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final computer total, provided that, a new ballot was not received as set out in sections 2.9-10 through 2.9-12.

(b) Ballots rejected, either during the computer process or during a manual counting, shall be reviewed by the Election Officials to verify that they are authentic. If the Election Officials determine that the ballot is not an official ballot, or that it is an illegal ballot, the ballot shall be designated 'void,' and placed in a sealed container marked "Void Ballots."

2.10. Tabulating and Securing Ballots

Section A. Machine Counted Ballots

2.10-1. When ballots are counted by machine, at the close of polls the Judges shall generate from the ballot counting machine copies of the election totals from the votes cast.

2.10-2. At least six (6) Election Board members shall sign the election totals, which shall include the tape signed by the members of the Nation before the polls were opened per section 2.9-3(a).

Section B. Manually Counted Ballots

2.10-3. When ballots are manually counted, at the close of polls the Judges shall unlock the ballot box and remove the ballots.

2.10-4. If the ballots need to be counted at a location other than the polling site, the ballots shall be secured in a sealed container for transportation to the ballot counting location. The sealed ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election Officials for counting/tallying of ballots.

2.10-5. The sealed ballots shall be opened at the time of counting by the Election Officials and witnessed/monitored by an Oneida Police Officer.

2.10-6. Ballots must be counted by two different Election Officials until two final tallies are equal in back to back counting. Final tallies shall be verified by the Election Judges.

Section C. Securing Ballots

2.10-7. The Judges shall place together all ballots counted and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots, and the election totals with the signed tape, if applicable, shall then be secured by the Judges in a sealed container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The Oneida Police Officer shall then deliver, on the day of the election, the sealed container to the Records Management Department for retaining.

2.11. Election Outcome and Ties

Section A. Election Results Announcement

2.11-1. The tentative results of an election shall be announced and posted by the Election Board within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain the following statement:

"The election results posted here are tentative results. Final election results are forwarded by the Oneida Election Board to the Oneida Business Committee via a Final

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Report after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer”

2.11-2. The Election Board shall post, in the prominent locations, and publish in the Nation’s newspaper, the tentative results of an election.

Section B. Tie

2.11-3. In the event of a tie for any office, and where the breaking of a tie is necessary to determine the outcome of an election, the Election Board shall conduct an automatic recount of the votes for each candidate receiving the same number of votes. Any recount conducted shall be the only recount allowed for the tied candidates.

2.11-4. For Business Committee positions, a run-off election between the candidates with the same number of votes shall be held if there remains a tie after the recount. Said run-off election shall be held within twenty one (21) calendar days after the recount. For all other positions, if there remains a tie after the recount, the Election Board shall decide the winner of the tied positions at least two (2) business days after, but no more than five (5) business days after the recount through a lot drawing, which shall be open to the public.

(a) The Election Board shall notify each of the tied candidates and the public of the date, time, and place of the drawing at least one (1) business day before the drawing. Notice to the tied candidates shall be in writing. Notice to the public shall be posted by the Election Board in the prominent locations.

(b) On the date and at the time and place the drawing was noticed, the Election Board Chairperson shall clearly write the name of each tied candidate on separate pieces of paper in front of any witnesses present. The pieces of paper shall be the same, or approximately the same, color, size, and type. The papers shall be folded in half and placed in a container selected by the Election Board Chairperson.

(c) The Election Board Chairperson shall designate an uninterested party to draw a name from the container. The candidate whose name is drawn from the container first shall be declared the winner. An Election Board member other than the Chairperson shall remove the remaining pieces of paper from the container and show them to the witnesses present.

Section C. Recount Procedures

2.11-5. A candidate may request the Election Board to complete a recount, provided the margin between the requesting candidate’s vote total and vote total for the unofficial winner was within two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is greater. A candidate requests a recount by hand delivering a written request to the office of the Nation’s Secretary, or noticed designated agent, within five (5) business days after the election. Requests shall be limited to one (1) request per candidate. The Nation’s Secretary shall contact the Election Board Chairperson by the next business day after the request for recounts.

2.11-6. The Election Board shall respond by the close of business on the fifth (5th) day after the request regarding the results of the recount. Provided that, no recount request need be honored where there have been two (2) recounts completed as a result of a request either as a recount of the whole election results, or of that sub-section.

2.11-7. All recounts shall be conducted manually with, if possible, the original Election Officials and Oneida Police Officer present, regardless of the original type of counting process. Manual

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recounts may, at the discretion of the Election Officials, be of the total election results, or of the challenged sub-section of the election results.

2.11-8. The Oneida Police Officer shall be responsible for picking up the locked, sealed container with the ballots from the Records Management Department and transporting it to the ballot recounting location.

2.11-9. A recount shall be conducted by a quorum of the Election Board, including at least three (3) of the original Election Officials. The locked, sealed ballots shall be opened by the Election Board Chairperson and an Oneida Police Officer shall witness the recount.

2.11-10. Recounting of ballots may be performed manually or by computer. All ballots shall be counted until two (2) final tallies are equal in back to back counting and the total count of ballots reconciles with the total count from the ballot counting machine. Sub-sections of candidates may be recounted in lieu of a full recount.

(a) Manually counted ballots shall be recounted by the Election Board. Ballots shall be counted twice by different persons and certified by the Judges.

(b) Computer counted ballots shall be recounted twice and certified by the Judges. Prior to using an electronic ballot counting device, it shall be certified as correct either by the maker, lessor of the machine, or Election Board.

Section D. Challenges and Declaration of Results

2.11-11. *Challenges.* Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall hear and decide a challenge to any election within two (2) business days after the challenge is filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

(a) The person challenging the election results shall prove by clear and convincing evidence that the Election Law was violated or an unfair election was conducted, and that the outcome of the election would have been different but for the violation.

(b) If the Judiciary invalidates the election results, a Special Election shall be ordered by the Judiciary for the office(s) affected to be held on a date set by the Judiciary for as soon as the Election Law allows for a Special Election.

2.11-12. *The Final Report.* The Election Board shall forward a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer. The Final Report shall consist of the following information:

(a) Total number of persons voting.

(b) Total votes cast for each candidate by subsection of the ballot.

(c) List of any ties and final results of those ties, including the method of resolution.

(d) List of candidates elected and position elected to.

(e) Number of spoiled ballots.

(f) Cost of the election, including the compensation paid to each Election Board member.

2.11-13. *Declaration of Results.* The Business Committee shall declare the official results of the election and send notices regarding when the swearing in of newly elected officials shall take place within ten (10) business days after receipt of the Final Report.

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2.11-14. Candidates elected to the Business Committee shall resign from any salaried position effective prior to taking a Business Committee oath of office

2.11-15. Except in the event of an emergency, as determined by the Business Committee, newly elected officials shall be sworn into office no later than thirty (30) calendar days after the official results of an election are declared by the Business Committee.

(a) If a newly elected official is not sworn in within thirty (30) calendar days, the seat shall be considered vacant and the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.

(b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

2.11-16. The Election Board shall send notice to the Records Management Department to destroy the ballots thirty (30) calendar days after the election or after the final declaration of official election results occurs, whichever is longer.

2.12. Elections

Section A. Primary Elections; Business Committee

2.12-1. When a primary is required under 2.12-2, it shall be held on a Saturday at least sixty (60) calendar days prior to the election.

2.12-2. There shall be a primary election for Business Committee positions whenever there are three (3) or more candidates for any officer positions or sixteen (16) or more candidates for the at-large council member positions.

(a) The two (2) candidates receiving the highest number of votes cast for each officer position shall be placed on the ballot.

(b) The fifteen (15) candidates receiving the highest number of votes cast for the at-large council member positions shall be placed on the ballot.

(c) Any position where a tie exists to determine the candidates to be placed on the ballot shall include all candidates where the tie exists.

2.12-3. The Election Board shall cancel the primary election if the Business Committee positions did not draw the requisite number of candidates for a primary by the petitioning deadline set for the primary.

2.12-4. In the event a candidate withdraws or is unable to run for office after being declared a winner in the primary, the Election Board shall declare the next highest primary vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 2.5-11 and 2.5-12 shall be followed, including the requirement to print a notice in the Nation's newspaper if time lines allow.

Section B. Special Elections

2.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as defined in this law, may be placed on the same ballot as the subject matter of an election.

2.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business Committee as recommended by the Election Board or as ordered by the Judiciary in connection with an election challenge.

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2.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent locations, and placed in the Nation's newspaper not less than ten (10) calendar days prior to the Special Election.

2.12-8. In the event of an emergency, the Election Board may reschedule the election, provided that no less than twenty-four (24) hours notice of the rescheduled election date is given to the voters, by posting notices in the prominent locations.

Section C. Referendums

2.12-9. Registered voters may indicate opinions on any development, law or resolution, proposed, enacted, or directed by the Business Committee, or General Tribal Council, in a special referendum election.

- (a) Referendum elections in which a majority of the qualified voters who cast votes shall be binding on the Business Committee to present the issue for action/decision at General Tribal Council.
- (b) Referendum requests may appear on the next called for election.
- (c) Referendum questions are to be presented to the Nation's Secretary, in writing, at the caucus prior to election, regarding issues directly affecting the Nation or general membership.

