



## **LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA**

Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center

June 6, 2018 9:00 a.m.

### **I. Call to Order and Approval of the Agenda**

### **II. Minutes to be approved**

1. May 16, 2018 LOC Meeting Minutes (pg. 2)

### **III. Current Business**

1. Sanctions and Penalties Law (pg. 4)
2. Military Service Employee Protection Act Emergency Amendments (pg. 24)
3. Oneida Personnel Policies and Procedures Emergency Amendments (pg. 43)
4. Petition: G. Dallas \$5,000.00 Per Capita Payment (pg. 103)
5. Personnel Selection Committee By-laws (pg. 107)

### **IV. New Submissions**

1. Petition: Metivier – 2019 Hourly Wage Increase (pg. 118)
2. Petition: G. Powless – Oneida Personnel Commission Dissolution (pg. 119)
3. Harvest Law (pg. 120)

### **V. Additions**

### **VI. Administrative Updates**

### **VII. Executive Session**

### **VIII. Recess/Adjourn**



## **LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES**

Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center

May 16, 2018

1:30 p.m.

**Present:** David P. Jordan, Ernest Stevens III, Jennifer Webster, Kirby Metoxen, Daniel Guzman King

**Others Present:** Brandon Wisneski, Clorissa Santiago, Jen Falck, Maureen Perkins, Rae Skenandore, Lee Cornelius, Robert Collins, Kelly McAndrews, Bonnie Pigman, Sheila Huntington

### **I. Call to Order and Approval of the Agenda**

David P. Jordan called the May 16, 2018 Legislative Operating Committee meeting to order at 1:30 p.m.

Motion by Kirby Metoxen to adopt the agenda; seconded by Daniel Guzman King. Motion carried unanimously.

### **II. Minutes to be Approved (0:58-1:08)**

#### **May 02, 2018 LOC minutes**

Motions by Kirby Metoxen to approve the May 02, 2018 LOC minutes and forward to the Oneida Business Committee for consideration; seconded by Daniel Guzman King. Motion carried unanimously.

### **III. Current Business**

#### **1. Personnel Selection Committee Bylaws (1:10-2:38)**

Motion by Jennifer Webster to accept the Personnel Selection Committee Bylaws, conduct an E-poll for the legislative analysis and forward to the Oneida Business Committee for approval; seconded by Kirby Metoxen. Motion carried unanimously.

#### **2. Comprehensive Policy Governing Boards, Committees, and Commissions Amendments (2:46-5:05)**

Motion by Kirby Metoxen to approve the public meeting packet and forward the Comprehensive Policy Governing Boards, Committees, and Commissions amendments to a public meeting to be held on June 21, 2018; seconded by Daniel Guzman King. Motion carried unanimously.

Subsequent motion by Kirby Metoxen to forward the Comprehensive Policy Governing Boards, Committees, and Commission amendments to the Finance Office for a fiscal analysis; seconded by Jennifer Webster. Motion carried unanimously.



**3. Petition: G. Dallas 5k Per Capita (5:54-6:52)**

Motion by Jennifer Webster to approve the Petition: G. Dallas-\$5k Per Capita 45 day update and forward to the Oneida Business Committee; seconded by Ernest Stevens III. Motion carried unanimously.

**IV. New Submissions**

**1. Petition: Metivier- 2019 Wage Increase (7:08 – 8:40)**

Motion by Ernest Stevens III to accept the statement of effect for Petition: Metivier-2019 Wage Increase and forward to the Oneida Business Committee; seconded by Jennifer Webster. Motion carried unanimously.

**V. Additions**

**VI. Administrative Updates**

**1. Leasing Rule #2- Agricultural Leases (8:50-16:06)**

Motion by Jennifer Webster to approve Leasing Law Rule # 2 – Agricultural Leases with the understanding amendments to the rule will be finalized within 120 days; seconded by Kirby Metoxen. Motion carried unanimously.

**2. Leasing Rule #3- Commercial Leases (16:08-17:06)**

Motion by Ernest Stevens III to approve Leasing Law Rule # 3 – Commercial Leases with the understanding amendments to the rule will be finalized within 120 days; seconded by Kirby Metoxen. Motion carried unanimously.

**3. GTC FY 18 Semi-Annual Report (17:13-20:13)**

Motion by Jennifer Webster to approve the LOC FY18 GTC Semi-Annual Report and forward to the Tribal Secretary's Office to be placed in the 2018 GTC Semi-Annual Meeting packet; seconded by Ernest Stevens III. Motion carried unanimously.

**VII. Executive Session**

**VIII. Adjourn**

Motion by Kirby Metoxen to adjourn the May 16, 2018 Legislative Operating Committee meeting at 1:50 p.m.; seconded by Ernest Stevens III. Motion carried unanimously.



## Legislative Operating Committee June 6, 2018

# Sanctions and Penalties Law

<b>Submission Date:</b> 9/6/17	<b>Public Meeting:</b> n/a
<b>LOC Sponsor:</b> Jennifer Webster	<b>Emergency Enacted:</b> n/a

**Summary:** *This item was carried over from the previous term. The original proposal was to develop a consistent process that would provide for members of the Oneida Business Committee and other Boards, Committees and Commissions to face sanctions for misconduct. Currently, the only penalty that OBC members may be subject to, is removal from office – meaning that less serious misconduct would either go unpunished or would result in a penalty that might be considered too extreme for a particular violation.*

**9/6/17 LOC:** Motion by Ernest Stevens III to add Sanctions and Penalties Law to the active files list with Jennifer Webster as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

**9/6/17:** *Work Meeting.* Present: David P. Jordan, Jenny Webster Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Candice Skenandore, Maureen Perkins, Tani Thurner. Drafting attorney provided an update on the status of the Sanctions and Penalties law. Next steps will be: 1) pull the current draft back, 2) hold community meetings to understand what sanctions/penalties the community is interested in, 3) meeting with the boards/committees/commissions for input, and 4) holding work meeting with LOC to make policy decisions and choose next steps.

**11/1/17:** Motion by Kirby Metoxen approve the 60 day active files list update and continue development of all the items on the active files list; seconded by Ernie Stevens III. Motion carried unanimously.

*Work Meeting.* Present: Carol Silva, Bonnie Pigman, Ed Delgado, Rachel Hill, Matthew Denny, Reynold Danforth, Kirby Metoxen, Rosa Laster, Clorissa Santiago, Candice Skenandore, Maureen Perkins, Jennifer Falck. Representatives from all the B/C/C's were invited to this meeting to provide input on what a Sanctions & Penalties Law might look like.

**12/6/17:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Daniel Guzman King, Clorissa Santiago, Jennifer Falck. The LOC reviewed and considered comments from the November 1, 2017, work meeting with boards, committees, and commissions. LOC began making policy decisions. Drafter will work on draft, and policy options, and bring materials back to LOC when ready.

**3/9/18:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Clorissa Santiago, Brandon Wisneski, Rosa Laster, Laura Laitinen-Warren. LOC reviewed the first draft of the law, and directed that the LRO schedule a community meeting, with a special invitation to members of boards, committees, and commissions, to discuss the proposed law.

**3/16/18:** *Work Meeting:* Present: David P. Jordan, Jennifer Webster, Daniel Guzman, Ernest Stevens III, Clorissa Santiago, Brandon Wisneski, Cathy Bachhuber, Rosa Laster. The LOC reviewed the potential date for the community meeting, and directed the drafting attorney to schedule the community meeting for May 3, 2018, and to ensure the notice is published in the

Kalihwisaks twice, an appointment is sent to all members of the LOC and boards, committees, and commissions, and that the Communications Department is included in the appointment so they can make efforts to communicate notice of the event.

- 4/2/18 LOC:** Motion by Jennifer Webster to accept the draft of the Sanctions and Penalties law and direct that a community meeting/potluck be held on May 3, 2018; seconded by Daniel Guzman King. Motion carried unanimously.
- 4/26/18:** Work Meeting: Present: Clorissa Santiago, Brandon Wisneski, Jennifer Falck. This was an LRO prep meeting to prepare a plan for the upcoming community meeting.
- 4/27/18:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Ernest Stevens III, Daniel Guzman King, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Rosa Laster, Cathy Bachhuber, Tani Thurner. The purpose of this work meeting was to prepare for the upcoming community meeting.
- 5/2/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Jennifer Falck, David P. Jordan, Jennifer Webster. The LOC continued to prepare and discuss the upcoming community meeting.
- 5/3/18:** *Community Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Maureen Perkins, Carol Silva, Chad Wilson, Janice McLester, Gina Buenrostro, Winnifred Thomas, Brooke Doxtator, Ed Delgado, Oyanolu Adams, Michelle Braaten, Mark Powless, Cathy L. Metoxen, Carole Liggins, Madelyn Genskow. The purpose of this community meeting was to gain input on the proposed Sanctions and Penalties law.
- 5/11/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Daniel Guzman, Clorissa Santiago, Brandon Wisneski, Jennifer Falck. The purpose of this work meeting was to review the comments received during the community meeting, and to determine if any revisions should be made to the law. The drafting attorney will update the draft of the law based on this discussion.
- 5/16/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Laura Laitinen-Warren. The purpose of this work meeting was to review and discuss the revisions to the draft made based on comments collected from the community meeting. Drafting attorney will update the draft.

#### **Next Steps:**

- Accept the draft of the Sanctions and Penalties law and direct that a legislative analysis be completed.

## **Title 1. Government and Finances - Chapter 120**

### **SANCTIONS AND PENALTIES**

120.1. Purpose and Policy  
120.2. Adoption, Amendment, Repeal  
120.3. Definitions  
120.4. Misconduct.  
120.5. Filing of a Complaint

120.6. Complaint Alleged Against an Appointed Official  
120.7. Complaint Alleged Against an Elected Official  
120.8. Sanctions and Penalties  
120.9. Effect of Resignation by an Official  
120.10. Record of Conduct in Office

#### **120.1. Purpose and Policy**

120.1-1. *Purpose.* The purpose of this law is to establish a consistent set of sanctions and penalties that may be imposed upon elected and appointed officials of the Nation, including members of the Oneida Business Committee, for misconduct in office; and to establish an orderly and fair process for imposing such sanctions and penalties. This law does not apply to judges of the Oneida Nation Judiciary.

120.1-2. *Policy.* It is the policy of the Nation to ensure that elected and appointed officials who commit misconduct while in office be subject to appropriate sanctions and penalties; and to ensure that there is a fair process in place that enables officials to fairly respond to allegations of misconduct.

120.1-3. It is the intent of the Nation that all elected and appointed officials strive to exhibit and uphold the Nation's core values of The Good Mind as expressed by On<yote>a-ka, which includes:

- (a) Kahletsyal&sla. The heart felt encouragement of the best in each of us.
- (b) Kanolukhw@sla. Compassion, caring, identity, and joy of being.
- (c) Ka>nikuhli=y%. The openness of the good spirit and mind.
- (d) Ka>tshatst^sla. The strength of belief and vision as a People.
- (e) Kalihwi=y%. The use of the good words about ourselves, our Nation, and our future.
- (f) Twahwahts\$lay<. All of us are family.
- (g) Yukwats\$stay<. Our fire, our spirit within each one of us.

#### **120.2. Adoption, Amendment, Repeal**

120.2-1. This law was adopted by the General Tribal Council by resolution GTC-\_\_-\_\_-\_\_.

120.2-2. This law may be amended or repealed by the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

120.2-3. 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.

120.2-4. 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.

120.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

#### **120.3. Definitions**

120.3-1. 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) “Affirmative defense” means a fact or set of facts other than those alleged by the complainant which, if proven by the official, defeats or mitigates the consequences of the official's otherwise unlawful conduct.

(b) “Answer” means a formal written statement addressing the dispute on the merits and presents any defenses and counterclaims.

(c) “Business Committee Support Office” means the office that provides administrative support for the Oneida Business Committee and various other governmental operations.

(d) “Business day” means Monday through Friday 8:00 a.m. – 4:30 p.m., excluding holidays recognized by the Nation.

~~(e)~~ (e) “Clear and convincing evidence” means that it is substantially more likely than not that the facts presented are true.

~~(f)~~ “Complainant” means an individual who has made a complaint.

~~(g)~~ “Constitution” means the Constitution and By-Laws of the Oneida Nation.

~~(h)~~ “Court of Appeals” means the Court of Appeals of the Oneida Nation Judiciary.

~~(i)~~ “Entity” means a board, committee or commission of the Nation, including the Oneida Business Committee.

~~(j)~~ “(j) “Frivolous” means a complaint without any reasonable basis or merit, that cannot be supported by a good faith argument. Most often frivolous complaints are intended to merely harass, delay, or embarrass the opposition.

~~(k)~~ “Misconduct” means wrongful, improper or unlawful conduct or behavior.

~~(l)~~ “Nation” means the Oneida Nation.

~~(m)~~ “Official” means any person who is elected or appointed to serve on a board, committee or commission of the Nation, including the Oneida Business Committee.

~~(n)~~ “(n) “Preponderance of the evidence” means it is more likely than not that the facts presented are true.

~~(o)~~ “(o) “Restitution” means compensation to an individual for an injury, damage or loss.

~~(p)~~ “Stipend” means the amount paid by the Oneida Nation to individuals serving on boards, committees and commissions of the Nation to offset the expenses of being a member on the board, committee or commission.

~~(q)~~ “Substantiate” means to find that the complaint or allegation in the complaint is valid because there is ~~proof by a preponderance of the~~ clear and convincing evidence.

~~(r)~~ “Trial Court” means the Trial Court of the Oneida Nation Judiciary.

#### 120.4. Misconduct

120.4-1. It shall be the obligation of every official to behave in a manner that promotes the highest ethical and moral standard. ~~The high~~ High moral and ethical standards amongst officials of the Nation is essential to the conduct of government.

120.4-2. An official may be subject to sanctions and penalties for behaving in a manner which constitutes misconduct. Misconduct includes:

(a) a violation of the Constitution or any of the Nation’s laws, policies, or rules;

(b) a violation of the bylaws, standard operating procedures or other internal operating documents that govern the entity upon which the official serves;

~~(c) the failure to exhibit and uphold the Nation’s core values of The Good Mind as expressed by On-yote-a-ka, which includes:~~

~~(1) Kahletsyal&sla. The heart felt encouragement of the best in each of us.~~

~~(2) Kanolukhw&sla. Compassion, caring, identity, and joy of being.~~

~~(3) Ka-nikuhli-y%. The openness of the good spirit and mind.~~



~~(4) Ka-tshatst<sup>^</sup>sla. The strength of belief and vision as a People.~~

~~(5) Kalihwi-y%. The use of the good words about ourselves, our Nation, and our future.~~

~~(6) Twahwahts<sup>l</sup>ay<. All of us are family.~~

~~(7) Yukwats<sup>l</sup>stay<. Our fire, our spirit within each one of us.~~

(d) a conviction of a felony, or any crime in any jurisdiction that would be classified as a felony under federal law or Wisconsin law; and

(ed) any other activity that is incompatible with the high moral and ethical standards that are expected of the Nation's officials.

## 120.5. Filing of a Complaint

120.5-1. *Who May File.* Any individual at least eighteen (18) years of age or older, or entity, who in good faith, has knowledge or reason to believe that an official has committed misconduct, may file a written complaint.

120.5-2. *When to File.* A complaint may be filed as long as the alleged misconduct has occurred within the previous ~~one (1) year~~ninety (90) days.

120.5-3. *Contents of the Complaint.* The complaint alleging misconduct by an official shall include the following information:

- (a) The name(s) of the official alleged to have committed the misconduct;
- (b) The entity or entities upon which the official serves;
- (c) The specific date(s), time(s), and location(s) of the alleged misconduct;
- (d) The specific details of the official's misconduct;
- (e) The specific provision of law, policy, rule, or bylaw of the Nation allegedly violated by the official;
- (f) Names of any witnesses of the alleged misconduct, or individuals who may have knowledge pertinent to the alleged misconduct;
- (g) The contact information for the person filing the complaint, which at minimum shall include the person's name, address, and telephone number;
- (h) A notarized sworn statement attesting that the information provided in and with the complaint is true, accurate, and complete to the best of the complainant's knowledge;
- (i) Any supporting documentation; and
- (j) Any other information required by the Nation's Rules of Civil Procedure if the complaint is alleging misconduct of an elected official.

120.5-4. *Where to File.*

(a) *Appointed Official.* Complaints against an appointed official shall be filed with the Business Committee Support Office.

(b) *Elected Official.* Complaints against an elected official shall be filed with the Nation's Trial Court.

120.5-5. *Retaliation Prohibited.* Retaliation against any individual who makes a complaint or party or witness to a complaint is prohibited. This protection shall also be afforded to any person offering testimony or evidence or complying with directives authorized under this law. Retaliation shall include any form of adverse or punitive action by or caused by, any official.

120.5-6. Any official who is the subject of a complaint has the right to be represented by an attorney or advocate, at his or her own expense, for any actions or proceedings related to the complaint.

## 120.6. Complaints Alleged Against an Appointed Official



120.6-1. Due to the fact that an appointed official serves at the discretion of the Oneida Business Committee, all complaints alleged against an appointed official shall be handled by the Oneida Business Committee.

120.6-2. *Receipt of Complaint.* Upon receiving a complaint, the Business Committee Support Office shall:

(a) immediately forward copies of the complaint, including any supporting documentation, to:

(1) all members of the Oneida Business Committee for review; and

(2) the individual who is the subject of the complaint.

(b) place the complaint on the executive session portion of the agenda of a regular or special meeting of the Oneida Business Committee for an initial review within thirty (30) days after receipt of complaint.

120.6-~~23~~. *Answer to the Complaint.* The individual who is the subject of the complaint shall have ten (10) business days after receiving his or her copy of the complaint, to submit to the Business Committee Support Office a written answer setting forth any admission, denial, affirmative defense, or other relevant information upon which the official intends to rely during proceedings related to the complaint.

(a) The Business Committee Support Office shall immediately forward the answer and any supporting documentation to all members of the Oneida Business Committee upon receipt from the individual who is the subject of the complaint.

120.6-~~34~~. *Conflict of Interest.* An Oneida Business Committee member that has a conflict of interest in a complaint brought before the Oneida Business Committee, shall immediately recuse themselves and shall not participate in the initial review or the investigatory hearing.

(a) Failure of an Oneida Business Committee member to recuse themselves due to a conflict of interest shall constitute grounds for sanctions and/or penalties.

120.6-~~45~~. *Initial Review.* The Oneida Business Committee shall perform an initial review of an allegation of misconduct on the part of an official. The purpose of the initial review shall be to determine whether the allegation made within the complaint has merit.

(a) During the initial review the Oneida Business Committee shall review the complaint and the written answer; as well as any supporting documentation.

(b) In order to determine if a complaint has merit, the Oneida Business Committee will discuss if whether assuming the facts alleged are true, said facts would support a determination of misconduct.

(c) The Oneida Business Committee shall determine, by majority vote, whether the complaint has merit.

(1) Upon a finding that the complaint has merit, the Oneida Business Committee shall schedule an investigatory hearing to consider the specific allegations identified in the complaint.

(2) Upon finding that a complaint has no merit, the Oneida Business Committee shall dismiss the complaint.

(A) If the Oneida Business Committee dismisses the complaint based on a determination that the complaint was frivolous, false, or made with a malicious intent, the complainant may be subject to:

(i) a fine not to exceed five hundred dollars ~~(\$??); (\$500);~~

(ii) prohibition from filing another complaint for (a) period of time ~~;~~ not to exceed one (1) year; and/or

(iii) a civil suit in the Nation's Trial Court brought by the official accused by the frivolous, false or malicious allegation.

120.6-~~56~~. *Investigatory Hearing*. The investigatory hearing shall occur within thirty (30) days after the initial review has concluded. The investigatory hearing shall take place during the executive session portion of the agenda of a regular or special meeting of the Oneida Business Committee. The purpose of the investigatory hearing is for the Oneida Business Committee to determine if there is enough evidence to substantiate the allegations of misconduct by a ~~preponderance of the~~ clear and convincing evidence.

(a) When conducting an investigatory hearing, the Oneida Business Committee shall have the broadest grant of authority to compel any person or organization within the Nation to:

(1) appear at the hearing to provide testimony under oath and/or information relevant to the allegations against the official; and/or

(2) produce physical evidence that is relevant to the allegations.

(b) The Oneida Business Committee shall provide an opportunity for the official who is the subject of the complaint to answer all allegations and to provide witness testimony, documents, and other evidence on his or her own behalf.

(c) The Oneida Business Committee shall also provide the complainant the opportunity to answer questions, provide witness testimony or additional information, and/or to otherwise speak on his or her own behalf.

(d) The hearing shall be informal and conducted as the interests of justice so require, and shall be recorded by the Business Committee Support Office.

120.6-~~67~~. *Deliberation of the Oneida Business Committee*. At the conclusion of the investigatory hearing, the Oneida Business Committee shall excuse everyone from executive session for the deliberation of the Oneida Business Committee. Prior to making a final determination as to whether to substantiate the complaint, the Oneida Business Committee shall:

(~~1~~a) consider all evidence and information provided, and shall have a full and complete discussion of all aspects of the complaint and answer; and

(~~2~~b) have a full and complete discussion of all potential sanctions and penalties that may be imposed, if appropriate.

120.6-~~78~~. *Determination by the Oneida Business Committee*. After the investigatory hearing has concluded and the Oneida Business Committee has deliberated, the Oneida Business Committee shall in open session of a regular or special Oneida Business Committee meeting, by majority vote, declare whether the Oneida Business Committee has determined there is enough evidence to substantiate the allegations of misconduct by a ~~preponderance of the~~ clear and convincing evidence.

(a) If the Oneida Business Committee finds that there is ~~preponderance of the~~ clear and convincing evidence that the official engaged in misconduct, the Oneida Business Committee shall, by majority vote, determine and impose appropriate sanctions and/or penalties.

(b) If the Oneida Business Committee does not find that there is ~~preponderance of the~~ clear and convincing evidence to support the allegations that the official engaged in misconduct, the complaint shall be dismissed.

(c) Within ten (10) business days after the investigatory hearing, the Oneida Business Committee shall issue a written decision and provide copies of the decision to:

(1) the complainant,

(2) the official who is the subject of the complaint, and

(3) the Business Committee Support Office, for recordkeeping.

120.6-89. *Appeal*. The complainant and the official who is the subject of the complaint shall both have the right to appeal the Oneida Business Committee's decision to the Court of Appeals within twenty (20) days after the written decision is issued. The appeal shall be limited to review of the record, and the Oneida Business Committee's decision may only be overturned if the Court of Appeals determines that:

- (a) The findings or penalties imposed were clearly erroneous, unsupported by the record, or made on unreasonable grounds or without any proper consideration of circumstances; or
- (b) Procedural irregularities occurred which prevented a fair and impartial hearing.

### 120.7. Complaints Alleged Against an Elected Official

120.7-1. The Trial Court shall have jurisdiction to hear complaints of alleged misconduct of elected officials. Complaints of alleged misconduct shall be filed with the Trial Court pursuant to the Nation's Rules of Civil Procedure.

120.7-2. In a civil action against an elected official for misconduct, the complainant has the burden of proving by ~~a preponderance of the~~ clear and convincing evidence that the official engaged in misconduct.

120.7-3. In making a final determination, the Trial Court shall determine if there is enough evidence to substantiate the allegations of misconduct by the official by ~~a preponderance of the~~ clear and convincing evidence.

(a) If the Trial Court finds that there is ~~a preponderance of the~~ clear and convincing evidence that the official engaged in misconduct, the Trial Court shall determine and impose any sanctions and/or penalties deemed appropriate in accordance with this law.

(b) If the Trial Court does not find that there is ~~a preponderance of the~~ clear and convincing evidence to support the allegations that the official engaged in misconduct, the complaint shall be dismissed.

120.7-4. *Appeal*. The complainant and the official who is the subject of the complaint shall both have the right to appeal the Trial Court's decision to the Court of Appeals pursuant to the Nation's Rules of Appellate Procedure.

120.7-5. The Trial Court shall provide the Business Committee Support Office a copy of the complaint and the determination of the Trial Court for the official's record of conduct in office.

### 120.8. Sanctions and Penalties

120.8-1. A sanction or penalty, or any combination of sanctions and/or penalties, may be imposed upon the Nation's officials for misconduct in office, in accordance with this law.

120.8-2. Sanctions and penalties may include:

(a) *Verbal Reprimand*. A verbal reprimand may be imposed on the official.

(1) The Oneida Business Committee or Trial Court shall submit written notices to both the official and to the Business Committee Support Office of the specific date, time and location of the verbal reprimand. The verbal reprimand shall occur at an Oneida Business Committee meeting and/or a General Tribal Council meeting.

(2) To impose the verbal reprimand, the Oneida Business Committee Chairperson shall read a statement that identifies:

(A) The Oneida Business Committee or Trial Court's findings regarding the specific actions or inaction taken by the official that were found to be misconduct;

(B) The reasons why the official's actions or inactions amounted to misconduct;

(C) A statement identifying that the misconduct violates the high standards of behavior expected of the Nation's officials and is not acceptable; and

(D) A direction to the official to refrain from engaging in future misconduct.

(b) *Public Apology.* The official may be ordered to make a public apology. The Oneida Business Committee or Trial Court shall submit written notices to both the official and to the Business Committee Support Office of the specific date, time and location of the public apology. The public apology shall occur at an Oneida Business Committee meeting and/or a General Tribal Council meeting. The public apology shall:

(1) identify the specific misconduct committed by the official;

(2) recognize that the official's actions or ~~actions~~inactions were wrong;

(3) identify the effects of the official's misconduct; and

(4) include a clear and unambiguous apology from the official.

(c) *Written Reprimand.* A written reprimand may be imposed on the official by publication on the Nation's official media outlets, as determined by the Oneida Business Committee. The Oneida Business Committee or the Trial Court may publish a written reprimand which includes the information required for the verbal reprimand as stated in section 120.8-2(a)(2)(A)-(D).

(d) *Suspension.* An official may be suspended from performing his or her duties as an official for one (1) consecutive period of time, not to exceed sixty (60) days.

(1) During a suspension, the official shall not:

(A) attend meetings, trainings or any other event as part of the entity;

(B) attend conferences or other events on behalf of, or as a representative of, the entity;

(C) vote or participate in any activities of the entity;

(D) perform work on behalf of the entity; or

(E) be eligible for any compensation, including regular pay, stipends, or mileage reimbursement.

