

SECTION V – Employee Relations

A. ORIENTATION POLICY

The Oneida Tribe reflects the unique culture and character of the Oneida Nation. The Tribe recognizes that this may present special problems and difficulties for a new employee. The Tribe therefore provides an Orientation Program designed to ease the new employee's transition into a job and enable the new employee to become effective and productive as quickly as possible.

1. Orientation Program Outline
 - a. Overview
 - b. Tribal Government and Procedures
 - c. Key Policies and Procedures
 - d. Benefits
 - e. Safety, Health and Security
 - f. Departmental Orientation
2. Responsibilities
 - a. The HRD Office will administer the General Orientation Program
 - 1) The HRD Office will assist Divisions in administering Departmental Orientation Programs.
 - b. The HRD Office will develop and establish an Employee Mentor Program with each Division.
 - 1) Employee Mentors will be responsible for conducting the Departmental Orientation.
 - 2) Employee Mentors will assist new employees throughout their probation period as a source of references and referrals.
 - c. The HRD Office will annually review the General Orientation Program and each Departmental Orientation Program to:
 - 1) Evaluate the effectiveness of each Program,
 - 2) Modify programs as necessary.
 - 3) Requirements
 - a) The HRD Office will provide a copy of the Employee Policy and Procedures Manual to new employees before (if possible) the scheduled starting date.
 - b) The General Orientation Program will be completed in appropriate stages within the first month of the new employee's starting date.
 - i. The Departmental Orientation will be completed within the first week of the starting date.
 - c) The HRD Office will administer a NEW Employee Reporting Form to provide information for the purposes of maintaining a Tribal wide skills assessment inventory and a management succession plan.

B. EVALUATIONS

1. Evaluation reports will be used in determining all promotions, transfers and salary adjustments.
2. Annual evaluation reports for each employee will be submitted to the HRD Office by August 1 of each year. (Work Standard – 6-4-14)
 - a. Evaluation reports will be retained in each employee's personnel file.
3. All Tribal employees will be evaluated at least once a year.
 - a. Employee performance evaluations will be conducted by each employee's immediate supervisor. The Business Committee will conduct the performance evaluation of the General Manager. (HR Interpretation – 11-16-11)
 - b. The supervisor will discuss the evaluation with each employee. The evaluation will then be signed by the employee and the supervisor and forwarded to the HRD Office.

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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.
 - b. Employees may appeal unsatisfactory evaluations to the HRD Manager. The HRD Manager will consult with the supervisor and the employee to negotiate an appropriate resolution (Work Standard 7-1-16)

C. CAREER DEVELOPMENT

1. Tribal employees are encouraged to develop their skills and abilities by pursuing education at a local educational institution. (BC Action – 9-9-92)
 - a. Tribal employees must provide a general Career Development Plan to the supervisor listing the goals and objectives of the training and education to be undertaken.
2. Tribal employees may be eligible for assistance for one (1) course per semester. The employee must attempt to arrange to take the class outside his/her normal working hours.
 - a. Where a class conflicts with the employee's work schedule, the needs of the Tribal unit take precedence; however, the supervisor shall attempt to accommodate the employee's request.
 - b. In no case shall the accommodation exceed actual class hours plus reasonable travel time.
 - c. Employees must obtain the approval of their immediate supervisor to take a course on Tribal time.
3. The supervisor's approval and estimated cost must be submitted to the HRD Office, the Area Manager and the General Manager. (HR Interpretation – 11-16-11)
4. The cost of the books, tuition and fees for the course shall be paid by the Tribe through funds budgeted in programs or through the Higher Education program.
 - a. Reimbursement for books, tuition and fees is contingent upon the employee receiving at least a C (2.0 on a 4.0 point scale).
 - b. Employees who receive less than the required grade point will be required to reimburse the program for whatever costs were incurred.

D. COMPLAINTS, DISCIPLINARY ACTIONS, AND GRIEVANCES

Disciplinary procedures provide a systematic process for handling problem employees. (Work Standard – 5-6-13) Disciplinary procedures serve to correct unacceptable behavior and to protect the Tribe. Grievance procedures provide a systematic process for hearing and evaluating job related disputes. Grievance procedures serve to protect employees from inconsistent and unfair treatment. In all cases of grievance and discipline, supervisors are enjoined to use common sense, discretion and judicious good sense to resolve complaints between employees, exercise disciplinary prerogatives, and handle grievances. (HR Interpretation – 2-4-13) (HR Interpretation – 1-29-14)

1. Complaints
 - a. Should an employee have a disagreement with another employee, he/she may lodge an informal (verbal) or formal (written) complaint with the employee's supervisor.
 - b. The supervisor will investigate the complaint and attempt to resolve the disagreement.

