

# Employment Law: *Updated Hiring Process*

**By the Legislative Operating Committee**

The Legislative Operating Committee and the Oneida Business Committee have made the development and adoption of a new Employment Law one of their top priorities. The Legislative Operating Committee has identified the importance of employees' and tribal members' understanding the Employment Law and the Oneida Employee Handbook (the "Handbook") before presenting to the General Tribal Council for a vote. The Legislative Reference Office has been directed to present informational articles regarding the Employment Law and Handbook. This article focuses on the updated hiring process for new employees; the transfer process for current employees and labor pool positions will be discussed in a subsequent article.

## Posting a Vacancy

The hiring process for new employees begins with the posting of a vacancy. The Handbook requires the approval of the employee supervisor and the reviewing supervisor (the direct supervisor of the employee supervisor) in order to post a vacancy. If the reviewing supervisor does not have budgetary sign off authority, the approval of a supervisor with such authority is also required.

A change in policy in the Handbook allows supervisors to post an upcoming vacancy prior to it actually becoming vacant to allow the current employee to train a new employee. Another change to the posting process is the application of Oneida and Indian preference. The Handbook moves the Oneida and Indian preference in hiring from a requirement to post Oneida only first to a requirement to consider Oneidas first in the interview and selection phase as described below. Accordingly, the Handbook allows all required postings to be completed in 7 days, whereas under the current policy it could take up to 28 days.

## Eligibility Screening

An HRD hiring representative will continue to perform the eligibility screening of applicants. In addition to our current eligibility requirements, we have allowed the eligibility and screening process to include previous tribal employment history. In regards to previous terminations, an employee that was terminated based on a violent act or theft committed in the course of their employment is permanently ineligible for re-hire ab-

sent a pardon or forgiveness granted pursuant to the Pardon and Forgiveness law, which in regards to employment, is available to both tribal members and non-tribal members. For all other terminations, employees become eligible for re-employment one year from the date of their termination or final action in their appeal, whichever is later. The Handbook distinguishes between terminating, which is severing employment based on disciplinary issues, and separating, which is severing employment for any other non-disciplinary issues (i.e. no longer eligible based on a background check, a bad fit during the at-will period without discipline issues, inability to return from a medical leave, resignation). Employees that are separated are not subject to the one year required wait period. Lastly, the Handbook provides that an applicant who commits an act that could be subject to discipline during the hiring process, which begins on date of application, may be screened out of the eligible applicant group for that particular position.

## Qualification Screening

Following the eligibil-

ity screening, the hiring team, consisting of the hiring representative, any employee and/or reviewing supervisors and, if applicable, any subject matter experts, will conduct qualifications based screening. In determining qualifications, a table of equivalency may be used if there are less than 3 applicants that meet the minimum requirements on the position description. The table of equivalency provides various combinations of experience and education that are acceptable in place of the education and experience required by the position description. The change is that the Handbook provides a standardized table of equivalency; whereas under the current procedures the table could be different for each position interviewed. The other revision to qualification screening is that the Handbook allows the hiring team to consider past and current employees' previous 12 months of employment records, which would include any gaps in employment, provided that if the record is provided to the hiring team, it must also be provided to the applicant.

## Conflict of Interest Screening

The hiring representative will take the place of the Personnel Commission in the conflict of interest screening. We have strengthened the conflict

of interest screening in the interview process by requiring the members of the hiring team complete a conflict of interest and nepotism disclosure form asserting that there are no actual or perceived conflicts or nepotism. The current process simply requires the Personnel Commissioner ask whether any participants have any conflicts. The conflict of interest disclosure form is then required to be filed in the employee's record. In addition, when the conflict of interest screening reveals a potential conflict of interest, the Handbook allows for dotted line reporting to a lateral non-conflicted supervisor so that employees are not at a disadvantage for being a member of a large family. This dotted line reporting is currently available upon a supervisor's request, but the Handbook makes it available to all employees that are not in positions that deal with regulatory reporting and/or compliance matters.

## Interviews

Once the eligible and qualified applicants are determined, the interviews begin. The purpose of the interview is to verify that applicants' qualifications align with the Nation's employment needs. Based on that purpose, the Handbook allows applicants whose experience does not align with the Nation's needs to be screened out of the

hiring process. The hiring representative may schedule interviews if there are one or more qualified and eligible applicants and is required to schedule interviews under the following circumstances:

(1) If there are 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.

(2) If there are not 2 or more qualified and eligible Oneida applicants, the hiring representative shall schedule interviews if there are 3 or more qualified and eligible applicants in total.

During the interviews, the hiring representative is responsible for ensuring that all questions asked are legally appropriate and employment related, but the hiring team is no longer required to ask the same questions to all applicants.

## Applicant Ranking

When interviews are concluded, the hiring representative is responsible for ranking the applicants. In this process the hiring representative applies Oneida, Indian and veteran preference

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points and calculates the interview question scores submitted by the rest of the hiring team. The Personnel Commission currently scores applicants' interview answers, however under the Handbook, the hiring representative will not actually score, they will just calculate and rank.

### Selection

When interviews have been completed, the hiring representative shall:

(1) If there are 2 or more qualified and eligible Oneida applicants when all pre-selection screening is complete, provide the supervisor(s) with the top 3 ranked Oneida applicants, unless there are only 2, in

which case the top 2 shall be provided.

(2) If there are not 2 or more qualified and eligible Oneida applicants when all pre-selection screening is complete, provide the supervisor(s) with the top 3 ranked applicants, provided that if there is 1 qualified and eligible Oneida applicant, he or she must be included in top 3 regardless of rank.

When all interviews have been conducted, the supervisor shall select an applicant for the position, provided that, if there are 2 or more qualified and eligible Oneida applicants, one of the Oneida applicants must

be selected. From this point, the applicant and the supervisor will negotiate compensation with the employee and extend an employment offer conditioned on the drug screening.

Please remember that the Employment Law is still in draft form, so it remains subject to change as the drafting team continues to receive valuable input from the Nation's employment base and membership. A link to the current draft of the Employment Law and Handbook is available

on the Oneida Nation homepage at <https://oneida-nsn.gov/Templates/Oneida.aspx?id=11057>. Please watch for upcoming meetings to be scheduled discussing the proposed Employment Law and Handbook. Our next article on the Employment Law will provide an update to items presented in earlier articles that have been revised based on feedback received from the employee base during the 24 meetings held with frontline employees and all levels of management throughout the organization.

*If you have any questions or comments regarding the Employment Law, please contact the Legislative Reference Office by e-mail at **LOC@oneidanation.org** or by telephone at **920-869-4375**.*



## Engineering Internship

OTIE has an immediate opening for Engineering Internship in our Green Bay office. This limited term position will support construction project staff on multiple municipal and transportation projects with an expected duration from May through August of 2016. Position may vary in duration and work hours.

### Typical job duties may include:

- Construction observation and layout
- Material testing,
- Quantity measurements
- Records documentation

The ideal candidate will be pursuing an associate degree or bachelor degree in civil engineering, construction management or related field. No experience is necessary; however knowledge of roadway construction methods and material testing is a plus. Oneida Tribal Members are encouraged to apply.

### Mail, fax or e-mail your resume to:

#### OTIE

Attn: Human Resources  
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Fax: 414-777-5899

Email: [hrdept@otie.com](mailto:hrdept@otie.com)

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