(2) When an official is suspended, the Oneida Business Committee or Trial Court shall submit written notices to both the official and to the Business Committee Support Office of the specific start and end date of the suspension.

(e) *Restitution.* An official may be ordered to pay restitution, which may include the repayment of any improperly-received benefit, or any other payment which is intended to make another whole after suffering losses as a result of the official's misconduct.

(f) *Fines.* An official may be ordered to pay a fine not to exceed ~~\_\_\_\_\_~~five thousand dollars ~~(\$#)~~(\$5,000) per act of misconduct.

(1) Fines shall be paid to ~~\_\_\_\_\_~~the Trial Court.

(2) Fines shall be paid within ninety (90) days after the order is issued or upheld on final appeal, whichever is later. Cash shall not be accepted for payment of fines. If the fine is not paid by this deadline, the ~~\_\_\_\_\_~~Trial Court may seek to collect the money owed through the Nation's garnishment and/or per capita attachment process.

(3) Money received from fines shall be deposited into the General Fund.

(4) Community service may be substituted for part or all of any fine at the rate of ten dollars (\$10) for each hour of community service.

(g) *Loss of Stipend.* An official may be ordered to forfeit a stipend for his or her service on an entity ~~for up to~~ not to ~~(#)exceed twelve (12)~~ meetings.

(h) *Termination of Appointment.* An appointed official may have his or her appointment terminated by the Oneida Business Committee in accordance with the Nation's laws and/or policies governing boards, committees, and commissions.

(i) *Removal.* The Trial Court may recommend that the process for removing an elected official as contained in the Nation's laws and/or policies governing removal be initiated.

(j) *Prohibition.* An official may be prohibited from serving on an entity for a period of time not to exceed three (3) years.

120.8-3. *Factors in Determining an Appropriate Sanction and/or Penalty.* When determining the appropriate sanction or sanctions to impose, the Oneida Business Committee or the Trial Court may consider all factors it deems relevant, including but not limited to:

(a) the seriousness or severity of the misconduct;

(b) whether the conduct was intentional or not;

(c) the likelihood of repetition;

(d) the extent of probable damage to the finances or reputation of the Nation, the complainant, the entity, or to any other person or organization;

(e) whether the official or his or her family personally profited, financially or otherwise, from the prohibited conduct;

(f) the official's remorse, or

(g) the official's willingness and ability to take steps to mitigate the harm caused by the violation, and

(h) any prior complaints filed, including any previous sanctions and penalties imposed upon the official while serving on an entity.

120.8-4. The imposition of sanctions and/or penalties in accordance with this law does not exempt an official from individual liability for the underlying misconduct, and does not limit any penalties that may be imposed in accordance with other applicable laws. In addition to any sanctions and penalties that may be imposed in accordance with this law, officials who commit misconduct in office may be subject to other consequences; including but not limited to:

(a) removal in accordance with the Nation's laws and/or policies governing removal, if an elected official;

(b) termination of appointment by the Oneida Business Committee, if an appointed official;

(c) criminal prosecution, for misconduct that also violates applicable criminal law;

(d) civil liability, in accordance with the applicable law of any jurisdiction; and/or

(e) penalties for specific misconduct as authorized by any other law of the Nation.

## **120.9. Effect of Resignation by an Official**

120.9-1. The resignation of an official after a complaint has been filed against the official shall not affect the status of the hearing and determination by either the Oneida Business Committee or Trial Court.

120.9-2. An official who resigns may still be subject to sanctions and/or penalties at the discretion of the Oneida Business Committee or Trial Court.

**120.10. Record of Conduct in Office**

120.10-1. The Business Committee Support Office shall maintain a record of conduct in office for each official.

120.10-2. The record of conduct in office maintained for each official shall include, at a minimum:

- (a) a copy of each complaint filed against the official;
- (b) the outcome of the complaint, and
- (c) any sanctions or penalties imposed upon an official.

120.10-3. The record of conduct in office for each official shall be maintained for a period of no less than ten (10) years.

*End.*

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Adopted –



## **Title 1. Government and Finances - Chapter 120**

### **SANCTIONS AND PENALTIES**

120.1. Purpose and Policy  
120.2. Adoption, Amendment, Repeal  
120.3. Definitions  
120.4. Misconduct.  
120.5. Filing of a Complaint

120.7. Complaint Alleged Against an Elected Official  
120.8. Sanctions and Penalties  
120.9. Effect of Resignation by an Official  
120.10. Record of Conduct in Office

120.6. Complaint Alleged Against an Appointed Official

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#### **120.1. Purpose and Policy**

120.1-1. *Purpose.* The purpose of this law is to establish a consistent set of sanctions and penalties that may be imposed upon elected and appointed officials of the Nation, including members of the Oneida Business Committee, for misconduct in office; and to establish an orderly and fair process for imposing such sanctions and penalties. This law does not apply to judges of the Oneida Nation Judiciary.

120.1-2. *Policy.* It is the policy of the Nation to ensure that elected and appointed officials who commit misconduct while in office be subject to appropriate sanctions and penalties; and to ensure that there is a fair process in place that enables officials to fairly respond to allegations of misconduct.

120.1-3. It is the intent of the Nation that all elected and appointed officials strive to exhibit and uphold the Nation's core values of The Good Mind as expressed by On<yote>a-ka, which includes:

- (a) Kahletsyal&sla. The heart felt encouragement of the best in each of us.
- (b) Kanolukhw@sla. Compassion, caring, identity, and joy of being.
- (c) Ka>nikuhli=y%. The openness of the good spirit and mind.
- (d) Ka>tshatst^sla. The strength of belief and vision as a People.
- (e) Kalihwi=y%. The use of the good words about ourselves, our Nation, and our future.
- (f) Twahwahts\$lay<. All of us are family.
- (g) Yukwats\$stay<. Our fire, our spirit within each one of us.

#### **120.2. Adoption, Amendment, Repeal**

120.2-1. This law was adopted by the General Tribal Council by resolution GTC-\_\_-\_\_-\_\_-\_\_.

120.2-2. This law may be amended or repealed by the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

120.2-3. 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.

120.2-4. 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.

120.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

#### **120.3. Definitions**

120.3-1. 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) “Affirmative defense” means a fact or set of facts other than those alleged by the complainant which, if proven by the official, defeats or mitigates the consequences of the official's otherwise unlawful conduct.
- (b) “Answer” means a formal written statement addressing the dispute on the merits and presents any defenses and counterclaims.
- (c) “Business Committee Support Office” means the office that provides administrative support for the Oneida Business Committee and various other governmental operations.
- (d) “Business day” means Monday through Friday 8:00 a.m. – 4:30 p.m., excluding holidays recognized by the Nation.
- (e) “Clear and convincing evidence” means that it is substantially more likely than not that the facts presented are true.
- (f) “Complainant” means an individual who has made a complaint.
- (g) “Constitution” means the Constitution and By-Laws of the Oneida Nation.
- (h) “Court of Appeals” means the Court of Appeals of the Oneida Nation Judiciary.
- (i) “Entity” means a board, committee or commission of the Nation, including the Oneida Business Committee.
- (j) “Frivolous” means a complaint without any reasonable basis or merit, that cannot be supported by a good faith argument. Most often frivolous complaints are intended to merely harass, delay, or embarrass the opposition.
- (k) “Misconduct” means wrongful, improper or unlawful conduct or behavior.
- (l) “Nation” means the Oneida Nation.
- (m) “Official” means any person who is elected or appointed to serve on a board, committee or commission of the Nation, including the Oneida Business Committee.
- (n) “Restitution” means compensation to an individual for an injury, damage or loss.
- (o) “Stipend” means the amount paid by the Oneida Nation to individuals serving on boards, committees and commissions of the Nation to offset the expenses of being a member on the board, committee or commission.
- (p) “Substantiate” means to find that the complaint or allegation in the complaint is valid because there is clear and convincing evidence.
- (q) “Trial Court” means the Trial Court of the Oneida Nation Judiciary.

#### **120.4. Misconduct**

120.4-1. It shall be the obligation of every official to behave in a manner that promotes the highest ethical and moral standard. High moral and ethical standards amongst officials of the Nation is essential to the conduct of government.

120.4-2. An official may be subject to sanctions and penalties for behaving in a manner which constitutes misconduct. Misconduct includes:

- (a) a violation of the Constitution or any of the Nation’s laws, policies, or rules;
- (b) a violation of the bylaws, standard operating procedures or other internal operating documents that govern the entity upon which the official serves;
- (c) a conviction of a felony, or any crime in any jurisdiction that would be classified as a felony under federal law or Wisconsin law; and
- (d) any other activity that is incompatible with the high moral and ethical standards that are expected of the Nation’s officials.

#### **120.5. Filing of a Complaint**

120.5-1. *Who May File.* Any individual at least eighteen (18) years of age or older, or entity, who in good faith, has knowledge or reason to believe that an official has committed misconduct, may file a written complaint.

120.5-2. *When to File.* A complaint may be filed as long as the alleged misconduct has occurred within the previous ninety (90) days.

120.5-3. *Contents of the Complaint.* The complaint alleging misconduct by an official shall include the following information:

- (a) The name(s) of the official alleged to have committed the misconduct;
- (b) The entity or entities upon which the official serves;
- (c) The specific date(s), time(s), and location(s) of the alleged misconduct;
- (d) The specific details of the official's misconduct;
- (e) The specific provision of law, policy, rule, or bylaw of the Nation allegedly violated by the official;
- (f) Names of any witnesses of the alleged misconduct, or individuals who may have knowledge pertinent to the alleged misconduct;
- (g) The contact information for the person filing the complaint, which at minimum shall include the person's name, address, and telephone number;
- (h) A notarized sworn statement attesting that the information provided in and with the complaint is true, accurate, and complete to the best of the complainant's knowledge;
- (i) Any supporting documentation; and
- (j) Any other information required by the Nation's Rules of Civil Procedure if the complaint is alleging misconduct of an elected official.

120.5-4. *Where to File.*

(a) *Appointed Official.* Complaints against an appointed official shall be filed with the Business Committee Support Office.

(b) *Elected Official.* Complaints against an elected official shall be filed with the Nation's Trial Court.

120.5-5. *Retaliation Prohibited.* Retaliation against any individual who makes a complaint or party or witness to a complaint is prohibited. This protection shall also be afforded to any person offering testimony or evidence or complying with directives authorized under this law. Retaliation shall include any form of adverse or punitive action by or caused by, any official.

120.5-6. Any official who is the subject of a complaint has the right to be represented by an attorney or advocate, at his or her own expense, for any actions or proceedings related to the complaint.

## **120.6. Complaints Alleged Against an Appointed Official**

120.6-1. Due to the fact that an appointed official serves at the discretion of the Oneida Business Committee, all complaints alleged against an appointed official shall be handled by the Oneida Business Committee.

120.6-2. *Receipt of Complaint.* Upon receiving a complaint, the Business Committee Support Office shall:

- (a) immediately forward copies of the complaint, including any supporting documentation, to:
  - (1) all members of the Oneida Business Committee for review; and
  - (2) the individual who is the subject of the complaint.

(b) place the complaint on the executive session portion of the agenda of a regular or special meeting of the Oneida Business Committee for an initial review within thirty (30) days after receipt of complaint.

120.6-3. *Answer to the Complaint.* The individual who is the subject of the complaint shall have ten (10) business days after receiving his or her copy of the complaint, to submit to the Business Committee Support Office a written answer setting forth any admission, denial, affirmative defense, or other relevant information upon which the official intends to rely during proceedings related to the complaint.

(a) The Business Committee Support Office shall immediately forward the answer and any supporting documentation to all members of the Oneida Business Committee upon receipt from the individual who is the subject of the complaint.

120.6-4. *Conflict of Interest.* An Oneida Business Committee member that has a conflict of interest in a complaint brought before the Oneida Business Committee, shall immediately recuse themselves and shall not participate in the initial review or the investigatory hearing.

(a) Failure of an Oneida Business Committee member to recuse themselves due to a conflict of interest shall constitute grounds for sanctions and/or penalties.

120.6-5. *Initial Review.* The Oneida Business Committee shall perform an initial review of an allegation of misconduct on the part of an official. The purpose of the initial review shall be to determine whether the allegation made within the complaint has merit.

(a) During the initial review the Oneida Business Committee shall review the complaint and the written answer; as well as any supporting documentation.

(b) In order to determine if a complaint has merit, the Oneida Business Committee will discuss if whether assuming the facts alleged are true, said facts would support a determination of misconduct.

(c) The Oneida Business Committee shall determine, by majority vote, whether the complaint has merit.

(1) Upon a finding that the complaint has merit, the Oneida Business Committee shall schedule an investigatory hearing to consider the specific allegations identified in the complaint.

(2) Upon finding that a complaint has no merit, the Oneida Business Committee shall dismiss the complaint.

(A) If the Oneida Business Committee dismisses the complaint based on a determination that the complaint was frivolous, false, or made with a malicious intent, the complainant may be subject to:

(i) a fine not to exceed five hundred dollars (\$500);

(ii) prohibition from filing another complaint for a period of time not to exceed one (1) year; and/or

(iii) a civil suit in the Nation's Trial Court brought by the official accused by the frivolous, false or malicious allegation.

120.6-6. *Investigatory Hearing.* The investigatory hearing shall occur within thirty (30) days after the initial review has concluded. The investigatory hearing shall take place during the executive session portion of the agenda of a regular or special meeting of the Oneida Business Committee. The purpose of the investigatory hearing is for the Oneida Business Committee to determine if there is enough evidence to substantiate the allegations of misconduct by clear and convincing evidence.

(a) When conducting an investigatory hearing, the Oneida Business Committee shall have the broadest grant of authority to compel any person or organization within the Nation to:

(1) appear at the hearing to provide testimony under oath and/or information relevant to the allegations against the official; and/or

(2) produce physical evidence that is relevant to the allegations.

(b) The Oneida Business Committee shall provide an opportunity for the official who is the subject of the complaint to answer all allegations and to provide witness testimony, documents, and other evidence on his or her own behalf.

(c) The Oneida Business Committee shall also provide the complainant the opportunity to answer questions, provide witness testimony or additional information, and/or to otherwise speak on his or her own behalf.

(d) The hearing shall be informal and conducted as the interests of justice so require, and shall be recorded by the Business Committee Support Office.

120.6-7. *Deliberation of the Oneida Business Committee.* At the conclusion of the investigatory hearing, the Oneida Business Committee shall excuse everyone from executive session for the deliberation of the Oneida Business Committee. Prior to making a final determination as to whether to substantiate the complaint, the Oneida Business Committee shall:

(a) consider all evidence and information provided, and shall have a full and complete discussion of all aspects of the complaint and answer; and

(b) have a full and complete discussion of all potential sanctions and penalties that may be imposed, if appropriate.

120.6-8. *Determination by the Oneida Business Committee.* After the investigatory hearing has concluded and the Oneida Business Committee has deliberated, the Oneida Business Committee shall in open session of a regular or special Oneida Business Committee meeting, by majority vote, declare whether the Oneida Business Committee has determined there is enough evidence to substantiate the allegations of misconduct by clear and convincing evidence.

(a) If the Oneida Business Committee finds that there is clear and convincing evidence that the official engaged in misconduct, the Oneida Business Committee shall, by majority vote, determine and impose appropriate sanctions and/or penalties.

(b) If the Oneida Business Committee does not find that there is clear and convincing evidence to support the allegations that the official engaged in misconduct, the complaint shall be dismissed.

(c) Within ten (10) business days after the investigatory hearing, the Oneida Business Committee shall issue a written decision and provide copies of the decision to:

(1) the complainant,

(2) the official who is the subject of the complaint, and

(3) the Business Committee Support Office, for recordkeeping.

120.6-9. *Appeal.* The complainant and the official who is the subject of the complaint shall both have the right to appeal the Oneida Business Committee's decision to the Court of Appeals within twenty (20) days after the written decision is issued. The appeal shall be limited to review of the record, and the Oneida Business Committee's decision may only be overturned if the Court of Appeals determines that:

(a) The findings or penalties imposed were clearly erroneous, unsupported by the record, or made on unreasonable grounds or without any proper consideration of circumstances; or

(b) Procedural irregularities occurred which prevented a fair and impartial hearing.

**120.7. Complaints Alleged Against an Elected Official**

120.7-1. The Trial Court shall have jurisdiction to hear complaints of alleged misconduct of elected officials. Complaints of alleged misconduct shall be filed with the Trial Court pursuant to the Nation's Rules of Civil Procedure.

120.7-2. In a civil action against an elected official for misconduct, the complainant has the burden of proving by clear and convincing evidence that the official engaged in misconduct.

120.7-3. In making a final determination, the Trial Court shall determine if there is enough evidence to substantiate the allegations of misconduct by the official by clear and convincing evidence.

(a) If the Trial Court finds that there is clear and convincing evidence that the official engaged in misconduct, the Trial Court shall determine and impose any sanctions and/or penalties deemed appropriate in accordance with this law.

(b) If the Trial Court does not find that there is clear and convincing evidence to support the allegations that the official engaged in misconduct, the complaint shall be dismissed.

120.7-4. *Appeal*. The complainant and the official who is the subject of the complaint shall both have the right to appeal the Trial Court's decision to the Court of Appeals pursuant to the Nation's Rules of Appellate Procedure.

120.7-5. The Trial Court shall provide the Business Committee Support Office a copy of the complaint and the determination of the Trial Court for the official's record of conduct in office.

**120.8. Sanctions and Penalties**

120.8-1. A sanction or penalty, or any combination of sanctions and/or penalties, may be imposed upon the Nation's officials for misconduct in office, in accordance with this law.

120.8-2. Sanctions and penalties may include:

(a) *Verbal Reprimand*. A verbal reprimand may be imposed on the official.

(1) The Oneida Business Committee or Trial Court shall submit written notices to both the official and to the Business Committee Support Office of the specific date, time and location of the verbal reprimand. The verbal reprimand shall occur at an Oneida Business Committee meeting and/or a General Tribal Council meeting.

(2) To impose the verbal reprimand, the Oneida Business Committee Chairperson shall read a statement that identifies:

(A) The Oneida Business Committee or Trial Court's findings regarding the specific actions or inaction taken by the official that were found to be misconduct;

(B) The reasons why the official's actions or inactions amounted to misconduct;

(C) A statement identifying that the misconduct violates the high standards of behavior expected of the Nation's officials and is not acceptable; and

(D) A direction to the official to refrain from engaging in future misconduct.

(b) *Public Apology*. The official may be ordered to make a public apology. The Oneida Business Committee or Trial Court shall submit written notices to both the official and to the Business Committee Support Office of the specific date, time and location of the public apology. The public apology shall occur at an Oneida Business Committee meeting and/or a General Tribal Council meeting. The public apology shall:



- (1) identify the specific misconduct committed by the official;
- (2) recognize that the official's actions or inactions were wrong;
- (3) identify the effects of the official's misconduct; and
- (4) include a clear and unambiguous apology from the official.

(c) *Written Reprimand.* A written reprimand may be imposed on the official by publication on the Nation's official media outlets, as determined by the Oneida Business Committee. The Oneida Business Committee or the Trial Court may publish a written reprimand which includes the information required for the verbal reprimand as stated in section 120.8-2(a)(2)(A)-(D).

(d) *Suspension.* An official may be suspended from performing his or her duties as an official for one (1) consecutive period of time, not to exceed sixty (60) days.

(1) During a suspension, the official shall not:

- (A) attend meetings, trainings or any other event as part of the entity;
- (B) attend conferences or other events on behalf of, or as a representative of, the entity;
- (C) vote or participate in any activities of the entity;
- (D) perform work on behalf of the entity; or
- (E) be eligible for any compensation, including regular pay, stipends, or mileage reimbursement.

(2) When an official is suspended, the Oneida Business Committee or Trial Court shall submit written notices to both the official and to the Business Committee Support Office of the specific start and end date of the suspension.

(e) *Restitution.* An official may be ordered to pay restitution, which may include the repayment of any improperly-received benefit, or any other payment which is intended to make another whole after suffering losses as a result of the official's misconduct.

(f) *Fines.* An official may be ordered to pay a fine not to exceed five thousand dollars (\$5,000) per act of misconduct.

(1) Fines shall be paid to the Trial Court.

(2) Fines shall be paid within ninety (90) days after the order is issued or upheld on final appeal, whichever is later. Cash shall not be accepted for payment of fines. If the fine is not paid by this deadline, the Trial Court may seek to collect the money owed through the Nation's garnishment and/or per capita attachment process.

(3) Money received from fines shall be deposited into the General Fund.

(4) Community service may be substituted for part or all of any fine at the rate of ten dollars (\$10) for each hour of community service.

(g) *Loss of Stipend.* An official may be ordered to forfeit a stipend for his or her service on an entity not to exceed twelve (12) meetings.

(h) *Termination of Appointment.* An appointed official may have his or her appointment terminated by the Oneida Business Committee in accordance with the Nation's laws and/or policies governing boards, committees, and commissions.

(i) *Removal.* The Trial Court may recommend that the process for removing an elected official as contained in the Nation's laws and/or policies governing removal be initiated.

(j) *Prohibition.* An official may be prohibited from serving on an entity for a period of time not to exceed three (3) years.

120.8-3. *Factors in Determining an Appropriate Sanction and/or Penalty.* When determining the appropriate sanction or sanctions to impose, the Oneida Business Committee or the Trial Court may consider all factors it deems relevant, including but not limited to:

- (a) the seriousness or severity of the misconduct;
- (b) whether the conduct was intentional or not;
- (c) the likelihood of repetition;
- (d) the extent of probable damage to the finances or reputation of the Nation, the complainant, the entity, or to any other person or organization;
- (e) whether the official or his or her family personally profited, financially or otherwise, from the prohibited conduct;
- (f) the official's remorse, or
- (g) the official's willingness and ability to take steps to mitigate the harm caused by the violation, and
- (h) any prior complaints filed, including any previous sanctions and penalties imposed upon the official while serving on an entity.

120.8-4. The imposition of sanctions and/or penalties in accordance with this law does not exempt an official from individual liability for the underlying misconduct, and does not limit any penalties that may be imposed in accordance with other applicable laws. In addition to any sanctions and penalties that may be imposed in accordance with this law, officials who commit misconduct in office may be subject to other consequences; including but not limited to:

- (a) removal in accordance with the Nation's laws and/or policies governing removal, if an elected official;
- (b) termination of appointment by the Oneida Business Committee, if an appointed official;
- (c) criminal prosecution, for misconduct that also violates applicable criminal law;
- (d) civil liability, in accordance with the applicable law of any jurisdiction; and/or
- (e) penalties for specific misconduct as authorized by any other law of the Nation.

## **120.9. Effect of Resignation by an Official**

120.9-1. The resignation of an official after a complaint has been filed against the official shall not affect the status of the hearing and determination by either the Oneida Business Committee or Trial Court.

120.9-2. An official who resigns may still be subject to sanctions and/or penalties at the discretion of the Oneida Business Committee or Trial Court.

## **120.10. Record of Conduct in Office**

120.10-1. The Business Committee Support Office shall maintain a record of conduct in office for each official.

120.10-2. The record of conduct in office maintained for each official shall include, at a minimum:

- (a) a copy of each complaint filed against the official;
- (b) the outcome of the complaint, and
- (c) any sanctions or penalties imposed upon an official.

120.10-3. The record of conduct in office for each official shall be maintained for a period of no less than ten (10) years.

*End.*

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Adopted –



Legislative Operating Committee  
June 6, 2018

# Military Service Employee Protection Act Emergency Amendments

<b>Submission Date:</b> 4/18/18	<b>Public Meeting:</b> n/a
<b>LOC Sponsor:</b> David P. Jordan	<b>Emergency Enacted:</b> 4/25/18

**Summary:** *Request to amend this law on an emergency basis was due to action taken through resolution BC-04-11-18-A by the Oneida Business Committee which dissolved the Personnel Commission and directed the Legislative Operating Committee to develop and present emergency legislative amendments to fully address the impact of this resolution by the April 25, 2018, Oneida Business Committee meeting for consideration of adoption.*

**4/18/18 LOC:** Motion by Kirby Metoxen to add to the Active Files list as a high priority with David P. Jordan as the Sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

**4/18/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Kirby Metoxen, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Jo Anne House, Tani Thurner, Laura Laitinen-Warren. The purpose of this work meeting was to discuss an update and plan for the emergency amendments.

**4/20/18:** E-Poll conducted.

**4/25/18 OBC:** Motion by David P. Jordan to adopt resolution 04-25-18-D Military Service Employee Protection Act Emergency Amendments, seconded by Ernie Stevens III. Motion carried unanimously.

**5/2/18/ LOC:** Motion by Ernest Stevens III to enter the Military Service Employee Protection Act Emergency Amendments E-poll into the record; seconded by Kirby Metoxen. Motion carried unanimously.

**5/16/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Laura Laitinen-Warren. The purpose of this work meeting was to review and discuss the drafted permanent amendments. Drafting attorney will update the draft.

**Next Steps:**

- Accept the draft of the Military Service Employee Protection Act amendments and direct that a legislative analysis be completed.

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## Title 2. Employment – Chapter 213

### MILITARY SERVICE EMPLOYEE PROTECTION ~~ACT~~

213-1. Purpose and Policy	213-7. Reemployment Positions
213-2. Adoption, Amendment, Repeal	213-8. Benefits of Persons Absent from Employment for Military Service
213-3. Definitions	213-9. Health Plans
213-4. Character of Service	213-10. Retirement Plans
213-5. Discrimination Against Persons Who Serve in the Military Prohibited	213-11. Enforcement of Employment or Reemployment Rights
213-6. Reemployment Rights of Persons who Serve in the Military	

#### 213.1. Purpose and Policy

213.1-1. *Purpose.* The ~~purposes~~purpose of this law ~~are:~~

(a) ~~is~~ to minimize the disruption to the lives of ~~Tribal~~of the Nation employees serving in the military as well as to the ~~Tribe~~Nation by providing for the prompt reemployment of such persons upon completion of such service; and

(b) ~~to~~ prohibit discrimination against people because they serve in the military.

213.1-2. *Policy.* It is the policy of the ~~Oneida Tribe~~Nation to reemploy persons who return from military service in the same position, or a substantially similar position, of employment the person held prior to leaving for military service.

#### 213.2. Adoption, Amendment, Repeal

213.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-24-07-~~E- and amended by BC-~~ - - - .