Section D. Initiation of Special Elections

2.12-10. Special Elections may be initiated by a request or directive of the General Tribal Council or the Oneida Business Committee.

2.12-11. Special Election may be requested by a member of the Nation to the Business Committee or General Tribal Council.

2.12-12. All Special Elections shall follow rules established for all other elections. This includes positions for all Boards, Committees and Commissions.

2.13. Oneida Nation Constitution and By-law Amendments

2.13-1. Pursuant to Article VI of the Oneida Nation Constitution, amendments to the Oneida Nation Constitution and By-laws may be initiated by the Oneida Business Committee or a petition of qualified voters. The requirements for the Oneida Business Committee's initiation of Constitutional amendments are as provided in the Constitution and as further detailed in the supporting standard operating procedures which the Oneida Business Committee shall adopt. Qualified voters may petition to amend the Oneida Nation Constitution and By-laws by submitting a petition to the Office of the Nation's Secretary which includes the full text of the proposed amendments and signatures that are equal in number to at least ten percent (10%) of all members qualified to vote.

- (a) Qualified voters may request a petition form from the Office of the Nation's Secretary.
- (b) When a petition form is requested, the Nation's Secretary, or his or her designee, shall direct the Trust Enrollment Department to calculate the number of signatures currently required for a petition submittal, which shall be ten percent (10%) of all members qualified to vote on the date the petition form is requested from the Office of the Nation's Secretary. When the Nation's Secretary receives the calculation from the

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Trust Enrollment Department, the Nation's Secretary shall provide the requester with the petition form and the number of signatures that are currently required.

(c) Such petitions shall be circulated with all supporting materials and submitted a minimum of ninety (90) days prior to the election at which the proposed amendment is to be voted upon. If a petition includes supporting materials in addition to the petition form, each qualified voter signing the petition shall also acknowledge that the supporting materials were available for review at the time he or she signed the petition by initialing where required on the petition form.

(d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment Department for verification of signatures and to the Election Board to provide notice that the petition may need to be placed on an upcoming ballot.

(e) If the petition is verified by the Trust Enrollment Department to contain a sufficient number of signatures, the Election Board shall make an official announcement of the proposed amendments to the Oneida Nation Constitution at least sixty (60) days prior to the election at which the proposed amendments are to be voted on.

2.13-2. The Election Board shall place any proposed amendments to the Oneida Nation Constitution that meet the requirements contained in 2.13-1 on the ballot at the next general election. Provided that, the Oneida Business Committee or General Tribal Council may order a special election be held to consider the proposed amendments. In such circumstances, the Election Board shall place any proposed amendments to the Oneida Nation Constitution on the ballot for that special election.

2.13-3. The Election Board shall publish any proposed amendments by publishing a sample ballot no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing. Copies of such publications shall be prominently posted in each polling place and at administrative offices of the Nation and shall also be published in official Oneida media outlets, which shall be identified by Oneida Business Committee resolution. For the purposes of this section, Oneida administrative offices means the location where the Oneida Business Committee conducts business.

2.13-4. The Election Board shall ensure that the ballot contains a statement of the purpose of the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a true and impartial statement and is written in such a manner that does not create prejudice for or against the proposed amendment.

2.13-5. Pursuant to Article VI of the Oneida Nation Constitution, proposed amendments that are approved by sixty-five percent (65%) of the qualified voters that vote on that amendment shall become part of the Constitution and By-laws, and shall abrogate or amend existing provisions of the Constitution and By-laws at the end of thirty (30) days after submission of the final election report.

2.13-6. If two (2) or more amendments approved by the voters at the same election conflict, the amendment receiving the highest affirmation vote prevails.

End.

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Adopted - June 19, 1993

Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

Presented for Adoption of 1997 Revisions - GTC-7-6-98-A

Amended- October 11, 2008 (General Tribal Council Meeting)

Amended-GTC-01-04-10-A

Amended – BC-02-25-15-C

NOTICE OF
PUBLIC MEETING
TO BE HELD
THURSDAY, SEPT. 15, 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: ELECTION LAW
AMENDMENTS**

This is proposal incorporates the recent constitutional changes into the Election Law. It will;

- ◆ Changes the voting age from 21 to 18.
- ◆ Provides a process for changing the constitution and the Election Board by-laws.

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 SEPTEMBER 22, 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@oneidanation.org
Phone: (920) 869-4376 or (800) 236-2214
Fax: (920) 869-4040

Legislative Operating Committee



Agenda Request Form

- 1) Request Date: _____
- 2) Contact Person(s): Donald M. Miller Dept: Grants
 Phone Number: 920-496-7329 Email: dmiller1@oneidanation.org
- 3) Agenda Title: Oneida Non-profit incorporation law
- 4) Detailed description of the item and the reason/justification it is being brought before the Committee
I am interested in having the Oneida Nation exercise it's sovereignty to create a non-profit
incorporation law. I know that many tribes have and doing that removes the obligation of
having tribal members provide confidential information to the state. Also it would allow for a
more streamlined process and allow Tribal members to apply for grants and run Oneida Charities.

List any supporting materials included and submitted with the Agenda Request Form

- 1) Northern Arapaho Non-Profit law
 - 2) _____
 - 3) _____
 - 4) _____
- 5) Please List any laws, ordinances or resolution that might be affected:
None
 - 6) Please List all other departments or person(s) you have brought your concern to:
None
 - 7) Do you consider this request urgent? ☐ Yes ☒ No
 If yes, please indicate why: _____

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee

Signature of Requester: _____

Please send this form and all supporting materials to:

LOC@oneidanation.org

or

Legislative Operating Committee (LOC)

P.O. Box 365

Oneida, WI 54155

Phone 920-869-4376

**NORTHERN ARAPAHO NATION
TITLE 9. NONPROFIT CORPORATION CODE**

Section

- 101 - Citation; Authority and Purpose
- 102 - Definitions
- 103 - Purposes of Incorporation; Authorized Incorporators
- 104 - Articles of Incorporation
- 105 - Corporate Name
- 106 - Approval by Business Council
- 107 - Certificate of Incorporation
- 108 - Corporate Existence
- 109 - Bylaws
- 110 - Corporate Capacity
- 111 - Members
- 112 - Meetings
- 113 - Directors and Officers
- 114 - Conflicts of Interest
- 115 - Voluntary Dissolution
- 116 - Dissolution by Tribal Court
- 117 - No Tribal Ownership or Management
- 118 - Annual Reports

Appendix - Forms

- Form 1 - Articles of Incorporation - Corporation with no Members
- Form 2 - Corporate Approval/Charter
- Form 3 - Certificate of Incorporation
- Form 4 - Notice of Standards and Liabilities
- Form 5 - Certificate of Dissolution

Section 101 - Citation; Authority and Purpose. This Code may be cited as the Northern Arapaho Tribe Nonprofit Corporation Code and is enacted pursuant to the inherent authority of the Northern Arapaho Tribe to authorize, recognize and regulate voluntary associations formed for charitable, educational, or similar nonprofit purposes affecting the health and welfare of residents of the Wind River Reservation, the Tribe, and members of the Tribe.

Section 102 - Definitions.

(a) **Corporation.** The term "Corporation" when used in this Code means a nonprofit corporation formed pursuant to this Code.

(b) **Nonprofit Corporation.** A "Nonprofit Corporation" means a corporation:

- i) Formed for a purpose not involving pecuniary gain; and
- ii) Paying no dividend, directly or indirectly, to its members, directors or officers, or
- iii) Holding a current tax exempt status as provided under 26 U.S.C. Sec. 501(c)(3) or specifically exempt from the requirement to apply for its tax exempt status under 26 U.S.C. Sec. 501(c)(3).

(c) **Articles.** "Articles" mean the original Articles of Incorporation or Articles of Incorporation as amended.

(d) **Directors.** "Directors" mean the persons vested with the general management of the internal affairs of the corporation regardless of how designated.

(e) **Member.** "Member" means an entity, either corporate or natural, having any membership rights in a corporation in accordance with its articles, bylaws or both.

(f) **Liability.** "Liability" means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses actually incurred with respect to a proceeding.

(g) **Secretary.** "Secretary" means the secretary of the Northern Arapaho Business Council or such other officer of the Tribe as the Business Council may from time to time designate as responsible for matters regarding nonprofit corporations set forth in this Code.

Section 103 - Purposes of Incorporation; Authorized

Incorporators. A nonprofit corporation may be formed pursuant to this Code for any lawful purpose. Any individual eighteen (18) years of age or older may form a nonprofit corporation by preparing, executing, and filing articles of incorporation pursuant to this Code.

Section 104 - Articles of Incorporation.

(a) **Filing Fee.** The articles shall be prepared, signed by each of the individuals forming the nonprofit corporation, filed with the Secretary, and accompanied by a filing fee in the amount of Ten Dollars (\$10.00).

(b) **Form.** The articles of a corporation formed pursuant to this Code may be in substantially the form provided in the Form Appendix to this Code.

Section 105 - Corporate Name.

(a) **English Letters.** A corporation formed pursuant to this Code may have a name in any language, but it shall be expressed in English letters. The name shall end with the word "Corporation" or "Incorporated" or the abbreviation "Corp." or "Inc."