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- c. If the employee lodging the complaint is dissatisfied with the attempted resolution, he/she may ask the Area Manager to attempt a resolution.
- d. There is no further appeal of this process.
- 2. Disciplinary Actions
 - a. Disciplinary actions will be initiated by an immediate supervisor for the purpose of correcting unacceptable work performance. The supervisor will always discuss the action with the employee being disciplined to ensure that the employee:
 - 1) Understands the reason for the disciplinary action;
 - 2) Understands the expected work performance in light of the disciplinary action;
 - 3) Understands the consequences of continued unacceptable behavior.
 - b. A supervisor shall initiate disciplinary actions commensurate with the seriousness of the unsatisfactory performance. A supervisor must consider each disciplinary action in progressive order and justify a deviance from that recommended progression.
 - c. The actions listed below are examples of unacceptable work performance and do not constitute a comprehensive or exhaustive list. The actions in parentheses are guidelines for a supervisor to use in administering disciplinary actions. (W = written warning; S = suspension; T = termination):
 - 1) Work Performance
 - a) Insubordination (including disobedience) or failure/refusal to carry out assignments or instructions. (W/S/T)
 - b) Loafing, loitering, sleeping or engaging in personal business. (W/S/T)
 - c) Unauthorized disclosure of confidential information or records. (S/T)
 - d) Falsifying records or giving false information to departments and/or employees responsible for Recordkeeping. (S/T)
 - e) Failure to provide accurate and complete information where such information is required by an authorized person. (S/T)
 - f) Failure to comply with health, safety and sanitation requirements, rules and regulations. (W/S/T)
 - g) Negligence in the performance of assigned duties. (W/S/T)
 - 2) Attendance and Punctuality
 - a) Failure to report promptly and observe work schedules (such as starting time, quitting time, rest and meal breaks) without the specific approval of the supervisor. (W/S/T)
 - b) A pattern of unexcused or excessive absenteeism and/or tardiness. (W/S/T)
 - 3) Use of Property
 - a) Unauthorized or improper use of Tribal property or equipment (for example, Tribal vehicles, telephone, mail services, etc.) (W/S/T)
 - b) Unauthorized possession, removal or willful destruction of Tribal or another employee's property (including improper use of possession of uniforms, identification cards, badges, permits or weapons). (Willful destruction of property may subject the violator to applicable liability laws.) (T)
 - c) Unauthorized use, lending, borrowing or duplicating of Tribal keys. (T)
 - d) Unauthorized entry of Tribal property, including unauthorized entry outside of assigned hours of work or entry into restricted areas without prior supervisory approval. (S/T)
 - e) Theft or property shall include theft, embezzlement, cheating, defrauding, pilfering, robbery, extortion, racketeering, swindling or any of these actions, or conspiracy to commit such actions with Tribal employees or other persons against the Tribe, its guests, employee, members, customers and/or clients while on or about Tribal premises. (S/T) [\(BC Action – 12-2-88\)](#)

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- 4) Personal Actions and Appearance
 - a) Threatening, attempting, or doing bodily harm to another person. (T)
 - b) Intimidating, interfering with or using abusive language toward customers, clients, co-workers or others. (S/T)
 - c) Making false or malicious statements concerning other employees, supervisors or program heads. (W/S/T)
 - d) Use of alcohol or illegal controlled substances during work hours. (S/T)
(GTC Resolution – 01-05-09A)
 - e) Reporting for work under the influence of alcohol or illegal controlled substances. (S/T) (GTC Resolution – 01-05-09A)
 - f) Failure to immediately report any work-related injuries to the immediate supervisor. (W/S)
 - g) Direct involvement in political campaigning during scheduled work hours. Violations include:
 - i. Use of Tribal employment title in Tribal campaign activities. (W/S/T)
 1. Political materials include: leaflets, brochures, etc. which solicit support for candidates for office.
 2. Resolutions or petitions which propose that a political action be initiated.
 3. Leaflets, newsletters, or other written materials the purpose of which is to espouse political views or opinions.
 - h) The acceptance of gifts or gratuities for personal gain in the course of official duties. (Customers are allowed to tip Bingo workers, Oneida Tobacco Enterprise workers, and Museum Workers.) (W/S/T)
 - i) Inappropriate dress or personal hygiene which adversely affects the proper performance of duties or constitutes a health or safety hazard. (W/S)
 - j) Failure to exercise proper judgment. (W/S/T)
 - k) Failure to be courteous in dealing with fellow employees or the general public. (W/S/T)
 - l) Any of the following acts by employees: Arson, bribery, perjury, obstruction or interference with an investigation authorized by the Oneida Tribe. (S/T)
(BC Action – 12-2-88)
 - m) The use, possession, selling or purchasing of, or attempt to sell or purchase alcohol, and/or controlled substances on or about Tribal premises. (S/T)
(BC Action – 12-2-88)
 - n) Any violation of duly adopted Tribal ordinances. (W/S/T) (BC Action – 12-2-88)
- 5) Sexual Harassment Policy