213.2-2. This law may be amended ~~pursuant to the procedures set out in the Oneida Administrative Procedures Act~~or repealed by the Oneida Business Committee or the ~~Oneida~~ General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

213.2-3. 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.

213.2-4. ~~Any law, policy, regulation, rule, resolution, or motion, or portion thereof, which directly conflicts with~~ In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law ~~is hereby repealed to the extent that it is inconsistent with or is contrary to this law~~shall control.

213.2-5. This law is adopted under authority of the Constitution of the Oneida ~~Tribe of Indians of Wisconsin~~Nation.

#### 213.3. Definitions

213.3-1. 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) "Area Manager" means the supervisor of the supervisor of an employee who is protected under this law, or, in other words, two levels of supervision in the chain of command above the protected employee, or an individual designated to be the Area Manager by the Division Director (or, in divisions where there is no director, the General Manager) and approved by the Human Resources Department Manager (or designee).

(b) "Benefit" means any advantage, profit, privilege, gain, or interest (other than wages or salary) that accrues by reason of an employment agreement or an employer policy, plan, or

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practice and includes rights and benefits under a retirement plan, a health plan, insurance coverage, incentives, unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

(e)(c) “Business day” means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays recognized by the Nation.

(d) “Employee” means any person employed by the Oneida TribeNation.

(de) “Health plan” means an insurance policy or contract or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

(ef) “Military” means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

(f)(g) “Nation” means the Oneida Nation, as employer through its divisions, departments, programs, enterprises or other subdivisions of the Nation.

(h) “Qualified,” with respect to an employment position, means having the ability to perform the essential tasks of the position.

(gi) “Reasonable efforts”, in the case of actions required of the TribeNation under this law, means actions, including providing training, that do not place an undue hardship on the TribeNation.

(hj) “Seniority” means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

(ik) “Service” or “service in the military” means the performance of duty on a voluntary or involuntary basis in a branch of the military and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, the time a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and the period for which a person is absent from employment for the purpose of performing funeral honors duty.

~~(j) “Tribe” means the Oneida Tribe of Indians of Wisconsin as employer through its divisions, departments, programs, enterprises or other subdivisions of the Tribe.~~

~~(k)(l) “Trial Court” means the Court of the Oneida Judiciary where evidence and testimony are first introduced, received, and considered. The Oneida Judiciary was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.~~

(m) “Undue hardship”, in the case of actions taken by the TribeNation, means actions requiring significant difficulty or expense, when considered in light of:

(1) the nature and cost of the action needed under this Lawlaw;

(2) the overall financial resources of the department involved in the provision of the action; the number of persons employed within the department; the effect on expenses and resources, or the overall impact of such action upon the operation of the department;

(3) the financial resources of the TribeNation; the size of the TribeNation with respect to how many employees and departments it has; and



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(4) the type of operation(s) of the TribeNation, including the composition, structure, and functions of the work force of its departments.

#### **213.4. Character of Service**

213.4-1. Those who serve in the military are ineligible to receive benefits under this law if they:

- (a) receive a dishonorable discharge or a bad conduct discharge; or
- (b) receive a dismissal from a general court-martial, or by order of the President; or
- (c) are dropped from the rolls because they have been:
  - (1) absent without authority for at least three months; or
  - (2) sentenced by a court-martial to confinement for more than six (6) months and have served at least six (6) months; or
  - (3) sentenced to confinement in a penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

#### **213.5. Discrimination Against Persons Who Serve in the Military Prohibited**

213.5-1. The TribeNation shall not deny employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of a person's membership, application for membership, performance of service, application for service, or obligation to perform service in the military.

213.5-2. The TribeNation may not discriminate in employment against or take any adverse employment action against anyone because such person has exercised a right or taken an action to enforce a protection afforded under this law, has testified or otherwise made a statement in or in connection with any proceeding under this law, or has participated in an investigation under this law.

213.5-3. The TribeNation shall not be considered to have engaged in a prohibited action if the same action would have been taken regardless of an employee's military status.

213.5-4. SectionsSection 213.5-1 and section 213.5-2 shall apply to any position of employment, including a position that is described in section 213.6-4(c).

#### **213.6. Reemployment Rights of Persons Who Serve in the Military**

213.6-1. Any person who takes a leave of absence from an employment position to serve in the military shall be entitled to the reemployment benefits and other employment benefits of this law if:

- (a) the TribeNation receives advance written notice of such service as soon as practicable after the employee receives notice;
- (b) the cumulative length of the absence and of all previous absences with the TribeNation by reason of service in the military does not exceed five (5) years; and
- (c) except as provided in section 213.6-6, the person reports to the TribeNation in accordance with section 213.6-5.

213.6-2. No notice is required under section 213.6-1(a) if it is precluded by military necessity or, under all of the relevant circumstances, the giving of notice is otherwise impossible or unreasonable.

213.6-3. When calculating the length of absence under section 213.6-1(b) the TribeNation

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shall not include any service:

- (a) that is required, beyond five (5) years, to complete an initial period of obligated service;
- (b) during which such person was unable to obtain orders releasing such person from a period of service in the military before the expiration of such five (5) year period and such inability was through no fault of such person;
- (c) performed as required pursuant to training requirements for reservists and National Guard members;
- (d) performed by a member of the military service who is:
  - (1) ordered to or retained on active duty involuntarily during domestic emergency or national security related situations;
  - (2) ordered to or retained on active duty under any provision of law because of a war or national emergency declared by the President of the United States or the Congress;
  - (3) ordered to active duty in support of an "operational mission", without his or her consent;
  - (4) ordered to active duty in support of a "critical mission or requirement" in times other than war or national emergency and when no involuntary call up is in effect; or
  - (5) called into Federal service by the President as a member of the National Guard to suppress an insurrection, repel an invasion, or execute the laws of the United States.

213.6-4. TribeNation's Right to Not Reemploy. The TribeNation is not required to reemploy a person under this law if:

- (a) circumstances have so changed as to make such reemployment impossible or unreasonable;
- (b) in the case of a person entitled to reemployment under section 213.7-1(c), 2103.7-1(d), or section 213.7-2, such employment would impose an undue hardship on the TribeNation; or
- (c) the employment from which the person leaves is for a brief, ~~nonrecurrent~~non-recurrent period (i.e. seasonal, temporary, limited term) and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.
- (d) the TribeNation shall have the burden of proving the impossibility or unreasonableness, undue hardship, or the brief or ~~nonrecurrent~~non-recurrent nature of the employment.

213.6-5. Except as provided under section 213.6-6, an employee referred to in section 213.6-1 shall notify the TribeNation of the person's intent to return to a position of employment within ninety (90) days of separation of active duty service and within thirty-one (31) days from completion of training for reservists. The TribeNation shall, as soon as practicable after receiving notice, make arrangements with the employee for an employment return date.

213.6-6. A person who is hospitalized for, or recovering from, an illness or injury incurred in, or aggravated during, the performance of service in the military shall, at the end of the period that is necessary for the person to recover from such illness or injury notify the TribeNation of the person's intent to return to a position of employment. Such period of recovery may not

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exceed two (2) years, unless the minimum time required to accommodate the circumstances beyond such person's control is longer than two years, making reporting within the period specified impossible or unreasonable.

213.6-7. A person who fails to report for reemployment within the appropriate period shall not automatically forfeit such person's entitlement to the benefits referred to in section 213.6-1 but shall be subject to the [TribeNation](#)'s policies and procedures pertaining to discipline with respect to absence from scheduled work.

213.6-8. A person who has notified the [TribeNation](#) of the person's intent to return to a position of employment in accordance with section 213.6-5 shall, upon the request of the [TribeNation](#), provide documentation to establish that:

(a) the notification is timely;

(b) the time limits in section 213.6-1(b) have not been exceeded, except as permitted under section 213.6-3; and

(c) the person's entitlement to benefits has not been terminated pursuant to section 213.4.

213.6-9. The timing, frequency, and duration of a person's training or service, or the nature of such training or service (including voluntary service) in the military, shall not be a basis for denying protection of this law if the service does not exceed the limitations set forth under section 213.6-3 and the notice and notification requirements established in this section are met.

213.6-10. The Human Resources Department shall inform employees of their rights, benefits, and obligations under this law and shall provide assistance to employees with respect to the employment and reemployment benefits to which they are entitled under this law.

### **213.7. Reemployment Positions**

213.7-1. A person entitled to reemployment under section 213.6 shall be promptly reemployed in a position of employment in accordance with the following order of priority:

(a) In the case of a person whose period of service in the military was for less than ninety-one (91) days:

(1) in the position which the person would have been employed if the continuous employment of such person had not been interrupted by such service, the duties of which the person is qualified to perform; or

(2) in the position which the person was employed on the date of the commencement of the service in the military, only if the person is not qualified to perform the duties of the position referred to under section 213.7-1(a)(1) after reasonable efforts by the [TribeNation](#) to qualify the person.

(b) In the case of a person whose period of service in the military was for more than ninety (90) days:

(1) in the position which the person would have been employed if the continuous employment of such person had not been interrupted by such service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform; or

(2) in the position which the person was employed on the date of the commencement of the service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform, only if the person is not qualified to perform the duties of the position referred to under section 213.7-

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1(b)(1) after reasonable efforts by the [TribeNation](#) to qualify the person.

(c) In the case of a person who has a disability incurred in, or aggravated during, service, and after reasonable efforts by the [TribeNation](#) to accommodate the disability, is not qualified due to such disability to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the [TribeNation](#) had not been interrupted by such service:

(1) in any other position which is equivalent in seniority, status, and pay, the duties of which the person is qualified to perform or can become qualified to perform with reasonable efforts by the [TribeNation](#); or

(2) in a position which is the nearest approximation to a position referred to in (1) in terms of seniority, status, and pay consistent with such person's case.

(d) In the case of a person who is not qualified to become reemployed under [section 213.7-1\(a\) - \(c\)](#) and cannot become qualified, even with reasonable efforts by the [TribeNation](#), in any other position which is the nearest approximation to a position which such person is qualified to perform, with full seniority.

213.7-2. If two or more persons are entitled to reemployment in the same position and more than one of them has reported for reemployment, the person who left the position first shall have the prior right to reemployment in that position.

213.7-3. A person entitled to reemployment who is not reemployed because of [section 213.7-2](#) shall be entitled to reemployment in any other position referred to in [section 213.7-1](#), remaining consistent with the circumstances of such person's case, in the order of priority set out in the appropriate section, with full seniority.

### **213.8. Benefits of Persons Absent from Employment for Military Service**

213.8-1. A person who is reemployed under this law is entitled to the seniority and other benefits determined by seniority that the person had on the date of the commencement of service in the military plus the additional seniority and benefits that such person would have attained if the person had remained continuously employed.

213.8-2. A person who is absent from a position of employment by reason of service in the military shall be:

(a) deemed to be on a leave of absence while performing such service; and

(b) entitled to other benefits not determined by seniority as are generally provided by the [TribeNation](#) to employees having similar seniority, status, and pay who are on leave of absence under a contract, agreement, policy, practice, or plan in effect at the commencement of such service or established while such person performs such service.

213.8-3. A person who

(a) is absent from an employment position because of service in the military, and

(b) knowingly provides written notice of intent not to return to a position of employment after service in the military, is not entitled to benefits under this section.

The [TribeNation](#) has the burden of proving that a person knowingly provided written notice of intent not to return to a position after service in the military and was aware of the specific benefits to be lost.

213.8-4. A person on leave of absence for military service shall not be entitled to any benefits to which the person would not otherwise be entitled if the person had remained continuously

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employed.

213.8-5. A person may be required to pay the TribeNation's cost, if any, of any funded benefit continued to the extent other employees on leave of absence are so required.

213.8-6. A person who is reemployed under this law shall only be terminated in accordance with the ~~Oneida Personnel Policies and Procedures~~ Nation's laws and policies governing employment.

213.8-7. Any person whose employment is interrupted by military service shall be permitted to use, during such period of service, any vacation or personal time accrued by the person before the commencement of such service. The TribeNation may not require any person to use vacation or personal time during such period of service.

213.8-8. The TribeNation shall grant an employee who is a reserve member an unpaid temporary leave of absence in order to perform funeral honors duty. Employees may use vacation or personal time to perform funeral honors duty if eligible.

### **213.9. Health Plans**

213.9-1. If a person, or a person's dependents, has coverage under a health plan through the TribeNation and such person is on a leave of absence for military service, the plan shall provide that the coverage may be continued. The maximum period of coverage of a person and the person's dependents shall be the lesser of:

(a) the eighteen (18) month period beginning on the date on which the person's absence begins; or

(b) the day after the date on which the person fails to return to a position of employment, as determined under section 213.6-5.

213.9-2. A person who elects to continue health-plan coverage may be required to pay not more than the amount paid by other employees who take a leave of absence, except that in the case of a person who serves in the military for less than thirty-one (31) days, such person may not be required to pay more than the employee share, if any, for such coverage.

213.9-3. If a person's health plan is terminated by reason of military service, an exclusion or waiting period may not be imposed in connection with the reinstatement of such coverage upon reemployment if an exclusion or waiting period would not have been imposed had coverage of such person not been terminated as a result of such service.

(a) This shall apply to the person who is reemployed and to his or her dependents who are covered under the plan with the reinstatement of coverage of such person.

(b) This shall not apply to the coverage of any illness or injury incurred in, or aggravated during, performance of service in the military.

### **213.10. Retirement and Pension Plans**

213.10-1. Each period served by a person in the military shall, upon reemployment, be deemed to constitute service for the purpose of determining the nonforfeitability of the person's accrued benefits and for the purpose of determining the accrual of benefits under a retirement or pension plan.

(a) When a person is absent from a position of employment for more than ninety (90) days and is reemployed, the TribeNation may require documentation before treating the person as not having incurred a break in service for retirement or pension plan purposes under this section.



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213.10-2. A person reemployed under this law shall be entitled to accrued benefits that are contingent on the making of, or derived from, employee contributions or elective deferrals if the person makes payment to a retirement or pension plan with respect to such contributions or deferrals. If the employee makes up the contributions, the TribeNation shall make up any required matching contributions. No such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the TribeNation throughout the period of service. Any payment to a retirement or pension plan shall be made during the period beginning with the date of reemployment and whose duration is three (3) times the period of the person's service in the military, such payment period not to exceed five (5) years.

213.10-3. For purposes of computing the TribeNation's liability or the employee's contributions, the employee's compensation during the period of service shall be computed:

- (a) at the rate the employee would have received but for the period of service;
- (b) in the case that the determination of such rate is not reasonably certain, on the basis of the employee's average rate of compensation during the twelve (12) month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period).

213.10-4. *Pension Plan.* When a person who participates in a pension plan is reemployed after a period of military service, the TribeNation shall be liable to the pension plan for funding any obligation to provide the benefits the employee would have received had they not taken a leave of absence. The TribeNation shall allocate the amount of the TribalNation's contribution for the person in the same manner and to the same extent the allocation occurred for other employees eligible for the pension plan during the period of service. For purposes of determining the amount of such liability and any obligation of the pension plan, earnings and forfeitures shall not be included.

### **213.11. Enforcement of Employment or Reemployment Rights**

213.11.1. The TribeNation shall notify, in writing, any person who has been denied employment, reemployment, or benefits under this law.

213.11-2. A person may file a complaint whenever such person claims that:

- (a) he or she is entitled to employment or reemployment rights or benefits with respect to employment by the TribeNation; or
- (b) the TribeNation has failed or refused to comply with the provisions of this law.

213.11-3. Such complaint shall be in writing, contain a summary of the allegations that form the basis for the complaint and be filed with the person's area manager and the ~~Oneida~~ Human Resources Manager (or designee) within ten (10) workingbusiness days from the day the person received a denial of employment and/or benefits by the Tribe-Nation.

213.11-4. If the area manager determines that the action alleged in such complaint occurred, the area manager shall attempt to resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this law.

213.11-5. If the efforts of the area manager do not resolve the complaint within ten (10) workingbusiness days from the receipt of the employee's complaint, the complainant shall be notified of the results of the area manager's investigation and the complainant's entitlement to refer the complaint to the ~~Oneida Personnel Commission~~ Trial Court. One extension of no more



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than five (5) ~~working~~business days may be requested of and granted by the ~~Oneida~~ Human Resources Manager (or designee) at his or her discretion.

213.11-6. If an employee appeals the area manager's decision, the appeal must be filed with the ~~Oneida Personnel Commission~~Trial Court within ten (10) ~~working~~business days of the employee's receipt of the Area Manager's decision. The ~~Commission~~Trial Court shall notify the Human Resources Manager (or designee) within one (1) business day when an employee files an appeal.

213.11-7. *Remedies.* In any action relating to this law, relief may be awarded as follows:

(a) Require the ~~Tribe~~Nation to comply with the provisions of this law; and/or

(b) Require the ~~Tribe~~Nation to compensate the person for any loss of wages or benefits suffered by reason of the ~~Tribe~~Nation's failure to comply with the provisions of this law.

213.11-8. Any compensation awarded shall be in addition to, and shall not diminish, any of the other benefits provided for under this law.

*End.*

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Adopted - BC-10-24-07-E

Emergency Amended – BC-04-25-18-D

Amended – BC- - - -

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## Title 2. Employment – Chapter 213 MILITARY SERVICE EMPLOYEE PROTECTION

213-1. Purpose and Policy	213-7. Reemployment Positions
213-2. Adoption, Amendment, Repeal	213-8. Benefits of Persons Absent from Employment for Military Service
213-3. Definitions	213-9. Health Plans
213-4. Character of Service	213-10. Retirement Plans
213-5. Discrimination Against Persons Who Serve in the Military Prohibited	213-11. Enforcement of Employment or Reemployment Rights
213-6. Reemployment Rights of Persons who Serve in the Military	

### 213.1. Purpose and Policy

213.1-1. *Purpose.* The purpose of this law is to minimize the disruption to the lives of employees of the Nation serving in the military as well as to the Nation by providing for the prompt reemployment of such persons upon completion of such service; and to prohibit discrimination against people because they serve in the military.

213.1-2. *Policy.* It is the policy of the Nation to reemploy persons who return from military service in the same position, or a substantially similar position, of employment the person held prior to leaving for military service.

### 213.2. Adoption, Amendment, Repeal

213.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-24-07-E and amended by BC-\_\_-\_\_-\_\_-\_\_.

213.2-2. This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

213.2-3. 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.

213.2-4. 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.

213.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

### 213.3. Definitions

213.3-1. 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) "Area Manager" means the supervisor of the supervisor of an employee who is protected under this law, or, in other words, two levels of supervision in the chain of command above the protected employee, or an individual designated to be the Area Manager by the Division Director (or, in divisions where there is no director, the General Manager) and approved by the Human Resources Department Manager (or designee).

(b) "Benefit" means any advantage, profit, privilege, gain, or interest (other than wages or salary) that accrues by reason of an employment agreement or an employer policy, plan, or practice and includes rights and benefits under a retirement plan, a health plan, insurance coverage, incentives, unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

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

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- (d) "Employee" means any person employed by the Oneida Nation.
- (e) "Health plan" means an insurance policy or contract or other arrangement under which health services for individuals are provided or the expenses of such services are paid.
- (f) "Military" means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.
- (g) "Nation" means the Oneida Nation, as employer through its divisions, departments, programs, enterprises or other subdivisions of the Nation.
- (h) "Qualified," with respect to an employment position, means having the ability to perform the essential tasks of the position.
- (i) "Reasonable efforts", in the case of actions required of the Nation under this law, means actions, including providing training, that do not place an undue hardship on the Nation.
- (j) "Seniority" means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.
- (k) "Service" or "service in the military" means the performance of duty on a voluntary or involuntary basis in a branch of the military and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, the time a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and the period for which a person is absent from employment for the purpose of performing funeral honors duty.
- (l) "Trial Court" means the Court of the Oneida Judiciary where evidence and testimony are first introduced, received, and considered. The Oneida Judiciary was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.
- (m) "Undue hardship", in the case of actions taken by the Nation, means actions requiring significant difficulty or expense, when considered in light of:
- (1) the nature and cost of the action needed under this law;
  - (2) the overall financial resources of the department involved in the provision of the action; the number of persons employed within the department; the effect on expenses and resources, or the overall impact of such action upon the operation of the department;
  - (3) the financial resources of the Nation; the size of the Nation with respect to how many employees and departments it has; and
  - (4) the type of operation(s) of the Nation, including the composition, structure, and functions of the work force of its departments.

#### **213.4. Character of Service**

213.4-1. Those who serve in the military are ineligible to receive benefits under this law if they:

- (a) receive a dishonorable discharge or a bad conduct discharge; or
- (b) receive a dismissal from a general court-martial, or by order of the President; or
- (c) are dropped from the rolls because they have been:
  - (1) absent without authority for at least three months; or

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- (2) sentenced by a court-martial to confinement for more than six (6) months and have served at least six (6) months; or
- (3) sentenced to confinement in a penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

### **213.5. Discrimination Against Persons Who Serve in the Military Prohibited**

213.5-1. The Nation shall not deny employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of a person's membership, application for membership, performance of service, application for service, or obligation to perform service in the military.

213.5-2. The Nation may not discriminate in employment against or take any adverse employment action against anyone because such person has exercised a right or taken an action to enforce a protection afforded under this law, has testified or otherwise made a statement in or in connection with any proceeding under this law, or has participated in an investigation under this law.

213.5-3. The Nation shall not be considered to have engaged in a prohibited action if the same action would have been taken regardless of an employee's military status.

213.5-4. Section 213.5-1 and section 213.5-2 shall apply to any position of employment, including a position that is described in section 213.6-4(c).

### **213.6. Reemployment Rights of Persons Who Serve in the Military**

213.6-1. Any person who takes a leave of absence from an employment position to serve in the military shall be entitled to the reemployment benefits and other employment benefits of this law if:

- (a) the Nation receives advance written notice of such service as soon as practicable after the employee receives notice;
- (b) the cumulative length of the absence and of all previous absences with the Nation by reason of service in the military does not exceed five (5) years; and
- (c) except as provided in section 213.6-6, the person reports to the Nation in accordance with section 213.6-5.

213.6-2. No notice is required under section 213.6-1(a) if it is precluded by military necessity or, under all of the relevant circumstances, the giving of notice is otherwise impossible or unreasonable.

213.6-3. When calculating the length of absence under section 213.6-1(b) the Nation shall not include any service:

- (a) that is required, beyond five (5) years, to complete an initial period of obligated service;
- (b) during which such person was unable to obtain orders releasing such person from a period of service in the military before the expiration of such five (5) year period and such inability was through no fault of such person;
- (c) performed as required pursuant to training requirements for reservists and National Guard members;
- (d) performed by a member of the military service who is:

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- 127 (1) ordered to or retained on active duty involuntarily during domestic emergency  
128 or national security related situations;  
129 (2) ordered to or retained on active duty under any provision of law because of a  
130 war or national emergency declared by the President of the United States or the  
131 Congress;  
132 (3) ordered to active duty in support of an “operational mission”, without his or  
133 her consent;  
134 (4) ordered to active duty in support of a “critical mission or requirement” in  
135 times other than war or national emergency and when no involuntary call up is in  
136 effect; or  
137 (5) called into Federal service by the President as a member of the National  
138 Guard to suppress an insurrection, repel an invasion, or execute the laws of the  
139 United States.

140 213.6-4. *Nation's Right to Not Reemploy.* The Nation is not required to reemploy a person  
141 under this law if:

- 142 (a) circumstances have so changed as to make such reemployment impossible or  
143 unreasonable;  
144 (b) in the case of a person entitled to reemployment under section 213.7-1(c), 2103.7-1(d),  
145 or section 213.7-2, such employment would impose an undue hardship on the Nation; or  
146 (c) the employment from which the person leaves is for a brief, non-recurrent period (i.e.  
147 seasonal, temporary, limited term) and there is no reasonable expectation that such  
148 employment will continue indefinitely or for a significant period.  
149 (d) the Nation shall have the burden of proving the impossibility or unreasonableness,  
150 undue hardship, or the brief or non-recurrent nature of the employment.

151 213.6-5. Except as provided under section 213.6-6, an employee referred to in section 213.6-1  
152 shall notify the Nation of the person's intent to return to a position of employment within ninety  
153 (90) days of separation of active duty service and within thirty-one (31) days from completion of  
154 training for reservists. The Nation shall, as soon as practicable after receiving notice, make  
155 arrangements with the employee for an employment return date.

156 213.6-6. A person who is hospitalized for, or recovering from, an illness or injury incurred in,  
157 or aggravated during, the performance of service in the military shall, at the end of the period  
158 that is necessary for the person to recover from such illness or injury notify the Nation of the  
159 person's intent to return to a position of employment. Such period of recovery may not exceed  
160 two (2) years, unless the minimum time required to accommodate the circumstances beyond such  
161 person's control is longer than two years, making reporting within the period specified  
162 impossible or unreasonable.

163 213.6-7. A person who fails to report for reemployment within the appropriate period shall not  
164 automatically forfeit such person's entitlement to the benefits referred to in section 213.6-1 but  
165 shall be subject to the Nation's policies and procedures pertaining to discipline with respect to  
166 absence from scheduled work.

167 213.6-8. A person who has notified the Nation of the person's intent to return to a position of  
168 employment in accordance with section 213.6-5 shall, upon the request of the Nation, provide  
169 documentation to establish that:

- 170 (a) the notification is timely;

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(b) the time limits in section 213.6-1(b) have not been exceeded, except as permitted under section 213.6-3; and

(c) the person's entitlement to benefits has not been terminated pursuant to section 213.4. 213.6-9. The timing, frequency, and duration of a person's training or service, or the nature of such training or service (including voluntary service) in the military, shall not be a basis for denying protection of this law if the service does not exceed the limitations set forth under section 213.6-3 and the notice and notification requirements established in this section are met. 213.6-10. The Human Resources Department shall inform employees of their rights, benefits, and obligations under this law and shall provide assistance to employees with respect to the employment and reemployment benefits to which they are entitled under this law.

### 213.7. Reemployment Positions

213.7-1. A person entitled to reemployment under section 213.6 shall be promptly reemployed in a position of employment in accordance with the following order of priority:

(a) In the case of a person whose period of service in the military was for less than ninety-one (91) days:

(1) in the position which the person would have been employed if the continuous employment of such person had not been interrupted by such service, the duties of which the person is qualified to perform; or

(2) in the position which the person was employed on the date of the commencement of the service in the military, only if the person is not qualified to perform the duties of the position referred to under section 213.7-1(a)(1) after reasonable efforts by the Nation to qualify the person.