(b) **Use of Similar Name Forbidden.** The corporate name shall not be the same as, nor similar to, the name of any other corporation formed pursuant to the laws of the Northern Arapaho Tribe, nor shall the corporate name imply an affiliation with tribal government or any agency or program of the Tribe that is incorrect or which may be misleading to the public.

Section 106 - Approval by Business Council. All proposed articles of incorporation shall be presented by the Secretary or

a representative of the proposed corporation for action by the Business Council. Although the form of approval may vary, the usual format for approval is provided in the Form Appendix to this Code.

Section 107 - Certificate of Incorporation. After the articles which are filed with the Secretary have been duly approved by the Business Council and after the fees prescribed by law are paid, the Secretary shall record the articles and issue and record a Certificate of Incorporation. The Certificate of Incorporation form is provided in the Form Appendix to this Code.

Section 108 - Corporate Existence. When a Certificate of Incorporation is issued, the corporate existence begins. The certificate is conclusive evidence of the fact of incorporation.

Section 109 - Bylaws. Duly adopted or amended bylaws for the corporation may contain any provision for the purpose of administering and regulating the affairs of the corporation not inconsistent with law or the articles of incorporation.

Section 110 - Corporate Capacity.

(a) **Capacity.** A corporation has the capacity to act that is possessed by natural persons, but it shall have authority to perform only acts that are necessary or proper to accomplish its purposes and not contrary to law.

(b) **Authority.** Without limiting or enlarging the provision above, and unless the articles or bylaws prescribe otherwise, a corporation has authority to:

- i) Continue as a corporation for the time stated in its articles of incorporation, or, if the time is not stated, perpetually;
- ii) Sue and be sued; except, its members shall not be personally liable for the acts, debts, obligations or liabilities of the corporation;

- iii) Take and hold an interest in real or personal property;
- iv) Lease, encumber, convey or dispose of real and personal property;
- v) Enter into obligations or contracts and do any act incidental to the transaction of its business or expedient to the purposes stated in its articles of incorporation;
- vi) Conduct its affairs within and without the Wind River Indian Reservation, Wyoming;
- vii) Make, amend and repeal bylaws, not inconsistent with its articles or with law, for the administration and regulation of its affairs;
- viii) Make donations to other nonprofit corporations for related purposes and to needy persons;
- ix) Serve as a member of another nonprofit corporation; and
- x) Dissolve and wind up the affairs of the corporation.

Section 111 - Members.

(a) **Not Required.** A corporation is not required to have members.

(b) **Membership Standards.** If a corporation has members, the following standards shall apply:

- i) The articles of incorporation shall establish the criteria and procedures for admission of members;
- ii) All members shall have the same rights and obligations with respect to voting, dissolution and all other matters, unless the articles or bylaws specifically establish classes of membership with different rights or obligations; and

- iii) A member of a corporation is not, as such, personally liable for the acts, debts, liabilities or obligations of the corporation.

(c) **Dues and Fees.** A member may become liable to the corporation for dues, assessments or fees as a condition for remaining a member. An article, bylaw or corporate resolution authorizing dues, assessments or fees is not, by itself, sufficient to impose liability without the consent or acquiescence of the member.

Section 112 - Meetings.

(a) **Board Meetings.** A Board of Directors shall hold at least four (4) regular meetings annually, and may hold additional regular or special meetings as may be necessary. Board members shall be provided with written notice of any meeting at least five (5) days in advance of the meeting.

(b) **Quorum.** A quorum of a Board of Directors consists of a majority of the directors in office immediately before a meeting begins unless otherwise provided in the articles or bylaws.

(c) **Participation.** A board may permit directors to participate in meetings by using any means of communication that allows all participants to simultaneously communicate with each other during the meeting. A director participating in a meeting by this means is present in person at the meeting.

(d) **Membership Meetings.** A corporation with members shall hold at least one (1) meeting of the membership annually. Members shall be provided with written notice of each membership meeting at least fifteen (15) days in advance of the meeting.

Section 113 - Directors and Officers.

(a) **Board of Directors.** A corporation shall have a Board of Directors and the members of the board shall choose from among their number officers, to include a Chairperson, Secretary and Treasurer. One person may hold more than a single office, but there shall be at least two (2) officers.

- i) The Board of Directors shall consist of three (3) or more individuals. All corporate powers shall be exercised by or under the authority of, and the affairs of the corporation managed under the direction of, its board;
- ii) (A) If the corporation has members, all the directors, except the initial directors, shall be elected by the membership at the first annual meeting of members, and at each annual meeting thereafter, unless the articles or bylaws provide some other time or method of selection; or
 - (B) If the corporation does not have members, all the directors, except the initial directors, shall be elected by the board unless a different method of selection is set forth in the articles or bylaws;
- iii) The articles or bylaws shall specify the terms of directors and officers and the manner in which a vacancy shall be filled;
- iv) A director or officer may resign at any time by delivering written notice to an officer of the board;
- v) Unless the articles or bylaws provide otherwise, a Board of Directors, including officers, shall serve without compensation, but individuals may be reimbursed for reasonable and necessary expenses incurred as part of board service; and
- vi) The Shoshone and Arapaho Tribal Court may remove any director of a corporation from office in a proceeding commenced either by the corporation or by at least ten percent (10%) of the voting membership if the Court finds that:
 - (A) The director engaged in fraudulent or dishonest conduct, or gross abuse of authority or discretion, with respect to the corporation, or a final judgment has been entered finding that the director has violated a duty owed to the corporation under

the provisions of Section 113 (2) of this Code; and

- (B) Removal is in the best interest of the corporation;
- (C) The Court that removes a director may bar the director from serving on the board for a period prescribed by the Court; or
- (D) The articles or bylaws of a religious corporation may limit or prohibit the application of Section 113 of this Code.

(b) **Standards and Liabilities.** Directors and officers shall discharge their duties (i) in good faith; (ii) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (iii) in a manner the director or officer reasonably believes to be lawful and in the best interests of the corporation and its members, if any.

- i) Directors and officers are not liable to the corporation, any member or any other person for any action taken or not taken if the director or officer acted in compliance with this section;
- ii) Directors and officers may be civilly liable only for gross negligence or intentional misconduct; and
- iii) A director or officer shall not be deemed to be a trustee with respect to the corporation or with respect to any property held or administered by the corporation, including without limit, property that may be subject to restrictions imposed by the donor or transferor of the property.

(c) **Indemnification.** Unless limited by its articles of incorporation, a corporation:

- i) Shall indemnify a director or officer who was wholly successful in the defense of any proceeding to which the director or officer was a party because he/she is or was a director or officer of the corporation, against reasonable

expenses including attorney's fees, actually incurred in connection with the proceeding;

- ii) May, consistent with public policy, and to the extent that may be provided by its articles or bylaws, indemnify a director or officer made a party to a proceeding because the person is or was a director or officer, against liability incurred, and for reasonable expenses including attorney's fees, in the proceeding, if:

- (A) The person's conduct was in good faith; and

- (B) The person reasonably believed that the conduct was in the corporation's best interests and was not unlawful; and

- iii) May advance expenses to a director or officer to the extent, consistent with public policy, allowed by its articles of incorporation or bylaws.

(d) **Insurance.** A corporation may purchase and maintain insurance coverage on behalf of an individual who is or was a director, officer, employee or agent of the corporation for liability asserted against or incurred by the individual in that capacity or arising from his/her status as a director, officer, employee or agent, whether or not the corporation would have the authority to indemnify the person against the same liability under this Code.

(e) **Notice.** A corporation shall provide each director and officer at the beginning of his/her term with written notice of the standards and liabilities applicable to directors and officers under this Code, and shall at the same time provide a written description of the provisions of the corporate articles and bylaws concerning indemnification and insurance coverage for directors and officers. The notice may be substantially in the form contained in the Form Appendix to this Code.

Section 114 - Conflicts of Interest. A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A transaction in which a director has a conflict of interest may be approved:

(a) **Board Vote.** By the vote of the Board of Directors if the material facts of the transaction and the director's interest are disclosed or known to the Board of Directors.

(b) **Approval.** A conflict of interest transaction is approved if it receives the affirmative vote of a majority of the directors who have no direct or indirect interest in the transaction. The presence of a director with a direct or indirect interest in the transaction does not affect the validity of action taken.

(c) **Additional Requirements.** The articles, bylaws or a resolution of the board may impose additional requirements on conflict of interest transactions.

Section 115 - Voluntary Dissolution.

(a) **Action by Board.** A corporation without members may be voluntarily dissolved by its Board of Directors.

(b) **Action by Members.** If the corporation has members:

- i) The Board of Directors may recommend dissolution of the corporation to the members by submitting the recommendation to the members for a vote at a meeting of the membership. If a dissolution recommended by the Board of Directors is approved at a meeting of the membership by an affirmative vote of the holders of a majority of the voting power of all members entitled to vote, the dissolution shall proceed; or
- ii) Membership of the corporation may propose dissolution of the corporation without board recommendation to the extent and in the manner provided by the articles or bylaws. To proceed, a resolution of dissolution must be approved at a meeting of the membership by an affirmative vote of the holders of a majority of the voting power of all members entitled to vote.

