



## **LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA**

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

August 15, 2018 9:00 a.m.

- I. Call to Order and Approval of the Agenda**
- II. Minutes to be approved**
  - 1. August 1, 2018 LOC Meeting Minutes (pg. 2)
- III. Current Business**
  - 1. Comprehensive Policy Governing Boards, Committees and Commissions Amendments (pg. 4)
  - 2. Sanctions and Penalties Law (pg. 135)
  - 3. Oneida Personnel Policies and Procedures Emergency Amendments (pg. 169)
- IV. New Submissions**
- V. Additions**
- VI. Administrative Updates**
  - 1. Leasing Law Rule #1 – Residential Leasing (pg. 268)
- VII. Executive Session**
- VIII. Recess/Adjourn**



## LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

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

August 1, 2018

9:00 a.m.

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

**Excused:** Daniel Guzman King

**Others Present:** Kristen Hooker, Brandon Wisneski, Maureen Perkins, Clorissa Santiago, Jennifer Falck, Lee Cornelius, Bonnie Pigman, Leyne Orosco, Debra Danforth, Ed Delgado

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

David P. Jordan called the August 1, 2018 Legislative Operating Committee meeting to order at 9:00 a.m.

Note: Jennifer Falck introduced Kristen Hooker as the new Drafting Attorney for the Legislative Reference Office.

Motion by Ernest Stevens III to adopt the agenda; seconded by Jennifer Webster. Motion carried unanimously.

### II. Minutes to be Approved (1:28 - 1:51)

#### July 18, 2018 LOC Minutes

Motion by Kirby Metoxen to approve the July 18, 2018 LOC meeting minutes and forward to the Oneida Business Committee for consideration; seconded by Ernest Stevens III. Motion carried unanimously.

### III. Current Business

### IV. New Submissions

#### 1. Petition: G. Dallas - \$5000 Payment (1:53 – 2:41)

Motion by Jennifer Webster to add the Petition: G. Dallas \$5000 Payment to the active files list as a high priority with David P. Jordan as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

#### 2. Petition: L. Dallas – Medicare Part B Premium Payment (2:43 -4:48)

Motion by Jennifer Webster to add the Petition L. Dallas Medicare Part B Premium Payment to the active Files list as a high priority with Jennifer Webster as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.



**V. Additions**

**VI. Administrative Items**

**1. LOC FY18 3rd Quarter Report (4:50 – 36:17)**

Motion by Ernest Stevens III to approve the LOC FY18 3rd Quarter Report and forward to the Oneida Business Committee for consideration; seconded by Kirby Metoxen. Motion carried unanimously.

**VII. Executive Session**

**VIII. Adjourn**

Motion by Kirby Metoxen to adjourn the August 1, 2018 Legislative Operating Committee meeting at 9:36 a.m.; seconded by Ernest Stevens III. Motion carried unanimously.



Legislative Operating Committee  
August 15, 2018

# Comprehensive Policy Governing Boards, Committees and Commissions Amendments

<b>Submission Date:</b> 9/6/17	<b>Public Meetings:</b> 6/21/18
<b>LOC Sponsor:</b> Jennifer Webster	<b>Emergency Enacted:</b> n/a <b>Expires:</b> n/a

**Summary:** *This item was carried over from the last two terms. Amendments were originally requested to: prohibit individuals from serving on multiple boards, committees and commissions at one time; set term limits; and prohibit Tribal employees from serving on tribal boards, committees and commissions.*

**9/6/17 LOC:** Motion by Jennifer Webster to add Comprehensive Policy Governing Boards, Committees, and Commissions Amendments to the active files list with Jennifer Webster as the sponsor; seconded by Ernest Stevens III. Motion carried unanimously.

**9/6/17:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Candice Skenandore, Maureen Perkins, Tani Thurner, Cathy Bachhuber. Drafting attorney provided an update on the status of Comprehensive Policy Governing Boards, Committees and Commissions amendments. Next steps will be: 1) pull the current draft back, 2) have work meetings with LOC for policy determinations, 3) conduct work meetings with boards, committees and commissions for input.

**9/21/17:** *Work Meeting.* Present: Jennifer Webster, Clorissa Santiago, Candice Skenandore, Jennifer Falck, Daniel Guzman King, Chad Wilson, Carol Silva, Gene Danforth, Mary Ann Krueheleg, Dakota Webster, Bonnie Pigman, Louis Powless, Lois Strong, Patricia Lassila, Raquel Hill, Laura Manthe, Lee Cornelius, Chaz Wheelock, Carol Elm. The purpose of this meeting was to collect input from members of boards, committees, and commissions on how to improve the currently effective law. Written comments will be accepted until October 11, 2017, and then all information will be compiled and brought back to the LOC.

**10/2/17:** *Work Meeting.* Present: Jennifer Webster, Clorissa Santiago, Candice Skenandore, Lee Cornelius, Stephen Webster, Brooke Duxtator. The purpose of this meeting was to collect input from the Oneida Nation Secretary's Office, and the Business Committee Support Office on how to improve the currently effective law.

**10/27/17:** *Work Meeting.* Present: Kirby Metoxen, Jennifer Webster, Cathy Bachhuber, Jennifer Falck, Daniel Guzman King, Candice Skenandore, Clorissa Santiago, Rosa Laster, Rae Skenandore. The purpose of this meeting was to go through the comments/suggestions collected from the boards, committees and commissions; BC Support Office and previous drafts to make policy considerations for the new proposed draft.



**11/1/17 LOC:** 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: David P. Jordan, Kirby Metoxen, Ernest Stevens III, Clorissa Santiago, Candice Skenandore, Jennifer Falck, Maureen Perkins, Rae Skenandore. The purpose of this meeting was to continue going through the comments/suggestions collected from the boards, committees and commissions; BC Support Office and previous drafts to make policy considerations for the new proposed draft.

**2/2/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Kirby Metoxen, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Rosa Laster, Cathy Bachhuber. The LOC reviewed and discussed the first draft. Drafting attorney will update law to reflect revisions discussed. A LOC work meeting to discuss stipends will be scheduled, as well as a work meeting with all boards, committees, and commissions to review first draft.

**2/15/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Ernest Stevens III, Daniel Guzman King, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Rosa Laster, Cathy Bachhuber. The purpose of this meeting was to go over the current reality of stipends, and discuss how the LOC wants to proceed with stipends in the future, so that the resolution containing stipend information can be drafted. The conversation on stipends in regards to hearings will be continued at another work meeting, and the drafting attorney will begin drafting the resolution.

**2/22/18:** *Work Meeting.* Present: Jennifer Webster, Daniel Guzman King, Jennifer Falck, Clorissa Santiago, Dale Webster, Lois Strong, John Breuninger, Floyd Hill, Bonnie Pigman, Matt W. Denny, Vicki Cornelius, Raw Skenandore, Carol Silva, Brooke Doxtator, Carol L. Elm, Mark Powless, Dylan Benton, Maureen Perkins. The purpose of this meeting was to go over the members of the various boards, committees, and commissions opinion, comments, concerns, and suggestions on the proposed drafted amendments. The drafting attorney will take all comments and suggestions to the LOC for review and consideration.

**3/2/18:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Clorissa Santiago, Brandon Wisneski, Laura Laitinen-Warren, Lisa Summers. The LOC reviewed and considered all comments received from the boards, committees, and commissions. The drafting attorney will make all revisions the LOC determined were necessary.

**3/16/18:** *Work Meeting:* Present: David P. Jordan, Jennifer Webster, Daniel Guzman, Ernest Stevens III, Clorissa Santiago, Brandon Wisneski, Cathy Bachhuber, Rosa Laster. LOC reviewed revisions made based on the last LOC work session and directed changes be made, and that the draft be e-pollled on March 21, 2018, so that the LOC may direct that the legislative analysis be completed.

**3/21/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Brooke Doxtator, Tony Doxtator, Victoria Krueger. The purpose of this work meeting was to discuss the requirement in the current draft that all BCC members have an official Oneida email, that is different than their employee email address, if applicable. The goal was to obtain an IT perspective on this issue from MIS, and to discuss the realities, challenges, and timelines this requirement will result in. The group will meet again to discuss this issue in a couple weeks, once the various MIS departments have an opportunity to meet further.

**4/2/18 LOC:** Motion by Daniel Guzman King to accept the draft of the Comprehensive Policy Governing Boards, Committees, and Commissions amendments and direct that a legislative analysis be completed; seconded by Jennifer Webster Motion Carried unanimously.

- 4/11/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Brooke Doxtator, Tony Doxtator, Stephen Webster, James Sommerfeldt, Jesse Kujawa, Chad Mrotek. The purpose of this work meeting was to discuss the questions and concerns regarding the provision of the law that says an email address must be provided to every BCC member, and discussion on how to implement this matter.
- 4/25/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Jennifer Falck. LRO staff met to review and discuss the legislative analysis.
- 5/2/18 LOC:** Motion by Ernest Stevens III to accept the legislative analysis and defer to a work meeting; seconded by Jennifer Webster. Motion carried.
- 5/2/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Jennifer Falck, David P. Jordan, Jennifer Webster, Ernest Stevens III. The LOC reviewed the legislative analysis and made policy considerations that the drafting attorney will now incorporate into the draft.
- 5/16/18 LOC:** 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.
- 6/6/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski. The purpose of this work meeting was to have the LOC review and discuss the drafted resolution determining stipend amounts for members of boards, committees, and commissions, and to determine a definition for stipends to be included in the law.
- 6/20/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Ernest Stevens III, Kirby Metoxen, Jennifer Falck, Clorissa Santiago, Brandon Wisneski. The purpose of this work meeting was to review and prepare for the upcoming public meeting.
- 6/21/18:** Public Meeting was held.
- 6/28/18:** Public Comment Period Closed.
- 7/18/18 LOC:** Motion by Kirby Metoxen to accept the public meeting comments and the public meeting comment review memorandum and defer the item to a work meeting; seconded by Ernest Stevens III. Motion carried unanimously.
- 7/18/18:** *Work Meeting.* Present: David P. Jordan, Ernest Stevens III, Kirby Metoxen, Daniel Guzman, Brandon Stevens, Jennifer Falck, Clorissa Santiago, Brandon Wisneski. The purpose of this work meeting was to review and consider all public meeting comments, and determine what revisions are necessary to the draft.

#### **Next Steps:**

- Approve the adoption packet for the amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions and forward to the Oneida Business Committee for consideration.



TO: Legislative Operating Committee (LOC)  
FROM: Clorissa N. Santiago, Legislative Reference Office Staff Attorney  
DATE: August 15, 2018  
RE: Comprehensive Policy Governing Boards, Committees, and Commissions  
Amendments: Public Meeting Comment Review

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On June 21, 2018, a public meeting was held regarding proposed amendments to the Comprehensive Policy Governing Boards, Committees and Commissions (“the Law”). Twenty-two (22) people attended the public meeting, with eight (8) individuals providing oral comments during the public meeting, and two (2) individuals submitting written comments during the public comment period. The Oneida Trust Enrollment Committee, Oneida Nation School Board, Oneida Nation Commission on Aging, Environmental Resource Board, and the Oneida Gaming Commission all had representation at the public meeting or during the public comment period.

On July 18, 2018, the Legislative Operating Committee reviewed and considered all oral and written comments received during the public meeting and public comment period. This memorandum demonstrates the consideration of the oral and written comments received within the public meeting and public comment period.

The public meeting draft, public meeting transcript, and written comments received are attached to this memorandum for review.

#### **Comment 1 – Application of the Law to the Oneida Business Committee:**

##### **105.1. Purpose and Policy**

**105.1-1. It is the purpose of this law to govern boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions.**

**(a) This law shall not apply to the Oneida Business Committee.**

##### **105.3. Definitions**

**105.3-1. 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.**

**(h) "Entity" means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose members are appointed by the Oneida Business Committee or elected by the Nation’s membership.**

**Bonnie Pigman (oral):** Hi, I’m Bonnie Pigman, General Tribal Council Member, 5361. I’m wanting to talk about the Purpose and Policy, Line 7, which specifically states “This law shall not apply to the Oneida Business Committee.” I have a couple of questions and then some information and some things with the definitions. A question for me is why not? Where is it

defined that the OBC is not considered a committee. I haven't seen anything that says they are not a committee. Everybody calls you the Oneida Business Committee.