(b) In the case of a person whose period of service in the military was for more than ninety (90) days:

(1) in the position which the person would have been employed if the continuous employment of such person had not been interrupted by such service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform; or

(2) in the position which the person was employed on the date of the commencement of the service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform, only if the person is not qualified to perform the duties of the position referred to under section 213.7-1(b)(1) after reasonable efforts by the Nation to qualify the person.

(c) In the case of a person who has a disability incurred in, or aggravated during, service, and after reasonable efforts by the Nation to accommodate the disability, is not qualified due to such disability to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the Nation had not been interrupted by such service:

(1) in any other position which is equivalent in seniority, status, and pay, the duties of which the person is qualified to perform or can become qualified to perform with reasonable efforts by the Nation; or

(2) in a position which is the nearest approximation to a position referred to in (1) in terms of seniority, status, and pay consistent with such person's case.

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(d) In the case of a person who is not qualified to become reemployed under section 213.7-1(a) - (c) and cannot become qualified, even with reasonable efforts by the Nation, in any other position which is the nearest approximation to a position which such person is qualified to perform, with full seniority.

213.7-2. If two or more persons are entitled to reemployment in the same position and more than one of them has reported for reemployment, the person who left the position first shall have the prior right to reemployment in that position.

213.7-3. A person entitled to reemployment who is not reemployed because of section 213.7-2 shall be entitled to reemployment in any other position referred to in section 213.7-1, remaining consistent with the circumstances of such person's case, in the order of priority set out in the appropriate section, with full seniority.

### **213.8. Benefits of Persons Absent from Employment for Military Service**

213.8-1. A person who is reemployed under this law is entitled to the seniority and other benefits determined by seniority that the person had on the date of the commencement of service in the military plus the additional seniority and benefits that such person would have attained if the person had remained continuously employed.

213.8-2. A person who is absent from a position of employment by reason of service in the military shall be:

(a) deemed to be on a leave of absence while performing such service; and

(b) entitled to other benefits not determined by seniority as are generally provided by the Nation to employees having similar seniority, status, and pay who are on leave of absence under a contract, agreement, policy, practice, or plan in effect at the commencement of such service or established while such person performs such service.

213.8-3. A person who

(a) is absent from an employment position because of service in the military, and

(b) knowingly provides written notice of intent not to return to a position of employment after service in the military, is not entitled to benefits under this section.

The Nation has the burden of proving that a person knowingly provided written notice of intent not to return to a position after service in the military and was aware of the specific benefits to be lost.

213.8-4. A person on leave of absence for military service shall not be entitled to any benefits to which the person would not otherwise be entitled if the person had remained continuously employed.

213.8-5. A person may be required to pay the Nation's cost, if any, of any funded benefit continued to the extent other employees on leave of absence are so required.

213.8-6. A person who is reemployed under this law shall only be terminated in accordance with the Nation's laws and policies governing employment.

213.8-7. Any person whose employment is interrupted by military service shall be permitted to use, during such period of service, any vacation or personal time accrued by the person before the commencement of such service. The Nation may not require any person to use vacation or personal time during such period of service.

213.8-8. The Nation shall grant an employee who is a reserve member an unpaid temporary leave of absence in order to perform funeral honors duty. Employees may use vacation or

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personal time to perform funeral honors duty if eligible.

### **213.9. Health Plans**

213.9-1. If a person, or a person's dependents, has coverage under a health plan through the Nation and such person is on a leave of absence for military service, the plan shall provide that the coverage may be continued. The maximum period of coverage of a person and the person's dependents shall be the lesser of:

(a) the eighteen (18) month period beginning on the date on which the person's absence begins; or

(b) the day after the date on which the person fails to return to a position of employment, as determined under section 213.6-5.

213.9-2. A person who elects to continue health-plan coverage may be required to pay not more than the amount paid by other employees who take a leave of absence, except that in the case of a person who serves in the military for less than thirty-one (31) days, such person may not be required to pay more than the employee share, if any, for such coverage.

213.9-3. If a person's health plan is terminated by reason of military service, an exclusion or waiting period may not be imposed in connection with the reinstatement of such coverage upon reemployment if an exclusion or waiting period would not have been imposed had coverage of such person not been terminated as a result of such service.

(a) This shall apply to the person who is reemployed and to his or her dependents who are covered under the plan with the reinstatement of coverage of such person.

(b) This shall not apply to the coverage of any illness or injury incurred in, or aggravated during, performance of service in the military.

### **213.10. Retirement and Pension Plans**

213.10-1. Each period served by a person in the military shall, upon reemployment, be deemed to constitute service for the purpose of determining the nonforfeitability of the person's accrued benefits and for the purpose of determining the accrual of benefits under a retirement or pension plan.

(a) When a person is absent from a position of employment for more than ninety (90) days and is reemployed, the Nation may require documentation before treating the person as not having incurred a break in service for retirement or pension plan purposes under this section.

213.10-2. A person reemployed under this law shall be entitled to accrued benefits that are contingent on the making of, or derived from, employee contributions or elective deferrals if the person makes payment to a retirement or pension plan with respect to such contributions or deferrals. If the employee makes up the contributions, the Nation shall make up any required matching contributions. No such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the Nation throughout the period of service. Any payment to a retirement or pension plan shall be made during the period beginning with the date of reemployment and whose duration is three (3) times the period of the person's service in the military, such payment period not to exceed five (5) years.

213.10-3. For purposes of computing the Nation's liability or the employee's contributions, the



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employee's compensation during the period of service shall be computed:

(a) at the rate the employee would have received but for the period of service;

(b) in the case that the determination of such rate is not reasonably certain, on the basis of the employee's average rate of compensation during the twelve (12) month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period).

213.10-4. *Pension Plan.* When a person who participates in a pension plan is reemployed after a period of military service, the Nation shall be liable to the pension plan for funding any obligation to provide the benefits the employee would have received had they not taken a leave of absence. The Nation shall allocate the amount of the Nation's contribution for the person in the same manner and to the same extent the allocation occurred for other employees eligible for the pension plan during the period of service. For purposes of determining the amount of such liability and any obligation of the pension plan, earnings and forfeitures shall not be included.

### **213.11. Enforcement of Employment or Reemployment Rights**

213.11.1. The Nation shall notify, in writing, any person who has been denied employment, reemployment, or benefits under this law.

213.11-2. A person may file a complaint whenever such person claims that:

(a) he or she is entitled to employment or reemployment rights or benefits with respect to employment by the Nation; or

(b) the Nation has failed or refused to comply with the provisions of this law.

213.11-3. Such complaint shall be in writing, contain a summary of the allegations that form the basis for the complaint and be filed with the person's area manager and the Human Resources Manager (or designee) within ten (10) business days from the day the person received a denial of employment and/or benefits by the Nation.

213.11-4. If the area manager determines that the action alleged in such complaint occurred, the area manager shall attempt to resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this law.

213.11-5. If the efforts of the area manager do not resolve the complaint within ten (10) business days from the receipt of the employee's complaint, the complainant shall be notified of the results of the area manager's investigation and the complainant's entitlement to refer the complaint to the Trial Court. One extension of no more than five (5) business days may be requested of and granted by the Human Resources Manager (or designee) at his or her discretion.

213.11-6. If an employee appeals the area manager's decision, the appeal must be filed with the Trial Court within ten (10) business days of the employee's receipt of the Area Manager's decision. The Trial Court shall notify the Human Resources Manager (or designee) within one (1) business day when an employee files an appeal.

213.11-7. *Remedies.* In any action relating to this law, relief may be awarded as follows:

(a) Require the Nation to comply with the provisions of this law; and/or

(b) Require the Nation to compensate the person for any loss of wages or benefits suffered by reason of the Nation's failure to comply with the provisions of this law.

213.11-8. Any compensation awarded shall be in addition to, and shall not diminish, any of the other benefits provided for under this law.

*End.*

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350 Adopted - BC-10-24-07-E  
351 Emergency Amended – BC-04-25-18-D  
352 Amended – BC-\_\_-\_\_-\_\_-\_\_



Legislative Operating Committee  
June 6, 2018

# Oneida Personnel Policies and Procedures Emergency Amendments

<b>Submission Date:</b> 4/18/18	<b>Public Meeting:</b> n/a
<b>LOC Sponsor:</b> David P. Jordan	<b>Emergency Enacted:</b> 4/25/18

**Summary:** *Request to amend this law on an emergency basis was due to action taken through resolution BC-04-11-18-A by the Oneida Business Committee which dissolved the Personnel Commission and directed the Legislative Operating Committee to develop and present emergency legislative amendments to fully address the impact of this resolution by the April 25, 2018, Oneida Business Committee meeting for consideration of adoption.*

**4/18/18 LOC:** Motion by Daniel Guzman King to add to the Active Files list as a high priority with David P. Jordan as the Sponsor; seconded by Jennifer Webster. Motion carried unanimously.

**4/18/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Kirby Metoxen, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Jo Anne House, Tani Thurner, Laura Laitinen-Warren. The purpose of this work meeting was to discuss an update and plan for the emergency amendments.

**4/20/18:** E-Poll conducted.

**4/25/18 OBC:** Motion by David P. Jordan to adopt resolution 04-25-18-E Oneida Personnel Policies and Procedures Emergency Amendments, seconded by Kirby Metoxen. Motion carried unanimously.

**5/2/18 LOC:** Motion by Ernest Stevens III to enter the Oneida Personnel, Policies, and Procedures Emergency Amendments E-poll into the record; seconded by Kirby Metoxen. Motion carried unanimously.

**5/17/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Clorissa Santiago, Brandon Wisneski. The purpose of this work meeting was to review and discuss the proposed permanent amendments to the Personnel Policies and Procedures. Drafting attorney will update the draft.

## Next Steps:

- Accept the draft of the Oneida Personnel Policies and Procedures amendments and direct that a legislative analysis be completed.

# **PERSONNEL POLICIES AND PROCEDURES MANUAL**

## **SECTION I – Introduction**



Welcome to the Oneida Nation. We are pleased to have you join us as a partner on a team of people dedicated to providing quality service that enhances the quality of life of the Oneida community. The role you play in your position is important to the overall effort required by your department to meet the goals and objectives of the Oneida Nation. We encourage you to take advantage of the opportunities presented to you, as an employee, to grow and develop both personally and professionally.

The purpose of this “Employee Manual” is to provide you with a ready source of information about employee related Oneida tribal policies and procedures. Although we have tried to make this manual as comprehensive as possible; it does not, and cannot, include policies which address every situation that may arise. The Oneida Nation reserves the right to modify, alter, change or cancel existing policies and procedures or adopt new procedures and policies at any time.

The policies and procedures set forth in this manual apply to all employees. As an employee of the Oneida Nation, you are required to know and abide by these policies and procedures. Tribal departments may have specific and additional procedures enhancing the general policies stated in this manual. Each employee is expected to learn his/her department’s procedures and comply with them. In the event of any conflict between policies in this manual and departmental procedure, the policies in this manual supersede. Each employee is also expected to conform to the professional standards of his/her occupation. Questions regarding this manual, or any employee related policies, should be directed to your supervisor, department head, or to the Human Resources Department at (920) 496-7900.

The Oneida Nation is proud to have you on our staff and we look forward to a fulfilling and successful team relationship.

## **SECTION II - RECRUITING**

### **A. RECRUITING**

#### **1. Recruiting Strategy**

- a. The Oneida ~~Tribe~~Nation shall implement a Recruiting Strategy to increase the potential for hiring the best-qualified and most capable employees possible.
  - 1) The Recruiting Strategy shall target as the first priority applicants in accordance with the Oneida and Indian Preference Policy.
  - 2) The Recruiting Strategy shall have a nationwide focus and will use:
    - a) The Kalihwisaks (national distribution);
    - b) The Oneida Higher Education Office's network of post-secondary school students;
    - c) Local and regional media and public employment agencies.

#### **2. Applicant Pool**

- a. The Oneida ~~Tribe~~Nation shall establish and maintain an Applicant Pool consisting of individuals who have expressed an interest in working for the Oneida ~~Tribe~~Nation.
  - 1) The Applicant Pool will consist of files containing:
    - a) A ~~Tribal~~Oneida Nation Application Form;
    - b) A summary of career goals and job preferences.
  - 2) The Applicant Pool will be regularly reviewed to:
    - a) Update individual files;
    - b) Remove files where indicated.
  - 3) The Applicant Pool will be cross-referenced by job preferences.
    - a) Notices of job vacancies and an Application Form will be sent to all Applicant Pool members as appropriate.
  - 4) All Applicant Pool members shall have the right to review and update their file upon request.
  - 5) Applicant Pool members shall be apprised of the ~~Tribe's~~Nation's Indian Preference Policy.

### **B. LABOR POOLS**

1. Supervisors that wish to establish a job classification as a Labor Pool Position will work with the HRD to establish the job classification.
2. Each Labor Pool Position shall be advertised as on-going recruitment pool. The HRD shall maintain an updated list of qualified candidates for each Labor Pool Position.
3. The HRD will accept all job applications and verify that each applicant is qualified according to the established job description. All qualified applicants will then be placed in a pool according to the ~~Tribe's~~Nation'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.
  - a. **PRESCREENING OF LABOR POOL POSITIONS** (HR Interpretation 11-13-12) Applicants who were previously employed by the Oneida ~~Tribe~~Nation and were terminated for reasons of misconduct or performance issues will be screened out for a period of twelve (12) months following the date of discharge.

4. The HRD will keep an updated list of qualified applicants for each job position.
5. When a vacancy occurs in a Labor Pool Position, the supervisor will notify the HRD of the position to be filled. The HRD Office shall then refer the top three (3) applicants to the immediate supervisor. The top three applicants shall be based first on the Oneida and Indian Preference Policy and, second, the date an application was received. The immediate supervisor will notify the HRD of their selection and the HRD will then offer the position to the applicant. After the position is filled, all ranked candidates will move up on the list. [\(HR Interpretation 7-11-13\)](#)
6. If the applicant refuses the position, the HRD Office will then offer it to the next applicant until the position is filled.
7. If the applicant refuses the job, the applicant may withdraw from the Labor Pool or, if he or she declines to withdraw from the Labor Pool, the date of refusal will be considered the date the application was received and the applicant will be placed in the Labor Pool list according to B.3.
8. Indian (Oneida) Preference will be adhered to in all hiring decisions.

#### C. EMERGENCY/TEMPORARY POSITIONS

1. The HRD will periodically recruit individuals who are interested in filling temporary positions which consist of the following classifications:
  - a. Emergency/Temp
  - b. Limited Term
  - c. Seasonal
  - d. Substitute/Relief
  - e. Youth Worker
  - f. Student/Intern
2. Creation of Positions
  - a. Creation of positions in the above Temporary Employee Classifications will require that these positions be budgeted for the current fiscal year, or proof through documentation that the budget is adequate to incorporate these positions.
  - b. The positions must be developed in conjunction with the HRD; assuring that all Policies and Procedures are adhered to. Creation of temporary classification requires the approval of the Director, Area Manager, and HRD Manager, or elected official of the Oneida [TribeNation](#).
  - c. All newly created temporary positions must be processed through the Wage and Salary system before a position can be filled with a temporary employee.
3. Recruitment/Selection
  - a. Recruitment/selection of applicants for all temporary positions requires a completed Temporary Personnel Requisition form with an updated job description attached.
  - b. The HRD will provide a list of qualified candidates according to the job descriptions to the immediate supervisor. The immediate supervisor will select from the approved list adhering to Indian Preference.
  - c. The HRD will contact the selected candidate and offer the position, following the proper

- procedures to put the incumbent on payroll.
- d. The selected candidate will sign a statement accepting conditions of temporary employment, and length of employment where applicable.
  - e. Temporary employees will be paid within the Grade in which the job is classified and salary will be negotiated within the first three (3) steps of respective grade.
    - 1) Any negotiated salary beyond step three will require written justification and approval from the respective General Manager. [\(H.R. Interpretation, 12-8-16\)](#)
  - f. Temporary employees are welcome to apply for any regular position within the [TribeNation](#) that becomes available during the term of their employment.
  - 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.
  - h. All temporary employees are subject to lay-off based upon department job needs and budgets. [\(HR Interpretation – 11-25-13\)](#)
  - i. Supervisors are required to do proficient planning within their respective span of control; as such they must also enforce separation dates and will be monitored by HRD for compliance.
  - j. Supervisors must select the most appropriate category of classification for the job.
    - 1) Moving from one classification to another is prohibited.
4. Benefits
- a. The following employee classifications will be eligible for benefits as defined in the section of the Personnel Policies and Procedures as medical, dental, vacation and personal accrual, holiday pay, premium pay.
    - 1) Limited Term
    - 2) Seasonal
  - b. The following employee classifications will be eligible for benefits as defined in this section of the Personnel Policies and Procedures as Mandatory Benefits and Holiday pay.
    - 1) Emergency/Temporary
    - 2) Substitute/Relief
    - 3) Seasonal Worker (only during their first season)
  - c. The following employee classifications will be eligible for benefits as defined in this section of the Personnel Policies and Procedures as Mandatory Benefits.
    - 1) Youth Worker
    - 2) Student/Intern

### **SECTION III – SELECTION POLICY**

#### **A. ONEIDA PREFERENCE AND INDIAN PREFERENCE STATEMENT OF POLICY**

Federal policy since 1834 accords hiring preference to Indians. The purpose of this preference is threefold: 1) to give Indians a greater participation in self-government; 2) to further the Government's trust obligation; and 3) to increase the positive effect of having Indians administer matters that affect Indian tribal life. (GTC Resolution – 5-23-11-A)

More recently, legislation such as the Civil Rights Act (1964) and the Education Amendments of 1972 (passed after the Equal Employment Opportunity Act) continued to specifically provide for preferential hiring of Indians by Indian Tribes Nations.

As an employer, the TribeNation seeks to employ individuals who possess the skills, abilities and background to meet the employment needs of the TribeNation.

As a sovereign Indian TribeNation and a unique cultural group, the Oneida TribeNation has determined that a highly desirable employment characteristic is knowledge of Oneida culture that can be attained only by membership (or eligibility for membership) in the Oneida TribeNation. Further, the TribeNation recognizes the unique, shared culture of Native American Indians and has determined that a desirable employment characteristic is status as a member of an American Indian TribeNation. At a minimum, the TribeNation has determined that some knowledge of Indian culture is a desirable employment characteristic.

Accordingly, the Oneida TribeNation establishes the following policy in regard to Indian Preference for selecting employees to provide services that meet the needs of the Oneida people. This Indian Preference policy shall be specific to staffing decisions made under the Personnel Policies and Procedures and shall not be construed to have an application outside of these policies and procedures.

The Oneida TribeNation of Indians of Wisconsin is an equal employment opportunity employer and follows non-discriminatory policies and procedures in personnel decisions. (HR Interpretation 5-19-14) However, the Oneida TribeNation exists to serve the needs of the Oneida people and therefore accords Oneida Preference to enrolled Oneida Tribal Members where such preference is not otherwise prohibited. All General Managers and top administrative positions, as defined by HRD, shall be held by enrolled Tribal members. In all other instances, the TribeNation applies the following priorities of Indian Preference in staffing decisions:

- 1 Enrolled Oneida Tribal member;
- 2 Oneida Indians eligible for enrollment in the Oneida TribeNation;
- 3 Documented first generation Oneida descendant;
- 4 Other Native American Indian;
- 5 Other (non-Indian). (HR interpretation 6-24-11)



This policy will apply in decisions where the basic requirements for employment are met.

## B. HIRING PROCEDURE

### 1 Statement of Policy

- a. The Oneida ~~Tribe of Indians of Wisconsin~~ Nation is an equal employment opportunity employer and follows nondiscriminatory policies in hiring.
- b. The Oneida ~~Tribe~~ Nation is a firm advocate of the 1964 Civil Rights Act (as amended) and the 1968 Indian Civil Rights Act (as amended) and will make every effort to ensure compliance with each Act; however:
- c. The Oneida ~~Tribe~~ Nation follows the principles of Indian Preference in the implementation of hiring practices (see the Oneida Preference and Indian Preference Statement of Policy).
- d. The members of the Personnel ~~Commission~~ Selection Committee and all Tribal employees who supervise other Tribal employees shall undergo training in EEO and Tribal laws, rules and regulations.
  - 1) Training will be knowledge - and skills-based
  - 2) All Personnel ~~Commission~~ Selection Committee members and Tribal supervisors will undergo periodic re-training in EEO and Tribal laws, rules and regulations
- e. No person shall be recommended for a position if a conflict of interest or nepotism is created. Nepotism is created by the following relationships: [\(HR Interpretation 08-13-12\)](#)
  - a) Father
  - b) Mother
  - c) Husband
  - d) Wife
  - e) Brother
  - f) Sister
  - g) Son
  - h) Daughter
  - i) Father-in-law
  - j) Mother-in-law
  - k) Brother-in-law
  - l) Sister-in-law
  - m) Son-in-law
  - n) Daughter-in-law
  - m) Grandparent
  - n) Grandchild

### 2. Hiring Procedures

#### a. HRD Office Responsibilities

- 1) Unless specifically noted, the HRD Office will have responsibility for implementing the policies and procedures guiding the selection of ~~Tribal~~ employees of the Nation.

#### b. Personnel ~~Commission~~ Selection Committee Role

- 1) The Oneida ~~Tribe~~ Nation established the Personnel ~~Commission~~ Selection Committee to ~~represent the~~ protect against issues of nepotism and enforce Oneida ~~Community at-large in the selection of tribal employees~~ and Indian Preference.
  - a) The Personnel ~~Commission~~ Selection Committee is directed to:
    - i. ~~Seek out the best matched applicants for each available position;~~
    - ii. ~~Consider only job related factors (such as education, experience, past job performance, skills and abilities, and compatibility with the position and potential co-workers) when selecting candidates.~~

- i. Protect against issues of nepotism;
    - ii. Enforce Oneida and Indian preference;
    - iii. Ensure fairness and equality is maintained during interviews.
  - c. Identification of Vacancies and Development of Job Descriptions (Work Standard, 11-16-11)
    - 1) Supervisors may inform the HRD Office of pending vacancies as soon as they are identified.
    - 2) For existing positions, the HRD Manager (or designate), the supervisor and the Area Manager (at his/her option) will review the job description to ensure compliance with:
      - a) The ~~Tribal~~ Nation's job structure;
      - b) The needs and requirements of the job.
    - 3) For new positions, the HRD Manager, the appropriate Area Manager, and the supervisor shall develop the job description.
      - a) The new job description shall conform to the ~~Tribal~~ Nation's job structure.
      - b) The new job description will be reviewed by the General Manager.  
(HR Interpretation, 12-8-16)
    - 4) All job descriptions shall contain the following information:
      - a) Job title, division/department, location, supervisor's title;
      - b) Posting date, application deadline, preferred starting date, date of job, description review;
      - c) Pay level (grade, step, hourly rate);
      - d) A brief job summary;
      - e) Duties and responsibilities;
      - f) Qualifications;
      - g) Inquiry address;
      - h) Statement of compliance with EEO and Indian Preference policies.
  - d. Applications
    - 1) All inquiries for job vacancies will be responded to with a ~~Tribal Application~~ an Oneida Nation Application Form which will consist of:
      - a) Job vacancy title;
      - b) Applicant biographical data;
      - c) A request for a resume (where applicable).
    - 2) The Application Form shall be accompanied by a Statement of Policy regarding Oneida Preference and Indian Preference.
    - 3) Hand-delivered applications will be accepted at the HRD Office until 4:30 p.m. on the deadline date; mailed applications must be postmarked on or before the deadline date.
    - 4) All applications will be acknowledged.
  - e. Advertising
    - 1) Position vacancies will be advertised as widely as possible including:
      - a) The Kalihwisaks;

- b) Statewide, through print and electronic media and public employment agencies;
- c) Through targeted recruiting efforts including:
- i. Major metropolitan areas (i.e. Milwaukee, Chicago, Minneapolis, etc.)
  - ii. The Bureau of Indian Affairs;
  - iii. The Oneida Higher Education Office.
- d) Other postings targeted toward special recruiting categories (such as professions) shall be carried out at the discretion of the HRD Office with the advice and consent of the affected department.
- 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.
- 3) The second posting for a position vacancy shall be posted for a minimum of ten (10) calendar days and shall be open to the general public, unless the position must be filled by an enrolled ~~Oneida Tribal~~ member of the Oneida Nation. (HR Interpretation 8-9-11)
- 4) All vacancies requiring re-posting shall be referred back to B-2.c (Identification of Vacancies and Development of Job description) to begin the re-posting process.
- f. Screening of Applicants (HR Interpretation 11-16-12) (HR Interpretation 10-22-12)
- 1) A Screening Committee consisting of the HRD Manager (or designate), the position supervisor, the Area Manager (at his/her option), and a member of the Personnel ~~Commission~~ Selection Committee shall be convened to conduct the screening of applicants. The Screening process will begin as soon as practical following the closing of the position. This Committee will:
- a) Verify that all applications are complete, are accurate and were submitted on time.
    - i. Applications that are incomplete, inaccurate, or were not submitted on or before the posted deadline date may be screened out.
  - b) Analyze the job description to establish screening criteria. These criteria will include qualifications listed on the job description determined by the supervisor and Area Manager to be essential to the job. (T.O.E. WS - 5-6-13)
  - c) Screen verified applications
  - d) Recommend a list of applicants to be interviewed.
- 2) The HRD Office shall notify screened out applicants within five (5) working days after the initial screening and reserve these applications in the general recruiting pool.
- 3) The HRD Office will arrange for interviews with the listed candidates.
- g. Candidate Interviews
- 1) An Interview Committee will be convened and will consist of the members of the Screening Committee except that the HRD Manager will be replaced with a second member of the Personnel ~~Commission~~ Selection Committee. The Interview Committee will:

- a) Construct an interview format consisting of:
    - i. A set of questions related to the screening criteria qualifications;
    - ii. An interview rating scale designed to objectively evaluate each candidate's qualifications.
  - b) Interview candidates and evaluate each individually
  - 2) The HRD Manager (or designee) will total the evaluation rating scale to rank order of the candidates.
- h. Selection [\(Interpretation - Disqualification of Applicant 10-24-2013\)](#)
- 1) The supervisor shall select one of the top two (2) candidates as ranked through the rating scale. [\(HR Interpretation - 10-17-12\)](#)
    - a) The supervisor may conduct an additional personal interview with the top two (2) candidates.
    - b) The selection decision shall be governed by the Oneida Preference and Indian Preference Policy. [\(HR Interpretation - 6-6-11\)](#)
    - c) The HRD Office will notify the selected candidate and offer the candidate the job within five (5) working days of the selection decision by the supervisor.
      - i. Should the supervisor's first choice refuse the offer, the HRD Office will offer the job to the second ranked candidate.
    - 2) Should both of the top two ranked candidates refuse the job offer, the supervisor may:
      - a) Repeat the process outlined in B.2.h.1. above; or
      - b) Re-post the position.
    - 3) The HRD Office will notify those candidates interviewed but not selected of the decision to hire the best-qualified candidate.
    - 4) All newly hired employees will be listed in the HR newsletter.
  - C. TRANSFERS AND PROMOTIONS POLICY - The Oneida [TribeNation](#) encourages transfers and promotions within and among units in order to make the best possible use of human resources to meet [Tribalthe Nation's](#) goals and objectives. Supervisors and employees are encouraged to work together to create an environment in which employees constantly strive to improve their skills and abilities and managers constantly seek to provide challenging and rewarding work experiences.
  - 1. 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.
        - a) Positions will be posted in prominent locations in each [Tribal](#) building [of the Nation](#).
      - 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 (5) day internal posting period, the HRD Manager will schedule a

conference with the open position's supervisor and the Area Manager.

a) The conference committee will consist of the supervisor, the Area Manager and the HRD Manager (or designate) acting as this Committee will:

- i. Establish selection criteria; and
- ii. Review each bid.

b) The Committee may select the best-qualified applicant but is not required to choose an applicant to fill the open position from those employees who have submitted an application for a transfer or promotion.

c) If the Committee does not fill the position from the transfer/promotion process, the process will continue through the full advertising, screening and interview steps.