(c) **Notice.** The corporation shall provide written notice at least fifteen (15) days in advance of any board or membership meeting at which approval for dissolution is to be obtained. The

notice shall state that the purpose, or one of the purposes, of the meeting is to consider dissolution of the corporation and contain or be accompanied by copies of all proposed dissolution recommendations, resolutions and/or plans.

(d) **Intent to Dissolve.** If a dissolution is approved as provided herein, the corporation shall execute a Statement of Intent to Dissolve in conformance with the requirements of Title 2 N.A.C. Sections 124 and 125, Business Organizations Code, and deliver it and the resolution of dissolution for filing to the Secretary as soon as practical after the vote approving the dissolution.

(e) **Winding Up.** When the resolution approving dissolution has been adopted, and it together with the Statement of Intent to Dissolve has been filed with the Tribe, the corporation shall cease to carry on its business except to the extent necessary for the winding up of the corporation. As soon as possible, the corporation shall:

- i) Collect all debts due or owing the corporation;
- ii) Pay all debts, obligations and liabilities of the corporation;
- iii) Sell, lease, transfer or otherwise dispose of all or substantially all of the property and assets of the corporation and convert the same to cash; and
- iv) Distribute any property and assets remaining after payment of all debts and obligations of the corporation to persons, societies, organizations and corporations, whether profit or nonprofit, engaged in activities which will, as nearly as possible, accomplish the general purpose of the dissolving corporation.

(f) **Articles of Dissolution.** After payment of all debts and obligations of the corporation has been made or adequate provision made therefor, and all of the remaining property and assets have been distributed as provided herein, the corporation shall file articles of dissolution with the Secretary. The articles of dissolution shall state:

- i) The name of the corporation;

- ii) The date on which the corporation filed the Statement of Intent to Dissolve with the Secretary;
- iii) That all debts, obligations and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor;
- iv) That any remaining property and assets of the corporation have been distributed in accordance with the purpose for which the corporation was formed as established by its articles of incorporation; and
- v) That there are no pending legal, administrative or arbitration proceedings by or against the corporation or that adequate provision has been made for the satisfaction of any judgment, order or decree that may be entered against the corporation in any such proceedings.

(g) **Effective Date.** The articles of dissolution shall be filed in accordance with the provisions of Title 2 N.A.C. Section 129, Business Organizations Code, and the corporation shall be dissolved upon the issuance of the Certificate of Dissolution.

(h) **Certificate.** Upon receipt of the articles of dissolution, the Secretary shall issue to the dissolved corporation or its legal representative a Certificate of Dissolution which shall contain:

- i) The name of the corporation;
- ii) The date the articles of dissolution were filed with the Secretary; and
- iii) The date and time the Certificate of Dissolution was issued by the Secretary, and a statement that the corporation is dissolved as of the date and time the Certificate of Dissolution is issued by the Secretary. Although the form of the Certificate of Dissolution may vary, the usual form is provided in the Form Appendix to this Code.

Section 116 - Dissolution by the Tribal Court.

(a) **Action for Dissolution.** The Shoshone and Arapaho Tribal Court may dissolve a corporation in an action brought by a director, by members holding ten percent (10%) or more of the voting power; or by any other person permitted to bring such an action by the articles or bylaws, if one or more of the following grounds are established:

- i) The corporation obtained its articles of incorporation through fraud;
- ii) The corporation has repeatedly exceeded or abused the authority conferred upon it by law;
- iii) The corporation has fraudulently solicited money or has fraudulently used money solicited;
- iv) The directors or those in control of the corporation have acted, are acting or will act in a manner that is illegal or fraudulent;
- v) The corporate assets are being misapplied or wasted; or
- vi) The corporation is no longer able to carry out its purposes.

(b) **Action by Creditor.** The Shoshone and Arapaho Tribal Court may dissolve a corporation in a proceeding brought by a creditor if one or more of the following grounds are established:

- i) The creditor's claim has been reduced to judgment, the execution on the judgment has been returned unsatisfied, and the corporation is insolvent; or
- ii) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent.

(c) **Considerations.** Prior to dissolving a corporation, the Court shall consider whether:

- i) There are reasonable alternatives to dissolution; and

ii) Dissolution is in the public interest.

(d) **Parties.** It is not necessary to make directors or members parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(e) **Judicial Powers.** The Court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver with all powers and duties the Court directs, take other action required to preserve the corporate assets wherever located, and may make such orders as necessary to carry on the activities of the corporation until a decision on dissolution can be made.

(f) **Judgment.** If after a hearing the Court determines that one or more grounds for judicial dissolution exist and that dissolution should proceed:

- i) The Court shall make such orders as may be necessary for the winding up and liquidation of the corporation's affairs in accordance with Section 115 (e) of this Code. The Court shall require a final report and accounting to be filed showing that the requirements of Title 2 N.A.C. 128, Business Organizations Code, and Section 115 (e) of this Code have been satisfied;
- ii) When the Court determines that the affairs of the corporation have been concluded, it shall enter an order dissolving the corporation and specifying the effective date of the dissolution. The clerk of the court shall deliver a certified copy of the judgment to the Secretary for filing; and
- iii) Upon receipt of the certified copy of the Judgment of Dissolution, the Secretary shall file the Judgment and issue a Certificate of Dissolution in accordance with the provisions of Title 2 N.A.C. Section 129, Business Organizations Code.

(g) **Certificate.** The Secretary shall issue to the dissolved corporation or its legal representative a Certificate of Dissolution which shall contain:

- i) The name of the corporation;

- ii) The date the Judgment of Dissolution was filed with the Secretary; and
- iii) The date and time the Certificate of Dissolution was issued by the Secretary, and a statement that the corporation is dissolved as of the date and time the Certificate of Dissolution was issued by the Secretary. Although the form of the Certificate of Dissolution may vary, the usual form of the Certificate of Dissolution is provided in the Form Appendix to this Code.

Section 117 - No Tribal Ownership or Management.

(a) **No Tribal Rights or Obligations.** Unless the Northern Arapaho Tribe is a member of a corporation or has entered into a contract that provides otherwise with a corporation, the Tribe shall have no ownership or management rights or obligations with respect to the corporation.

(b) **Separate Entity.** A corporation formed under this Code is a legal entity separate and apart from the Tribe. All corporations chartered by the Tribe shall comply with all applicable laws of the Tribe including, but without limitation, the Shoshone & Arapaho Law and Order Code and the Northern Arapaho Code.

Section 118 - Annual Reports.

(a) **Annual Report.** Every corporation organized under this Code shall file an annual report, which shall comply with the following requirements:

- i) The report shall include the names and addresses of the corporation's officers and directors, the address of its principal office, and any compensation, profit or pecuniary advantage paid directly or indirectly to any officer or director;
- ii) The annual report shall be filed with the Secretary on or before the first day of March of each year;

iii) An officer of the corporation shall execute the annual report under penalty of perjury; and

iv) An annual fee of Ten Dollars (\$10.00) shall accompany the annual report.

(b) **Corrections.** If an annual report does not contain the information required by this section, the Secretary shall promptly notify the reporting corporation in writing and return the report to it for correction.

(c) **Current Information.** The information in the annual report shall be current on the date the annual report is executed on behalf of the corporation.

History: 2007. Title 9. The Northern Arapaho Nonprofit Corporation Code was enacted by the Northern Arapaho Tribe by resolution of the Northern Arapaho Business Council dated August 13, 2007, Resolution No. 2007-9358. Technical amendments and the notary certificate were amended by resolution of the NABC on May 7, 2012, Resolution No. NABC-2012-205.

*Appendix to Title 9
Nonprofit Corporation Code
Form 1
Articles of Incorporation - Corporation with no Members*

**ARTICLES OF INCORPORATION
of
[NAME OF CORPORATION]**

A Nonprofit Corporation
chartered by

Northern Arapaho Tribe
Wind River Indian Reservation
Ethete, Wyoming

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, a natural person over the age of eighteen (18) years, acting as the incorporator of this Nonprofit Corporation does hereby adopt and verify the following Articles of Incorporation of this Nonprofit Corporation:

ARTICLE I - NAME

The name of this Nonprofit Corporation shall be "[**insert name**]."

ARTICLE II - DURATION

The period of duration of this Corporation shall be perpetual.

ARTICLE III - CLASSIFICATION

The Corporation is a charitable corporation as defined under Section 501(c)(3) of the United States Internal Revenue Code.