**Bonnie Pigman (oral):** Line 59, which is in the definitions. An entity reads, means a board, committee or commission created by GTC or the Business Committee whose members are appointed by the OBC or elected by the Nation's membership. How does the Business Committee not apply to this definition? Even the Constitution, Article III, Governing Body, Section 3 reads, the qualified voters of the Oneida Nation shall elect from among the enrolled Oneida Nation members aged 21 and over who physically reside within Brown and Outagamie Counties of Wisconsin, by secret ballot, a Chairman, Vice Chairman, Secretary, Treasurer and five council members who shall constitute the Oneida Business Committee. Again, committee and perform such duties as authorized by, may be authorized by General Tribal Council.

### ***Response***

The commenter questions why the Law does not apply to the Oneida Business Committee if the Oneida Business Committee fits the definition of an entity.

The Law defines an entity of the Nation as a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose members are appointed by the Oneida Business Committee or elected by the Nation's membership. [1 O.C. 105.3-1(h)].

The commenter is correct in stating that the Oneida Business Committee does fit the description of an entity according to the definition provided by the Law, since the Oneida Business Committee was created by the General Tribal Council and elected by the Nation's membership pursuant to Article III, Section 3 of the Constitution and Bylaws of the Oneida Nation.

Although the Oneida Business Committee fits the definition for entity provided by the Law, it is important to note that it was never the intent to exempt the Oneida Business Committee based on whether or not the Oneida Business Committee meets the definition of entity. The Oneida Business Committee is exempted from this law because the purpose of the Law specifically excludes the Oneida Business Committee. [1 O.C. 105.1-1(a)].

The Oneida Business Committee is one (1) of only three (3) governmental bodies formally recognized by the Constitution and Bylaws of the Oneida Nation, the others being the General Tribal Council as the governing body of the Nation when in session, and the Judiciary as the judicial authority of the Nation. The Oneida Business Committee is delegated the authority by the Constitution to perform such duties as authorized by the General Tribal Council. [Constitution Article III, Section 3]. The Constitution provides various requirements for the Oneida Business Committee such as:

- Who may run for office with the Oneida Business Committee (must be age twenty-one (21) or over and physically reside in either Brown or Outagamie Counties);
- How many members may sit on the Oneida Business Committee (overall nine (9) members);
- What officer positions must be held on the Oneida Business Committee (necessary to have a chairman, a vice chairman, a treasurer, and a secretary);

- What constitutes a quorum (a majority of the body including the chairman or vice chairman);
- How regular meetings will be established (by resolution of the Oneida Business Committee);
- Notice requirements for special meetings (three (3) day advance notice by the chairman to all members or upon written request of a majority of the Oneida Business Committee stating the time, place, and purpose of the special meeting);
- How vacancies are filled (General Tribal Council may at any regular special meeting fill any vacancies that occur on the Oneida Business Committee for an unexpired term);
- How Oneida Business Committee members are removed (at the discretion of the General Tribal Council by a two-thirds (2/3) majority vote at any regular or special meeting of the General Tribal Council pursuant to a duly adopted ordinance); and
- How often Oneida Business Committee members are elected (every three years in the month of July).

*[see Constitution Article III, Section 3 and Article III, Section 4].*

Many of the standards and requirements that the Law sets forth for boards, committees, and commissions of the Nation are already addressed by the Constitution in terms of application to the Oneida Business Committee. Therefore, it is not that the Oneida Business Committee is exempt from many of the same requirements as other boards, committees, and commissions of the Nation are expected to comply with, it is just that the standards and requirements for the Oneida Business Committee are addressed through other legislative means.

In recognition of the fact that the Oneida Business Committee is a constitutionally recognized extension of the General Tribal Council, and the fact that the standards and procedures regarding the Oneida Business Committee is already addressed by other legislative means, the Oneida Business Committee has been exempted from this Law.

There is no recommended revision based on this comment.

The LOC may consider whether the definition for entity should be clarified to explicitly state that the Oneida Business Committee is excluded, in addition to the section 105.1-1 of the Law which describes the purpose. A possible revision to the definition could be as follows:

- (h) "Entity" means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose members are appointed by the Oneida Business Committee or elected by the Nation's membership, excluding the Oneida Business Committee.

### ***LOC Consideration***

The LOC discussed the inclusion of various requirements and standards for the Oneida Business Committee in the Nation's Constitution, and determined that the Nation's Constitution clearly sets for requirements for the Oneida Business Committee and therefore this Law does not need to duplicate those requirements.

The LOC discussed the fact that it is important to understand that it is not that the Oneida Business Committee is exempted from the standards and requirements for boards, committees, and commissions under this Law, but that the standards and requirements for the Oneida Business Committee are addressed through other legislative means, such as the Constitution, and it is for that reason the Oneida Business Committee is exempted from this Law.

The LOC determined that it was not necessary to amend the definition for “entity” as recommended, because the Law is clear the Oneida Business Committee is not included in the application of this Law.

## **Comment 2 – Creation of Initial Bylaws of a Board, Committee, or Commission:**

### **105.4. Creation of an Entity**

**105.4-1. An entity of the Nation shall be created by a resolution or law adopted by the Oneida Business Committee or General Tribal Council.**

**105.4-2. The law or resolution establishing the entity shall state the purpose of the entity and all powers and responsibilities delegated to the entity.**

**105.4-3. The Oneida Business Committee shall be responsible for drafting the initial bylaws of the entity.**

**Florence Petri (oral):** Also, another one I have is, it says the Oneida Business Committee shall be responsible for drafting the initial bylaws of the entity. Shouldn't the entity initiate those bylaws and then followed up by the Business Committee? That's my opinion. Thank you.

### ***Response***

The Law provides that when a new entity is created by either the Oneida Business Committee or the General Tribal Council, the Oneida Business Committee shall be responsible for drafting the initial bylaws of the entity. [1 O.C. 105.4-3].

The commenter questions why the entity itself does not initiate those bylaws, and then obtain approval by the Oneida Business Committee.

The Oneida Business Committee is delegated the authority to draft the initial bylaws of an entity, because the entity is newly established, and would not have any members. The initial bylaws must be drafted by the Oneida Business Committee so that decisions such as how many members will serve on the entity, if the members will be elected or appointed, and what the qualifications for membership on the entity shall be, can be made in order for the vacancies on this new board, committee, or commission to be posted and filled. The Law provides requirements for what information shall be addressed in the bylaws. [1 O.C. 105.10-3].

Once individuals are elected or appointed to a new board, committee, or commission, it would be up to the discretion of that board, committee, or commission to revise the initial bylaws that were created by Oneida Business Committee. Any revisions to bylaws have to be done in accordance with the bylaws of the board, committee, or commission and shall be approved by the Oneida



Business Committee, in addition to the General Tribal Council when applicable, prior to implementation of the bylaws. [1 O.C. 105.10-3(g)(1)].

There is no recommended revision based on this comment.

### ***LOC Consideration***

The LOC determined that there is no revision necessary based on this comment. The LOC reiterated the fact that the purpose of this section is to create a process for a new board, committee, or commission that does not have members that could create the bylaws.

The LOC discussed the fact that the recent creation of bylaws for the Personnel Selection Committee is a great example of this process.

### **Comment 3 – Uniform Applications:**

#### **105.5. Applications**

**105.5-1. The Oneida Business Committee shall approve all applications to serve on an entity of the Nation. All application materials shall be available in the Business Committee Support Office and any other location specified by the Business Committee Support Office.**

**(a) All applications shall include:**

**(1) a statement explaining the attendance requirements of section 105.12-3; and**

**(2) a section regarding disclosures of conflicts of interest.**

**(b) An additional application form shall be required for those entities that require a background investigation. This background investigation application shall include the applicant's social security number and any other information required for a background investigation. The background investigation application shall be solely used for the background investigation and not included in the application materials that are then shared with the Oneida Business Committee, entity, and/or the Election Board.**

**Lee Cornelius (oral):** Our office went over this and we had some concerns and questions that we had. First is 105.5-1. We were wondering if we could make the packets just be uniform. Have a section in there basically for the background investigation, instead of having separate applications.

### ***Response***

The commenter suggests having the application to serve on a board, committee, or commission of the Nation be uniform, and include a section for background investigations on the general application instead of having a separate application.

Currently, only the Oneida Police Commission and the Oneida Gaming Commission require background investigations.

The Law requires the Oneida Business Committee to approve all applications to serve on a board, committee, or commission of the Nation, and this allows the Oneida Business Committee the ability to ensure that one uniform and consistent application is used for all boards, committees, or commissions of the Nation. [1 O.C. 105.5-1].

The Legislative Operating Committee previously decided to have an additional application form that would be required for those entities that require a background investigation instead of including the information for a background investigation on the main application, because the background investigation application shall include the applicant's social security number and any other information required for a background investigation. [1 O.C. 105.5-1(b)].

All applications will be delivered to every member of the Oneida Business Committee and the entity's Chairperson for review before appointment. [1 O.C. 105.7-1(a)(1)]. In an effort to keep social security numbers confidential and secure the Legislative Operating Committee decided to keep the background investigation application separate from the general application. The Legislative Operating Committee has also specified through the Law that the background investigation application shall be solely used for the background investigation and not included in the application materials that are shared with the Oneida Business Committee, entity, and/or the Election Board. [1 O.C. 105.5-1(b)].

There is no recommended revision based on this comment.

The Legislative Operating Committee may determine if revisions should be made to allow for one application that includes information required for the background investigation, instead of having a separate background investigation application.

### ***LOC Consideration***

The LOC determined that general applications for a board, committee, or commission of the Nation should be separate from the background investigation application so that it can be ensured that social security numbers remain confidential and secured. There is no revision to the Law needed based on this comment.

## **Comment 4 – Statement of Attendance Requirements on Applications:**

### **105.5. Applications**

**105.5-1. The Oneida Business Committee shall approve all applications to serve on an entity of the Nation. All application materials shall be available in the Business Committee Support Office and any other location specified by the Business Committee Support Office.**

**(a) All applications shall include:**

**(1) a statement explaining the attendance requirements of section 105.12-3; and**

**(2) a section regarding disclosures of conflicts of interest.**

**(b) An additional application form shall be required for those entities that require a background investigation. This background investigation application shall include the applicant's social security number and any other information required for a**



**background investigation. The background investigation application shall be solely used for the background investigation and not included in the application materials that are then shared with the Oneida Business Committee, entity, and/or the Election Board.**

**Lee Cornelius (oral):** 105.5-1. We're curious as to why the attendance requirements are due at the time of the application.

### ***Response***

The commenter questions why the Law requires the applications to include a statement explaining the attendance requirements for serving on a board, committee, or commission of the Nation. [1 O.C. 105.5-1(a)(1)]. The Law requires a statement that at least one (1) member of the entity shall attend the Oneida Business Committee meeting where the quarterly report of that entity is an agenda item. [1 O.C. 105.12-3].

The Legislative Operating Committee determined that the a statement of the requirement of at least one (1) member of a board, committee, or commission be in attendance at the Oneida Business Committee meeting where the entity's quarterly report is on the agenda be included on the application so that an individual is made aware from the moment they turn in an application to serve on a board, committee, or commission of the Nation that there is the expectation that he or she might have to attend the Oneida Business Committee meeting on behalf of his or her board, committee, or commission.

There is no recommended revision based on this comment.

The Legislative Operating Committee may consider if the requirement to include a statement explaining the attendance requirements of section 105.12-3 should remain in the Law.

### ***LOC Consideration***

The LOC determined that the requirement to include a statement explaining the attendance requirements of section 105.12-3 on applications should remain in the Law. The LOC wants to ensure that from the moment an individual applies for a position on a board, committee, or commission they are aware of the expectation that they might have to attend an Oneida Business Committee meeting to present the board, committee, or commission's quarterly report.

## **Comment 5 – Conflict of Interest Disclosure on Applications:**

### **105.5. Applications**

**105.5-1. The Oneida Business Committee shall approve all applications to serve on an entity of the Nation. All application materials shall be available in the Business Committee Support Office and any other location specified by the Business Committee Support Office.**

**(a) All applications shall include:**

**(1) a statement explaining the attendance requirements of section 105.12-3;**

and

(2) a section regarding disclosures of conflicts of interest.