It is the Oneida Tribe's Policy that all employees have a right to work in an environment free of discrimination which includes freedom from harassment, more specifically sexual harassment. The Oneida Tribe considers sexual harassment, in whatever form, in the workplace to be a serious violation of an individual's dignity and personal rights. In all matters, where complaint of sexual harassment is lodged against an employee, the Oneida Tribe has a duty and obligation to conduct a thorough investigation using discretion, good judgment and the principles and practice of strict confidentiality. If sexual harassment has been committed, the progressive disciplinary process is as follows (W/S/T).

Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an

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individual's employment, (2) submissions to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals, 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.

a) Sexual Harassment (W/S/T)

i. Procedure

- a. Should an employee have a complaint, he/she should file a formal (written) complaint with the Human Resources Department.
- b. The Human Resources Department is obligated to investigate the complaint which is to be held in the strictest confidence. This investigation shall be done within five (5) working days from receiving the formal written complaint.
- c. After investigating the complaint and the Human Resources Department finds cause to take disciplinary action due to sexual harassment violation, the employee will be disciplined accordingly by their supervisor. This disciplinary action shall be initiated within five (5) working days from the date the supervisor receives the report from the Human Resource Department. (BC Actions – 7-16-93)

3. Accumulated Disciplinary Actions Warranting Termination (HR Interpretation – 1-29-14) (Provided that the Drug and Alcohol Free Workplace Policy shall govern disciplinary actions warranting termination for drug and alcohol related violations.) (GTC Resolution – 01-05-09A)

- a. The accumulation of three (3) upheld warning notices within any twelve (12) month period. (T)
- b. The accumulation of two (2) upheld suspensions within any twelve (12) month period. (T)
- c. The accumulation of three (3) of any combination of upheld warning notices and/or upheld suspensions within any twelve (12) month period. (T)

4. Substance Abuse Disciplinary Procedure - Section was deleted. (GTC Resolution – 01-05-09-A)

[Click here](#) for Drug and Alcohol Free Workplace Policy.

5. Disciplinary Procedure (Disciplinary Flowchart)

The following procedure shall be adhered to whenever disciplinary action is taken.

- a. Supervisor becomes aware of unsatisfactory work performance or violation.
 - 1) Supervisor investigates through a meeting with the employees and determines whether disciplinary action is warranted.
- 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.
- c. The form will be discussed with the employee and a corrective action will be identified.
- d. The employee being disciplined will sign the form.
 - 1) Should an employee being disciplined refuse to discuss the action with his/her supervisor, the supervisor shall so note this, with date of refusal, on the form and distribute as in 5.e.
- e. Copies will be given to the employee, the HRD Manager, the supervisor, the Area Manager and General Manager within twenty-four (24) hours of the conference with the employee. (HR Interpretation – 11-16-11)
- f. Should a disciplinary action result in the suspension or termination of an employee, the following guidelines shall apply:

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- 1) The supervisor shall consult with the HRD Manager to mutually determine the length of the suspension.
 - a) Suspensions will be limited to a maximum of three (3) weeks.
 - b) Suspension/terminations that are overturned in the appeal process shall result in the employee receiving back pay for the days he/she was suspended/terminated.
6. **Grievance** [\(Grievance Flowchart\)](#)

An employee who receives a disciplinary action which he/she believes is unfair may grieve the action. The Grievance process (including appeals of disciplinary action) shall be conducted with utmost consideration for due process (within the time limits set forth herein) but will allow and account for recognized Tribal holidays and unforeseen circumstances (such as illnesses, deaths in the immediate family of principals, etc.). The HRD office will make every attempt to ensure that grievance procedures are concluded within forty-five (45) working days; however, extensions granted for reasonable unforeseen circumstances (as determined by the HRD Manager) may extend the process. The Grievance process will be governed by the following guidelines: [\(HR Interpretation – 8-19-2011\)](#)
[\(HR Interpretation – 1-29-2014\)](#)