ARTICLE IV - PURPOSES

The Corporation is organized for purposes other than the conduct of a business for profit, and instead is organized for charitable, cultural, recreational or educational purposes and, in this connection:

[state purpose(s)]

ARTICLE V - POWERS

In furtherance of its corporate powers, the Corporation shall have the following general powers:

1. To sue and be sued, complain and defend, all in its corporate name;
2. To have a corporate seal which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing or in any other manner reproducing it;
3. To make and amend bylaws not inconsistent with its Articles of Incorporation or with the laws of the Northern Arapaho Tribe for regulating and managing the affairs of the Corporation;
4. To take, purchase, receive, lease or otherwise acquire, and own, hold, improve, use and otherwise deal in and with, real and personal property, or any legal or equitable interest in property wherever located;
5. To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all, or any part of, its property and assets;
6. To purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge or otherwise dispose of, and deal in and with, shares or other interests in, or obligations of any entity;
7. To make contracts and guaranties, incur liabilities, borrow money, issue notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises or income;

8. To lend money, invest and reinvest its funds and receive and hold real and personal property as security for the repayment;

9. To be a promoter, partner, member, associate or manager of any partnership, joint venture, trust or other entity;

10. To conduct its activities, locate offices and exercise its powers within the Wind River Reservation or in any worldwide location;

11. To elect or appoint directors, officers, employees and agents of the Corporation, define their duties and fix their compensation;

12. To pay pensions and establish pension plans, pension trusts, and other benefit and incentive plans for any or all of its current or former directors, officers, employees and agents;

13. To make donations not inconsistent with law for the public welfare or for charitable, religious, scientific or educational purposes and for other purposes that further the corporate interest;

14. To carry on a not-for-profit business related to the purposes of the Corporation;

15. To indemnify any director or officer or former director or officer of the Corporation against liability expenses actually and necessarily incurred by him/her in connection with any action, suit or proceeding in which he/she is made a party by reason of being or having been such director or officer, if the individual acted in good faith, reasonably believed the conduct at issue was in the Corporation's best interests and was not illegal.

16. To indemnify any director or officer or former director or officer of the Corporation against liability actually incurred by him/her in any proceeding in which he/she is made a party by reason of being or having been such director or officer, if the director or officer acted in good faith, and reasonably believed that the conduct was in the Corporation's best interests and not unlawful;

17. To do all things necessary or convenient, not inconsistent with law, to further the activities and affairs of the Corporation.

ARTICLE VI - INITIAL REGISTERED OFFICE

The address of the Corporation's initial registered office is: **[insert address]**.

ARTICLE VII - INITIAL REGISTERED AGENT

The name and address of the initial registered agent is: **[insert name and address]**.

ARTICLE VIII - INCORPORATOR

The name and address of the incorporator is: **[insert name and address]**.

ARTICLE IX - MEMBERS

The Corporation will not issue capital shares and will have no members.

ARTICLE X - PROHIBITED TRANSACTIONS AND ACTIVITIES

No substantial part of the activities of the Corporation shall include the carrying on of propaganda or otherwise attempting to influence legislation, and the Corporation shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of, or in opposition to, any candidate for public office. No part of the activities of the Corporation shall consist of providing banking or insurance. No officer or member, nor the Board of Directors, shall ever participate in or permit the Corporation to participate in any of the transactions referred to in Section 503 of the Internal Revenue Code as "prohibited transactions" nor any other transactions prohibited by said Code. The Corporation shall comply with those portions of the Internal Revenue Code and applicable regulations, and any amendments thereto, as are

required to maintain the Corporation's recognition by the Internal Revenue Service as a tax-exempt entity.

ARTICLE XI - DISTRIBUTION ON DISSOLUTION

In the event of the dissolution of the Corporation, no officer, director or private individual shall be entitled to any distribution or division of the Corporation's remaining property or its proceeds, and the balance of all its assets, after the payment of all the liabilities of the Corporation, shall be disposed of and distributed exclusively for the purposes of the Corporation in such manner, or to such organization or organizations organized and operated exclusively for charitable or educational purposes as shall at the time qualify as an exempt organization under Section 501(c)(3) of the Internal Revenue Code (or corresponding provision of any future Internal Revenue law) as the Board of Directors shall designate. Any of such assets not so disposed of shall be disposed of by the Shoshone and Arapaho Tribal Court exclusively for such purposes or to such organization or organizations as said Court shall determine, which are organized and operated exclusively for such purposes.

ARTICLE XII - INCOME AND DISTRIBUTION

No part of the net earnings or income of the Corporation shall inure to the benefit of any members, directors, officers of the Corporation, or any private shareholder or individual, except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes; and no member, director, officer of the Corporation, or any private shareholder or individual shall be entitled to share in the distribution of any of the corporate assets on dissolution

ARTICLE XIII - REGULATION OF INTERNAL AFFAIRS

Provisions relative to the regulation of the internal affairs of the Corporation, not inconsistent with the laws of the Northern Arapaho Tribe, shall be generally set forth in the bylaws of the Corporation, but it is specifically provided as follows:

1. **Directors.** The general management of the affairs of the Corporation shall be exercised by a Board of Directors. At all times there shall not be less than five (5) nor more than ten (10) directors. Except for the initial directors, the directors shall be elected to three-year terms by the directors. A director may serve more than one term. Nominations for potential directors may be submitted by any person or entity, but the Board of Directors shall have final authority on the selection and appointment of individuals to vacancies on the Board. The Board is authorized to establish rules for the selection and appointment of "honorary" or special members of the Board who shall have no governing authority.

2. **Officers.** From among its members, the Board shall elect a Chairperson, a Secretary and a Treasurer. As far as practical, no individual shall hold more than one office at a time.

3. **Bylaws.** Bylaws may be adopted, repealed or amended by a majority vote of the Board of Directors. In the event that any provision of the bylaws of the Corporation conflict with any provision of these Articles, the terms of these Articles shall prevail.

4. **Annual and Special Meetings.** An annual meeting of the Corporation shall be held each February on specific dates, times and places established by the Board of Directors, who shall provide reasonable advance written notice of the same to each director. The agenda for annual meetings shall include approval of the annual report, amendments to these Articles, if any are proposed, and elections for members of the Board of Directors. Special meetings may be called for any purpose by the directors.

ARTICLE XIV - INITIAL DIRECTORS

The initial directors of the Corporation and their initial terms of office shall be as follows: [**insert names and terms**].

The initial directors shall serve until a successor is elected and qualified.

ARTICLE XV - ANNUAL REPORT

The Corporation shall file an annual report with the Secretary of the Northern Arapaho Business Council, setting forth the names and addresses of its officers and directors, the address of its principal office, and any compensation paid directly or indirectly to any officer or director. The above information shall be current on the date the annual report is executed, and shall be available for public inspection according to the policies and procedures of the Northern Arapaho Business Council.

The annual report shall be filed before December 1st of every year. A license fee of Ten Dollars (\$10.00) shall accompany the annual report.

ARTICLE XVI - AMENDMENTS

These Articles may be amended by a majority vote of the directors, provided that the purposes of the Corporation shall always be consistent and in conformity with the original purposes of the Corporation and the laws of the Northern Arapaho Tribe.

IN WITNESS WHEREOF, the undersigned incorporator has hereto affixed his/her signature on this _____ day _____, 20____.

[signature]

State of Wyoming)
) ss.
County of Fremont)

This instrument was acknowledged before me on the _____ day
of _____, 20____, _____.
Name of Person

Signature of Notarial Officer

(Seal)

Title and Rank

My commission expires: _____

*Appendix to Title 9
Nonprofit Corporation Code
Form 2
Corporate Approval/Charter*

**NONPROFIT CORPORATE CHARTER
of
[NAME]**

issued by
Northern Arapaho Tribe
Wind River Indian Reservation
Ethete, Wyoming

WHEREAS, the Northern Arapaho Tribe ("Tribe") is a sovereign, federally recognized Indian tribe with inherent authority to create, authorize and regulate corporate entities doing business within the jurisdiction of the Tribe; and

WHEREAS, the Northern Arapaho Business Council ("NABC") is the duly elected governing body of the Tribe, authorized by tribal law to conduct the governmental affairs of the Northern Arapaho Tribe and to issue charters for corporate entities on behalf of the Tribe; and

WHEREAS, NABC finds that the creation and recognition of [name of Corporation], a Nonprofit Corporation organized for certain charitable purposes, is in the best interests of the Tribe and the residents of the Wind River Indian Reservation;

NOW, THEREFORE, BE IT RESOLVED that the Tribe hereby authorizes and charters [name of Corporation] as a Nonprofit Corporation, and

BE IT FURTHER RESOLVED as follows:

1. That the attached Articles of Incorporation dated the _____ day of _____, 20____, are hereby authorized and approved by this Charter and incorporated by reference as if fully set forth herein;

2. That all lawful amendments to said Articles of Incorporation, if any, are hereby authorized and approved by this

Charter and incorporated by reference as if fully set forth herein;

3. That _____ is hereby authorized to seek certificates of authority or other recognition by such foreign jurisdictions as said Nonprofit Corporation may deem advisable, subject to the terms of this Charter and to the laws of the Tribe; and

4. That this Charter shall not be revoked or rescinded by the Tribe except for violations of the express terms of this Charter (including the Articles of Incorporation referenced herein) or of the laws of the Tribe or of the United States.

BE IT FINALLY RESOLVED that the Chairman or Co-Chairman of NABC is authorized and directed to execute this Corporate Charter and any documents necessary to implement the same.

CERTIFICATION

The foregoing Nonprofit Corporate Charter was duly authorized and approved at a meeting of NABC held on the _____ day of _____, 20____, at which _____ members were present, constituting the required quorum, by a vote of _____ members for, _____ members opposed, and _____ members abstaining.