(b) An additional application form shall be required for those entities that require a background investigation. This background investigation application shall include the applicant's social security number and any other information required for a background investigation. The background investigation application shall be solely used for the background investigation and not included in the application materials that are then shared with the Oneida Business Committee, entity, and/or the Election Board.

**Lee Cornelius (oral):** 105.5-1. We're wondering if we could attach a conflict of interest right away to the application instead of having a separate section for that.

### *Response*

The commenter suggests that the law be revised to allow for a conflict of interest disclosure form to be attached to the application instead of having a separate section within the application form which would address conflicts of interest.

The Legislative Operating Committee may consider if the law should be revised to allow for a conflict of interest disclosure form to be attached to the application instead of having a separate section within the application form which would address conflicts of interest.

### *LOC Consideration*

The LOC discussed whether it would be more efficient to include the conflict of interest disclosure information right on the application, or attach a separate conflict of interest disclosure form. The LOC ultimately decided that the Business Committee Support Office should make the determination as to what is more efficient since they are the office that will be handling applications.

The Law requires that all applications include a section regarding disclosures of conflicts of interest. [1 O.C. 105.5-1(a)(2)]. Whether that section simply refers the individual filling out the general application to a separate attached conflict of interest form, or contains the space to disclose conflicts of interest on the general application, is a decision that the Business Committee Support Office may make.

The LOC determined no revision to the Law is required by this comment.

### **Comment 6 – Conflict of Interest:**

#### **105.5. Applications**

**105.5-1.** The Oneida Business Committee shall approve all applications to serve on an entity of the Nation. All application materials shall be available in the Business Committee Support Office and any other location specified by the Business Committee Support Office.

(a) All applications shall include:

- (1) a statement explaining the attendance requirements of section 105.12-3; and
- (2) a section regarding disclosures of conflicts of interest.

### **105.15. Conflicts of Interest**

**105.15-1.** All members of an entity are required to adhere to the Nation's laws and policies governing conflicts of interest.

**105.15-2.** A member of an entity shall disclose a conflict of interest to the Nation's Secretary as soon as the conflict arises, and update a conflict of interest disclosure form with the Nation's Secretary on an annual basis.

(a) Upon receiving information of a potential conflict of interest, the Nation's Secretary shall request a determination from the Oneida Law Office whether further action must be taken by the Nation regarding the status of the official.

**105.15-3.** Due to the potential for a real or perceived conflict of interest to exist, political appointees and legislative assistants shall not serve on an appointed or elected entity.

**Lori Elm (oral):** One of the other things I've seen was the conflict of interest. It was a little confusing for me because just this week in the mail or an e-mail I sent, we had to have all of our land commissioners sign a new conflict of interest, but when I was reading this it says then the application they are going to have a conflict of interest. So if they are going to have it on the application, the conflict of interest, couldn't there be some type of stipulation just put right on there, if you are elected that if you would, you know comply, or you would have to stay in compliance with the conflict of interest and if anything would change you have 30 days to report it to your board or to your, to the Secretary's office, just so then that needs so much paperwork.

### ***Response***

The Law does require that applications contain a section to allow for the disclosures of conflicts of interest. [1 O.C. 105.5-1(a)(2)]. Additionally the Law requires that members of boards, committees, and commissions comply with the Nation's laws and policies governing conflict of interest. [1 O.C. 105.15-1].

Both the Law, and the Nation's Conflict of Interest law require a member of a board, committee, or commission to update a conflict of interest disclosure form with the Nation's Secretary on an annual basis, as well as disclose a conflict of interest to the Nation's Secretary as soon as the conflict arises. [1 O.C. 105.15-2, 2 O.C. 217.4-3(b)].

Therefore, the commenter's suggestion to not have an annual conflict of interest disclosure form, and simply use the conflict of interest disclosure on the application with language added that a person must disclose a future conflict of interest within a determined period of time, would be in violation of the provisions contained in this Law, as well as the Nation's Conflict of Interest law.

There is no recommended revision based on this comment.

### ***LOC Consideration***

The LOC determined that there is no revision to the Law necessary based on this comment. The commenter's suggestion would be in violation of the Nation's Conflict of Interest law.

### **Comment 7 – Application Deadlines:**

#### **105.5. Applications**

**105.5-2. Applications shall be filed with the Business Committee Support Office by 4:30 p.m. of the deadline date. Postmarked envelopes are accepted as filed if postmarked by the deadline date and received by the Business Committee Support Office within five (5) business days of the deadline.**

**105.5-3. Five (5) days after the posted deadline for filing applications the Business Committee Support Office shall notify all persons who have filed an application of the date his or her application was received and if his or her application met the deadline to be considered for the election or appointment.**

**Lee Cornelius (oral):** 105.5-2. We want a, we were wondering if we could have a strict deadline of 4:30 instead of the mailing five days later. And if we do have the mailing five days later, can we have the verbiage changed that we will have more time than five days to get it to BC for consideration, because obviously that would be the same day.

#### ***Response***

The commenter requests that the Law be revised to have a strict deadline of 4:30 p.m. on the day of the deadline date, instead of allowing for postmarked envelopes to be accepted as filed if postmarked by the deadline date and received by the Business Committee Support Office within five (5) business days of the deadline.

The Legislative Operating Committee did consider removing the allocation of a five (5) day period for postmarked envelopes, but ultimately decided to keep the five (5) day allocation in the law in recognition of the fact that there are people who would still utilize standard mail to send in an application. The Legislative Operating Committee did not want to limit one's ability to turn in an application to the Business Committee Support Office.

The LOC may make one of the following considerations:

1. Keep the Law as currently drafted and allow for postmarked envelopes to be accepted as filed if postmarked by the deadline date and received by the Business Committee Support Office within five (5) business days of the deadline; or
2. Revise the Law to have a strict deadline of 4:30 p.m. on the deadline date.

If the LOC determines that no revision to the Law is necessary, then the commenter requests that the language included in section 105.5-3 that states that five (5) days after the posted deadline for filing applications the Business Committee Support Office shall notify all persons who have filed an application of the date his or her application was received and if his or her application met the deadline to be considered for the election or appointment. The commenter makes this request to allow the Business Committee Support Office more time in processing applications within postmarked envelopes that might be received on that fifth (5<sup>th</sup>) day.

If the LOC determines that the five (5) day period for postmarked envelopes to be received by the Business Committee Support Office should remain in the law, then it is recommended that the time period for the Business Committee Support Office to notify all persons who have filed an application of the date his or her application was received provided for in section 105.5-3 be extended, as requested by the commenter.

### ***LOC Consideration***

The LOC discussed the fact that the 4:30 p.m. deadline in regards to postmarked envelopes included in section 105.5-2 has been an issue that has been greatly debated by the LOC throughout the development of amendments to this Law.

The LOC again discussed whether allowing applications to be accepted if the envelope is postmarked on the date of the deadline for applications and received by the Business Committee Support Office within five (5) business days of the deadline date should remain in the Law. The LOC discussed the fact that the five (5) day allocation for postmarked envelopes does not necessarily stop mailing issues from occurring. An envelope can be postmarked on the deadline date, but then for circumstances outside of the control of the individual who is applying for a position on a board, committee, or commission of the Nation, may not be received by the Business Committee Support Office until after the five (5) days post deadline.

The LOC questioned how many boards, committees, and commissions of the Nation require those who apply for a position to be a resident of Brown or Outagamie County. The LOC then discussed whether living in Brown or Outagamie County would make it easier to ensure that your application was turned in by the deadline date, or easier to ensure that five (5) days would be sufficient for a postmarked envelope to be received by the Business Committee Support Office.

Although the LOC believes that if you are serious about obtaining a position on a board, committee, or commission of the Nation you will ensure your application materials are submitted by the deadline date, the LOC understands that some people still utilize mail. The LOC does not want to limit a person's ability to submit application materials, and therefore made the determination that the five (5) day allocation for postmarked envelopes should remain in the Law.

The LOC understands the Business Committee Support Office's concerns that the requirement of section 105.5-3 that five (5) days after the posted deadline for filing applications the Business Committee Support Office shall notify all persons who have filed an application of the date his or her application was received and if his or her application met the deadline to be considered for the election or appointment may be a hard deadline to meet if the Business Committee Support Office must accept all postmarked envelopes during that same timeframe.

For that reason, the LOC determined that this timeline should be extended to allow the Business Committee Support Office more time to collect all applications, even those that may be

postmarked by the deadline date and received five (5) days after the posted deadline, and then notify applicants once the timeframe for the collection of applications has ended.

The LOC determined the following revision shall be made to the Law:

105.5-3. ~~Eight~~~~Five~~ (8~~5~~) days after the posted deadline for filing applications the Business Committee Support Office shall notify all persons who have filed an application of the date his or her application was received and if his or her application met the deadline to be considered for the election or appointment.

For the sake of consistency in timelines throughout the Law, the following revision will also have to be made to the Law:

105.7-1. *Appointment Selection.* The following procedures shall be used to determine how the applicant for an appointed position is selected:

(a) ~~Five~~~~Eight~~ (5~~8~~) business days after the posted deadline for submitting an application, or within twenty-one (21) days of the posted deadline if the entity requires a background investigation to be completed as part of the application process, the Business Committee Support Office shall:

(1) deliver all applications, along with a summary of qualifications to hold office, and the results of the background investigation if required, to each member of the Oneida Business Committee as well as the entity's Chairperson; and

(2) place the appointment for the entity on the next executive session portion of the agenda of a regular or special Oneida Business Committee meeting in which the appointment is intended to be made.

#### Comment 8 – Effective Date of Vacancies:

#### 105.6. Vacancies

##### 105.6-2. A position on an entity shall be considered vacant in the following situations:

(a) *End of Term.* A vacancy is effective as of 4:30 p.m. of the last day of the month in which the term ends.

(1) Although a position is considered vacant once the term ends, the member of the entity may remain in office until the member's successor has been sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity.

**Lee Cornelius (oral):** We would like the end of terms for elected positions to be the end of July. We already have terminology in there that states that they can stay on until the next person takes the oath, so we were wondering if we could end it on July 31st and just use that terminology and start with the new person.

#### *Response*

The commenter suggests that the end of terms for elected positions be specified and held consistent as the end of July.



Currently, the Law only states that a vacancy is effective as of 4:30 p.m. on the last day of the month in which the term ends, and does not provide any specific references to when those terms might end. [1 O.C. 105.6-2].

The LOC may consider if:

1. The Law should remain as currently drafted and state that a vacancy is effective as of 4:30 p.m. of the last day of the month in which the term ends.
2. The Law should be revised to specify that a vacancy for an elected position is effective as of 4:30 p.m. on July 31<sup>st</sup> that ends the term.

### ***LOC Consideration***

The LOC understands the Business Committee Support Office's request for consistency in the effective date of a vacancy on a board, committee, or commission of the Nation. Although the LOC respects the Business Committee Support Office's opinions and suggestions regarding matters that the Business Committee Support Office handles, since the Business Committee Support Office has the experience and first-hand knowledge regarding these matters, the LOC questioned why a request to make the effective dates for vacancies consistent is coming forward at this time. The LOC questioned if there were current issues with the effective dates of vacancies, or if this request was just an effort to streamline the process. The LOC was hesitant to make a decision as to whether or not to amend a process that may have no current issues.

The LOC discussed the fact that a provision was added to the Law through these amendments which allows an individual to stay in office once his or her term has ended until his or her successor can be sworn into office. The LOC clarified that this comment is suggesting that the end of term for all positions be made consistent.

The LOC conducted a review of the various effective dates of vacancies on various boards, committee, and commissions of the Nation by reviewing information provided on the Nation's website at <https://oneida-nsn.gov/government/boards-committees-and-commissions/>. The information provided on the Nation's website demonstrated that the effective date for a vacancy on a board, committee, or commission of the Nation varied greatly.

The LOC determined that since all current terms were staggered and had different effective dates for the vacancies, the Law should remain as currently written, and a consistent date for when a position would become vacant on a board, committee, or commission should not be included in the Law at this time.