 - a. For all disciplinary actions, regardless of severity:
 - 1) The employee (petitioner) must file an appeal in writing.
 - a) The employee may seek the assistance of a spokesperson or advocate at any time after the disciplinary action has been issued in order to aid in the resolution of the grievance process.
 - b) The appeal must be filed with the Area Manager and the HRD Manager (or designee) within ten (10) working days from the day the employee receives the disciplinary action.
 - 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 HRD Manager (or designee) at his or her discretion.
 - 3) The Area Manager will do one of the following:
 - a) Uphold the disciplinary action; or
 - b) Modify the disciplinary action; or
 - c) Overturn the disciplinary action. If a suspension or termination is overturned, the employee (petitioner) shall be reinstated with full back pay.
 - 4) The Area Manager will file a decision with the employee and the HRD Manager (or designee) and will include a reason for the decision, an explanation of the decision and the action to be taken as a result of it.
 - 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 one business day, notify the HRD Manager (or designee) that an appeal has been filed by the employee.
[\(GTC Resolution – 2-28-04A\)](#)
 - 1) Copies of all information of the subject case upon which the disciplinary action was upheld by the Area Manager will be hand delivered to the members of the Personnel Commission. The Personnel Commission will hear an appeal only if one or both of the following conditions exist:
 - a) The decision of the Area Manager is clearly against the weight of the evidence and/or

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- b) Procedural irregularities were exhibited during the appeal process that may have been harmful to one of the parties to the grievance.
- 2) If one or both of the above conditions are present, the HRD Office will convene the Personnel Commission to hear the grievance.
 - a) If neither of the above conditions is present, the Personnel Commission will deny the appeal for a hearing and affirm the decision of the Area Manager.
- 3) At least five (5) working days prior to the hearing date, the petitioner, respondent and Personnel Commission will receive notification of the hearing date.
- 4) Copies of all information on the subject case upon which the disciplinary action was upheld will be hand-delivered to the members of the Personnel Commission at least two (2) working days prior to the appeal date. The petitioner and respondent will have access to this information in the HRD Office at least two (2) days prior to the appeal date.
 - a) If new evidence which was previously unavailable is introduced at any point during the Personnel Commission appeal process, the Commission hearing will be suspended and the case will be remanded to the Area Manager for reconsideration.
 - i. The Area Manager will reconsider his/her decision in light of the new evidence and issue a decision within three (3) working days.
 - ii. This procedure may be invoked only once. Thereafter, the appeal process will continue to a conclusion based on the information originally presented and the newly introduced evidence.
- 5) The petitioner shall have the right to be represented by an advocate if he/she so chooses. The expenses of the advocate shall be the total responsibility of the petitioner. The respondent and/or area manager who is party to the grievance action shall have access to an advocate for consultation and/or representation. Should the petitioner engage outside professional legal representation, the respondent and/or area manager shall have access to professional legal representation.
 - a) Should the petitioner and his/her representative both fail to appear for any scheduled hearing without justifiable cause, the decision of the Area Manager shall be upheld and the grievance dismissed.
 - b) Should the respondent and his/her representative both fail to appear for any scheduled hearing without justifiable cause, the decision of the Area Manager shall be overturned.
- 6) The decision of the Personnel Commission shall be based solely on the information presented to them before the appeal hearing, the record of the prior proceedings and any new evidence (if introduced appropriately through the provisions of 6.b.4.a. above).
- 7) The decision of the Personnel Commission shall be final. The Personnel Commission may:
 - a) Uphold the disciplinary action; or
 - b) Overturn the disciplinary action and:
 - i. Reinstatement the employee (petitioner) with full back pay for any lost time;
 - ii. Reinstatement the employee (petitioner) without back pay.
- 8) The petitioner and respondent have a right to a speedy hearing and decision; therefore, notification of the final decision will be made within five (5) working days following the hearing.
 - a) Notification of the final decision will include:
 - i. The final decision;

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- ii. The reason(s) for the final decision; and
 - iii. The action to be taken as a result of the final decision.
- 9) The HRD Office shall:
 - a) Keep all records of the hearing;
 - b) Provide copies of administrative advocacy rules, procedural rules, and time line rules to interested parties.