Chairman
Northern Arapaho Business Council

Attest:

Secretary
Northern Arapaho Business Council

*Appendix to Title 9
Nonprofit Corporation Code
Form 3
Certificate of Incorporation*

CERTIFICATE OF INCORPORATION OF

[NAME]

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

WHEREAS, Articles of Incorporation duly signed and approved have been filed for record in the office of the Secretary of the Northern Arapaho Business Council of the Northern Arapaho Tribe, Wind River Indian Reservation, Wyoming, on the ____ day of _____, 20____, for the incorporation of _____.

NOW THEREFORE, I, _____, Secretary of the Northern Arapaho Business Council of the Northern Arapaho Tribe, do hereby certify that the said Corporation is a legally organized Nonprofit Corporation under the Northern Arapaho Tribe pursuant to Title 9 of the laws of the Northern Arapaho Tribe, Wind River Indian Reservation, Wyoming.

Dated: _____

Secretary
Northern Arapaho Business Council

Appendix to Title 9
 Nonprofit Corporation Code
 Form 4
 Notice of Standards and Liabilities

[NAME of CORPORATION]

**NOTICE OF STANDARDS AND LIABILITIES
 FOR DIRECTORS AND OFFICERS**

There are important rules and guidelines that a person must follow when serving on a Board of Directors, either as a member or as an officer.

Authority and Obligations. The Directors and Officers of [Name of Corporation] have authority to manage the affairs of the Corporation and they also have obligations in its management. This Notice is only a summary of the authority and obligations, and before a person takes a position on the Board, he/she should read Title 9 of the Northern Arapaho Code, the Nonprofit Corporation Code.

Standards of Conduct and Liabilities. Directors and Officers must act in good faith; carefully, and in the best interests of the Corporation.

If a Director or Officer does something that is grossly negligent, illegal or engages in intentional misconduct, he/she might be held civilly liable.

A Director can be removed from a position on the Board by the Shoshone and Arapaho Tribal Court for engaging in fraudulent or dishonest conduct, or for gross abuse of authority.

Indemnity and Insurance Coverage. The law says that the Corporation **must** pay the expenses for a Director or Officer if he/she is sued because of his/her position on the Board **if** he/she is completely successful in the lawsuit, unless the Articles of Incorporation say otherwise.

The law says that the Corporation **may** pay the expenses of a lawsuit of a Director or Officer in some other circumstances, and also says that the Corporation may sometimes get liability insurance for Directors, Officers and employees. The particular details of the coverage that this Corporation provides are

contained in the Articles of Incorporation and bylaws and it is very important that a Board member understand these provisions.

The articles and/or bylaws of **[Insert name of corporation]** have the following provisions:

[Here insert the specific provisions from the articles and/or bylaws that set out the details of indemnification and errors and omissions or other insurance coverage, or attach copies of the applicable sections].

ACKNOWLEDGMENT

I have received and read a Notice of Standards and Liabilities before accepting a position on the Board of Directors of **[Insert name of corporation]**.

Dated: _____

Signature

*Appendix to Title 9
Nonprofit Corporation Code
Form 5
Certificate of Dissolution*

**CERTIFICATE OF DISSOLUTION
OF
[NAME of CORPORATION]**

The Secretary of the Northern Arapaho Business Council of the Northern Arapaho Tribe, Wind River Indian Reservation, Wyoming, has received and filed on the _____ day of _____, 20__.

☐ Articles of Dissolution for **[Name of Corporation]**

or

☐ Judgment of Dissolution for **[Name of Corporation]**

NOW, THEREFORE, this Certificate of Dissolution is issued this _____ day of _____, 20__, at _____ o'clock, ____ m. It is hereby certified that **[Name of Corporation]** is dissolved as of the stated date and time of issuance of this Certificate.

Dated: _____

Secretary
Northern Arapaho Business Council

Legislative Operating Committee



Agenda Request Form

- 1) Request Date: 07/22/2016
- 2) Contact Person(s): Dawn Moon-Kopetsky Dept: OBC-Admin
Phone Number: 920-901-2015 Email: dmoonkop@oneidanation.org
- 3) Agenda Title: Employee 16 Year old and descendants at the One-Stops
- 4) Detailed description of the item and the reason/justification it is being brought before the Committee
Changing hiring requirements to at all Oneida One Stops to be 16 years old as well as hire Oneida descendants.
This will get more income into Oneida homes and help bring an awareness to our youth and getting them
ready for the work force and finance responsibility. There is an employee turnover at One-Stops because
they transfer into other areas in the Tribe once hired. This will retain employees due to their age.

List any supporting materials included and submitted with the Agenda Request Form

- 1) Email dated May 23, 2016 from myself
- 2) Responses back from this email
- 3) Job Description
- 4) _____
- 5) Please List any laws, ordinances or resolution that might be affected:
Chapter 60 Tobacco Ordinance
- 6) Please List all other departments or person(s) you have brought your concern to:
Michele Doxtator, Retail Manager, Chairwoman Cristina Danforth, OBC,
- 7) Do you consider this request urgent? ☒ Yes ☐ No
If yes, please indicate why: retain employees....Save money

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee

Signature of Requester: _____

Dawn Moon-Kopetsky

Please send this form and all supporting materials to:

LOC@oneidanation.org

or

Legislative Operating Committee (LOC)

P.O. Box 365

Oneida, WI 54155

Phone 920-869-4376

Dawn M. Moon-Kopetsky

From: Dawn M. Moon-Kopetsky
Sent: Monday, May 23, 2016 11:40 AM
To: Michele M. Doxtator
Cc: Dawn M. Moon-Kopetsky; Cristina S. Danforth (tdanfort@oneidanation.org); Lora L. Skenandore
Subject: Question as a Community Member

Good Morning Michele,

I have two (2) questions in regard to One Stop employees:

1). Why are we not employing 16 years old?

It cannot be because of they are not able to scan cigarettes and alcohol because my stepdaughters at ages 16 and other friends 16 year olds have worked at Kwik Trips, other gas stations and grocery stores. A wait list will develop plus there will be money going back into our youth to help with community members.

2). I am also wondering why we are not hiring descendants, many of our community members live with their families who are enrolled members.

This too will help our community members households with expenses.

As I understand it right now. We increased our wage to get employees, while there is a market out there we have not even tapped into.

Thank you and I look forward to your response.

Dawn M. Moon-Kopetsky
Senior Policy Advisor
Oneida Business Committee
PO Box 365
Oneida, WI 54144-0365
(920) 869-4427
(920) 901-2015

Dawn M. Moon-Kopetsky

From: Douglass A. McIntyre
Sent: Tuesday, May 24, 2016 10:26 AM
To: Brandon L. Yellowbird-Stevens; Dawn M. Moon-Kopetsky
Cc: Maureen S. Perkins; Taniquelle J. Thurner; Michele M. Doxtator; Ronald W. Hill; Danelle A. Wilson; Rhiannon R. Metoxen
Subject: RE: Question as a Community Member
Attachments: LOC Agenda Request Form.pdf; Tobacco Ord 04 09 14 F.docx

Dawn,

Misty is correct in that section 60.6-3 of the attached Tobacco Ordinance states that no person under the age of 18 can sell cigarettes. I have also attached the LOC Agenda Request Form (ARF) if you want the LOC to add this item to the Active File List for amendments. Please fill out the ARF and return to our office (email is fine). Some people include a redline copy of the law with the ARF although this is not mandatory (and if the change is just removing this age requirement it is probably not needed). If you wanted the item to be on the 6/1 LOC Meeting the ARF would need to be in by this Thursday to be included in the packet.

Please let us know if you have any questions.

-LRO

From: Brandon L. Yellowbird-Stevens
Sent: Tuesday, May 24, 2016 10:08 AM
To: Dawn M. Moon-Kopetsky
Cc: Maureen S. Perkins; Taniquelle J. Thurner; Douglass A. McIntyre; Michele M. Doxtator; Ronald W. Hill; Danelle A. Wilson; Rhiannon R. Metoxen
Subject: RE: Question as a Community Member

Mitsy,

The LRO Staff will assist you in adding this to the active files list so we can take a look analyzing any suggested changes. Thank you

From: Michele M. Doxtator
Sent: Monday, May 23, 2016 4:18 PM
To: Dawn M. Moon-Kopetsky
Cc: Brandon L. Yellowbird-Stevens; Brian A. Doxtator; Cristina S. Danforth; Danelle A. Wilson; David P. Jordan; Fawn J. Billie; Jennifer A. Webster; Jessica L. Wallenfang; Leyne C. Orosco; Lisa A. Liggins; Lisa M. Summers; Lora L. Skenandore; Melinda J. Danforth; Nicolas A. Reynolds; Patricia M. King; Rhiannon R. Metoxen; Ronald W. Hill
Subject: RE: Question as a Community Member

Hello,

Oneida Retail doesn't set the requirements for Job Descriptions, that would be HRD's role.

The Tobacco Ordinance requires that tobacco products to be sold by Tribal Members. A change in the Ordinance would go through the LOC process.

I hope this helps, if not please let me know.