### **Comment 9 – Vacancies at the End of Term:**

#### **105.6. Vacancies**

##### **105.6-2. A position on an entity shall be considered vacant in the following situations:**

(a) ***End of Term.*** A vacancy is effective as of 4:30 p.m. of the last day of the month in which the term ends.

(1) **Although a position is considered vacant once the term ends, the member of the entity may remain in office until the member's successor has been**

**sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity.**

**Chad Wilson (oral):** Hi. So I just have a few things that I have a concern about. One thing I do like, board members staying in that way we have quorums, so I just want to put that out there. Back when Racquel was chair we weren't getting people elected and we were losing quorums, so by having a person stay in office until the next person takes their oath, I think that's a great change.

### ***Response***

The commenter commends the inclusion of section 105.6-2(a)(1) which allows for a member of a board, committee, or commission who's term has ended to remain in office until the member's successor has been sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity.

There is no recommended revision based on this comment.

### ***LOC Consideration***

The LOC appreciates the praise from the commenter, and agrees that no revision to the law is necessary based on this comment.

## **Comment 10 – Vacancy due to Resignation:**

### **105.6. Vacancies**

**105.6-2. A position on an entity shall be considered vacant in the following situations:**

**(d) Resignation. A resignation is effective upon:**

- (1) Deliverance of a letter to the Business Committee Support Office;**
  - (A) Upon receipt of resignation, the Business Committee Support Office will notify the entity of the resignation;**
- (2) Deliverance of a letter to the Chairperson of the entity, or designee, or**
- (3) Acceptance by motion of the entity of a verbal resignation.**

**105.6-3. An entity shall notify the Business Committee Support Office as soon as the entity learns that a position has or will become vacant. All notices of vacancy shall be sent to the entities for clarification or confirmation prior to notification to the Oneida Business Committee.**

**Lee Cornelius (oral):** We'd also like on 105.6-2 verbiage in there stating that if somebody does resign and they turn it to the board, that the board must notify the BCSO office.

### ***Response***

The commenter requests that the Law be revised to include language that requires a board, committee, or commission of the Nation that accepts a resignation to notify the Business Committee Support Office.



The requirement of a board, committee, or commission to notify the Business Committee Support Office that a resignation has been received and a position is now vacant is already required by the Law. The Law requires that an entity shall notify the Business Committee Support Office as soon as the entity learns that a position has or will become vacant. [1 O.C. 105.6-3]. This would include when a board, committee, or commission accepts a verbal resignation by motion, or if a resignation letter is delivered to Chairperson of the entity, or designee.

There is no recommended revision based on this comment.

### ***LOC Consideration***

Some members of the LOC expressed concern that proper communication between the Business Committee Support Office and the boards, committees, and commissions of the Nation is not currently happening. There was apprehension that boards, committees, or commissions would not report a vacancy because the individual can stay in office until his or her successor takes an oath of office.

The LOC discussed the fact that the Law addresses potential issues regarding communication with the inclusion of section 105.6-3 which requires an entity to notify the Business Committee Support Office as soon as the entity learns that a position has or will become vacant. This requirement will promote communication between the boards, committees, and commission and the Business Committee Support Office.

The LOC then discussed whether the Law should include a timeframe for when a board, committee, or commission has to inform the Business Committee Support Office of a vacancy. The LOC ultimately decided that instead of imposing a timeframe, the Law should be revised to state that a resignation by letter must be deliver to the entity and the Business Committee Support Office, in order to ensure that both entities are properly notified of the resignation.

The revision to the Law shall be as follows:

#### **105.6. Vacancies**

105.6-2. A position on an entity shall be considered vacant in the following situations:

(d) *Resignation.* A resignation is effective upon:

(1) Deliverance of a letter to the Business Committee Support Office, and to the Chairperson of the entity, or designee; or

~~(A) Upon receipt of resignation, the Business Committee Support Office will notify the entity of the resignation;~~

~~(2) Deliverance of a letter to the Chairperson of the entity, or designee, or~~

~~(23)~~ Acceptance by motion of the entity of a verbal resignation.

105.6-3. An entity shall notify the Business Committee Support Office as soon as the entity learns that a position has or will become vacant. All notices of vacancy shall be sent to the entities for clarification or confirmation prior to notification to the Oneida Business Committee.

## Comment 11 – Posting of Vacancies:

### 105.6. Vacancies

**105.6-4.** The Business Committee Support Office shall forward the notice of vacancy to the Secretary. The Secretary shall request and receive approval from the Oneida Business Committee to post the notice of vacancy. The Secretary shall post notice of vacancies at the following times:

- (a) *End of Term.* Automatically thirty (30) days prior to completion of the term.
- (b) *Removal.* No later than the first Oneida Business Committee meeting following the effective date of the removal.
- (c) *Resignation.* No later than the first Oneida Business Committee meeting following the Secretary's receipt of notice of an effective resignation from the entity.
- (d) *New Positions.* Upon one of the following conditions:
  - (1) if not specified, immediately upon creation of entity or adoption of bylaws, whichever is later, or
  - (2) upon date specified when creating the entity.
- (e) *Termination of appointment.* No later than the first Oneida Business Committee meeting following the effective date of the termination.

**Lee Cornelius (oral):** 105.6-4, we would like to change it from the Secretary shall post to the BCSO will post the vacancies. For (a) End of Term, Automatically it currently says 30 days. With our backwards scheduling and everything, we would like to extend that out to 60 days. And Resignation part (c), on that one it says no later than the first Oneida Business Committee meeting following the Secretary's receipt of notice of an effective resignation from the entity. We would like to see, change the verbiage to next available BC because if it's done after our deadline to turn in, the deadline for putting in a request then we won't be able to have time for it. And that seems to be it. Thank you.

### *Response*

The commenter makes a couple suggested revisions regarding timelines and requirements for posting vacancies. The commenter serves as a representative of the Business Committee Support Office who currently handles most responsibilities regarding the posting of vacancies, and has the specific knowledge and experience regarding these matters.

It is recommended that the following revisions be made:

**105.6-4.** The Business Committee Support Office shall forward the notice of vacancy to the Secretary. The Secretary shall request and receive approval from the Oneida Business Committee to post the notice of vacancy. The ~~Secretary~~ Business Committee Support Office shall post notice of vacancies at the following times:

- (a) *End of Term.* Automatically ~~thirty~~ sixty (~~30~~) days prior to completion of the term.
- (b) *Removal.* No later than the ~~first~~ next available Oneida Business Committee meeting following the effective date of the removal.
- (c) *Resignation.* No later than the ~~first~~ next available Oneida Business Committee

meeting following the Secretary's receipt of notice of an effective resignation from the entity.

(d) *New Positions*. Upon one of the following conditions:

- (1) if not specified, immediately upon creation of entity or adoption of bylaws, whichever is later, or
- (2) upon date specified when creating the entity.

(e) *Termination of appointment*. No later than the ~~first~~ next available Oneida Business Committee meeting following the effective date of the termination.

The LOC may determine if the recommended revisions should be made to the law, or if the language included in the law regarding the posting of vacancies should remain as currently drafted.

### ***LOC Consideration***

In regards to the request to amend section 106.6-4 to change the reference to the Secretary to the Business Committee Support Office the LOC determined that this revision should be made to the Law to accurately reflect who handles this responsibility. The revision to the Law shall be as follows:

105.6-4. The Business Committee Support Office shall forward the notice of vacancy to the Secretary. The Secretary shall request and receive approval from the Oneida Business Committee to post the notice of vacancy. The ~~Secretary~~ Business Committee Support Office shall post notice of vacancies at the following times:

In regards to the request to amend the timeframe for when a vacancy at the end of a term should be posted, as provided for in section 105.6-1(a), the LOC determined that the timeframe should be extended from thirty (30) days to sixty (60) days. The revision to the Law shall be as follows:

105.6-4. (a) *End of Term*. Automatically ~~thirtysixty~~ (~~360~~) days prior to completion of the term.

In regards to the request to amend all references in section 105.6-4 from “first Oneida Business Committee meeting” to “next available Oneida Business Committee meeting” the LOC had a lot of discussion on this matter. The intent behind modifying the appointment process was to expedite the process so that boards, committees, and commissions of the Nation are not left with vacant positions that affect quorum or the board, committee, or commission's ability to conduct business. The LOC wanted to ensure that when a position becomes vacant, the position is immediately approved to be posted at the next Oneida Business Committee meeting. There was concern expressed by some members of the LOC that a revision to “next available” might be construed too freely and allow for too much flexibility. The LOC wants to ensure that all efforts are made to include the approval of the posting for the vacant position on the next Oneida Business Committee meeting, even if that means the approval of the posting is included as an add on item.

The LOC determined that all references in section 105.6-4 to “first Oneida Business Committee meeting” shall be revised to state “next Oneida Business Committee meeting.” The revision to the Law shall be as follows:

- 105.6-4. (a) End of Term. Automatically ~~thirty~~ sixty (~~30~~) days prior to completion of the term.
- (b) Removal. No later than the ~~first~~ next Oneida Business Committee meeting following the effective date of the removal.
- (c) Resignation. No later than the ~~first~~ next Oneida Business Committee meeting following the Secretary's receipt of notice of an effective resignation from the entity.
- (d) New Positions. Upon one of the following conditions:
- (1) if not specified, immediately upon creation of entity or adoption of bylaws, whichever is later, or
  - (2) upon date specified when creating the entity.
- (e) Termination of appointment. No later than the ~~first~~ next Oneida Business Committee meeting following the effective date of the termination.

### Comment 12 – Review of Application Materials for Appointment:

#### 105.7. Appointment to an Entity

**105.7-1. *Appointment Selection.*** The following procedures shall be used to determine how the applicant for an appointed position is selected:

- (a) Five (5) business days after the posted deadline for submitting an application, or within twenty-one (21) days of the posted deadline if the entity requires a background investigation to be completed as part of the application process, the Business Committee Support Office shall:
- (1) deliver all applications, along with a summary of qualifications to hold office, and the results of the background investigation if required, to each member of the Oneida Business Committee as well as the entity's Chairperson; and
  - (2) place the appointment for the entity on the next executive session portion of the agenda of a regular or special Oneida Business Committee meeting in which the appointment is intended to be made.
- (b) Each member of the Oneida Business Committee shall review the application materials prior to executive session and be prepared to discuss and select an applicant for appointment.
- (1) The entity's Chairperson may have until the executive session to review the application materials and provide the Oneida Business Committee a recommendation of an applicant for appointment.
- (c) The Oneida Business Committee shall have a full and complete discussion of the merits and qualifications of the potential applicants, and any recommendation made by the Chairperson of the entity, during executive session. After completing a thorough discussion, the Oneida Business Committee shall:
- (1) choose an applicant for appointment, or
  - (2) ask the Oneida Nation's Secretary to re-notice the vacancy because of ineligible, unqualified, or under qualified applicants.

**Chad Wilson (oral):** Under the Section 105.6(b), I think it's b. Okay, I got it wrong. It's talking about when the applications come in for appointment that the Business Committee will review the application and that the entity's chair will also have the opportunity to review that

application and that the BC Support Office will make an appointment on the next BC meeting to discuss that appointment. Just like the BC, ERB would like all of the members to go ahead and look at that application and make that recommendation for the appointment, not just the chair. So, having it on the next meeting might not work out, not all people utilize electronic mail or social media and sometimes we can't get a hold of members on the telephone, so if we could have it at least a month out or into the next or after the next regularly scheduled meeting for that entity, that way we can have that recommendation move forward.

### ***Response***

The Law provides that five (5) business days after the posted deadline for submitting an application, or within twenty-one (21) days of the posted deadline if the entity requires a background investigation to be completed as part of the application process, the Business Committee Support Office shall deliver the application materials to the members of the Oneida Business Committee and Chairperson of the entity for review, and then place the appointment for the entity on the next executive session portion of the agenda of a regular or special Oneida Business Committee meeting in which the appointment is intended to be made. [1 O.C. 105.7-1(a)].

The Law then allows the Chairperson of the entity to provide a recommendation of an applicant for appointment during the executive session discussion where the Oneida Business Committee will review the application materials. [1 O.C. 105.7-1(b)(1)].