- i. Any decision will be governed by the Indian Preference Policy.

4) Employees who are transferred or promoted will not lose any benefits; however:

a) An employee may be required to continue serving in his/her present position until a replacement can be found;

b) An employee who is transferred to a position lower on the ~~Tribal~~Tribe~~Nation's~~Nation Job Structure will be paid at the grade level corresponding to the new position;

c) An employee must have completed one year of service to the ~~Tribe~~Tribe~~Nation~~Nation 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~~Tribe~~Nation~~Nation);

d) The newly transferred or promoted employee shall be required to complete a three (3) month probation period (all conditions of the ~~Tribe's~~Tribe's~~Nation's~~Nation's Probation Policy shall apply).

#### b. Applicant Pool Process

1) New and vacant positions will be advertised through the ~~Tribal~~Tribe~~Nation's~~Nation Applicant Pool.

2) The job description will be sent to persons whose applications are maintained in the Applicant Pool.

a) The ~~Tribal~~Tribe~~Nation's~~Nation Applicant Pool will consist of open (unspecified) applications from ~~Tribal~~Tribe members of the Nation who wish to be considered for employment by the ~~Tribe~~Tribe~~Nation~~Nation.

b) Advertising through the ~~Tribal~~Tribe~~Nation's~~Nation Applicant Pool will follow the format and time conditions set forth in the Hiring Policy.

## 2. Reassignments

### a. Title Reassignments

1) Title Reassignments may be made by supervisors to:

- a) More accurately describe or define an existing job; or
- b) Make minor adjustments in jobs within a unit or operating division.

2) Title Reassignments may be made at any time with the approval of the Area Manager and HRD Manager.

b. Job Reassignments

- 1) Job Reassignments may be made by supervisors to make more efficient and effective use of human resources.
- 2) Job Reassignments may be supervisor-initiated or employee-initiated but must be made in the best interests of the operating unit.
- 3) Job Reassignments may be made at any time with the approval of the Area Manager and after a review of each affected job by the Personnel Evaluation Committee.

c. Interim Job Reassignments (Work Standard 7-11-13)

D. PROBATION (Work Standard 1-20-2011)

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.
  - a. At the end of the three-month probation period, a second performance evaluation will be conducted. This evaluation will recommend the end of probation and regular status for the employee, an extension of probation, or termination for cause.
2. Status as a Probationary Employee
  - a. Probationary employees will be paid at five percent (5%) below the posted pay rate for the position.
    - 1) New employees hired under a negotiated salary will receive a salary one step below the agreed upon salary during the probationary period.
  - b. Probationary employees will accrue vacation/personal days during the probation period and will receive holiday pay.
  - c. Probationary employees may be terminated for cause at any time during the probation period. Cause must consist of a violation of policies or the documented inability of the employee to perform the duties and responsibilities of the position. This termination is subject to appeal. (BC Action 3-20-92)
3. Completion of Probation Period
  - a. Satisfactory completion of probation will result in the employee receiving the regular salary for the position.
  - b. Employees who are terminated during the probation period will receive credit for accrued vacation/personal days in their final paycheck.
  - c. Extensions of probation periods will not affect accrual of or use of benefits as explained under D.2.

## **SECTION IV - COMPENSATION AND BENEFITS**

### **A. SALARY**

#### **1. ~~Tribal~~The Nation's Job and Salary Structure**

- a. An ongoing plan will be instituted based on standard employee grades and step levels to assure that a uniform approach is taken to establish equitable salary and wage levels.
- b. Employee performance evaluations will be a resource in determining whether an employee receives an increase in pay for the upcoming year. An overall satisfactory rating must be attained in order to be granted an increase in pay.
- c. Merit increase shall be granted upon the recommendation of the supervisor, the Area Manager, the HRD Manager and the General Manager.

#### **2. Workday (Work Standard, 10-17-12)**

- a. The regular ~~Tribal~~ workday **in the Nation** is from 8:00 a.m. to 4:30 p.m. with an hour for lunch. The exception to these hours occurs only if the program/enterprise hours must vary for the purpose of providing service (such as retail hours beyond 4:30 p.m.). Shifts will be developed as needed, and the shift hours will then become the regular workday for assigned employees for that program/enterprise.
- b. Employees are expected to be at work each scheduled work day.
  - 1) Employees who do not report for work because of inclement weather or unforeseen circumstances will not be paid for that day. Employees may elect to use personal day(s) to cover this absence. (Work Standard, 11-8-12)
  - 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.
    - i. 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.
    - ii. Permission to leave early must be obtained by the employee from his/her supervisor.

#### **3. Overtime**

- a. Any and all overtime will be kept to a minimum and must be approved by the Supervisor and Area Manager.



- 485 1) In the case of potential overtime that may occur at night, on holidays or on weekends,  
486 supervisors will delegate this authority to a specific employee and outline specific  
487 situations and actions that warrant overtime.
- 488 b. All overtime must be reported to the supervisor for evaluation.
- 489 c. Overtime will be approved only if the program or enterprise budget is capable of paying it.
- 490 d. Overtime will be approved only for hours worked in excess of forty (40) hours per week.
- 491 Personal/vacation days and holidays will not count toward the forth (40) hour requirements.
- 492 | e. ~~Tribal employees~~Employees of the Nation are expected to work overtime if required. Time  
493 and one-half will be paid for this overtime.
- 494 f. Exempt employees are not eligible for overtime.
- 495 1) The HRD Office will maintain a list of exempt employees.
- 496 4. Holidays [\(Work Standard, 4-15-11\)](#)
- 497 a. Tribal holidays consist of the following:
- 498 1) One-half day Christmas Eve
- 499 2) Christmas Day
- 500 3) New Year's Day
- 501 4) Memorial Day
- 502 5) Veteran's Day
- 503 6) Independence Day
- 504 7) Labor day
- 505 8) Thanksgiving Day
- 506 9) Indian Day (day after Thanksgiving)
- 507 10) One-half day Good Friday
- 508 11) Code Talker's Day (Oneida Day, Friday prior to Memorial Day)  
509 [\(BC Resolution – 12-11-13A\)](#)
- 510 b. To be eligible for a paid holiday, employees must work the preceding and following  
511 scheduled work days (except for employees who are on a prescheduled work leave or an  
512 approved extended sick leave.) Employees who are granted a sick day directly prior to a  
513 holiday must certify that they were capable of working the holiday in order to qualify for a  
514 paid holiday.
- 515 c. All regular employees will be given holiday pay for the maximum pay of eight (8) hours per  
516 day.
- 517 d. Holidays falling on a Saturday will be observed the preceding Friday; holidays falling on a  
518 Sunday will be observed on the following Monday. [\(2017 Holiday Observance Calendar\)](#) [\(2016 Holiday Observance  
519 Calendar\)](#)
- 520 | e. The Oneida ~~Tribe~~Nation acknowledges its responsibility to make a reasonable  
521 accommodation to employees who wish time off to observe religious holidays. Requests for  
522 such time off will be granted where possible, based on the scheduling and staffing needs of  
523 affected departments. Employees wishing to take time off work for religious observances  
524 should inform their supervisor as early as possible. Employees may use personal time for  
525 such requests if eligible; otherwise the time off will be treated as unpaid leave.

5. Vacation/Personal Days

- a. Every ~~Tribal~~-employee of the Nation, except temporary employees, shall be allowed personal and vacation days with pay to the extent that personal days and vacation are accumulated. Temporary employees shall be allowed personal and vacation days in accordance with Section II.C.4. [\(GTC Resolution – 7-02-12-A\)](#)
- b. The amount of personal and vacations days shall be determined by continuous service for the ~~Tribe~~Nation. A "lay-off" from ~~tribal~~-employment of the Nation shall not be considered in interruption in continuous service where the lay-off is in accordance with the ~~Tribe's~~Nation's Layoff Policy, nor shall a preapproved leave of absence. [\(Accruals Interpretation, 3-6-12\)](#)
- c. Except as provided for in section g, the accrual of personal days shall be as follows:  
[\(BC Resolution, 4-13-11F\)](#)
  - 1) 0-3 years of service - 6 days per year;
  - 2) 4-7 years of service - 8 days per year;
  - 3) 8-14 years of service - 10 days per year;
  - 4) 15+ years of service - 12 days per year;
- d. Except as provided for in section g, the accrual of vacation days shall be as follows:
  - 1) 0-3 years of service - 12 days per year
  - 2) 4-7 years of service - 15 days per year;
  - 3) 8-15 years of service - 20 days per year;
  - 4) 15+ years of service - 25 days per year.
- e. Part-time employees accrue personal and vacation days for time actually worked at a ratio of a full-time employee.
- f. Service is defined as working for Programs/Enterprises which are contracted by the ~~Tribe~~Nation of specifically sponsored by the ~~Tribe~~Nation.
- g. Vacation and personal days shall be capped at 280 hrs. [\(BC Resolution, 11-10-10D\)](#) An employee shall cease to accrue vacation and personal hours when he or she has reached 280 total hours. Supervisors shall notify their employees when said employees have accumulated 200 total hours of vacation and personal time.
  - 1) An employee may trade back accumulated vacation and personal hours in accordance with Section IV.A.5.n. below. [\(GTC Resolution – 5-23-11-B\)](#)
- h. Upon termination from ~~Tribal~~-employment with the Nation, employees will be paid for any unused personal and/or vacation days.
  - 1) Employees who have used the ~~Tribally~~Nation's sponsored loan program will be required to honor the terms of the loan agreement.
- i. Personal Days can be used for any reason so long as the request is approved by the employee's supervisor at least twenty-four (24) hours in advance (unless the absence is due to illness or unforeseen circumstances).
  - 1) In the case of illness or unforeseen circumstance, the supervisor shall be notified no later than fifteen (15) minutes before the scheduled starting time.
  - 2) Programs and enterprises may institute stricter standards of notification. These standards will be submitted to and approved by the Personnel Department.

- j. An employee shall notify his/her supervisor of an intent to use personal days in the following ways:
  - 1) Three (3) to five (5) days - one (1) week advance notification
  - 2) Six (6) days or more - two (2) weeks advance notification.
- k. An employee shall notify his/her supervisor one (1) day in advance if he/she will take off one (1) or two (2) days of vacation. Programs and enterprises may institute stricter standards of notification.
  - 1) Three (3) to five (5) days of vacation require a one (1) week advance notification.
  - 2) Six (6) or more days of vacation require at least two (2) weeks advance notification.
- l. The burden shall be on the supervisor to show that a denial of a personal day or a vacation day is based upon interference with the business of the [TribeNation](#).
- m. Personal or Vacation Days cannot be taken when an employee is on probation.
- n. Trade-back for Cash - Each fiscal year, the Oneida Business Committee shall analyze fiscal conditions to determine whether employees may trade back personal and/or vacation hours for cash that fiscal year. [\(Work Standard, 10-11-11\)](#)
  - 1) If the Oneida Business Committee approves trade-back for cash, they shall also determine whether (a) and/or (b) applies:
    - i. All employees will have the opportunity to trade-back hours one time that year.
      - 1. By August 15, each employee who has accumulated twenty-four (24) hours or more of vacation and/or personal days may opt to trade in his/her hours for cash.
      - 2. Employees will receive their trade back on or before September 30 of that year.
    - ii. Only those employees who are unable to utilize their personal and/or vacation time due to working conditions, such as a shortage in staffing, as determined by the HRD Manager or designee, will have the opportunity to trade back hours on a quarterly basis.
      - 1. Employees will receive their trade back within sixty (60) days after opting to trade back hours.
  - 2) When trade-back for cash is approved by the Oneida Business Committee, the following standards shall apply:
    - i. Employees must decide which status (vacation or personal or both) from which their trade-back will be drawn.
    - ii. Employees may not trade for cash more than eighty (80) hours in one year. [\(GTC Resolution 5-23-11-B\)](#)
- o. Additional Duties Compensation
- p. Travel Time Compensation [\(Work Standard - 3-20-13\)](#)

B. INSURANCES [\(see separate publication\)](#) for information on Tribal Insurance plans.

[\(Separating Employees WS 5-6-13\)](#)

C. RETIREMENT PLAN [\(See separate publication for information on Tribal Retirement Plan\).](#)

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.

2. Funeral Leave [\(Work Standard, 8-2-11\)](#)

- 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	_____	great-grandparent
Wife	Father	Sister		great-grandchildren
Mother-in-law	Son	Grandparent		Spouse's great-grandparents
Father-in-law	Daughter	Grandchild		Spouse's grandparents
Daughter-in-law	Sister-in-law	Brother-in-law		
- 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. [\(Management Directive, 12-17-2009\)](#)

3. Leave of Absence [\(Work Standard, 6-10-14\)](#)

- a. A leave of absence without pay may be granted to employees for a justifiable reason (including caring for a child, spouse or parent with a serious health condition) and when in the best interest of the [TribeNation](#).
  - 1) Leaves of absence will not exceed three (3) months.
    - i. All leaves of absence must be approved by the supervisor, Area Manager, HRD Manager and General Manager. [\(HR Interpretation, 12-8-16\)](#)
    - ii. Requests must be documented and submitted to the supervisor with as much advance notice as possible.
    - iii. Disposition of requests will be made on the basis of staffing requirements.
  - 2) Upon returning, the employee will be reinstated in the former position with full status and benefits. Holiday, vacation, and sick leave will not be accrued during the leave of absence.
  - 3) No later than fifteen (15) working days prior to the expiration of the leave period the employee must give notice in writing of his/her intent to return to the position. Notice must be presented to the supervisor.
    - i. Failure to provide written notice will be interpreted to mean that the employee does not intend to return following the leave. The position will be posted and filled

through the selection process. (HR Interpretation 11-21-11)

4. Maternity Leave

a. Maternity leave will be granted for a period of six (6) weeks without pay.

1) An employee may elect to cover any portion of this time by using accumulated sick days.

2) Any maternity-related absences for longer than six (6) weeks must be taken as a medical leave of absence.

5. Military Leave

a. In addition to the following provisions, the ~~Tribe's~~Nation's Military Service Protection Act shall govern Military Leave.

b. A Military Leave of Absence is afforded employees entering active duty without accumulation of holiday, vacation or personal time during the period of leave. Any accumulated benefits prior to leave will be maintained for the employee.

c. 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~~Nation for any hours work that the employee was required to miss due to reservist training.

1) Any pay received for performing any of the above duties shall be deducted from the employee's pay. (GTC Resolution - 1-26-08A)

6. Jury Duty

a. During a period of jury duty, an employee will receive pay from the ~~Tribe~~Nation for any hours of work missed due to jury duty.

1) Jury duty pay will be deducted from the employee's paycheck when determining the amount of pay

2) No overtime will be allowed in determining employee pay while serving on jury duty.

7. Educational Leave (BC Action, 5-4-90)

a. A leave of absence for education purposes will not exceed one (1) year.

8. Parent Policy Leave (BC Action, 3-2-94A)

a. Employees who are parents, guardians, or those individuals specifically referred to as "immediate family" as defined in Section IV, page 6 of these Personnel Policies and Procedures which includes husband, wife, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, grandparent and grandchild may request to participate in their child(ren)'s educationally sanctioned events not to exceed four (4) hours per employee per month

1) These four (4) hours shall not accumulate.

b. Approval to utilize the four (4) hours must be obtained from the supervisor.

1) An employee shall request his/her supervisor to utilize this leave with a minimum of twenty-four (24) hours' notice.

2) The Supervisor may request verification of

i. Guardianship of the child(ren) and/or

ii. The attendance of the employee at their child(ren)'s educationally sanctioned - event.

- c. The burden shall be on the supervisor to show that a denial of the Parent Policy Leave which is based upon interference with the business of the [TribeNation](#).
- d. This leave shall not be paid as overtime. The supervisor may have the option to use flex time to cover this time off to attend their child(ren)'s educationally sanctioned events.
- e. All employees, except Emergency/Temporary, Youth Workers, Student Interns, and Seasonal Workers during their first season, and Substitute Reliefs are eligible to participate in this benefit.

## **SECTION V – EMPLOYEE RELATIONS**

### **A. ORIENTATION POLICY**

The Oneida [TribeNation](#) reflects the unique culture and character of the Oneida Nation. The [TribeNation](#) recognizes that this may present special problems and difficulties for a new employee. The [TribeNation](#) 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. [TribalThe Nation's](#) 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~~Nation 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 of the Nation 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 – 12-8-16)

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.

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 6-21-11)

#### C. CAREER DEVELOPMENT

1. ~~Tribal employees~~Employees of the Nation are encouraged to develop their skills and abilities by pursuing education at a local educational institution. (BC Action – 9-9-92)

a. ~~Tribal employees~~Employees of the Nation 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~~Employees of the Nation 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~~Nation's unit take precedence; however, the supervisor shall attempt to accommodate the

- 772 employee's request.
- 773 b. In no case shall the accommodation exceed actual class hours plus reasonable travel time.
- 774 c. Employees must obtain the approval of their immediate supervisor to take a course on
- 775 | [Tribethe Nation's](#) time.
- 776 3. The supervisor's approval and estimated cost must be submitted to the HRD Office, the Area
- 777 Manager and the General Manager. [\(HR Interpretation – 12-8-16\)](#)
- 778 | 4. The cost of the books, tuition and fees for the course shall be paid by the [Tribethe Nation](#) through
- 779 funds budgeted in programs or through the Higher Education program.
- 780 a. Reimbursement for books, tuition and fees is contingent upon the employee receiving at
- 781 least a C (2.0 on a 4.0 point scale).
- 782 b. Employees who receive less than the required grade point will be required to reimburse the
- 783 program for whatever costs were incurred.
- 784
- 785 D. COMPLAINTS, DISCIPLINARY ACTIONS, AND GRIEVANCES
- 786 Disciplinary procedures provide a systematic process for handling problem employees.
- 787 [\(Work Standard – 5-6-13\)](#) Disciplinary procedures serve to correct unacceptable behavior and to protect the
- 788 | [Tribethe Nation](#). Grievance procedures provide a systematic process for hearing and evaluating job
- 789 related disputes. Grievance procedures serve to protect employees from inconsistent and unfair
- 790 treatment. In all cases of grievance and discipline, supervisors are enjoined to use common sense,
- 791 discretion and judicious good sense to resolve complaints between employees, exercise disciplinary
- 792 prerogatives, and handle grievances.
- 793 [\(HR Interpretation – 2-4-13\)](#) [\(HR Interpretation - 1-29-14\)](#)
- 794 1. Complaints
- 795 a. Should an employee have a disagreement with another employee, he/she may lodge an
- 796 informal (verbal) or formal (written) complaint with the employee's supervisor.
- 797 b. The supervisor will investigate the complaint and attempt to resolve the disagreement.
- 798 c. If the employee lodging the complaint is dissatisfied with the attempted resolution, he/she
- 799 may ask the Area Manager to attempt a resolution.
- 800 d. There is no further appeal of this process.
- 801 2. Disciplinary Actions
- 802 a. Disciplinary actions will be initiated by an immediate supervisor for the purpose of
- 803 correcting unacceptable work performance. The supervisor will always discuss the action
- 804 with the employee being disciplined to ensure that the employee:
- 805 1) Understands the reason for the disciplinary action;
- 806 2) Understands the expected work performance in light of the disciplinary action;
- 807 3) Understands the consequences of continued unacceptable behavior.
- 808 b. A supervisor shall initiate disciplinary actions commensurate with the seriousness of the
- 809 unsatisfactory performance. A supervisor must consider each disciplinary action in
- 810 progressive order and justify a deviance from that recommended progression.
- 811 c. The actions listed below are examples of unacceptable work performance and do not
- 812 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~~the Nation's property or equipment (for example, ~~Tribal~~the Nation's vehicles, telephone, mail services, etc.) (W/S/T)
- b) Unauthorized possession, removal or willful destruction of ~~Tribal~~the Nation's 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 of the Nation. (T)
- d) Unauthorized entry of ~~Tribal~~the Nation's 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 of the Nation or other persons against the ~~Tribe~~Nation, its guests, employee, members, customers and/or clients while on or about ~~Tribal~~premises of the Nation. (S/T) (BC Action – 12-2-88)

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 of the Nation in ~~Tribal~~the Nation's 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~~Nation. (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 of the Nation. (S/T)  
(BC Action – 12-2-88)
  - n) Any violation of duly adopted ~~Tribal~~ ordinances of the Nation. (W/S/T) (BC Action – 12-2-88)
- 5) Sexual Harassment Policy
- It is the Oneida ~~Tribe's~~Nation'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~~Nation 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~~Nation 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 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~~law~~ 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~~law~~.

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 – 12-8-16)
  - f. Should a disciplinary action result in the suspension or termination of an employee, the following guidelines shall apply:
    - 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 of the Nation 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~~Judiciary – Trial Court. The appeal must be filed with the ~~Oneida Personnel Commission~~Judiciary – Trial Court within ten (10) working days from employee's receipt of the Area Manager's decision. Upon receipt of the appeal the ~~Commission~~Judiciary – Trial Court 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~~Judiciary – Trial Court. ~~The Personnel Commission~~Judiciary – Trial Court 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
- 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~~Judiciary – Trial Court will hear the grievance.
- a) If neither of the above conditions is present, the ~~Personnel Commission~~Judiciary – Trial Court 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, ~~and~~ 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~~Judiciary – Trial Court 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~~Judiciary – Trial Court appeal process, the ~~Commission~~Judiciary – Trial Court 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.

1018                   ii.    This procedure may be invoked only once. Thereafter, the appeal process will  
1019                   continue to a conclusion based on the information originally presented and the  
1020                   newly introduced evidence.

1021           5) The petitioner shall have the right to be represented by an advocate if he/she so  
1022           chooses. The expenses of the advocate shall be the total responsibility of the petitioner.  
1023           The respondent and/or area manager who is party to the grievance action shall have  
1024           access to an advocate for consultation and/or representation. Should the petitioner  
1025           engage outside professional legal representation, the respondent and/or area manager  
1026           shall have access to professional legal representation.

1027           a) Should the petitioner and his/her representative both fail to appear for any  
1028           scheduled hearing without justifiable cause, the decision of the Area Manager shall  
1029           be upheld and the grievance dismissed.

1030                   Should the respondent and his/her representative both fail to appear for any  
1031           scheduled hearing without justifiable cause, the decision of the Area Manager shall  
1032           be overturned.

1033  
1034  
1035           6) The decision of the ~~Personnel Commission~~Judiciary – Trial Court shall be based solely on  
1036           the information presented to them before the appeal hearing, the record of the prior  
1037           proceedings and any new evidence (if introduced appropriately through the provisions  
1038           of 6.b.4.a. above).

1039           7) The decision of the ~~Personnel Commission~~Judiciary – Trial Court may be appealed s to  
1040           the Nation's Court of Appeals pursuant to the Nation's Rules of Appellate Procedure~~hall~~  
1041           be final. The ~~Personnel Commission~~Judiciary – Trial Court may:

1042           a) Uphold the disciplinary action; or

1043           b) Overturn the disciplinary action and:

1044                   i.    Reinstate the employee (petitioner) with full back pay for any lost time;

1045                   ii.   Reinstate the employee (petitioner) without back pay.

1046           8) The petitioner and respondent have a right to a speedy hearing and decision; therefore,  
1047           notification of the final decision will be made within five (5) working days following the  
1048           hearing.

1049           a) Notification of the final decision will include:

1050                   i.    The final decision;

1051                   ii.   The reason(s) for the final decision; and

1052                   iii.   The action to be taken as a result of the final decision.

1053           9) The HRD Office shall:

1054           a) Keep all records of the hearing;

1055           b) Provide copies of administrative advocacy rules, procedural rules, and time line  
1056           rules to interested parties.

## **SECTION VI – SAFETY AND HEALTH**

### **A. POLICY**

The personal safety and health of each employee, customer and client of the Oneida ~~Tribe~~Nation is of primary importance. The prevention of injuries and illnesses is of such importance that it will take precedence over operating productivity whenever necessary.

The Oneida ~~Tribe~~Nation will maintain a safety and health program conforming to the best practices available. To be successful, this program will work to develop the proper attitudes toward on-the-job injury and illness prevention on the part of supervisors and employees. This program will strive to develop a high level of cooperation in all safety and health matters between supervisors and employees and among employees.

The objective of this program is a safe and healthy environment that will reduce the number of job-related injuries and illnesses to an absolute minimum. The ~~Tribe's~~Nation's goal is zero accidents and illnesses.

### **B. PROCEDURES**

The Tribal Safety Committee will adopt and enforce through the Personnel Department procedures related to the education of the ~~Tribal~~Nation's work force in matters of safety and



health. These procedures will include all education and prevention activities, assessments and evaluations, and reporting.