Chapter 60
TOBACCO ORDINANCE
 Oyú'kwa? Olihwa'ke
 matters concerning tobacco

60.1. Purpose and Policy
 60.2. Adoption, Amendment, Repeal
 60.3. Definitions
 60.4. Tobacco Outlets

60.5. Purchase of, Title to And Possession of Tobacco Products
 60.6. Restrictions on Sales
 60.7. Tribal Liability
 60.8. Violations

60.1. Purpose and Policy

60.1-1. *Purpose.* The purpose of this Law is to regulate the sale, possession and distribution of cigarettes within the Reservation.

60.1-2. *Policy.* It is the policy of the Tribe to ensure that all cigarette sales on the Reservation are conducted in a lawful manner.

60.2. Adoption, Amendment, Repeal

60.2-1. This Law was adopted by the Oneida Business Committee by resolution BC- 11-18-81-A and amended by resolution BC-10-10-07-A and BC-04-09-14-F.

60.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act

60.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Law which are considered to have legal force without the invalid portions.

60.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law shall control.

60.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

60.3. Definitions

60.3-1. This section shall govern the definitions of words and phrases used within this Law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Cigarette" shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size, shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

(b) "Electronic cigarette" shall mean a device that enables a person to ingest nicotine, or other chemicals or substances, by inhaling a vaporized liquid and shall include the cartridges and other products used to refill the device. "Electronic cigarette" shall not include any device that is prescribed by a healthcare professional.

(c) "Manager" shall mean an enrolled member of the Oneida Tribe of Indians of Wisconsin employed by the Tribe to manage a Tobacco outlet.

(d) "Reservation" shall mean all land within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any land added thereto pursuant to federal law.

(e) "Stamped Cigarettes" shall mean cigarettes bearing valid Wisconsin tax stamps.

(f) "Tobacco Outlet" shall mean a Tribal retail sales business selling stamped cigarettes

within the Oneida Indian Reservation.

(g) "Tribal Employee" shall mean an enrolled member of the Oneida Tribe of Indians of Wisconsin employed to work in or manage a Tobacco outlet.

(h) "Tribal Member" shall mean an enrolled member of the Oneida Tribe of Indians of Wisconsin.

(i) "Tribe" shall mean the Oneida Tribe of Indians of Wisconsin.

60.4. Tobacco Outlets

60.4-1. The Tribe shall maintain tobacco outlets within the Reservation as it deems necessary to provide adequate service to consumers of stamped cigarettes.

60.4-2. Each tobacco outlet established hereunder shall be a Tribal Tobacco Outlet and shall be managed or operated for the Tribe by a Tribal employee.

60.5. Purchase of, Title to And Possession of Tobacco Products

60.5-1. The Tribe shall purchase stamped cigarettes from such suppliers as it may choose and shall take title and possession on delivery to a tobacco outlet on the Reservation (the title shall be subject to any purchase money security interest). Possession of the stamped cigarettes (but not title) shall be transferred to the manager of the tobacco outlet to be held for sale to the consumers. The Tribe shall retain title to stamped cigarettes until sold to a consumer.

60.6. Restrictions on Sales

60.6-1. The Tribe shall be the exclusive retailer of cigarettes bearing the Wisconsin Tribal Cigarette tax stamp within the Reservation. Furthermore, only the Tribe may claim the tax refunds on cigarettes sold on the Reservation as provided for under state law.

60.6-2. The Tribe reserves the right to restrict sales, volume, pricing and profit margin of stamped cigarettes sold at a tobacco outlet.

60.6-3. Cigarettes and electronic cigarettes shall not be sold to any person under the age of eighteen (18). Cigarettes and electronic cigarettes for sale at a tobacco outlet shall be on display behind a counter. No person other than an authorized Tribal employee shall sell cigarettes and electronic cigarettes at a tobacco outlet.

60.6-4. No person may sell or offer for sale unstamped cigarettes on the Reservation.

60.7. Tribal Liability

60.7-1. The Tribe shall be responsible for all risks to the stamped cigarettes and shall carry full insurance against fire, theft, and other hazards, and such insurance shall include as a beneficiary any person owning a purchase money security interest in the products to the extent his interest may appear.

60.8 Violations

60.8-1. All cigarettes acquired, owned, possessed, sold, or distributed in violation of this Law are unlawful property and subject to seizure by any Oneida law enforcement officer.

(a) Violators subject to the jurisdiction of the Tribe shall be subject to a fine of not more than \$10 per pack of un-stamped cigarettes to be issued by the Oneida Police Department and paid to the Tribe.

(b) Tribal employees who violate this Law shall be subject to disciplinary action in accordance with the Tribe's personnel policies and procedures.

60.8-2. All fines assessed under this section shall be paid within sixty (60) days of issuance of the citation, unless the person files an appeal with the Tribe's judicial system before the fine is to

be paid.

End.

Adopted - BC-3-15-76-A

Adopted - BC-9-7-77-B

Adopted - BC-9-4-79-C

Adopted - BC-11-18-81-A

Amended - BC-10-10-07-A

Amended - BC-04-09-14-F

ONEIDA TRIBE OF INDIANS OF WISCONSIN

Human Resources Department

JOB DESCRIPTION

APPLY IN PERSON AT:

Human Resource Department
909 Packerland Drive
Green Bay, WI 54303



OR MAIL TO:

Human Resource Department
P.O. Box 365
Oneida, WI 54155-0365

APPLY ONLINE AT:

<http://oneida-nsn.gov>

Phone: (920) 496-7900

Fax: (920) 496-7490

Job Line: 1-800-236-7050

POSITION TITLE: Retail Associate (Pool)
POSITION NUMBER: Varies
DEPARTMENT: Operations
LOCATION: Various
DIVISION: Enterprise
RESPONSIBLE TO: Location Manager/Assistant Location Manager
SALARY: NE03 \$10.10/Hr (NEGOTIABLE DEPENDING ON EDUCATION & EXPERIENCE)
(Employees will receive 5% below the negotiated pay rate during their probationary status.)
CLASSIFICATION: Non-Exempt
POSTING DATE: March 30, 2016
CLOSING DATE: Ongoing Recruitment
Proposed Start Date: Applicants will be placed in a pool and will be notified as positions become available.

EQUAL EMPLOYMENT OPPORTUNITY STATEMENT

The Oneida Tribe of Indians of Wisconsin does not discriminate on the basis of race, color, national origin, sex, religion, age or disability status in employment or the provision of services. However, individuals of Indian ancestry and Veterans will be given preference by law in initial employment or re-employment.

POSITION SUMMARY

Deliver exemplary service and support the retail team in achieving the overall mission of Retail Enterprise. Continuation of this position is contingent upon funding allocations.

DUTIES AND RESPONSIBILITIES:

1. Provide exemplary comprehensive customer service.
2. Operate store management systems.
3. Assist with receiving products and safeguard assets.
4. Assist with ensuring safety, proper maintenance, and cleanliness of the location, facility and equipment.
5. Adhere to all Tribal Personnel policies and procedures, tribal operating procedures, and enterprise/business strategic plans and policies.
6. Maintain strict department security and confidentiality, of all privileged information and quality to meet professional standards of the department.
7. The above duties and responsibilities are not an all inclusive list but rather a general representation of the duties and responsibilities associated with this position. The duties and responsibilities will be subject to change based on organizational needs and/or deemed necessary.

PHYSICAL REQUIREMENTS/WORK ENVIRONMENT:

1. Continuously stand, walk, and bend/stoop; uses hand for repetitive movement, simple grasping; reach above shoulder level; and uses sight, hearing and speech.
2. Frequently squat, lift or move up to thirty (30) pounds.
3. Occasionally sit, kneel, push/pull, climb or balance, and lift and/or move up to fifty (50) pounds.
4. Employee may be exposed to outdoor temperatures and work outdoors while wearing protective clothing.
5. Work is generally performed indoors in a retail setting where employees have frequent contact with the public; exposed to second hand smoke; moderate noise level and toxic substances such as gasoline and diesel fuel.
6. Must be able to work evenings, weekends and holidays, extended hours and flexible work schedules.

JOB DESCRIPTION**Retail Associate****Page 2****PHYSICAL REQUIREMENTS/WORK ENVIRONMENT: (Cont.)**

7. Must have professional appearance and good personal hygiene.
8. A Tuberculosis (TB) Screening and/or TB Skin Test is required within thirty days of employment and annually thereafter.