The commenter requests that timeline be extended at least a month out, or after the next regularly scheduled meeting for that entity, so that the entity has the opportunity to allow all of its members to come together and review the application materials and make recommendations for the Chairperson of the entity to bring to the Oneida Business Committee.

During the development of the amendments to this section of the law the LOC relied on comments received during the September 21, 2017 and February 22, 2018 work meetings with members of various boards, committees, and commissions of the Nation. Representatives from the Environmental Resource Board, Police Commission, Oneida Nation Commission on Aging, Election Board, Land Claims Commission, Oneida Trust Enrollment Committee, Oneida Nation Veterans Affairs Committee, Gaming Commission, Pow-Wow Committee, Land Commission, and the Oneida Community Library Board attended the work meetings and shared comments, suggestions, and concerns with the Legislative Operating Committee.

One prevalent concern that was shared by the members of the various boards, committees, and commissions was the amount of time it would take for an individual to be appointed to fill a vacancy on a board, committee, or commission. For this reason, the Legislative Operating Committee wanted to amend the appointment process to ensure that appointments would be made in a timely manner so that a board, committee, or commission would not be left with a vacancy that could potentially affect the board, committee, or commission's quorum and ability to conduct business.

Although the Law does allow a member whose position is considered vacant once the terms ends to remain in office until the member's successor is sworn into office by the Oneida Business Committee [1 O.C. 105.6-2(1)], this would not address vacancies due to removal, termination of appointment, resignation, or the creation of new positions.

The Legislative Operating Committee determined that once application materials are collected by the Business Committee Support Office the appointment should be placed on the next Oneida Business Committee agenda.

The Legislative Operating Committee recognized the importance of allowing the Chairperson of the entity, who has specific knowledge on the needs and standards of his or her specific entity, to provide a recommendation, and that boards, committees, or commissions might want the Chairperson of their entity to gain input from the entire board, committee, or commission.

The Legislative Operating Committee ultimately determined that boards, committees, or commissions would still be allowed to review application materials as an entity and come to a consensus to the recommendation the Chairperson would make to the Oneida Business Committee, but it would have to occur before the executive session discussion.

Boards, committees, or commissions have options on how they would choose to handle addressing the need to make a recommendation for a vacancy. The board, committee, or commission could decide to hold a meeting to address recommendations for a vacancy, communicate via their entity specific email address, or even conduct e-polls to determine a recommendation.

Although the commenter suggested that the timeline for making an appointment could be dependent on the meeting schedule of the specific board, committee, or commission that has the vacancy, the Legislative Operating Committee's goal is to create a consistent process that could be used across the board for all boards, committees, or commission.

The LOC may consider if:

1. The Law should remain as currently drafted and require that appointments be placed on the next Oneida Business Committee meeting agenda; or
2. The Law should be revised to extend the timeline for when appointments are placed on the Oneida Business Committee agenda.

It is recommended that if the Legislative Operating Committee determines that the Law should remain as currently drafted, that the language is revised to clarify that the appointments should be placed on the next *available* Oneida Business Committee meeting agenda. An example of the proposed language revision would be as follows:

105.7-1(a)(2): place the appointment for the entity on the next **available** executive session portion of the agenda of a regular or special Oneida Business Committee meeting in which the appointment is intended to be made.

### ***LOC Consideration***



During the development of the amendments to this Law the LOC spent a lot of time discussing the appointment process, and how to make the process more efficient. After review of this comment, the LOC decided that the current timelines that are included in the amendments to this law for the appointment process should remain as written.

The LOC's goal was to create an efficient process that would allow for an appointment to be made as soon as possible to avoid a loss of quorum for a board, committee, or commission.

The LOC then discussed the importance of receiving input from the board, committee, and commission itself, and the fact that the law still allows for this recommendation from the board, committee, or commission to be made, it just has to be made on an expedited timeline. The LOC hopes that when the Chair of a board, committee, or commission makes a recommendation to the Oneida Business Committee, that recommendation is based on consultation with other members of the board, committee, or commission.

### **Comment 13 – Termination of Appointment versus Removal:**

#### **105.7. Appointment to an Entity**

**105.7-4. *Termination of Appointment.*** 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.

(a) A two-thirds majority vote of the Oneida Business Committee shall be required in order to terminate the appointment of an individual.

(b) The Oneida Business Committee's decision to terminate an appointment is final and not subject to appeal.

**Lori Elm (oral):** One of the other things was I was a little confused on the termination and removal policy, but I talked to somebody just before I came and they told me the termination is actually different from the removal policy, because the removal policy was from the GTC directive, so I was wondering how can that happen, but it was the wording, it was a different effect. I understand it so but, this may be clarification on that too, that reason why it isn't going to GTC.

#### ***Response***

The commenter states that she was confused about the inclusion of both termination and removal in the Law, but spoke with myself, Attorney Clorissa N. Santiago, before the meeting and received some clarification on the matter.

Termination of appointment refers to how an *appointed* official would be removed from his or her board, committee, or commission, while removal refers to how an *elected* official would be removed from his or her board, committee, or commission.

The termination of an appointment of a board, committee, or commission member is at the discretion of the Oneida Business Committee, and requires a two-thirds majority vote of the Oneida Business Committee. [1 O.C. 105.7-4].

The removal of an elected official is subject to the procedures contained in the Nation's Removal law. [1 O.C. 105.6-2(b)]. The Removal law was adopted by the General Tribal Council through resolution GTC-01-09-06-A, and then most recently amended through resolution BC-05-28-14-B, for the purpose of governing the removal of persons elected to serve on boards, committees, or commissions of the Nation. [1 O.C. 104]. The Removal law provides the various grounds for removal [1 O.C. 104.4], the process for petitioning for a removal of an elected official [1 O.C. 104.5], the preliminary review of a petition of the removal [1 O.C. 104.6], the hearing for a petition for removal [1 O.C. 104.7], and the process for the General Tribal Council's consideration of the removal [1 O.C. 104.8].

There is no recommended revision based on this comment.

### ***LOC Consideration***

The LOC feels that the commenter's confusion on the difference between termination of appointment and removal of an elected official has been adequately clarified. The LOC agrees there is no revision to the Law needed based on this comment.

### **Comment 14 – Appointment Selection Process:**

#### **105.7. Appointment to an Entity**

**105.7-1. *Appointment Selection.*** The following procedures shall be used to determine how the applicant for an appointed position is selected:

- (c) The Oneida Business Committee shall have a full and complete discussion of the merits and qualifications of the potential applicants, and any recommendation made by the Chairperson of the entity, during executive session. After completing a thorough discussion, the Oneida Business Committee shall:
  - (1) choose an applicant for appointment, or
  - (2) ask the Oneida Nation's Secretary to re-notice the vacancy because of ineligible, unqualified, or under qualified applicants.

#### **105.7. Appointment to an Entity**

**105.7-3. *Declination of Appointment.*** An individual who has been selected for appointment to an entity by the Oneida Business Committee may decline the appointment.

- (a) An individual may decline an appointment to an entity in the following ways:
  - (1) Delivery of a letter stating that the individual wishes to decline the appointment to the Business Committee Support Office; or
  - (2) The failure to take the oath of office within thirty (30) days of being selected for appointment by the Oneida Business Committee.
- (b) The Business Committee Support Office shall notify the Oneida Business Committee if an individual declines an appointment to an entity. The Oneida Business Committee shall then use the original pool of applications for the vacancy



**posting and the process outlined in section 105.7-1 to select another applicant for appointment.**

**Lori Elm (oral):** When they are doing the selection process, I've seen one part that said, I think it's Line 178, OBC may elect. I think they should just swipe that out if it says may. It should just be shall all the time and if anything, one of my recommendation is, is if the OBC is voting in Executive Session on this, that the support staff don't even put names on them when they send the packets to you, so that is executive session, names, addresses, anything that, you know, you can tell who the person is and then when it does go to you that you automatically make three recommendations and if all the board is not there, it should say who is not voting so then it's just done. So then if say for example someone got appointed and they declined, then it would automatically go to the next one, next one, they would have that right in place right away.

***Response***

The commenter suggests that application materials do not contain the names of the applicant or any identifying information when the Oneida Business Committee members are tasked with reviewing the application materials and making a decision on who to appoint to a vacant position.

The commenter also suggests that three recommendations are ranked and made, so that if an individual declines an appointment, the next highest ranked individual would be given the appointment.

The Law currently only allows the Oneida Business Committee to select one applicant for appointment during the appointment selection process. [1 O.C. 105.7-1(c)]. If the individual that is selected for appointment declines the appointment, then the Law requires that the Oneida Business Committee uses the original pool of applications for the vacancy posting and the process for the selection for appointment outlined in section 105.7-1 of the Law is used to select another applicant for appointment. [1 O.C. 105.7-3].

The Legislative Operating Committee may determine if a provision should be added to the Law that requires the application materials not include any identifying information.

The Legislative Operating Committee may also determine if the appointment selection process should remain as currently drafted in the law, or if provisions should be revised to address the selection of multiple appointments for one (1) vacant position and how a declined appointment is handled.

***LOC Consideration***

The LOC discussed the commenter's suggestion to remove all identifying information from application materials. The LOC determined that it would be difficult for the Oneida Business Committee to make a decision of which applicant to choose for an appointment with all identifying information removed from application materials. The Oneida Business Committee wants to ensure they have all information and background on individuals so that the Oneida

Business Committee can make an informed decision on who would be the best candidate for the vacant position on the board, committee, or commission. Ultimately, the LOC determined that there is no revision to the Law needed based on this suggestion.

The LOC also discussed the appointment selection process should remain as currently drafted in the law, or if provisions should be revised to address the selection of multiple appointments for one (1) vacant position and how a declined appointment is handled. The LOC determined that no revision to the Law is necessary based on this comment because the Law already provides a process for the appointment process of a vacant position, and a process for what to do if an appointment is declined.

### Comment 15 – Oath of Office:

#### 105.9. Oath of Office

**105.9-1. All appointed and elected positions are official upon taking an oath during a regular or special Oneida Business Committee meeting. All rights and delegated authorities of membership in the entity shall vest upon taking the oath. The Nation’s Secretary shall notify the chosen persons when they shall appear for taking the oath.**

**(a) The appointed or elected member shall appear in person at the Oneida Business Committee meeting to take his or her oath, except if granted permission by the Secretary to appear by video conferencing equipment.**

**Lori Elm (oral):** Oath of office was another thing I had a question about. Over the years oath of offices were done right in the offices here and I think precedence was set years ago that and then they would approve it on the BC Agenda. Now lately, they have to be at a BC Meeting. One of the things I, a lot of times when everybody gets elected they have a big ceremony outside and everybody takes their oath of office outside. Nobody calls that to order or I mean it isn’t a meeting. So that’s my thing, maybe one thing they should look at is at least for the wording of that, is at least maybe if they do the oath of offices, they always have to be recorded on the next agenda or some type of, I’m not for sure about that, but that was just one thing that I noticed.

#### *Response*

The commenter states a belief that precedence was set before which allowed people the ability to take their oath of office outside of an Oneida Business Committee meeting, and requests that if someone is allowed to take their oath outside of an Oneida Business Committee meeting then it at least be recorded in the record on the next agenda.

The Law requires oaths of office to be taken in person during a regular or special Oneida Business Committee meeting, unless if granted permission by the Secretary to appear by video conferencing equipment. [1 O.C. 105.9-1(a)].

There is no recommended revision based on this comment. The Legislative Operating Committee may determine if the Law should be revised to allow for oaths of office to be taken at other locations than during an Oneida Business Committee meeting.

### ***LOC Consideration***

The LOC discussed the fact that the Oneida Business Committee and the Judiciary are the only entities that take an oath of office outside, or at a different location. Neither the Oneida Business Committee or the Judiciary are subject to this Law, and therefore do not have to comply with the requirement to take oath of offices at an Oneida Business Committee meeting.

The LOC determined there is no revision to the Law needed based on this comment.