## **SECTION VII – PROGRAM/ENTERPRISE RULES & REGULATIONS**

A. Enterprises and programs may establish internal rules and regulations to facilitate the administration of Tribalthe Nation's Personnel Policies and Procedures.

1. In no case will these internal rules and/or regulations conflict with or take the place of Tribalthe Nation's Personnel Policies and Procedures.
2. Enterprises and programs which establish internal rules and regulations will file a copy of the rules and regulations with the Personnel Department.



## **SECTION VIII – RECORD KEEPING**

### **A. PERSONNEL OFFICE**

1. Basic records to be retained include:
  - a. Reference Data
  - b. Job Descriptions
  - c. Resumes and Applications
  - d. Interview notes/selection information
  - e. Resignations
  - f. Employee tax exemption claims
  - g. Disciplinary action information
  - h. Performance evaluations
  - i. Insurance coverage/changes
  - j. Transfers
2. The Personnel Office shall keep and maintain a complete record of each employee throughout his/her term of employment.
  - a. ~~Tribal employees~~ Employees of the Nation shall have access to their employment file.
  - b. Employment files kept by the Personnel Office shall be considered confidential information. Release of any information to a third party must have the consent of the employee in writing.

1169 B. ACCOUNTING DEPARTMENT

1170 1. Basic records to be retained include:

1171 a. Attendance records

1172 b. Employee Time Sheets

1173 c. Earnings - in the form of computer printouts

1174 d. Travel - in the form of complete travel authorization forms.

1175 1) Time sheets and travel reports shall be filled out by every employee for pay  
1176 period, collected by the program head, and forwarded to the Department.

1177 2. The Accounting Department shall retain all records for a period of seven (7)  
1178 years. [\(Archived 29, October 2010\)](#) [\(BC Action, 10-14-09B\)](#)

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# **PERSONNEL POLICIES AND PROCEDURES MANUAL**

## **SECTION I – Introduction**



Welcome to the Oneida Nation. We are pleased to have you join us as a partner on a team of people dedicated to providing quality service that enhances the quality of life of the Oneida community. The role you play in your position is important to the overall effort required by your department to meet the goals and objectives of the Oneida Nation. We encourage you to take advantage of the opportunities presented to you, as an employee, to grow and develop both personally and professionally.

The purpose of this “Employee Manual” is to provide you with a ready source of information about employee related Oneida tribal policies and procedures. Although we have tried to make this manual as comprehensive as possible; it does not, and cannot, include policies which address every situation that may arise. The Oneida Nation reserves the right to modify, alter, change or cancel existing policies and procedures or adopt new procedures and policies at any time.

The policies and procedures set forth in this manual apply to all employees. As an employee of the Oneida Nation, you are required to know and abide by these policies and procedures. Tribal departments may have specific and additional procedures enhancing the general policies stated in this manual. Each employee is expected to learn his/her department’s procedures and comply with them. In the event of any conflict between policies in this manual and departmental procedure, the policies in this manual supersede. Each employee is also expected to conform to the professional standards of his/her occupation. Questions regarding this manual, or any employee related policies, should be directed to your supervisor, department head, or to the Human Resources Department at (920) 496-7900.

The Oneida Nation is proud to have you on our staff and we look forward to a fulfilling and successful team relationship.

## **SECTION II - RECRUITING**

### **A. RECRUITING**

#### **1. Recruiting Strategy**

- a. The Oneida Nation shall implement a Recruiting Strategy to increase the potential for hiring the best-qualified and most capable employees possible.
  - 1) The Recruiting Strategy shall target as the first priority applicants in accordance with the Oneida and Indian Preference Policy.
  - 2) The Recruiting Strategy shall have a nationwide focus and will use:
    - a) The Kalihwisaks (national distribution);
    - b) The Oneida Higher Education Office's network of post-secondary school students;
    - c) Local and regional media and public employment agencies.

#### **2. Applicant Pool**

- a. The Oneida Nation shall establish and maintain an Applicant Pool consisting of individuals who have expressed an interest in working for the Oneida Nation.
  - 1) The Applicant Pool will consist of files containing:
    - a) A Oneida Nation Application Form;
    - b) A summary of career goals and job preferences.
  - 2) The Applicant Pool will be regularly reviewed to:
    - a) Update individual files;
    - b) Remove files where indicated.
  - 3) The Applicant Pool will be cross-referenced by job preferences.
    - a) Notices of job vacancies and an Application Form will be sent to all Applicant Pool members as appropriate.
  - 4) All Applicant Pool members shall have the right to review and update their file upon request.
  - 5) Applicant Pool members shall be apprised of the Nation's Indian Preference Policy.

### **B. LABOR POOLS**

1. Supervisors that wish to establish a job classification as a Labor Pool Position will work with the HRD to establish the job classification.
2. Each Labor Pool Position shall be advertised as on-going recruitment pool. The HRD shall maintain an updated list of qualified candidates for each Labor Pool Position.
3. The HRD will accept all job applications and verify that each applicant is qualified according to the established job description. All qualified applicants will then be placed in a pool according to the Nation'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.
  - a. **PRESCREENING OF LABOR POOL POSITIONS** (HR Interpretation 11-13-12) Applicants who were previously employed by the Oneida Nation and were terminated for reasons of misconduct or performance issues will be screened out for a period of twelve (12) months following the date of discharge.

4. The HRD will keep an updated list of qualified applicants for each job position.
5. When a vacancy occurs in a Labor Pool Position, the supervisor will notify the HRD of the position to be filled. The HRD Office shall then refer the top three (3) applicants to the immediate supervisor. The top three applicants shall be based first on the Oneida and Indian Preference Policy and, second, the date an application was received. The immediate supervisor will notify the HRD of their selection and the HRD will then offer the position to the applicant. After the position is filled, all ranked candidates will move up on the list. [\(HR Interpretation 7-11-13\)](#)
6. If the applicant refuses the position, the HRD Office will then offer it to the next applicant until the position is filled.
7. If the applicant refuses the job, the applicant may withdraw from the Labor Pool or, if he or she declines to withdraw from the Labor Pool, the date of refusal will be considered the date the application was received and the applicant will be placed in the Labor Pool list according to B.3.
8. Indian (Oneida) Preference will be adhered to in all hiring decisions.

#### C. EMERGENCY/TEMPORARY POSITIONS

1. The HRD will periodically recruit individuals who are interested in filling temporary positions which consist of the following classifications:
  - a. Emergency/Temp
  - b. Limited Term
  - c. Seasonal
  - d. Substitute/Relief
  - e. Youth Worker
  - f. Student/Intern
2. Creation of Positions
  - a. Creation of positions in the above Temporary Employee Classifications will require that these positions be budgeted for the current fiscal year, or proof through documentation that the budget is adequate to incorporate these positions.
  - b. The positions must be developed in conjunction with the HRD; assuring that all Policies and Procedures are adhered to. Creation of temporary classification requires the approval of the Director, Area Manager, and HRD Manager, or elected official of the Oneida Nation.
  - c. All newly created temporary positions must be processed through the Wage and Salary system before a position can be filled with a temporary employee.
3. Recruitment/Selection
  - a. Recruitment/selection of applicants for all temporary positions requires a completed Temporary Personnel Requisition form with an updated job description attached.
  - b. The HRD will provide a list of qualified candidates according to the job descriptions to the immediate supervisor. The immediate supervisor will select from the approved list adhering to Indian Preference.
  - c. The HRD will contact the selected candidate and offer the position, following the proper procedures to put the incumbent on payroll.

- d. The selected candidate will sign a statement accepting conditions of temporary employment, and length of employment where applicable.
  - e. Temporary employees will be paid within the Grade in which the job is classified and salary will be negotiated within the first three (3) steps of respective grade.
    - 1) Any negotiated salary beyond step three will require written justification and approval from the respective General Manager. [\(H.R. Interpretation, 12-8-16\)](#)
  - f. Temporary employees are welcome to apply for any regular position within the Nation that becomes available during the term of their employment.
  - 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.
  - h. All temporary employees are subject to lay-off based upon department job needs and budgets. [\(HR Interpretation – 11-25-13\)](#)
  - i. Supervisors are required to do proficient planning within their respective span of control; as such they must also enforce separation dates and will be monitored by HRD for compliance.
  - j. Supervisors must select the most appropriate category of classification for the job.
    - 1) Moving from one classification to another is prohibited.
4. Benefits
- a. The following employee classifications will be eligible for benefits as defined in the section of the Personnel Policies and Procedures as medical, dental, vacation and personal accrual, holiday pay, premium pay.
    - 1) Limited Term
    - 2) Seasonal
  - b. The following employee classifications will be eligible for benefits as defined in this section of the Personnel Policies and Procedures as Mandatory Benefits and Holiday pay.
    - 1) Emergency/Temporary
    - 2) Substitute/Relief
    - 3) Seasonal Worker (only during their first season)
  - c. The following employee classifications will be eligible for benefits as defined in this section of the Personnel Policies and Procedures as Mandatory Benefits.
    - 1) Youth Worker
    - 2) Student/Intern

### **SECTION III – SELECTION POLICY**

#### **A. ONEIDA PREFERENCE AND INDIAN PREFERENCE STATEMENT OF POLICY**

Federal policy since 1834 accords hiring preference to Indians. The purpose of this preference is threefold: 1) to give Indians a greater participation in self-government; 2) to further the Government's trust obligation; and 3) to increase the positive effect of having Indians administer matters that affect Indian tribal life. [\(GTC Resolution – 5-23-11-A\)](#)

More recently, legislation such as the Civil Rights Act (1964) and the Education Amendments of 1972 (passed after the Equal Employment Opportunity Act) continued to specifically provide for preferential hiring of Indians by Indian Nations.

As an employer, the Nation seeks to employ individuals who possess the skills, abilities and background to meet the employment needs of the Nation.

As a sovereign Indian Nation and a unique cultural group, the Oneida Nation has determined that a highly desirable employment characteristic is knowledge of Oneida culture that can be attained only by membership (or eligibility for membership) in the Oneida Nation. Further, the Nation recognizes the unique, shared culture of Native American Indians and has determined that a desirable employment characteristic is status as a member of an American Indian Nation. At a minimum, the Nation has determined that some knowledge of Indian culture is a desirable employment characteristic.

Accordingly, the Oneida Nation establishes the following policy in regard to Indian Preference for selecting employees to provide services that meet the needs of the Oneida people. This Indian Preference policy shall be specific to staffing decisions made under the Personnel Policies and Procedures and shall not be construed to have an application outside of these policies and procedures.

The Oneida Nation of Indians of Wisconsin is an equal employment opportunity employer and follows non-discriminatory policies and procedures in personnel decisions. [\(HR Interpretation 5-19-14\)](#) However, the Oneida Nation exists to serve the needs of the Oneida people and therefore accords Oneida Preference to enrolled Oneida Tribal Members where such preference is not otherwise prohibited. All General Managers and top administrative positions, as defined by HRD, shall be held by enrolled Tribal members. In all other instances, the Nation applies the following priorities of Indian Preference in staffing decisions:

- 1 Enrolled Oneida Tribal member;
- 2 Oneida Indians eligible for enrollment in the Oneida Nation;
- 3 Documented first generation Oneida descendant;
- 4 Other Native American Indian;
- 5 Other (non-Indian). [\(HR Interpretation 6-24-11\)](#)

This policy will apply in decisions where the basic requirements for employment are met.

B. HIRING PROCEDURE

1 Statement of Policy

- a. The Oneida Nation is an equal employment opportunity employer and follows nondiscriminatory policies in hiring.
- b. The Oneida Nation is a firm advocate of the 1964 Civil Rights Act (as amended) and the 1968 Indian Civil Rights Act (as amended) and will make every effort to ensure compliance with each Act; however:
- c. The Oneida Nation follows the principles of Indian Preference in the implementation of hiring practices (see the Oneida Preference and Indian Preference Statement of Policy).
- d. The members of the Personnel Selection Committee and all Tribal employees who supervise other Tribal employees shall undergo training in EEO and Tribal laws, rules and regulations.
  - 1) Training will be knowledge - and skills-based
  - 2) All Personnel Selection Committee members and Tribal supervisors will undergo periodic re-training in EEO and Tribal laws, rules and regulations
- e. No person shall be recommended for a position if a conflict of interest or nepotism is created. Nepotism is created by the following relationships: [\(HR Interpretation 08-13-12\)](#)
  - a) Father
  - b) Mother
  - c) Husband
  - d) Wife
  - e) Brother
  - f) Sister
  - g) Son
  - h) Daughter
  - i) Father-in-law
  - j) Mother-in-law
  - k) Brother-in-law
  - l) Sister-in-law
  - m) Son-in-law
  - n) Daughter-in-law
  - m) Grandparent
  - n) Grandchild

2. Hiring Procedures

a. HRD Office Responsibilities

- 1) Unless specifically noted, the HRD Office will have responsibility for implementing the policies and procedures guiding the selection of employees of the Nation.

b. Personnel Selection Committee Role

- 1) The Oneida Nation established the Personnel Selection Committee to protect against issues of nepotism and enforce Oneida and Indian Preference.
  - a) The Personnel Selection Committee is directed to:
    - i. Protect against issues of nepotism;
    - ii. Enforce Oneida and Indian preference;
    - iii. Ensure fairness and equality is maintained during interviews.

c. Identification of Vacancies and Development of Job Descriptions [\(Work Standard, 11-16-11\)](#)

- 1) Supervisors may inform the HRD Office of pending vacancies as soon as they are identified.



- 238 2) For existing positions, the HRD Manager (or designate), the supervisor and the Area  
239 Manager (at his/her option) will review the job description to ensure compliance with:  
240 a) The Nation's job structure;  
241 b) The needs and requirements of the job.
- 242 3) For new positions, the HRD Manager, the appropriate Area Manager, and the supervisor  
243 shall develop the job description.  
244 a) The new job description shall conform to the Nation's job structure.  
245 b) The new job description will be reviewed by the General Manager.  
246 [\(HR Interpretation, 12-8-16\)](#)
- 247 4) All job descriptions shall contain the following information:  
248 a) Job title, division/department, location, supervisor's title;  
249 b) Posting date, application deadline, preferred starting date, date of job, description  
250 review;  
251 c) Pay level (grade, step, hourly rate);  
252 d) A brief job summary;  
253 e) Duties and responsibilities;  
254 f) Qualifications;  
255 g) Inquiry address;  
256 h) Statement of compliance with EEO and Indian Preference policies.
- 257 d. Applications
- 258 1) All inquiries for job vacancies will be responded to with an Oneida Nation Application  
259 Form which will consist of:  
260 a) Job vacancy title;  
261 b) Applicant biographical data;  
262 c) A request for a resume (where applicable).
- 263 2) The Application Form shall be accompanied by a Statement of Policy regarding Oneida  
264 Preference and Indian Preference.
- 265 3) Hand-delivered applications will be accepted at the HRD Office until 4:30 p.m. on the  
266 deadline date; mailed applications must be postmarked on or before the deadline date.
- 267 4) All applications will be acknowledged.
- 268 e. Advertising
- 269 1) Position vacancies will be advertised as widely as possible including:  
270 a) The Kalihwisaks;  
271 b) Statewide, through print and electronic media and public employment agencies;  
272 c) Through targeted recruiting efforts including:  
273 i. Major metropolitan areas (i.e. Milwaukee, Chicago, Minneapolis, etc.)  
274 ii. The Bureau of Indian Affairs;  
275 iii. The Oneida Higher Education Office.

- 279 d) Other postings targeted toward special recruiting categories (such as professions)  
280 shall be carried out at the discretion of the HRD Office with the advice and consent  
281 of the affected department.
- 282 2) Unless otherwise prohibited by external grant source or federal law, the first posting  
283 for a position vacancy shall be limited to enrolled Oneida members and shall be posted  
284 for a minimum of seven (7) calendar days.
- 285 3) The second posting for a position vacancy shall be posted for a minimum of ten (10)  
286 calendar days and shall be open to the general public, unless the position must be filled  
287 by an enrolled member of the Oneida Nation . [\(HR Interpretation 8-9-11\)](#)
- 288 4) All vacancies requiring re-posting shall be referred back to B-2.c (Identification of  
289 Vacancies and Development of Job description) to begin the re-posting process.
- 290 f. Screening of Applicants [\(HR Interpretation 11-16-12\)](#) [\(HR Interpretation 10-22-12\)](#)
- 291 1) A Screening Committee consisting of the HRD Manager (or designate), the position  
292 supervisor, the Area Manager (at his/her option), and a member of the Personnel  
293 Selection Committee shall be convened to conduct the screening of applicants. The  
294 Screening process will begin as soon as practical following the closing of the position.  
295 This Committee will:
- 296 a) Verify that all applications are complete, are accurate and were submitted on time.  
297 i. Applications that are incomplete, inaccurate, or were not submitted on or  
298 before the posted deadline date may be screened out.
- 299 b) Analyze the job description to establish screening criteria. These criteria will  
300 include qualifications listed on the job description determined by the supervisor  
301 and Area Manager to be essential to the job. [\(T.O.E. WS - 5-6-13\)](#)
- 302 c) Screen verified applications
- 303 d) Recommend a list of applicants to be interviewed.
- 304 2) The HRD Office shall notify screened out applicants within five (5) working days after  
305 the initial screening and reserve these applications in the general recruiting pool.
- 306 3) The HRD Office will arrange for interviews with the listed candidates.
- 307 g. Candidate Interviews
- 308 1) An Interview Committee will be convened and will consist of the members of the  
309 Screening Committee except that the HRD Manager will be replaced with a second  
310 member of the Personnel Selection Committee. The Interview Committee will:
- 311 a) Construct an interview format consisting of:  
312 i. A set of questions related to the screening criteria qualifications;  
313 ii. An interview rating scale designed to objectively evaluate each candidate's  
314 qualifications.
- 315 b) Interview candidates and evaluate each individually
- 316 2) The HRD Manager (or designee) will total the evaluation rating scale to rank order of the  
317 candidates.
- 318
- 319

h. Selection (Interpretation - Disqualification of Applicant 10-24-2013)

- 1) The supervisor shall select one of the top two (2) candidates as ranked through the rating scale. (HR Interpretation - 10-17-12)
  - a) The supervisor may conduct an additional personal interview with the top two (2) candidates.
  - b) The selection decision shall be governed by the Oneida Preference and Indian Preference Policy. (HR Interpretation - 6-6-11)
  - c) The HRD Office will notify the selected candidate and offer the candidate the job within five (5) working days of the selection decision by the supervisor.
    - i. Should the supervisor's first choice refuse the offer, the HRD Office will offer the job to the second ranked candidate.
- 2) Should both of the top two ranked candidates refuse the job offer, the supervisor may:
  - a) Repeat the process outlined in B.2.h.1. above; or
  - b) Re-post the position.
- 3) The HRD Office will notify those candidates interviewed but not selected of the decision to hire the best-qualified candidate.
- 4) All newly hired employees will be listed in the HR newsletter.

C. TRANSFERS AND PROMOTIONS POLICY - The Oneida Nation encourages transfers and promotions within and among units in order to make the best possible use of human resources to meet the Nation's goals and objectives. Supervisors and employees are encouraged to work together to create an environment in which employees constantly strive to improve their skills and abilities and managers constantly seek to provide challenging and rewarding work experiences.

1. 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.
  - a) Positions will be posted in prominent locations in each building of the Nation.
- 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 (5) day internal posting period, the HRD Manager will schedule a conference with the open position's supervisor and the Area Manager.
  - a) The conference committee will consist of the supervisor, the Area Manager and the HRD Manager (or designate) acting as this Committee will:
    - i. Establish selection criteria; and
    - ii. Review each bid.
  - b) The Committee may select the best-qualified applicant but is not required to choose an applicant to fill the open position from those employees who have submitted an application for a transfer or promotion.

- 361 c) If the Committee does not fill the position from the transfer/promotion process,  
362 the process will continue through the full advertising, screening and interview  
363 steps.  
364 i. Any decision will be governed by the Indian Preference Policy.
- 365 4) Employees who are transferred or promoted will not lose any benefits; however:  
366 a) An employee may be required to continue serving in his/her present position until  
367 a replacement can be found;  
368 b) An employee who is transferred to a position lower on the Nation's Job Structure  
369 will be paid at the grade level corresponding to the new position;  
370 c) An employee must have completed one year of service to the Nation before being  
371 eligible for a promotion or transfer (requests for transfers for documented medical  
372 conditions will be handled on a case by case basis and only when in the best  
373 interests of both the employee and the Nation);  
374 d) The newly transferred or promoted employee shall be required to complete a three  
375 (3) month probation period (all conditions of the Nation's Probation Policy shall  
376 apply).
- 377 b. Applicant Pool Process  
378 1) New and vacant positions will be advertised through the Nation's Applicant Pool.  
379 2) The job description will be sent to persons whose applications are maintained in the  
380 Applicant Pool.  
381 a) The Nation's Applicant Pool will consist of open (unspecified) applications from  
382 members of the Nation who wish to be considered for employment by the Nation.  
383 b) Advertising through the Nation's Applicant Pool will follow the format and time  
384 conditions set forth in the Hiring Policy.
- 385 2. Reassignments  
386 a. Title Reassignments  
387 1) Title Reassignments may be made by supervisors to:  
388 a) More accurately describe or define an existing job; or  
389 b) Make minor adjustments in jobs within a unit or operating division.  
390 2) Title Reassignments may be made at any time with the approval of the Area Manager  
391 and HRD Manager.
- 392 b. Job Reassignments  
393 1) Job Reassignments may be made by supervisors to make more efficient and effective  
394 use of human resources.  
395 2) Job Reassignments may be supervisor-initiated or employee-initiated but must be  
396 made in the best interests of the operating unit.  
397 3) Job Reassignments may be made at any time with the approval of the Area Manager.
- 398 c. Interim Job Reassignments (Work Standard 7-11-13)  
399  
400  
401

D. PROBATION ([Work Standard 1-20-2011](#))

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.
  - a. At the end of the three-month probation period, a second performance evaluation will be conducted. This evaluation will recommend the end of probation and regular status for the employee, an extension of probation, or termination for cause.
2. Status as a Probationary Employee
  - a. Probationary employees will be paid at five percent (5%) below the posted pay rate for the position.
    - 1) New employees hired under a negotiated salary will receive a salary one step below the agreed upon salary during the probationary period.
  - b. Probationary employees will accrue vacation/personal days during the probation period and will receive holiday pay.
  - c. Probationary employees may be terminated for cause at any time during the probation period. Cause must consist of a violation of policies or the documented inability of the employee to perform the duties and responsibilities of the position. This termination is subject to appeal. ([BC Action 3-20-92](#))
3. Completion of Probation Period
  - a. Satisfactory completion of probation will result in the employee receiving the regular salary for the position.
  - b. Employees who are terminated during the probation period will receive credit for accrued vacation/personal days in their final paycheck.
  - c. Extensions of probation periods will not affect accrual of or use of benefits as explained under D.2.

## **SECTION IV - COMPENSATION AND BENEFITS**

### **A. SALARY**

#### **1. The Nation's Job and Salary Structure**

- a. An ongoing plan will be instituted based on standard employee grades and step levels to assure that a uniform approach is taken to establish equitable salary and wage levels.
- b. Employee performance evaluations will be a resource in determining whether an employee receives an increase in pay for the upcoming year. An overall satisfactory rating must be attained in order to be granted an increase in pay.
- c. Merit increase shall be granted upon the recommendation of the supervisor, the Area Manager, the HRD Manager and the General Manager.

#### **2. Workday (Work Standard, 10-17-12)**

- a. The regular workday in the Nation is from 8:00 a.m. to 4:30 p.m. with an hour for lunch. The exception to these hours occurs only if the program/enterprise hours must vary for the purpose of providing service (such as retail hours beyond 4:30 p.m.). Shifts will be developed as needed, and the shift hours will then become the regular workday for assigned employees for that program/enterprise.
- b. Employees are expected to be at work each scheduled work day.
  - 1) Employees who do not report for work because of inclement weather or unforeseen circumstances will not be paid for that day. Employees may elect to use personal day(s) to cover this absence. (Work Standard, 11-8-12)
  - 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.
    - i. 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.
    - ii. Permission to leave early must be obtained by the employee from his/her supervisor.

#### **3. Overtime**

- a. Any and all overtime will be kept to a minimum and must be approved by the Supervisor and Area Manager.
  - 1) In the case of potential overtime that may occur at night, on holidays or on weekends, supervisors will delegate this authority to a specific employee and outline specific situations and actions that warrant overtime.
- b. All overtime must be reported to the supervisor for evaluation.
- c. Overtime will be approved only if the program or enterprise budget is capable of paying it.
- d. Overtime will be approved only for hours worked in excess of forty (40) hours per week. Personal/vacation days and holidays will not count toward the forth (40) hour requirements.
- e. Employees of the Nation are expected to work overtime if required. Time and one-half will be paid for this overtime.
- f. Exempt employees are not eligible for overtime.
  - 1) The HRD Office will maintain a list of exempt employees.

4. Holidays [\(Work Standard, 4-15-11\)](#)

a. Tribal holidays consist of the following:

- 1) One-half day Christmas Eve
- 2) Christmas Day
- 3) New Year's Day
- 4) Memorial Day
- 5) Veteran's Day
- 6) Independence Day
- 7) Labor day
- 8) Thanksgiving Day
- 9) Indian Day (day after Thanksgiving)
- 10) One-half day Good Friday
- 11) Code Talker's Day (Oneida Day, Friday prior to Memorial Day)

[\(BC Resolution – 12-11-13A\)](#)

b. To be eligible for a paid holiday, employees must work the preceding and following scheduled work days (except for employees who are on a prescheduled work leave or an approved extended sick leave.) Employees who are granted a sick day directly prior to a holiday must certify that they were capable of working the holiday in order to qualify for a paid holiday.

c. All regular employees will be given holiday pay for the maximum pay of eight (8) hours per day.

d. Holidays falling on a Saturday will be observed the preceding Friday; holidays falling on a Sunday will be observed on the following Monday. [\(2017 Holiday Observance Calendar\)](#) [\(2016 Holiday Observance Calendar\)](#)

e. The Oneida Nation acknowledges its responsibility to make a reasonable accommodation to employees who wish time off to observe religious holidays. Requests for such time off will be granted where possible, based on the scheduling and staffing needs of affected departments. Employees wishing to take time off work for religious observances should inform their supervisor as early as possible. Employees may use personal time for such requests if eligible; otherwise the time off will be treated as unpaid leave.