STANDARD QUALIFICATIONS:

1. Knowledge of basic math.
2. Customer service oriented disposition, excellent customer relation skills and ability to treat customers with tact, courtesy, objectivity and respect to individuals of varying social and cultural backgrounds.
3. Ability to work with, reconcile and account for various forms of tender.
4. Ability to read, follow and carry out instructions provided in verbal or written format.
5. Ability to operate manual, electronic and computerized equipment used in daily Retail operations: Equipment includes but not limited to Store Management Systems (personal computer based point of sale system, gift card equipment, electronic check cashing, hand held devices, money order equipment); fuel equipment; beverage dispensers; humidors; food service equipment and standard office equipment (i.e. copier, fax, telephone, calculator, two-way radio, and printer.)
6. Ability to successfully cope with challenging conditions and situations.
7. Ability to be dependable, conscientious and possess initiative.
8. Must be able to work evenings, weekends and holidays, extended hours and flexible work schedules.
9. Must obtain and maintain required certifications and licenses.
10. Must adhere to strict confidentiality. **(Must sign a confidentiality statement prior to employment.)**
11. Must be willing and able to obtain additional education and training.
12. Must pass other pre-employment tests and assessments as determined.
13. Must pass a pre-employment drug screening. Must adhere to the Tribe's Drug and Alcohol Free Workplace Policy during the course of employment.
14. Must pass a background security check with the Oneida Tribe in order to meet the Employment Eligibility Requirements, Tribal/State Compact and/or Oneida Tribe Gaming Ordinance as they pertain to the position. A temporary license or Gaming License issued by the Oneida Gaming Commission is required as a condition of employment and continuing employment within the Oneida Tribe's Gaming Division.

PREFERRED QUALIFICATIONS:

Applicants please clearly state on the application/resume if you meet these qualifications.

1. Previous customer service experience.
2. Previous retail or service industry experience.
3. Previous experience with money/cash handling.
4. Convenience store work related experience or retail cashier/associate experience.
5. Knowledge, skills, and experience operating personal computer.
6. Knowledge and ability to communicate in Spanish.

MINIMUM QUALIFICATIONS:

Applicants please clearly state how you meet these qualifications on the application/resume.

1. **Must be an enrolled member of the Oneida Tribe of Indians of Wisconsin.**
2. Must be eighteen years or older prior to employment.
3. High School Diploma, HSED Diploma, or GED Certification is required within one (1) year of employment. Applicants age fifty (50) and older are exempt from this requirement.

ITEMS TO BE SUBMITTED:

1. **Must provide a copy of diploma, license, degree or certification upon employment.**

Legislative Operating Committee



Agenda Request Form

- 1) Request Date: August 9, 2016
- 2) Contact Person(s): Jo Anne House Dept: OLO
Phone Number: 4449 Email: jhouse1@oneidanation.org
- 3) Agenda Title: Election Law-Campaign Finance
- 4) Detailed description of the item and the reason/justification it is being brought before the Committee
Requesting that the LOC consider amending the Election Law to include campaign finance reporting.
This could be used as a tool within the election system regarding candidates and influence.
This could also be used to assist in reviewing for lobby/political influence in contracting.
Information derived from Internal Audit training. Requesting development of a report.

List any supporting materials included and submitted with the Agenda Request Form

- | | |
|----------------|----------|
| 1) <u>Memo</u> | 3) _____ |
| 2) _____ | 4) _____ |

- 5) Please List any laws, ordinances or resolution that might be affected:
Election law
- 6) Please List all other departments or person(s) you have brought your concern to:

- 7) Do you consider this request urgent? ☐ Yes ☒ No
If yes, please indicate why: _____

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee

Signature of Requester: Jo Anne House

Digitally signed by Jo Anne House
DN: cn=Jo Anne House, o=Oneida Nation, ou=Oneida Law Office, email=jhouse1@oneidanation.org, c=US
Date: 2016.08.09 16:18:02 -05'00'

Please send this form and all supporting materials to:

LOC@oneidanation.org
or
Legislative Operating Committee (LOC)
P.O. Box 365
Oneida, WI 54155
Phone 920-869-4376

JO ANNE HOUSE, PHD
CHIEF COUNSEL
JAMES R. BITTORF
DEPUTY CHIEF COUNSEL


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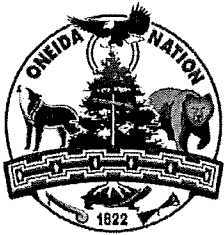
M E M O R A N D U M

TO: Legislative Operating Committee
FROM: Jo Anne House, Chief Counsel 
DATE: August 9, 2016
SUBJECT: Election Law – Campaign Financing

The Internal Audit Department provided training regarding detecting fraud, corruption and conflicts of interest. During this training, there was discussion of utilizing lobbying and campaign finance reports to detect political influence in the contracting processes.

I am requesting the Legislative Operating Committee to consider amending the Election law to include campaign finance reporting by requesting a legislative analysis regarding prior campaign finance reporting within the Nation, effectiveness, enforcement issues, and other issues regarding campaign finance reporting.

If you have further questions, please contact me.



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



TO: Legislative Operating Committee
FROM: Jennifer Falck, LRO Director *JP*
RE: Rules Template- E-poll
DATE: August 10, 2016

BACKGROUND

On May 18, 2016, the LOC approved a template to be used to draft rules under the Administrative Rulemaking Law.

On August 3, 2016 the LOC certified the Licensing Department's Marriage Fee Schedule Rule and its Marriage Fine Schedule Rule.

The LRO has since made minor changes to the template. On August 9, 2016 an E-poll was conducted with the LOC to support the new template.

REQUESTED ACTION

1. Retroactively approve the Marriage Rules template changes.
2. Approve the updated template to be used for rules drafted in the future.

From: Jennifer A. Falck

Sent: Tuesday, August 09, 2016 9:32 AM

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To: Brandon L. Yellowbird-Stevens; Rhiannon R. Metoxen; Ronald W. Hill; Danelle A. Wilson; Fawn J. Billie; Cathy L. Bachhuber; David P. Jordan; Leyne C. Orosco; Jennifer A. Webster

Subject: LOC E-Poll

E-Poll

Please respond with either a **SUPPORT** or **NOT SUPPORT**.

If we get support, we will provide the new formatted rules as a handout at tomorrow's OBC meeting. If we don't get support- I will put it on the next LOC agenda for review.

From: David P. Jordan
Sent: Tuesday, August 09, 2016 9:34 AM
To: Jennifer A. Falck; Brandon L. Yellowbird-Stevens; Rhiannon R. Metoxen; Ronald W. Hill; Danelle A. Wilson; Fawn J. Billie; Cathy L. Bachhuber; Leyne C. Orosco; Jennifer A. Webster
Subject: RE: LOC E-Poll

support

From: Jennifer A. Webster
Sent: Tuesday, August 09, 2016 9:59 AM
To: Jennifer A. Falck; Brandon L. Yellowbird-Stevens; Rhiannon R. Metoxen; Ronald W. Hill; Danelle A. Wilson; Fawn J. Billie; Cathy L. Bachhuber; David P. Jordan; Leyne C. Orosco
Subject: RE: LOC E-Poll

Support, _____

From: Ronald W. Hill
Sent: Tuesday, August 09, 2016 4:13 PM
To: Jennifer A. Falck; Brandon L. Yellowbird-Stevens; Rhiannon R. Metoxen; Ronald W. Hill; Fawn J. Billie; Cathy L. Bachhuber; David P. Jordan; Leyne C. Orosco; Jennifer A. Webster
Subject: RE: LOC E-Poll

On behalf of Tehassi - Support

From: Fawn J. Billie
Sent: Tuesday, August 09, 2016 9:55 AM
To: David P. Jordan; Jennifer A. Falck; Brandon L. Yellowbird-Stevens; Rhiannon R. Metoxen; Ronald W. Hill; Danelle A. Wilson; Cathy L. Bachhuber; Leyne C. Orosco; Jennifer A. Webster
Subject: RE: LOC E-Poll

Support _____

From: David P. Jordan
Sent: Tuesday, August 09, 2016 9:34 AM
To: Jennifer A. Falck; Brandon L. Yellowbird-Stevens; Rhiannon R. Metoxen; Ronald W. Hill; Danelle A. Wilson; Fawn J. Billie; Cathy L. Bachhuber; Leyne C. Orosco; Jennifer A. Webster
Subject: RE: LOC E-Poll

support

August 2016

August 2016						
Su	Mo	Tu	We	Th	Fr	Sa
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September 2016						
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	Monday	Tuesday	Wednesday	Thursday	Friday
Aug 1 - 5	Aug 1	2	3	4	5
			9:00am 2:00pm LOC Meeting (BC_Conf_Room) - LOC_Calendar	12:15pm 2:15pm FW: PUBLIC MEETING: Eviction & Termination Law (BC_Conf_Room) - Jennifer A. Falck	
Aug 8 - 12	8	9	10	11	12
			BC Meeting (BCCR)		
Aug 15 - 19	15	16	17	18	19
			9:00am 2:00pm LOC Meeting (BC_Conf_Room) - LOC_Calendar		
Aug 22 - 26	22	23	24	25	26
			BC Meeting (BCCR)		
Aug 29 - Sep 2	29	30	31	Sep 1	2

September 2016

September 2016						
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October 2016						
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30	31					

Monday		Tuesday		Wednesday		Thursday		Friday	
Aug 29		30		31		Sep 1		2	
Aug 29 - Sep 2									
5		6		7		8		9	
Sep 5 - 9				9:00am 2:00pm LOC Meeting (BC_Conf_Room) - LOC_Calendar					
12		13		14		15		16	
Sep 12 - 16				BC Meeting (BCCR)					
19		20		21		22		23	
Sep 19 - 23				9:00am 2:00pm LOC Meeting (BC_Conf_Room) - LOC_Calendar					
26		27		28		29		30	
Sep 26 - 30				BC Meeting (BCCR)					