### **Comment 16 – Requirement for Bylaws:**

#### **105.10. Bylaws**

**105.10-1. All entities of the Nation shall have bylaws that conform to the requirements of this law. Bylaws shall become effective upon approval of the Oneida Business Committee, unless where General Tribal Council approval is additionally required.**

**(a) All existing entities must comply with this format and present bylaws for adoption within a reasonable time after creation of the entity, or within a reasonable time after adoption of this law.**

**(b) Bylaws must contain at least the minimum information required by law, although more information is not prohibited.**

**(c) *Exception.* Task Forces and Ad Hoc Committees are excepted from the requirement to have bylaws. However, these entities must have, at minimum, mission or goal statements for completion of the task.**

**Jolene D. Hensberger (written):** Bylaws – School Board utilizes Policies and Procedures.

### ***Response***

The commenter states that the School Board uses “Policies and Procedures” and not bylaws.

All entities are required to have bylaws that conform to the requirements of this law. [1 O.C. 105.10-1]. The Law outlines the minimum information that a board, committee, or commission must include in their bylaws, and provides boards, committees, and commissions the flexibility to include any other information the board, committee, or commission believes is necessary and relevant. [1 O.C. 105.10-1(b)].

The School Board, as well as every other board, committee, or commission of the Nation will be required to comply with the format for bylaws provided by the Law, and present bylaws for adoption within a reasonable time after the Law is adopted. [1 O.C. 105.10-1(a)].

There is no recommended revision based on this comment.

### ***LOC Consideration***

The LOC expressed the importance of the requirement that all boards, committees, and commissions of the Nation have consistent bylaws that comply with the requirements of this law.

The LOC then discussed its efforts to provide boards, committees, and commissions of the Nation with a “bylaw kickoff event.” Within thirty (30) days of adoption of the law, the Legislative Reference Office (LRO) staff will provide two bylaw kickoff meetings where information on the new bylaw requirements of the law will be presented, drafting assistance by LRO staff will be offered, and a bylaw template will be provided. The goal of this effort is to provide boards, committees, and commissions with assistance in complying with the new bylaw requirements of the Law.

The LOC also discussed the fact that all bylaws will come before the LOC and the Oneida Business Committee, and in some cases the General Tribal Council, for approval. LOC expressed a desire that a redline draft of changes that are made to the bylaws be included when the bylaws are submitted for approval so that the revisions made to the bylaws are easy to identify and discuss.

There is no revision to the Law needed based on this comment.

#### **Comment 17 – Age Requirements for Boards, Committees and Commissions:**

##### **105.10. Bylaws**

##### **105.10-3. Sections. Articles shall be divided into "sections" as set out.**

##### **(a) "Article I. Authority" shall consist of the following:**

##### **(5) Membership. The following information shall be in this section:**

- (A) Number of members on the entity;**
- (B) If members on the entity are elected or appointed, and how a member is elected or appointed;**
- (C) How vacancies are filled; and**
- (D) Qualifications for membership on the entity.**

**Maryann Kruckeberg (oral):** I’d like to amend the laws that some boards, committees and commissions have the same age group, age limit on it, because some are 18 and some are 21 to be on these boards, except for the ONCOA Board, which is 55. The other ones, some have 18 age limit to be on it, like the Trust Committee has age 18 and the Election Board has age 21. So what is the difference? Make the age the same on all boards, commissions and committees, except the ONCOA Board. Thank you.

##### ***Response***

The commenter requests that minimum age requirements for serving on a board, committee, or commission of the Nation be consistent throughout all boards, committees, or commissions of the Nation, except for the Oneida Nation Commission on Aging (ONCOA).

The presumption behind excluding ONCOA from any requirements for consistent minimum age requirements for membership would be that ONCOA is comprised of elders in the community, aged fifty-five (55) years or older.

The Law currently does not address minimum age requirements for those individuals that wish to serve on a board, committee, or commission of the Nation. The Law does allow for a board, committee, or commission to determine the qualifications for membership on their specific entity through the bylaws of that entity. [1 O.C. 105.13-3(a)(5)(D)]. This would allow a board, committee, or commission to set minimum age requirements for those that wish to serve on the entity through the entity's bylaws.

For elected boards, committees, and commissions of the Nation the Nation's Election law requires that a person be a qualified voter on the day of the election in order to be eligible as a candidate. [1 O.C. 102.5-2(b)]. A qualified voter is defined as an enrolled member of the Nation who is eighteen (18) years of age or older. [1 O.C. 102.3-20].

A review of the bylaws of the Nation's various boards, committees, and commissions has provided the following information in regards to any minimum age requirements:

*Boards, Committees, and Commissions of the Nation with No Minimum Age Requirements:*

- Anna John Resident Centered Care Community Board – No minimum age requirement listed.
- Oneida Community Library Board – No minimum age requirement listed.
- Environmental Resource Board – No minimum age requirement listed.
- Oneida Nation Arts Board – No minimum age requirement listed.
- Oneida Nation Veterans Affairs Committee – No minimum age requirement listed.
- Personnel Selection Committee – No minimum age requirement listed.
- Oneida Pow-Wow Committee – No minimum age requirement listed.
- Oneida Election Board\* – No minimum age requirement listed.
- Oneida Land Commission\* – No minimum age requirement listed.
- Oneida Nation School Board\* – No minimum age requirement listed.
- Oneida Trust Enrollment Committee\* – No minimum age requirement listed.

*Boards, Committees, and Commissions of the Nation with an Additional Age Requirement:*

- Oneida Police Commission – Must be twenty-five (25) years of age or older.
- Pardon and Forgiveness Screening Committee – Has three (3) representatives from the community-at-large, one (1) of which must be an elder over the age of fifty-five (55) years old. No minimum age requirement listed for other community-at-large representatives.
- Southeastern Oneida Tribal Services Advisory Board – Must be eighteen (18) years of age or older.
- Oneida Nation Commission on Aging\* – Must be fifty-five (55) years of age or older.
- Oneida Gaming Commission\* – Must be twenty-one (21) years of age or older.
- Oneida Land Claims Commission\* – Must be twenty-one (21) years of age or older.

*The \* denotes an elected board, committee, or commission, where members must be at least eighteen (18) years of age or older.*

The Legislative Operating Committee may determine if the Law should provide for a consistent minimum age requirement for qualification on a board, committee, or commission of the Nation, or if boards, committees, and commissions should be allowed the flexibility to determine any qualifications for membership in their bylaws, including minimum age requirements.

### **LOC Consideration**

The LOC discussed whether a minimum age for qualification for a board, committee, or commission of the Nation should be consistent for all boards, committees, and commissions. The LOC reviewed the lists of those boards, committees, and commissions that do have a specific minimum age requirement and discussed the potential intent for those minimum age requirements.

The LOC discussed the fact that some boards, committees, or commissions might have minimum age requirements because it is required by a law. For example, the Oneida Nation Gaming Ordinance requires that all Gaming Commission members be at least twenty-one (21) years of age.

The LOC then questioned why not all boards, committees, and commissions of the Nation have minimum age qualifications. Does this mean that someone who is sixteen (16) could obtain a position on an appointed board, committee, or commission that does not have minimum age qualifications? The LOC then discussed whether youth should be allowed to have representation on certain boards, committees, and commissions. Ultimately, the LOC determined that an individual should at least be a qualified voter before they can hold a position on a board, committee, or commission of the Nation. Article III, Section 2 of the Constitution and Bylaws of the Oneida Nation currently states that a qualified voter is an enrolled member of the Nation who is eighteen (18) years of age or older.

The LOC then again took a look at the list of boards, committees, and commissions that have minimum age qualifications, and discussed whether the LOC was aware if those minimum age requirements were set by a law. The LOC wanted to ensure that minimum age requirements that were set by a Law or policy were maintained.

The LOC decided that the Law should be revised to state that in order to be eligible for a position on a board, committee, or commission of the Nation a person shall meet the age requirements set for qualified voters of the Nation, unless a law, policy or directive sets forth a minimum age requirement.

The LOC directed the LRO to review the boards, committees, and commissions that have minimum age requirements to see if the minimum age requirement is set by Law, or if it would be changing when the LOC's revision stated above is added to the Law.

The following revision shall be made to the Law:



105.10-3. *Sections.* Articles shall be divided into "sections" as set out.

(a) "Article I. Authority" shall consist of the following:

(5) Membership. The following information shall be in this section:

(D) Qualifications for membership on the entity.

(i) In order to qualify for membership on an entity, a person shall meet the minimum age requirements set forth for qualified voter of the Nation status, unless a law, policy, or directive sets forth a minimum age requirement.

#### Comment 18 – Authority of Boards, Committees, and Commissions:

#### 105.10. Bylaws

105.10-3. *Sections.* Articles shall be divided into "sections" as set out.

(a) "Article I. Authority" shall consist of the following:

(2) *Establishment.* This section shall state the citation and name, if any, of the creation document.

(3) *Authority.* This section shall state the purpose for which the entity was created and what, if any, authority the entity is delegated.

**Lori Elm (oral):** Yes. Hello, I'm Lori Elm. Some of my comments are, one of them is, I was looking for authority of the boards, committees and commissions, because in my area currently in the past year, one of the commission's that's in our area was like, seemed to have jumped authority and kind of went into our actual day-to-day business, so I don't know if some type of stipulation can be put into there. I know there is a resolution for the BC that they need to stay out of the day-to-day business, but maybe there is something that can be put in here to put some type of guideline in that, so maybe there is some type of directive they have to take or if they have some type of complaint or process against the actual employees or the actual processes that they can put the steps in there on how to do it.

#### *Response*

The commenter suggests that a provision be included in the Law that provides guidance to the specific authorities of boards, committees, and commissions of the Nation. Specifically, the commenter would like to see language included in the Law regarding a board, committee, or commission's authority over a department of the Nation.

It would be difficult to address the authority of each and every board, committee, or commission in one general statement in the Law itself, because each board, committee, or commission of the Nation has its own determined authorities and responsibilities.

The Legislative Operating Committee does believe that it is important that the authority and responsibilities of a board, committee, or commission of the Nation be clearly defined. For that reason, the Legislative Operating Committee added a provision into the Law that requires each board, committee, or commission's bylaws to address the authority of the board, committee, or commission.

The Law requires that bylaws contain a section that addresses authority, and contains information regarding how the board, committee, or commission was established, for what purpose the entity was created, and what, if any, authority the entity is delegated. [1 O.C. 105.10-3(a)].

There is no recommended revision based on this comment. The Legislative Operating Committee can determine if this issue should be addressed further in the Law.

### ***LOC Consideration***

The LOC recognized that the Law already requires that requires each board, committee, or commission's bylaws to address the authority of the board, committee, or commission, so no revision to the Law is needed based on this comment.

The LOC discussed the fact that the Legislative Reference Office staff is currently conducting research on the specific authority granted to each board, committee, and commission of the Nation to assist in the bylaw drafting process.

### **Comment 19 – Audio Recording Requirement:**

#### **105.10. Bylaws**

**105.10-3. Sections.** Articles shall be divided into "sections" as set out.

(f) "Article VI. Records and Reporting" shall consist of the following information:

**(5) Audio Recordings.** An entity shall audio record all meetings. This section shall state how the entity will audio record meetings, and how the entity shall maintain the audio records.

**Chad Wilson (oral):** Just have one more that I saw. Okay, under 105.10-3(5). It's talking about audio recordings. An entity shall audio record all meetings. This section shall state how the entity will audio record meetings, and how the entity shall maintain the records. We've never had that before and generally when we talk about this stuff, I don't, there's a lot of sidebar, trying to remember, like what had happened, or different results and stuff and I don't know if that's necessarily something that you would want on the recording while they are trying to figure this stuff out. Generally if we put it, we put what is pertinent into the minutes and make it a motion and that way people know what it is. I know the board might not be comfortable with any kind of recordings that, if we have public meetings or public hearings, we always record those and we have those on file along with, back when we had hearing authority we have those also recorded, but for standard meeting, I don't see them wanting that, that the minutes would reflect what was going on in the meeting. Thank you.

### ***Response***

The commenter expresses concern that members of boards, committees, or commissions will not want to audio record their meetings.



The Legislative Operating Committee determined that all boards, committees, or commissions of the Nation should be required to audio record their meetings for better recordkeeping purposes, and transparency.

The Legislative Operating Committee may consider whether the requirement for all boards, committees, or commissions of the Nation to audio record their meetings should remain in the Law.