5. Vacation/Personal Days

a. Every employee of the Nation, except temporary employees, shall be allowed personal and vacation days with pay to the extent that personal days and vacation are accumulated. Temporary employees shall be allowed personal and vacation days in accordance with Section II.C.4. [\(GTC Resolution – 7-02-12-A\)](#)

b. The amount of personal and vacations days shall be determined by continuous service for the Nation. A "lay-off" from employment of the Nation shall not be considered in interruption in continuous service where the lay-off is in accordance with the Nation's Layoff Policy, nor shall a preapproved leave of absence. [\(Accruals Interpretation, 3-6-12\)](#)

c. Except as provided for in section g, the accrual of personal days shall be as follows:

[\(BC Resolution, 4-13-11F\)](#)



- 1) 0-3 years of service - 6 days per year;
  - 2) 4-7 years of service - 8 days per year;
  - 3) 8-14 years of service - 10 days per year;
  - 4) 15+ years of service - 12 days per year;
- d. Except as provided for in section g, the accrual of vacation days shall be as follows:
- 1) 0-3 years of service - 12 days per year
  - 2) 4-7 years of service - 15 days per year;
  - 3) 8-15 years of service - 20 days per year;
  - 4) 15+ years of service - 25 days per year.
- e. Part-time employees accrue personal and vacation days for time actually worked at a ratio of a full-time employee.
- f. Service is defined as working for Programs/Enterprises which are contracted by the Nation of specifically sponsored by the Nation.
- g. Vacation and personal days shall be capped at 280 hrs. [\(BC Resolution, 11-10-10D\)](#) An employee shall cease to accrue vacation and personal hours when he or she has reached 280 total hours. Supervisors shall notify their employees when said employees have accumulated 200 total hours of vacation and personal time.
- 1) An employee may trade back accumulated vacation and personal hours in accordance with Section IV.A.5.n. below. [\(GTC Resolution – 5-23-11-B\)](#)
- h. Upon termination from employment with the Nation, employees will be paid for any unused personal and/or vacation days.
- 1) Employees who have used the Nation's sponsored loan program will be required to honor the terms of the loan agreement.
- i. Personal Days can be used for any reason so long as the request is approved by the employee's supervisor at least twenty-four (24) hours in advance (unless the absence is due to illness or unforeseen circumstances).
- 1) In the case of illness or unforeseen circumstance, the supervisor shall be notified no later than fifteen (15) minutes before the scheduled starting time.
  - 2) Programs and enterprises may institute stricter standards of notification. These standards will be submitted to and approved by the Personnel Department.
- j. An employee shall notify his/her supervisor of an intent to use personal days in the following ways:
- 1) Three (3) to five (5) days - one (1) week advance notification
  - 2) Six (6) days or more - two (2) weeks advance notification.
- k. An employee shall notify his/her supervisor one (1) day in advance if he/she will take off one (1) or two (2) days of vacation. Programs and enterprises may institute stricter standards of notification.
- 1) Three (3) to five (5) days of vacation require a one (1) week advance notification.
  - 2) Six (6) or more days of vacation require at least two (2) weeks advance notification.
- l. The burden shall be on the supervisor to show that a denial of a personal day or a vacation day is based upon interference with the business of the Nation.



- m. Personal or Vacation Days cannot be taken when an employee is on probation.
- n. Trade-back for Cash - Each fiscal year, the Oneida Business Committee shall analyze fiscal conditions to determine whether employees may trade back personal and/or vacation hours for cash that fiscal year. [\(Work Standard, 10-11-11\)](#)
  - 1) If the Oneida Business Committee approves trade-back for cash, they shall also determine whether (a) and/or (b) applies:
    - i. All employees will have the opportunity to trade-back hours one time that year.
      - 1. By August 15, each employee who has accumulated twenty-four (24) hours or more of vacation and/or personal days may opt to trade in his/her hours for cash.
      - 2. Employees will receive their trade back on or before September 30 of that year.
    - ii. Only those employees who are unable to utilize their personal and/or vacation time due to working conditions, such as a shortage in staffing, as determined by the HRD Manager or designee, will have the opportunity to trade back hours on a quarterly basis.
      - 1. Employees will receive their trade back within sixty (60) days after opting to trade back hours.
  - 2) When trade-back for cash is approved by the Oneida Business Committee, the following standards shall apply:
    - i. Employees must decide which status (vacation or personal or both) from which their trade-back will be drawn.
    - ii. Employees may not trade for cash more than eighty (80) hours in one year. [\(GTC Resolution 5-23-11-B\)](#)
- o. Additional Duties Compensation
- p. Travel Time Compensation [\(Work Standard - 3-20-13\)](#)

B. INSURANCES [\(see separate publication\)](#) for information on Tribal Insurance plans. [\(Separating Employees WS 5-6-13\)](#)

C. RETIREMENT PLAN [\(See separate publication for information on Tribal Retirement Plan\).](#)

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 results in the employee's paycheck being reduced by the full amount of the stipend.

2. Funeral Leave ([Work Standard, 8-2-11](#))

- 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	great-grandparent
Wife	Father	Sister	great-grandchildren
Mother-in-law	Son	Grandparent	Spouse's great-grandparents
Father-in-law	Daughter	Grandchild	Spouse's grandparents
Daughter-in-law	Sister-in-law	Brother-in-law	
- 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. ([Management Directive, 12-17-2009](#))

3. Leave of Absence ([Work Standard, 6-10-14](#))

- a. A leave of absence without pay may be granted to employees for a justifiable reason (including caring for a child, spouse or parent with a serious health condition) and when in the best interest of the Nation.
  - 1) Leaves of absence will not exceed three (3) months.
    - i. All leaves of absence must be approved by the supervisor, Area Manager, HRD Manager and General Manager. ([HR Interpretation, 12-8-16](#))
    - ii. Requests must be documented and submitted to the supervisor with as much advance notice as possible.
    - iii. Disposition of requests will be made on the basis of staffing requirements.
  - 2) Upon returning, the employee will be reinstated in the former position with full status and benefits. Holiday, vacation, and sick leave will not be accrued during the leave of absence.
  - 3) No later than fifteen (15) working days prior to the expiration of the leave period the employee must give notice in writing of his/her intent to return to the position. Notice must be presented to the supervisor.
    - i. Failure to provide written notice will be interpreted to mean that the employee does not intend to return following the leave. The position will be posted and filled through the selection process. ([HR Interpretation 11-21-11](#))

4. Maternity Leave

- a. Maternity leave will be granted for a period of six (6) weeks without pay.
  - 1) An employee may elect to cover any portion of this time by using accumulated sick days.
  - 2) Any maternity-related absences for longer than six (6) weeks must be taken as a medical leave of absence.

5. Military Leave

- a. In addition to the following provisions, the Nation's Military Service Protection Act shall govern Military Leave.

- b. A Military Leave of Absence is afforded employees entering active duty without accumulation of holiday, vacation or personal time during the period of leave. Any accumulated benefits prior to leave will be maintained for the employee.
  - c. 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 Nation for any hours work that the employee was required to miss due to reservist training.
    - 1) Any pay received for performing any of the above duties shall be deducted from the employee's pay. [\(GTC Resolution - 1-26-08A\)](#)
6. Jury Duty
- a. During a period of jury duty, an employee will receive pay from the Nation for any hours of work missed due to jury duty.
    - 1) Jury duty pay will be deducted from the employee's paycheck when determining the amount of pay
    - 2) No overtime will be allowed in determining employee pay while serving on jury duty.
7. Educational Leave [\(BC Action, 5-4-90\)](#)
- a. A leave of absence for education purposes will not exceed one (1) year.
8. Parent Policy Leave [\(BC Action, 3-2-94A\)](#)
- a. Employees who are parents, guardians, or those individuals specifically referred to as "immediate family" as defined in Section IV, page 6 of these Personnel Policies and Procedures which includes husband, wife, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, grandparent and grandchild may request to participate in their child(ren)'s educationally sanctioned events not to exceed four (4) hours per employee per month
    - 1) These four (4) hours shall not accumulate.
  - b. Approval to utilize the four (4) hours must be obtained from the supervisor.
    - 1) An employee shall request his/her supervisor to utilize this leave with a minimum of twenty-four (24) hours' notice.
    - 2) The Supervisor may request verification of
      - i. Guardianship of the child(ren) and/or
      - ii. The attendance of the employee at their child(ren)'s educationally sanctioned - event.
  - c. The burden shall be on the supervisor to show that a denial of the Parent Policy Leave which is based upon interference with the business of the Nation.
  - d. This leave shall not be paid as overtime. The supervisor may have the option to use flex time to cover this time off to attend their child(ren)'s educationally sanctioned events.
  - e. All employees, except Emergency/Temporary, Youth Workers, Student Interns, and Seasonal Workers during their first season, and Substitute Reliefs are eligible to participate in this benefit.

## **SECTION V – EMPLOYEE RELATIONS**

### **A. ORIENTATION POLICY**

The Oneida Nation reflects the unique culture and character of the Oneida Nation. The Nation recognizes that this may present special problems and difficulties for a new employee. The Nation 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. The Nation's 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 Nation 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 employees of the Nation 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. [\(HR Interpretation – 12-8-16\)](#)
  - 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.
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 [\(Work Standard 6-21-11\)](#)

#### C. CAREER DEVELOPMENT

1. Employees of the Nation are encouraged to develop their skills and abilities by pursuing education at a local educational institution. [\(BC Action – 9-9-92\)](#)
  - a. Employees of the Nation must provide a general Career Development Plan to the supervisor listing the goals and objectives of the training and education to be undertaken.
2. Employees of the Nation 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 Nation's 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 the Nation's time.
3. The supervisor's approval and estimated cost must be submitted to the HRD Office, the Area Manager and the General Manager. [\(HR Interpretation – 12-8-16\)](#)
4. The cost of the books, tuition and fees for the course shall be paid by the Nation 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 Nation. 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.
- 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 the Nation's property or equipment (for example, the Nation's vehicles, telephone, mail services, etc.) (W/S/T)

b) Unauthorized possession, removal or willful destruction of the Nation's 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 keys of the Nation. (T)

d) Unauthorized entry of the Nation's 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 employees of the Nation or other persons against the Nation, its guests, employee, members, customers and/or clients while on or about premises of the Nation. (S/T) [\(BC Action – 12-2-88\)](#)

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 an employment title of the Nation in the Nation's 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 Nation. (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 premises of the Nation. (S/T)  
(BC Action – 12-2-88)

n) Any violation of duly adopted ordinances of the Nation. (W/S/T) (BC Action – 12-2-88)

#### 5) Sexual Harassment Policy

It is the Oneida Nation'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 Nation 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 Nation 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 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.



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- 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 law 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 law.
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. [\(HR Interpretation – 12-8-16\)](#)
  - f. Should a disciplinary action result in the suspension or termination of an employee, the following guidelines shall apply:
    - 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 holidays of the Nation 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 Judiciary – Trial Court. The appeal must be filed with the Judiciary – Trial Court within ten (10) working days from employee's receipt of the Area Manager's decision. Upon receipt of the appeal the Judiciary – Trial Court 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 Judiciary – Trial Court. The Judiciary – Trial Court 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
  - 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 Judiciary – Trial Court will hear the grievance.
  - a) If neither of the above conditions is present, the Judiciary – Trial Court 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, and respondent 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 Judiciary – Trial Court 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 Judiciary – Trial Court appeal process, the Judiciary – Trial Court 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.  
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 Judiciary – Trial Court 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 Judiciary – Trial Court may be appealed to the Nation’s Court of Appeals pursuant to the Nation’s Rules of Appellate Procedure. The Judiciary – Trial Court 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;
  - 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.

**SECTION VI – SAFETY AND HEALTH**

**A. POLICY**

The personal safety and health of each employee, customer and client of the Oneida Nation is of primary importance. The prevention of injuries and illnesses is of such importance that it will take precedence over operating productivity whenever necessary.

The Oneida Nation will maintain a safety and health program conforming to the best practices available. To be successful, this program will work to develop the proper attitudes toward on-the-job injury and illness prevention on the part of supervisors and employees. This program will strive to develop a high level of cooperation in all safety and health matters between supervisors and employees and among employees.

The objective of this program is a safe and healthy environment that will reduce the number of job-related injuries and illnesses to an absolute minimum. The Nation's goal is zero accidents and illnesses.

**B. PROCEDURES**

The Tribal Safety Committee will adopt and enforce through the Personnel Department procedures related to the education of the Nation's work force in matters of safety and health. These procedures will include all education and prevention activities, assessments and evaluations, and reporting.

## **SECTION VII – PROGRAM/ENTERPRISE RULES & REGULATIONS**

- A. Enterprises and programs may establish internal rules and regulations to facilitate the administration of the Nation's Personnel Policies and Procedures.
1. In no case will these internal rules and/or regulations conflict with or take the place of the Nation's Personnel Policies and Procedures.
  2. Enterprises and programs which establish internal rules and regulations will file a copy of the rules and regulations with the Personnel Department.

## **SECTION VIII – RECORD KEEPING**

### **A. PERSONNEL OFFICE**

1. Basic records to be retained include:
  - a. Reference Data
  - b. Job Descriptions
  - c. Resumes and Applications
  - d. Interview notes/selection information
  - e. Resignations
  - f. Employee tax exemption claims
  - g. Disciplinary action information
  - h. Performance evaluations
  - i. Insurance coverage/changes
  - j. Transfers
2. The Personnel Office shall keep and maintain a complete record of each employee throughout his/her term of employment.
  - a. Employees of the Nation shall have access to their employment file.
  - b. Employment files kept by the Personnel Office shall be considered confidential information. Release of any information to a third party must have the consent of the employee in writing.

### **B. ACCOUNTING DEPARTMENT**

1. Basic records to be retained include:
  - a. Attendance records
  - b. Employee Time Sheets
  - c. Earnings - in the form of computer printouts
  - d. Travel - in the form of complete travel authorization forms.
    - 1) Time sheets and travel reports shall be filled out by every employee for pay period, collected by the program head, and forwarded to the Department.
2. The Accounting Department shall retain all records for a period of seven (7) years. [\(Archived 29, October 2010\)](#) [\(BC Action, 10-14-09B\)](#)



Legislative Operating Committee  
June 6, 2018

## Petition: G. Dallas – \$5k Per Capita Payment

<b>Submission Date:</b> 5/2/18	<b>Public Meeting:</b> n/a
<b>LOC Sponsor:</b> Jennifer Webster	<b>Emergency Enacted:</b> n/a <b>Expires:</b> n/a

**Summary:** *This petition calls for a special General Tribal Council (GTC) meeting to be held on a Saturday to allow for the greatest possible membership participation and within one hundred and twenty (120) calendar days for the purpose of ordering a special per capita payment to all members of the Nation payable within forty-five (45) days of the approval of this resolution in the amount of five thousand dollars (\$5,000).*

- 4/25/18 OBC:** Motion by David P. Jordan to acknowledge receipt of petition submitted by Gladys Dallas re: \$5,000 Per Capita payment; to send the verified petition to the Law, Finance, Legislative Reference, and Direct Report Offices' for legal financial, legislative, and administrative analyses; to direct the Law, Finance, and Legislative Reference Office to submit their analyses to the Secretary within 60 days with a progress report to be submitted within 45 days; and to direct the Direct Report Offices to submit administrative analyses to Secretary within 30 days, seconded by Kirby Metoxen. Motion carried unanimously.
- 5/2/18 LOC:** Motion by Jennifer Webster add Petition: Dallas \$5,000.00 Per Capita Payment to the active files list and assign Jennifer Webster as sponsor with a high priority; seconded by Ernest Stevens III. Motion carried with Kirby Metoxen opposed.
- 5/9/18 OBC:** Motion by David P. Jordan to schedule a special General Tribal Council meeting on July 30, 2018, at 6:00 p.m. for General Tribal Council to consider the Gladys Dallas petition regarding a \$5,000 Per Capita payment, seconded by Jennifer Webster. Motion carried unanimously.
- 5/16/18 LOC:** Motion by Jennifer Webster to approve the Petition: G. Dallas-\$5k Per Capita Payment 45 day update and forward to the Oneida Business Committee; seconded by Ernest Stevens III. Motion carried unanimously.
- 5/23/18 OBC:** Motion by Motion by Lisa Summers to accept the 45-day status update, seconded by Brandon Stevens. Motion carried unanimously.

**Next Steps:**

- Approve the Petition: G. Dallas – \$5k Per Capita Payment legislative analysis and forward to the Oneida Business Committee.





## **Legislative Analysis**

*Petition: G. Dallas - \$5k Per Capita Payment*

### **Summary**

This petition requests the General Tribal Council to order a special per capita payment of five thousand dollars (\$5,000) to all members of the Nation payable within forty-five (45) days of approval.

*Submitted by: Clorissa N. Santiago, Staff Attorney, Legislative Reference Office*

*Date: June 6, 2018*

### ***Analysis by the Legislative Reference Office***

On April 9, 2018, the Petition: G. Dallas - \$5k Per Capita Payment (“the Petition”) was submitted to the Business Committee Support Office by Gladys Dallas and has since been verified by the Oneida Trust Enrollment Department. On April 25, 2018, the Oneida Business Committee accepted the verified Petition and requested that the Legislative Reference Office complete a legislative analysis within sixty (60) days and that a progress report be submitted within forty-five (45) days.

The purpose of this Petition is for the Chairman of the Oneida Nation to call for a General Tribal Council meeting to be held on a Saturday to allow for the greatest possible membership participation and within one hundred and twenty (120) calendar days for the purpose of ordering a special per capita payment to all members of the Nation payable within forty-five (45) days of the approval of this resolution in the amount of five thousand dollars (\$5,000).

All applicable laws and policies of the Nation were reviewed in developing this statement of effect, including the Per Capita law and the Budget Management and Control law.

The Per Capita law was adopted by the Oneida Business Committee, and most recently amended through resolution BC-02-22-17-D, for the purpose of specifying the procedure to be followed in the event that per capita payments are distributed by the Nation. Per Capita payments may only be issued at the direction of the General Tribal Council through adoption of a resolution. [1 O.C. 123.4-3]. The materials included for the Petition consist solely of the petition form with signatures. No resolution addressing the adoption of a special per capita payment was attached for consideration by the General Tribal Council.

The Per Capita law contains various timelines for the distribution of per capita payments, but clarifies that the timelines contained in the law address annual per capita payments, and that for any additional per capita payments the Trust Enrollment Committee may establish dates and deadlines associated with those payments as needed. [1 O.C. 123.5-2]. Deadlines included in the law for distributing per capita payments address filing for and determining eligibility, various distribution documents, distribution date, direct deposits of per capita payments, requests for a

prior per capita payment, and refusal of distributions. [1 O.C. 123.5-2(a)-(f)]. The Trust Enrollment Committee will have to establish dates and deadlines associated with this request for a special per capita payment. The Petition directs that the special per capita payment be payable within forty-five (45) days of the approval of a resolution. It is unknown whether the forty-five (45) day deadline for payment would allow the Trust Enrollment Committee the opportunity to establish the necessary dates and deadlines associated with this request as afforded by the Per Capita law.

Additionally, all per capita payments, except distributions to or from a trust account for a beneficiary, may be subject to attachment prior to distribution for child support arrears, debt owed to an Oneida entity that is past due, and/or a federal tax levy. [1 O.C. 123.4-9(a)(1)-(3)]. An entity may seek to attach a per capita payment for child support arrears, past due debt owed to an Oneida entity, and/or a federal tax levy, as long as the timelines identified in the Per Capita law regarding the attachment process are followed. [1 O.C. 123.4-9].

In order to acquire an attachment to a per capita payment for child support arrears or a federal tax levy an order of determination from the Oneida Judiciary must be obtained and provided to the Trust Enrollment Department. [1 O.C. 123.4-9(c)(3) and 123.4-9(e)]. It is unknown whether an order of determination can be obtained from the Judiciary and processed within the forty-five (45) day deadline.

In order to obtain an attachment for debt owed to an Oneida entity, an attachment order from the Judiciary is not required prior to initiating a per capita payment. [1 O.C. 123.4-9(d)]. Instead, there are notice requirements that must be met before an entity can initiate an attachment, such as a notice for each month a debt is owed with each notice being sent a minimum of thirty (30) calendar days apart, with at least two (2) consecutive monthly notices prior to the debt becoming eligible for attachment, and a final notice with intent to attach sent thirty (30) calendar days after the second consecutive notice, with a notice posted in the Nation's newspaper. [1 O.C. 123.4-9(d)(1)-(2)]. An individual is also able to request an attachment hearing with the Judiciary to contest the validity of the debt owed to an Oneida entity. [1 O.C. 123.4-9(d)(5)]. In order for the Trust Enrollment Department to process an attachment for a current per capita payment distribution, Oneida entities have to send the Trust Enrollment Department a one-time final accounting of all debts subject to attachment no later than July 31<sup>st</sup> of the year. [1 O.C. 123.4-9(d)(2)(B)(i)]. The forty-five (45) day deadline would not provide an opportunity for the notice requirements or attachment hearing in the Judiciary for attachments to a per capita payment for debts owed to an Oneida entity.

The Budget Management and Control law was adopted by the Oneida Business Committee through resolution BC-02-08-17-C for the purpose of setting forth the requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing the Nation's budget for consideration by the General Tribal Council. [1 O.C. 121.1-1]. Once a budget is adopted by the General Tribal Council, the Budget Management and Control law prohibits amendments of the budget, as well as any transfer of funds within the budget, unless the adjustment for the transfer of funds is necessary to accurately reflect the amount of grant funding actually received. [1 O.C. 121.9-1 and 121.9-2].

The General Tribal Council adopted the Fiscal Year 2018 budget through resolution GTC-10-08-17-A. The Fiscal Year 2018 budget did not include a designation of funds for a special per capita payment of five thousand dollars (\$5,000).

### **Conclusion**

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: G. Dallas - \$5k Per Capita Payment would have a legislative impact.

1. Considering that the General Tribal Council adopted the Fiscal Year 2018 budget through resolution GTC-10-08-17-A without any designation of a special per capita payment of five thousand dollars (\$5,000) for every member of the Nation, any amendment to the budget or transfer of funds within the budget for the purpose of this special per capita payment during the Fiscal Year 2018 would be prohibited under the Budget Management and Control law. [*1 O.C. 121.9-1 and 121.9-2*].
2. The Per Capita law only allows General Tribal Council to direct the issuance of per capita payments through adoption of a resolution. [*1 O.C. 123.4-3*]. No resolution addressing the adoption of a special per capita payment was attached to the Petition materials for consideration by the General Tribal Council. In order to comply with the Per Capita law, approval of a motion or of the Petition would not suffice, because adoption of a resolution would be necessary.
3. Additionally, the opportunity provided by the Per Capita law to the Trust Enrollment Committee to establish dates and deadlines regarding the distribution of any special per capita payments as needed [*1 O.C. 123.5-2*], and the opportunity to follow the process and timelines for attachments to per capita payments for child support arrears, past due debt owed to an Oneida entity, and/or a federal tax levy [*1 O.C. 123.4-9(a)(1)-(3)*] may be hindered or prohibited by the requirement of the Petition that the special per capita payment be made payable within forty-five (45) days of the approval of a resolution.

### **Requested Action**

Accept the legislative analysis of the Petition: G. Dallas - \$5k Per Capita Payment

## May 16, 2018 Legislative Operating Committee E-Poll

### Personnel Selection Committee By-laws

**From:** LOC  
**Sent:** Wednesday, May 16, 2018 4:47 PM  
**To:** David P. Jordan; Leyne C. Orosco; Kirby W. Metoxen; Rosa J. Laster; Jennifer A. Webster; Jessica L. Wallenfang; Ernest L. Stevens; Cathy L. Bachhuber; Daniel P. Guzman; Melinda J. Danforth  
**Cc:** Brandon M. Wisneski; Maureen S. Perkins; Clorissa N. Santiago  
**Subject:** E-Poll Request: Personnel Selection Bylaws  
**Attachments:** Personnel Selection Committee Bylaws draft 3.docx; 2018 05 23 Personnel Selection Committee Bylaws Legislative Analysis.pdf

#### Executive Summary

The Business Committee created the Personnel Selection Committee by Resolution 04-11-18-B, and directed the LOC to bring bylaws for the PSC back to the May 23, 2018 BC meeting for approval. On May 16, the LOC approved the bylaws, however, the legislative analysis was not complete.

In addition, two changes were made to the draft bylaws; 1) "Tribe" was changed to "Nation", and 2) the name of the Open Records and Open Meetings Law was corrected.

An e-poll to approve the bylaws and the legislative analysis is required to meet the May 23 deadline.

#### Proposed Motion

Approve the Personnel Selection Committee Bylaws with the noted changes, accept the legislative analysis, and forward it the Business Committee for consideration.

#### Backup Information

The draft bylaws and the legislative analysis are attached for your review.

#### Deadline for Response

Please respond to this e-poll by **10:00am, May 17, 2018**

## E-POLL RESULTS

From:	Ernest L. Stevens	Sent:	Wed 5/16/2018 5:14 PM
To:	LOC; David P. Jordan; Leyne C. Orosco; Kirby W. Metoxen; Rosa J. Laster; Jennifer A. Webster; Jessica L. Wallenfang; Cathy L. Bachhuber; Daniel P. Guzman; Melinda J. Danforth		
Cc:	Brandon M. Wisneski; Maureen S. Perkins; Clorissa N. Santiago		
Subject:	Re: E-Poll Request: Personnel Selection Bylaws		

Approve

Sent from my Samsung Galaxy smartphone.

From: David P. Jordan  
To: Ernest L. Stevens  
Cc: LOC; Leyne C. Orosco; Kirby W. Metoxen; Rosa J. Laster; Jennifer A. Webster; Jessica L. Wallenfang; Cathy L. Bachhuber; Daniel P. Guzman; Melinda J. Danforth; Brandon M. Wisneski; Maureen S. Perkins; Clorissa N. Santiago  
Subject: Re: E-Poll Request: Personnel Selection Bylaws

Sent: Wed 5/16/2018 5:17 PM

Support

Sent from my iPhone

On May 16, 2018, at 5:14 PM, Ernest L. Stevens <[esteven4@oneidanation.org](mailto:esteven4@oneidanation.org)> wrote:

Approve

From: Jennifer A. Webster  
To: LOC; David P. Jordan; Leyne C. Orosco; Kirby W. Metoxen; Rosa J. Laster; Jessica L. Wallenfang; Ernest L. Stevens; Cathy L. Bachhuber; Daniel P. Guzman; Melinda J. Danforth  
Cc: Brandon M. Wisneski; Maureen S. Perkins; Clorissa N. Santiago  
Subject: Re: E-Poll Request: Personnel Selection Bylaws

Sent: Wed 5/16/2018 6:25 PM

Approve,  
Jenny

From: Kirby W. Metoxen  
To: LOC; David P. Jordan; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Webster; Jessica L. Wallenfang; Ernest L. Stevens; Cathy L. Bachhuber; Daniel P. Guzman; Melinda J. Danforth  
Cc: Brandon M. Wisneski; Maureen S. Perkins; Clorissa N. Santiago  
Subject: RE: E-Poll Request: Personnel Selection Bylaws

Sent: Thu 5/17/2018 8:25 AM

Supprot

Yaw^ko,

*Kirby Metoxen*

Oneida Nation Councilman

Phone: 920-869-4441

Fax: 920-869-4040

[kmetox@oneidanation.org](mailto:kmetox@oneidanation.org)

From: Daniel P. Guzman  
To: LOC  
Cc:  
Subject: Re: E-Poll Request: Personnel Selection Bylaws

Sent: Thu 5/17/2018 8:59 AM

Approve

## PERSONNEL SELECTION COMMITTEE BY-LAWS

### Article I. Authority

1-1. *Name.* The name of this entity shall be the Personnel Selection Committee, and may be referred to as the Committee.

1-2. *Establishment.* The entity was created by the Oneida Business Committee by resolution #BC-04-11-18B Creation of the Personnel Selection Committee.

1-3. *Authority.* The Personnel Selection Committee was created by the General Tribal Council to protect against issues of nepotism and enforce Oneida and Indian preference. The Personnel Selection Committee was renamed the Personnel Commission by the Oneida Business Committee in 1990 by Resolution #BC-4-13-90-A. In 1993, the Oneida Business Committee expanded the Personnel Commission's duties to include hearing authority for employment matters. In 2013, the General Tribal Council adopted the Judiciary Law, and amended the Constitution to adopt Article V- to create an independent Judiciary. In 2013, the General Tribal Council reaffirmed that action.

Since then, the Oneida Business Committee has worked to move hearing authorities to the Judiciary- which reflects the GTC action to create an Oneida Judiciary Law. In an effort to continue to consolidate hearing authorities, the Oneida Business Committee recreated the Personnel Selection Committee- a Committee without hearing authority by Resolution # BC-04-11-18-B.

- (a) The Committee does not:
- (1) have authority to score applicants during the interview process,
  - (2) have hearing body authority,
  - (3) have authority to enter into contracts,
  - (4) have authority to create policy or legislative rules.

1-4. *Office.* The official mailing address of the Committee shall be:  
Personnel Selection Committee  
P.O. Box 365  
Oneida, WI 54155

1-5. *Membership.* The Committee shall:

- (a) Consist of five (5), and not more than eight (8) members.
- (1) Each member shall hold office until his or her term expires, until his or her resignation, or until his or her appointment is terminated in accordance with the Comprehensive Policy Governing Boards, Committees and Commissions.

- 47 (b) Each Committee member shall be appointed in accordance with the  
 48 Comprehensive Policy Governing Boards, Committees and Commissions  
 49 to serve a three (3) year term. The first term shall be staggered with three  
 50 (3) members receiving a one (1) year term, three (3) members receiving a  
 51 two (2) year term and two (2) members receiving a three (3) year term.  
 52 Each appointment after the initial staggered terms shall receive a three (3)  
 53 year term.
- 54 (c) *Vacancies.*
- 55 (1) *Filling of Vacancies.* Vacancies shall be filled in accordance with  
 56 the Comprehensive Policy Governing Boards, Committees, and  
 57 Commissions
- 58 (2) *Resignation.* A member may resign at any time verbally at a  
 59 meeting or by delivering written notice to the Committee.
- 60 (A) *Effective Date of Resignation.* A resignation is effective  
 61 upon acceptance by motion or delivery of notice.
- 62 (B) *Filling of Vacancies if Resignation is Deferred.* A vacancy  
 63 that may occur at a specific later date by reason of  
 64 resignation may be filled before the vacancy occurs, but the  
 65 new member may not take office until the vacancy occurs.
- 66 (3) *Terms of Replacement Member.* A replacement member shall hold  
 67 office through the unexpired portion of the term of the member  
 68 whom he or she has replaced.
- 69 (d) *Qualifications.* Committee members shall be appointed by the Oneida  
 70 Business Committee and shall meet the following qualifications:
- 71 (1) An enrolled member of the Oneida Nation.
- 72 (2) Be available for meetings and interviews during the work day,  
 73 evenings and weekends.
- 74 (3) Be free of any and all direct conflicts of interest or appearances of  
 75 conflict as defined under various laws and policies of the Nation,  
 76 including but not limited to the oath of office, the laws and policies  
 77 regarding employment, the Code of Ethics, and the Comprehensive  
 78 Policy Governing Boards, Committees, and Commissions.
- 79 (4) A member may not be an employee of the Human Resources  
 80 Department.
- 81 (5) Shall have hiring experience, or an Associate's Degree, or  
 82 equivalent experience or education.
- 83 (e) *Duties and Responsibilities.*
- 84 (1) Committee members who are employed by the Nation shall take  
 85 personal or vacation time for all Committee related activities.
- 86 (2) Shall complete HRD's Interview 101 training and any other  
 87 internal training deemed appropriate by the Oneida Business  
 88 Committee. All training must be completed before committee  
 89 members may participate in interviews.
- 90
- 91 1-6 *Termination.* A member's appointment may be terminated in accordance with the  
 92 Comprehensive Policy Governing Boards, Committees and Commissions.

**Article II. Officers**

2-1. *Chairperson, Vice-Chairperson and Secretary.* There shall be a Chairperson, a Vice-Chairperson and a Secretary.

2-2. *Responsibilities of the Chairperson.* The responsibility, duties and powers of the Chairperson of the Committee are as follows:

- (a) Preside at all meetings of the Committee.
- (b) Shall be an ex officio member of all subcommittees of the Committee, may call emergency meetings, and keep the Committee informed as to the business of the Committee.
- (c) The Chairperson and the Secretary shall submit reports to the Oneida Business Committee for publication in the General Tribal Council annual and semi-annual reports.
- (d) Submit quarterly reports as required by the Comprehensive Policy Governing Boards, Committees and Commissions.
- (e) Forward meeting location, agenda and materials with the assistance of the Secretary.

2-3. *Responsibilities of the Vice-Chairperson.*

- (a) In the absence of the Chairperson, the Vice-Chairperson shall conduct meetings of the Committee.

2-4. *Responsibilities of the Secretary.*

- (a) *Secretary Duties.* The responsibilities, duties and powers of the Secretary are as follows:
  - (1) Keep minutes of the Committee meetings in an appropriate format.
  - (2) Along with the Chairperson, provide notice of regular and emergency meetings of the Committee.
  - (3) Act as custodian of the records.
  - (4) Attend to all correspondence and present to the Committee all official communications received by the Committee.
  - (5) Along with the Chairperson, submit reports to the Oneida Business Committee for publication in the General Tribal Council annual and semi-annual reports, and submit quarterly reports to the Oneida Business Committee.
  - (6) Work with the Business Committee Support Office to administer the budget.

2-5. *Selection of Officers.* The officers of the Committee shall be appointed by the Committee for a one (1) year term. Officers may hold only one officer position.

- (a) Each officer shall hold his or her office until:
  - (1) the member resigns; or
  - (2) the member has his or her appointment terminated in the manner set out in the Comprehensive Policy Governing Boards, Committees and Commissions.



- (b) A vacancy of any officer shall be filled by the Committee for the unexpired term at the next regular or emergency meeting.

2-6. *No Authorized Personnel.* The Business Committee Support Office shall assist the Committee with administrative duties.

2-7. Officers do not have the authority to take action on the Committee's behalf on their own

### **Article III. Meetings**

3-1. *Regular Meetings.* Regular meetings shall be determined by the Committee. The regular meeting time, place and agenda shall be determined at a regular meeting. If no alternate designation is made by the Committee, the regular meetings shall be the last Tuesday of every month. If the Committee does not have any business to discuss or actions that need to be taken, it is not necessary for the Committee to meet every month. Notice of meeting location, agenda and materials shall be forwarded by the Chairperson with the assistance of the Secretary. Meetings shall be run in accordance with Robert's Rules of Order or another method approved by the Oneida Business Committee. Meetings shall comply with the Open Records and Open Meetings law.

3-2. *Emergency Meetings.* Emergency meetings shall only be called when time sensitive issues require immediate action. Emergency meetings of the Committee may be called by the Chairperson or upon written request of any two (2) members. The Chairperson shall designate a time and place for holding an emergency meeting.

- (a) Within seventy-two (72) hours after an emergency meeting, the entity shall provide the Nation's Secretary with notice of the meeting, the reason for the emergency meeting, and an explanation of why the matter could not wait for a regular meeting.

3-3. *Quorum.* A majority of the Committee members shall constitute a quorum for transaction of business, which shall include the Chairperson or Vice-Chairperson.

3-4. *Order of Business.* The regular meetings of the Committee shall follow the order of business as set out herein:

- (a) Call to Order
- (b) Roll Call
- (c) Approving of Previous Meeting Minutes
- (d) Subcommittee Reports
- (e) Old Business
- (f) New Business
- (g) Adjournment

3-5. *Voting.* Voting shall be in accordance with the simple majority vote of the Committee members present at a duly called meeting.

- (a) The Chairperson shall vote only in case of a tie.
- (b) The committee shall decide if electronic voting polls may be used. If the entity decides to use e-polls, it shall use any e-poll procedures adopted by

law.

#### Article IV. Expectations

- 4-1. *Behavior of Members.* Members are expected to treat each other in accordance with kalihwiyo, “The use of the Good Words about ourselves, our nation and our future.” Failure to treat each other with respect shall be cause for termination from the Committee. Appointed members of entities serve at the discretion of the Oneida Business Committee. Upon the recommendation of a member of the Oneida Business Committee or the entity, a member of an appointed entity may have his or her appointment terminated by the Oneida Business Committee.
- 4-2. *Prohibition of Violence.* Intentionally violent acts committed by a member of the entity that inflicts, attempts to inflict, or threatens to inflict emotional or bodily harm on another person, or damage to property during a meeting or when acting in an official capacity are strictly prohibited and grounds for immediate termination of appointment on the Committee and/or the imposition of sanctions and/or penalties according to laws and policies of the Nation.
- 4-3. *Drug and Alcohol Use.* Use of alcohol and illegal drugs by a member of an entity when acting in their official capacity is strictly prohibited.
- 4-4. *Social Media.* Committee members abide by the Nation’s Social Media Policy.
- 4-5. *Conflict of Interest.* Committee members shall abide by all laws of the Nation governing conflicts of interest.

#### Article V. Stipends and Compensation

- 5-1 *Stipends.* Committee members are eligible for the following stipends:
- (a) One (1) monthly meeting stipend
  - (b) One (1) stipend per day for participating in interviews and/or job description pre-screens conducted by the Human Resource Department.
  - (c) Stipends for Judiciary hearings
    - (i) A member of an entity may receive a stipend for attending an Oneida Judiciary hearing if that member is specifically subpoenaed.
  - (d) Required training offered by the Nation as established by the Oneida Business Committee.
- 5-2 *Compensation.* Committee members are not eligible for any other type of compensation.

#### Article VI. Records and Reporting

- 6-1 *Agenda Items.* Agendas shall be maintained in a consistent format.
- 6-2 *Minutes.* Minutes shall be typed and in a consistent format that generates an informative record of the Committee’s meetings. The Business Committee Support Office shall prepare the minutes within thirty (30) days of the Committee’s meeting.

231  
232 6-3 *Attachments.* Handouts, attachments, memoranda, etc. shall be attached to the  
233 corresponding minutes and the agenda Minutes and attachments shall be kept  
234 electronically by the Business Committee Support Office.  
235

236 6-4 *Oneida Business Committee Liaison.* The Committee shall regularly communicate with  
237 the Oneida Business Committee member who is their designated liaison. The frequency  
238 and method of communication shall be agreed upon by the Committee and the Liaison.  
239

240 6-5 *Audio Recordings.* The Committee shall audio record meetings and submit the  
241 recordings to the Business Committee Support Office within two (2) business days.  
242

## 243 **Article VII. Amendments**

244 7-1 *Amendments to By-laws.* Any amendments to bylaws shall conform to the requirements  
245 of the Comprehensive Policy Governing Boards, Committees and Commissions and any  
246 other policy of the Nation. Amendments to by-laws shall be approved by the Oneida  
247 Business Committee prior to implementation.



## Personnel Selection Committee Bylaws Legislative Analysis

### SECTION 1. BACKGROUND

REQUESTER: OBC Directive	SPONSOR: David P. Jordan	DRAFTER: Maureen Perkins	ANALYST: Maureen Perkins
<b>Intent of the Bylaws</b>	To govern the standard procedures regarding the appointment of persons to the Personnel Selection Committee, the membership guidelines, qualifications, duties and responsibilities, terms and filling vacancies of members, establish expectations of members, maintenance of official records, stipends and how the bylaws are amended.		
<b>Purpose</b>	Create standardized processes related to how the board will function.		
<b>Affected Legislation</b>	Personnel Policies and Procedures, Comprehensive Policy Governing Boards, Committees and Commissions, Open Records and Open Meetings Law.		
<b>Enforcement/Due Process</b>	A member's appointment may be terminated in accordance with the Comprehensive Policy Governing Boards, Committees and Commissions.		
<b>Public Meeting</b>	Public meeting are not required for bylaws.		

### SECTION 2. ESTABLISHMENT

- A. The Personnel Selection Committee was established by resolution BC-04-11-18B.
- B. The bylaws comply with the Comprehensive Policy Governing Boards, Committees and Commissions.

### SECTION 3. AUTHORITY

- C. The Personnel Selection Committee was first created by the GTC to protect against issues of nepotism and enforce Oneida and Indian preference. The current Personnel Selection Committee was created by the OBC to return to this original intent with respect to the Oneida Nation's hiring practices.

### SECTION 4. MEMBERSHIP

- A. The Personnel Selection Committee (Committee) shall be comprised of five (5) to eight (8) members.
- B. Members are appointed according to the Comprehensive Policy Governing Boards, Committees and Commissions and shall hold office until his or her term expires, until he or she resigns or until his or her appointment is terminated according to the Comprehensive Policy Governing Boards, Committees and Commissions.
- C. Vacancies are filled according to the Comprehensive Policy Governing Boards, Committees and Commissions. Resignations are accepted verbally at a meeting or by delivering a written notice to the Committee. Resignations are effective when accepted by motion in a meeting or by delivery of notice. Resignations with future dates may be filled immediately but the replacement member may not take office until the vacancy occurs. Replacement members shall serve the unexpired portion of the term of the member being replaced.

- 24 **D.** Members shall be enrolled members of the Oneida Nation, available for meetings and interviews  
25 during the work day, evenings and weekends, be free of all direct or appearances of conflicts of  
26 interest as defined by the laws and policies of the Nation, may not be a member of the Human  
27 Resources Department, and shall have hiring experience or an associate's degree or equivalent  
28 education or experience.
- 29 **E.** Committee members who are employed by the Nation are required to take vacation or personal time  
30 during Committee related activities. All Committee members are required to complete HRD's  
31 Interview 101 training and any other internal training deemed appropriate by the Oneida Business  
32 Committee. All trainings must be completed before the members may participate in interviews.
- 33 **F.** Members are terminated in accordance with the Comprehensive Policy Governing Boards,  
34 Committees and Commissions.  
35

## 36 **SECTION 5. TERM AND VACANCIES**

- 37 **A.** Members shall serve three (3) year terms with the first term staggered.
- 38 **B.** Vacancies are filled by appointment according to the Comprehensive Policy Governing Boards,  
39 Committees and Commissions.  
40

## 41 **SECTION 6. OFFICERS**

- 42 **A.** The Committee will have a Chairperson, a Vice-Chairperson and a Secretary.
- 43 **B.** The Chairperson is responsible to preside over all meetings of the Committee, be an ex officio member  
44 of all subcommittees of the Committee, may call emergency meetings and will keep the Committee  
45 informed of all business of the Committee. The Chairperson and the Secretary will submit reports to  
46 the OBC for publication in the GTC annual and semi-annual reports and will submit quarterly reports.  
47 The Chairperson will also be responsible to forward meeting location, agenda and meeting materials  
48 with the assistance of the Secretary of the Committee.
- 49 The Vice-Chairperson will conduct meetings of the Committee in the absence of the Chairperson.
- 50 The Secretary will keep meeting minutes in the appropriate format, provide notice of regular and  
51 emergency meetings of the Committee (along with the Chairperson), act as a custodian of the records,  
52 attend to all correspondence and present all official communications to the Committee, and work with  
53 the Business Committee Support Office (BCSO) to administer the budget.
- 54 **C.** Officers are selected by the Committee for a one (1) year term. Officers may only hold one officer  
55 position at a time. Officers will hold their position until they resign or have their appointment  
56 terminated. Vacancies will be filled at the next regular or emergency meeting for the unexpired term  
57 being filled.
- 58 **D.** The Committee is not authorized to hire any personnel.  
59

## 60 **SECTION 7. MEETINGS**

- 61 **A.** Regular meetings will be held once per month (or less if there is no business to discuss).  
62 Emergency meetings may be called only when time sensitive issues require immediate attention of the  
63 Committee.
- 64 **B.** A quorum is met by a majority of the Committee and the Chairperson or Vice-Chairperson.
- 65 **C.** An order of business is established by the bylaws.
- 66 **D.** A simple majority of the Committee members present will vote on issues; the Chairperson will only

vote if there is a tie. The Committee will decide if e-polls will be used and will use a standard process for conducting e-polls.

## **SECTION 8. EXPECTATIONS**

A. Committee members are expected to treat each other with respect. Failure to treat each other with respect can be grounds for termination from the board. Intentional violence committed, threatened to commit, or threatens to inflict emotional or bodily harm on another person or damage to property during a meeting is grounds for immediate termination of appointment on the Committee and/or imposition of sanctions or penalties according to the laws and policies of the Nation. Alcohol and illegal drug use is prohibited during official capacity.

## **SECTION 9. STIPENDS AND COMPENSATION**

A. Committee members are eligible for one monthly stipend for meetings attended, one stipend per day for participating in interviews and/or job description pre-screens conducted by HRD, one member of the Committee may receive a stipend to attend an Oneida Judiciary hearing if that member is specifically subpoenaed, and a stipend for required training offered by the Nation as established by the Oneida Business Committee.

B. Committee members are not eligible for any other type of compensation.

## **SECTION 10. RECORDS AND REPORTING**

A. Agendas will be maintained in a consistent format. Minutes must be prepared within thirty (30) days of the Committee's meetings by the BCSO. All handouts, attachments, memos, etc. must be attached to the corresponding minutes and all meeting packets will be electronically maintained by the BCSO.

B. Reports will be established by the Comprehensive Policy Governing Boards, Committees and Commissions.

C. The Committee will regularly meet with the OBC Liaison as established by the Committee.

D. The Committee is required to audio record all meetings and submit audio file to the BCSO within two (2) business days.

## **SECTION 11. AMENDMENTS**

A. Amendments to bylaws are required to be approved by the OBC.



**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



## AGENDA REQUEST FORM

- 1) Request Date: June 6, 2018
- 2) Contact Person(s): Clorissa N. Santiago  
 Dept: Legislative Reference Office  
 Phone Number: (920) 869-4417 Email: csantia1@oneidanation.org
- 3) Agenda Title: Petition: Metivier - Hourly Wage Increase
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
On April 11, 2018, the OBC accepted the verified petition and requested that the LRO complete a legislative  
analysis within sixty days and that a progress report be submitted within forty-five days. On May 16, 2018, the  
LOC accepted the analysis and forwarded it to the OBC. The Oneida Business Committee accepted the  
analysis on May 23, 2018. This petition needs to be formally added to the AFL for record keeping purposes.

List any supporting materials included and submitted with the Agenda Request Form

- 1) \_\_\_\_\_
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_
- 4) \_\_\_\_\_

- 5) Please list any laws, policies or resolutions that might be affected:

\_\_\_\_\_

- 6) Please list all other departments or person(s) you have brought your concern to:

\_\_\_\_\_

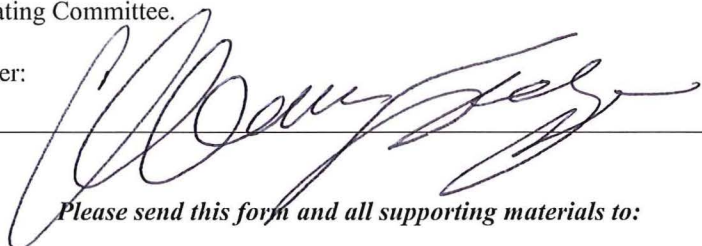
- 7) Do you consider this request urgent? ☐ Yes ☒ No

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:



*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



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



## AGENDA REQUEST FORM

- 1) Request Date: June 6, 2018
- 2) Contact Person(s): Clorissa N. Santiago  
 Dept: Legislative Reference Office  
 Phone Number: (920) 869-4417 Email: csantia1@oneidanation.org
- 3) Agenda Title: Petition: G. Powless - Oneida Personnel Commission Dissolution
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
On May 23, 2018, the OBC accepted the verified petition and requested that the LRO complete a legislative analysis to be submitted to the OBC by July 3, 2018, for inclusion in the July 11, 2018, OBC materials.

List any supporting materials included and submitted with the Agenda Request Form

- |          |          |
|----------|----------|
| 1) _____ | 3) _____ |
| 2) _____ | 4) _____ |

- 5) Please list any laws, policies or resolutions that might be affected:

- 6) Please list all other departments or person(s) you have brought your concern to:

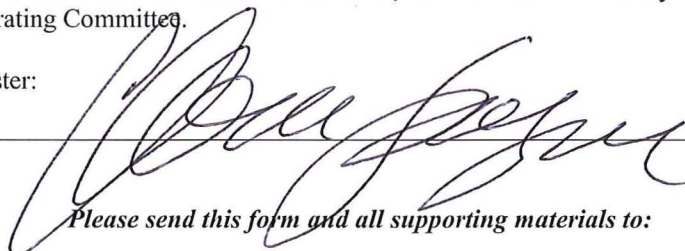
- 7) Do you consider this request urgent? ☒ Yes ☐ No

If yes, please indicate why:

The legislative analysis is due to the Oneida Business Committee by July 3, 2018.

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





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



## AGENDA REQUEST FORM

- 1) Request Date: 5-15-18
- 2) Contact Person(s): Rae Skenandore  
 Dept: N/A  
 Phone Number: \_\_\_\_\_ Email: Rskenanand@gmail.com
- 3) Agenda Title: Harvest policy
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
The Nation owns over 26,000 acres of land. There are Laws & policies in  
place for cutting trees & hunting & fishing & trapping. There are no policies in place  
for the gathers. Or any requirements to do so in a responsible and  
sustainable manner.

List any supporting materials included and submitted with the Agenda Request Form

- 1) \_\_\_\_\_
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_
- 4) \_\_\_\_\_

- 5) Please list any laws, policies or resolutions that might be affected:

- 6) Please list all other departments or person(s) you have brought your concern to:  
Land Commission, Environmental

- 7) Do you consider this request urgent? ☐ Yes ☒ No

If yes, please indicate why:

Not urgent. But, it is spring & many materials are harvested in the summer & fall.

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:

Rae Skenandore

*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

# June 2018

June 2018							July 2018						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
						1 2	1	2	3	4	5	6	7
3	4	5	6	7	8	9	8	9	10	11	12	13	14
10	11	12	13	14	15	16	15	16	17	18	19	20	21
17	18	19	20	21	22	23	22	23	24	25	26	27	28
24	25	26	27	28	29	30	29	30	31				

	Sun	Mon	Tue	Wed	Thu	Fri	Sat
	May 27	28	29	30	31	Jun 1	2
May 27 - Jun 2							
	3	4	5	6	7	8	9
Jun 3 - 9		8:30am 9:00am Special BC meeting (BC_Conf_Ro om) - TribalSecretar y		9:00am 3:00pm LOC (BC_Conf_Ro om) - LOC		8:00am 10:00a m FW: LOC Work Session (BC_Exec_Con f_Room) - Clorissa N. Santiago	
	10	11	12	13	14	15	16
Jun 10 - 16				8:30am 4:30pm BC Meeting (Business Committee Conference Room, 2nd Floor Norbert Hill Center)			
	17	18	19	20	21	22	23
Jun 17 - 23		6:00pm 10:00p m GTC (Radisson)	3:00pm 4:30pm LOC Prep (BC_Conf_Ro om) - LOC 3:00pm 4:30pm LOC Prep (BC_Exec_Con f_Room) - LOC	9:00am 3:00pm LOC (BC_Conf_Ro om) - LOC	12:15pm 2:15p m PUBLIC MEETING: Comprehensi ve Policy Governing Boards, Committees, and Commiss	10:00am 12:00p m LOC Work Session (BC_Exec_Con f_Room) - Clorissa N. Santiago	
	24	25	26	27	28	29	30
Jun 24 - 30				8:30am 4:30pm BC Meeting (Business Committee Conference Room, 2nd Floor Norbert Hill Center)	1:00pm 2:00pm FW: LOC Work Session (BC_Exec_Con f_Room) - Clorissa N. Santiago		

# July 2018

July 2018						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

August 2018						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

	Sun	Mon	Tue	Wed	Thu	Fri	Sat
Jul 1 - 7	<b>Jul 1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
				9:00am 3:00pm LOC (BC_Conf_Room) - LOC			
Jul 8 - 14	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>
					1:00pm 2:00pm LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago		
Jul 15 - 21	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>	<b>21</b>
			3:00pm 4:30pm LOC Prep (BC_Exec_Conf_Room) - LOC	9:00am 3:00pm LOC (BC_Conf_Room) - LOC			
Jul 22 - 28	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>	<b>27</b>	<b>28</b>
				8:30am 4:30pm BC Meeting (Business Committee Conference Room, 2nd Floor Norbert Hill Center)			
Jul 29 - Aug 4	<b>29</b>	<b>30</b>	<b>31</b>	<b>Aug 1</b>	<b>2</b>	<b>3</b>	<b>4</b>