### ***LOC Consideration***

The LOC determined that the requirement for all boards, committees, and commissions of the Nation to audio record their meetings shall remain in the Law. The LOC believes that the transparency of maintaining audio recordings of meetings is important, and essential to good governance.

The LOC had a discussion on the benefits of audio recording meetings, and how the recordings could be utilized as a reference later if confusion arises as to decisions that were made, and the motivations behind such decisions.

The LOC recognized the fact that there may be times where a board, committee, or commission of the Nation is required to discuss confidential information. The LOC noted that confidential discussions should occur during an executive session portion of a meeting, and requested the Law be clarified to state that executive session portions of a meeting are not subject to the recording requirement.

The following revision shall be made to the Law.

105.10-3. Sections. Articles shall be divided into "sections" as set out.

(f) "Article VI. Records and Reporting" shall consist of the following information:

(5) *Audio Recordings.* An entity shall audio record all meetings. This section shall state how the entity shall audio record meetings, and how the entity shall maintain the audio records.

(A) *Exception.* Audio recordings of executive session portions of a meeting shall not be required.

### **Comments 20 through 21– Entering an E-Poll into the Record:**

#### **105.11. Electronic Polling**

**105.11-4. *Entering an E-Poll in the Record.*** Both approved and denied e-poll requests shall be placed on the next meeting agenda of the entity to be entered into the record. The agenda item shall contain the following information:

- (a) Original e-poll request and all supporting documentation;
- (b) A summary of the e-poll results identifying each member of the entity and his or her response; and
- (c) A copy of any comment by a member of the entity if comments are made beyond a vote.

**Lori Elm (oral):** And then the other thing is the e-poll. Just to make sure that they are recorded in the minutes after, with the results and make sure that it has who was there, who was not, the abstentions and I think there is one more.

**Jolene D. Hensberger (written):** Electronic Polling: School Board members ratify at next meeting.

### ***Response***

The commenters request that the Law address recording e-polls in the minutes to demonstrate the results.

The Law addresses entering an e-poll into the record in section 105.11-4. The Law requires that all e-poll requests be placed on the next meeting agenda of the entity to be entered into record, and the record must include the original e-poll request and all supporting documentation, a summary of the e-poll results identifying each member of the entity and his or her response, and a copy of any comment by a member of the entity if comments are made beyond a vote. [1 O.C. 105.11-4].

There is no recommended revision based on this comment.

### ***LOC Consideration***

The LOC determined that no revision to the Law is needed based on this comment, because a standard process for how e-polls will be conducted and entered into the record has been included in the Law in section 105.11-4.

## **Comment 22 – Reporting to General Tribal Council:**

### **105.12. Reporting Requirements**

**105.12-4. *Annual and Semi-Annual Reports to the General Tribal Council.*** Entities shall provide annual reports to the Oneida General Tribal Council based on their activities during the previous fiscal year, and semi-annual reports based on their activities during the current fiscal year. All annual and semi-annual reports shall follow a format prescribed by the Oneida Business Committee.

(a) Annual and semi-annual reports shall contain information on the number of substantiated complaints against all members of the entity.

(b) Each entity with oversight of a department shall also submit annual and semi-annual reports for each department the entity oversees.

**105.12-5.** Any failure to comply with the reporting requirements may result in the Oneida Business Committee placing a hold on the release of a stipend payment.

**Bonnie Pigman (oral):** Additionally, I believe most if not all Business Committees have to, or boards, committees and commissions have to report to the General Tribal Council. This document appears or appears to be attempting to circumvent that responsibility. Thank you.

## ***Response***

The commenter asserts that this law appears to be attempting to circumvent boards, committees, and commissions' responsibility to report to the General Tribal Council. This is an inaccurate statement.

The Law does not circumvent, but reaffirms the requirement that boards, committees, and commissions of the Nation report to the General Tribal Council. All boards, committees, and commissions of the Nation are required to provide annual reports to the General Tribal Council based on their activities during the previous fiscal year, and semi-annual reports based on their activities during the current fiscal year. [1 O.C.105.12-4].

If a board, committee, or commission of the Nation has oversight of a department, then an annual and semi-annual report for each department the board, committee, or commission oversees is also required. [1 O.C.105.12-4(b)].

A failure to comply with the requirements to report to the General Tribal Council may result in a hold being placed on the release of stipend payments. [1 O.C.105.12-5].

Additionally, the Law recognizes that the General Tribal Council requires some bylaws of boards, committees, and commissions to be approved by the General Tribal Council, and reaffirms this requirement. [1 O.C. 105.10-1, 105.10-3(g)(1)].

There is no recommended revision based on this comment.

## ***LOC Consideration***

The LOC agrees that the law reaffirms the requirement that boards, committees, and commissions of the Nation report to the General Tribal Council, and therefore believes no revision to the Law is needed.

## **Comments 23 through 24 – Stipends:**

### **105.13. Stipends, Reimbursement and Compensation**

**105.13-3. The Oneida Business Committee shall set stipend amounts by resolution. The Oneida Business Committee shall periodically review the amounts provided for stipends and, based on the availability of funds, shall adjust those amounts accordingly by amending the resolution.**

**Lori Elm (oral):** Oh, stipends was another one. The Election Board receives a hundred dollar stipend to go to the GTC Meetings. But at the same time they are actually doing the same thing as when they are doing a voting day. Now on a voting day they get paid \$10.00 an hour. So, but it's not in here about the Election Board stipend, so my thing is, what's the difference of the hundred dollars and the ten dollars, they are still doing the same process.

And the next thing on that is the cost of living for that ten dollars an hour never went up from I think 2002 or 2005, so maybe that's something else to look at, as that is still at ten dollars an hour for that. But, so I am just wondering how come it isn't at the GTC Meeting, you get paid just like you're acting like a regular election official, because that's what you're doing, is you're counting votes. There ain't no difference than when you are sitting at the polling site and you're counting votes, so that's a question I brought up.

**Jolene D. Hensberger (written):** Stipends: Remain the same of \$75.00 for each Board member, including Chair, if not more for any meeting of 1 hour or longer.

### ***Response***

The commenters provide comments and suggestions regarding the various stipends, and amounts of stipends.

The Law provides the Oneida Business Committee the authority to set stipend amounts by resolution. [1 O.C. 105.13-3]. It is anticipated that a resolution containing specific information on the stipends of boards, committees, or commissions of the Nation will be presented for adoption by the Oneida Business Committee when the proposed amendments to this Law are presented for adoption.

Since the Law does not specify stipend amounts, it is recommended that the Legislative Operating Committee take this information under advisement in the development of a resolution addressing stipends of boards, committees, and commissions that will be presented to the Oneida Business Committee.

There is no recommended revision to the Law based on these comments.

### ***LOC Consideration***

The LOC will take the commenter's suggestions under advisement in the development of a resolution addressing stipends of boards, committees, and commissions that will be presented to the Oneida Business Committee for consideration of adoption.

## **Comments 25 through 26 – Stipends for Training:**

### **105.13. Stipends, Reimbursement and Compensation**

**105.13-9. Conferences and Training.** A member of any entity, elected or appointed, shall be reimbursed in accordance with the Nation's policy for travel and per diem, for attending a conference or training. **Provided that:**

- (a) A member shall be eligible for a stipend for each full day the member is present at the conference or training, when attendance at the conference or training is required by law, bylaw or resolution.
- (b) A member shall not be eligible for a conference and training stipend if that training is not required by law, bylaw or resolution.
- (c) No stipend payments shall be made for those days spent traveling to and from

**the conference or training.**

**Jolene D. Hensberger (written):** Trainings: The School Board members should be able to attend trainings relating to education for both children and adults, such as the Conscious Discipline Training coming up at the Radisson. School Board members are encouraged, by many entities, to be present for this training but this is a two-day training, which means that the members will need to take off of work and possibly have to use their personal / vacation time.

**Jolene D. Hensberger (written):** Stipends: Include clarification of what is considered “out of town” training, i.e. Radisson or at other place of location other than regular meeting place. School Board members have to take off of work and use vacation / personal time to attend trainings which are usually one full day to two days.

***Response***

The commenter states that members of the School Board should be able to attend trainings related to both the education of children and adults. The commenter also requests clarification on what is considered “out of town” training, and expresses concern that even when a training is local, the members of the board, committee, or commission still have to take off of work to attend and incur expenses.

Members of boards, committees, and commissions are allowed to attend trainings and conferences, as long as the training and/or conference is identified by law, bylaw, or resolution of the Nation. [1 O.C. 105.13-9(a)]. Bylaws of every board, committee or commission are required to include information on any trainings and/or conferences that the entity deems necessary for members to responsibly serve the entity, if any. [1 O.C. 105.10-3(a)(7)]. In reference to trainings and/or conferences the Law itself currently does not specifically reference locations of trainings, or provide for different procedures for different locations of training.

The Law does provide that a member of a board, committee or commission shall be reimbursed for travel and per diem for attendance at a conference in accordance with the Nation’s policy for travel and per diem. The Oneida Travel and Expense Policy was most recently amended by the Oneida Business Committee through resolution BC-08-06-08-B. The Oneida Travel and Expense Policy does differentiate between local and non-local travel in its policies regarding the reimbursement of travel expenses. Non-local travel is defined by the Oneida Travel and Expense Policy as any travel which requires an overnight stay. [2 O.C. 219.3-1(a)].

Although the Oneida Travel and Expense Policy differentiates between local and non-local attendance at trainings or conferences, the Law does provide that a member of a board, committee, or commission shall be eligible for a stipend for each full day the member is present at the conference or training, when attendance at the conference or training is required by law, bylaw or resolution. [1 O.C. 105.13-9(a)]. This means that the member of the board, committee, or commission will be eligible for a stipend for his or her attendance at a conference or training no matter if the conference or training is local or non-local. The specific amount for the stipend

for attendance at a conference or training will be determined and approved by the Oneida Business Committee through the adoption of a resolution regarding stipends. [1 O.C. 105.13-3].

There is no recommended revision based on this comment.

### ***LOC Consideration***

The LOC recognizes that the requirements of the Law, as well as the Oneida Travel and Expense Policy must be followed by all members of a board, committee, and commission of the Nation. The LOC determined that no revision is necessary based on this comment.

### **Comment 27 – Stipend Payment Process:**

**Jolene D. Hensberger (written):** To avoid delays in the Stipend Payment Process – Stipend payment process for the School Board is recommended to remain the same. The School Board currently prints out Stipend Form Request, the draft Minutes, Sign-In Sheet, then has it signed by the authorizing representative, and then forwarded to the ONSS Account Clerk to submit to Accounts Payable.

### ***Response***

The commenter requests that the stipend payment process remain the same, and describes the School Board's current process.

The Law currently does not address the stipend payment process. The actual payment process for stipends is currently an internal process.

The Legislative Operating Committee may consider if the stipend payment process should be addressed in the law, or if the stipend payment process should remain an internal process. The Business Committee Support Office intends to take over the responsibility of managing stipends for boards, committees, and commissions.

### ***LOC Consideration***

The LOC determined that the stipend payment process should remain an internal procedure, and not specifically be included in the Law. This will allow for more flexibility in adjusting the stipend payment process if determined necessary.

No revision to the Law is necessary based on this comment.

### **Comment 28 – Official Entity Email Address:**

#### **105.14. Confidential Information**

**105.14-3. Official Oneida Nation E-mail Address.** Each member of an entity shall be provided an official Oneida e-mail address upon election or appointment for the purpose of conducting business of the entity electronically.

(a) If a member is also an employee of the Nation, he or she shall receive a separate



**e-mail address from his or her regular work e-mail address.**

**(b) A member of an entity shall sign an acknowledgment form provided by the Nation's Secretary indicating notice of the Nation's applicable computer and media related laws, policies and rules. The Nation's Secretary shall maintain a record of all such acknowledgment forms.**

**(c) A member of an entity shall not use any personal or work e-mail address to electronically conduct any business of the entity.**

**(d) Immediately upon receipt of notice of an entity vacancy, the Nation's Secretary shall instruct the Management Information Systems department to disable the e-mail address for the member having vacated the position.**

**Pat Lassila (oral):** Good afternoon. I just needed some clarification in regards to individuals that get elected to on a board, committee or commission, in here it's talking about receiving an e-mail address, that you have to have a tribal e-mail address and you cannot use a personal e-mail address. What do you do with individuals that are not employees of the Tribe? So you are going to make it available to everyone is my question. Before we couldn't get it, like I've been on this, the ONCOA Board for three years now and I'm using a personal e-mail, because they said I couldn't have one because I'm not an employee of the Tribe. So, are you going to make us, make it available then for those who are not employees of the Tribe?

### ***Response***

The commenter questions whether members of boards, committees, or commissions of the Nation who are not employees of the Nation will be receiving an e-mail address.

Yes, the Law will be providing a member of an entity an official Oneida e-mail address upon election or appointment for the purpose of conducting business of the entity electronically.

There is no recommended revision based on this comment.

### ***LOC Consideration***

The LOC believes the response provides clarification to the commenter's questions regarding official email addresses of board, committee, or commission members.

No revision to the Law is needed based on this comment.

## **Comments 29 through 30 – Application of the Law to the Oneida Business Committee's Political Appointees:**

### **105.15. Conflicts of Interest**

**105.15-3. Due to the potential for a real or perceived conflict of interest to exist, political appointees and legislative assistants shall not serve on an appointed or elected entity.**

**Bonnie Pigman (oral):** Question, what about the personnel appointed by the OBC. Are they considered exempted too? Again, why not? Under what separate definition do they not qualify

as an appointed. I know there is a law out there or a policy out there about appointed political appointments.

**Lois Strong (oral):** Good afternoon, Lois Strong and the question I have is around the, not the question, the comment I have pertains to the political appointees and it states in there what has to be done with the political appointees, but I believe the definition that is out there is the political appointees are those assistants working directly with BC members, but there are some political appointees out there, it says there are three in this document, what is the status of those? How do you explain those? Are they going to be ongoing, not ongoing and how do you work on that process to define them or how are you going to work on it to define it?

### ***Response***

The commenters question exactly who is considered a political appointee, and if personnel appointed by the Oneida Business Committee are exempt from this Law.

The term political appointee was used in the Law in reference to the Oneida Business Committee member's executive assistants. The three political appointees that are referenced in the legislative analysis are currently serving on an elected boards, committees, or commissions of the Nation.

Personnel appointed by the Oneida Business Committee, also known as political appointees, are not subject to this Law.

This Law was developed for the purpose of governing boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions. [1 O.C. 105.1-1].

In regards to the Law, the term "appointment" means the process by which a person is chosen to fill a vacancy on an entity by the Oneida Business Committee. [1 O.C. 105.3-1(b)]. While the term "entity" is defined as a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose members are appointed by the Oneida Business Committee or elected by the Nation's membership. [1 O.C. 105.3-1(h)].

Although the Oneida Business Committee's political appointees are appointed, they are not appointed to serve on a board, committee, or commission of the Nation and therefore do not meet the definition of appointment or entity, or fit into the purpose of this law.

Additionally, the Law specifies that political appointees shall not serve on an appointed or elected entity. [1 O.C. 105.15-3].

The Legislative Operating Committee has made the determination that upon adoption of the Law the three political appointees that are currently serving on a board, committee, or commission of the Nation will be allowed to complete their term, but will be prohibited from seeking reelection.

To avoid future confusion it is recommended that a definition for political appointee be included in the law, as follows:

105.3-1(l) “Political appointee” means a person appointed by a member of the Oneida Business Committee to provide assistance with the Oneida Business Committee member’s daily activities and operations.

### ***LOC Consideration***

The LOC agrees with the response to this comment that the Law was never intended to apply to political appointees of the Oneida Business Committee.

The issue surrounding whether a political appointee of the Oneida Business Committee should be allowed to serve on a board, committee or commission of the Nation has been widely debated by the LOC throughout the development of the Law, and in response to this comment.

Vice Chairman Brandon Stevens joined the LOC for this discussion and expressed his desire that the process regarding this matter be clear, so that it is understood that it is not necessarily a prohibition of a person’s constitutional right to run for office, but a condition of the employment/appointment that the individual must understand and agree to in order to serve as a political appointee of an Oneida Business Committee member.

The discussion then focused on the potential for perceived and real conflicts of interest when a political appointee of an Oneida Business Committee member sits on an appointed or elected board, committee, or commission of the Nation. The fact that in the past different Oneida Business Committee members handled the potential for perceived conflicts of interest in different ways was also discussed. Some Oneida Business Committee members have asked his or her political assistant to resign from boards, committees, or commissions of the Nation, while others have not. The LOC discussed the importance of this matter being handled in a consistent manner across the board.

The LOC then determined that the adopting resolution for the amendments to this Law should include information on this matter. The adopting resolution of this Law should state that the three political appointees that are currently serving on a board, committee, or commission of the Nation will be allowed to complete their term, but will be prohibited from seeking reelection. Additionally, the adopting resolution shall state a directive to the Nation’s Human Resources Department to update the political appointee job description to include a statement that political appointees cannot serve on a board, committee, or commission of the Nation so that an individual is aware that they have to abstain from serving on a board, committee, or commission of the Nation, or resign from his or her position, if the individual wishes to serve as a political appointee of the Oneida Business Committee.

Ultimately, the LOC determined that political appointees should be prohibited from serving on a board, committee, or commission of the Nation and that a definition for political appointee should be added to the law for clarification. The following revision shall be made to the Law:

105.3-1. 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.

(l) “Political appointee” means a person appointed by a member of the Oneida Business Committee to provide assistance with the Oneida Business Committee member’s daily activities and operations.

Although ultimately the LOC decided political appointees should not hold a position on a board, committee, or commission of the Nation in the interest of preventing any perceived conflicts of interest, Councilman Daniel Guzman was in opposition to this matter. Councilman Daniel Guzman expressed his concerns that although he agrees that political appointees should not serve on appointed boards, committees, or commissions of the Nation because the Oneida Business Committee appoints the individuals who serve in those positions, an individual should not have to abstain from serving on an elected board, committee, or commission. Councilman Daniel Guzman expressed his concern that this provision would limit an individual who wanted to be involved with his or her government.

#### **Comment 31 – Dissolution of Grant Funded Boards, Committees, and Commissions:**

##### **105.17. Dissolution of an Entity**

**105.17-2. *Dissolution of an Entity.*** All other entities of the Nation shall be dissolved only by motion of the Oneida General Tribal Council or the Oneida Business Committee. The General Tribal Council shall have the authority to dissolve an entity created by the General Tribal Council or the Oneida Business Committee, and the Oneida Business Committee shall have the authority to dissolve an entity created by the Oneida Business Committee.

**Florence Petri (oral):** Okay. I have a few concerns, one is, not sure now, but maybe there be some checking, but ONCOA is a board required by a grant. They have to have an advisory board and so is the Nutrition Board. So, I didn’t see anything in here regarding, should those grants end is the boards end? That was one of my concerns.

##### ***Response***

The commenter requests clarification on whether a board, committee, or commission of the Nation that is grant funded, would be automatically dissolved if the grant funding ends.

The Law does address the dissolution of a board, committee, or commission of the Nation. The Law provides that all entities of the Nation, other than a task force or ad hoc committee, shall be dissolved only by motion of the Oneida General Tribal Council or the Oneida Business Committee. [1 O.C. 105.17-2]. The Law then provides more detail on a dissolution of a board, committee, or commission of the Nation by stating that the General Tribal Council shall have the authority to dissolve an entity created by the General Tribal Council or the Oneida Business Committee, and the Oneida Business Committee shall have the authority to dissolve an entity created by the Oneida Business Committee. [1 O.C. 105.17-2].

Therefore, a board, committee, or commission that is currently grant funded would not automatically be dissolved if that grant funding were to end. The Oneida Business Committee or the General Tribal Council would have to take official action, through a motion, to dissolve the entity.

There is no recommended revision based on this comment.

### ***LOC Consideration***

The LOC determined that the Law adequately addresses this issue, and that no revision to the Law is needed based on this comment.

### **Comment 32 – Adoption by the General Tribal Council:**

**Bonnie Pigman (oral):** I would strongly encourage this document be placed on the GTC agenda for further review and approval as I believe GTC should weigh in as to whether the Business Committee should be exempted in this law.

### ***Response***

As stated previously in the response to Comment 1, many of the standards and requirements that the Law sets forth for boards, committees, and commissions of the Nation are already addressed by the Constitution in terms of application to the Oneida Business Committee. Therefore, it is not that the Oneida Business Committee is exempt from many of the same requirements as other boards, committees, and commissions of the Nation are expected to comply with, it is just that the standards and requirements for the Oneida Business Committee are addressed through other legislative means such as the Constitution.

The General Tribal Council has already determined standards and requirements for the Oneida Business Committee through the Constitution. Including the Oneida Business Committee in this Law would be a duplication of standards and requirements.

Additionally, it is important to note that the General Tribal Council delegated the authority to develop and adopt legislation for the Nation to the Legislative Operating Committee and the Oneida Business Committee through the adoption of the Legislative Procedures Act (“the LPA”) through resolution GTC-01-07-13-A. The purpose of the LPA is to provide a process for the adoption of laws of the Nation that has been sanctioned by the General Tribal Council. [1 O.C. 109.1-1]. The development of this Law has conformed with the process and procedure contained in the LPA.

There is no recommended revision based on this comment.

### ***LOC Consideration***

The LOC determined that the response to this comment provides a good explanation as to why it is not necessary that this Law be presented to the General Tribal Council for consideration of the application of this Law to the Oneida Business Committee.

### **Comment 33 – Application of the Law to the Oneida Trust Enrollment Committee:**

### **105.1. Purpose and Policy**

**105.1-1. It is the purpose of this law to govern boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions.**

**Oneida Trust Enrollment Committee (written):** In addition to any comments presented at the public meeting, the Oneida Trust Enrollment Committee submits the following comment:

The Oneida Trust Enrollment Committee (OTEC) was established by the people (GTC) and for the people. The OTEC is accountable to GTC. The OTEC is an elected body and an autonomous body. The amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions are an overreach of authority by the Oneida Business Committee (OBC).

Responding to the details of the proposed law would be inappropriate because it would suggest that we are negotiating and commenting on the proposed changes. If anything, operation changes must be negotiated with the OBC and OTEC and confirmed by GTC. The inclusion of elected boards, commissions and committees will create additional political rife in the community.

If you have any questions or concerns with this public comment, please contact OTEC Chairwoman, Bobbi Webster, at (920) 869-4270.

Signed on behalf of the Oneida Trust Enrollment Committee.

### ***Response***

The commenter states that the amendments to the Law are an overreach of authority of the Oneida Business Committee as elected boards, committees, or commissions of the Nation should not have to follow the requirements prescribed by the Law due to their autonomous nature.

The development of amendments to the Law is not an overreach of authority of the Oneida Business Committee as the Legislative Operating Committee and the Oneida Business Committee have been delegated the authority to develop and adopt legislation by the General Tribal Council. Through resolution GTC-01-07-13-A the General Tribal Council took action to adopt the Legislative Procedures Act (“the LPA”) which provides a process for the adoption of laws of the Nation. *[1 O.C. 109.1-1].*

Thus far, the development of this Law has conformed with the process and procedure contained in the LPA.

All individuals, departments, programs, boards, committees, and commissions of the Nation are expected and required to follow all laws, policies, and rules of the Nation. The only time an individual or entity of the Nation may be exempt from the expectation to follow a law, is if that law specifically exempts an entity.



The entire purpose of this Law is to govern boards, committees, and commissions of the Nation, no matter whether the board, committee, or commission is an appointed or elected body. [1 O.C. 105.1-1]. It would be illogical to exempt a board, committee, or commission of the Nation from this Law solely due to its elected status.

Although the commenter cautions that *“inclusion of elected boards, commissions and committees will create additional political rife in the community”* it is important to note that this Law was originally adopted by the Oneida Business Committee in 1997 through resolution BC-05-14-97-F. This means that for the last twenty-one (21) years there has been the expectation that both elected and appointed boards, committees, and commissions of the Nation would conform and follow the requirements and procedures of the Law.

Additionally, although the commenter states *“responding to the details of the proposed law would be inappropriate because it would suggest that we are negotiating and commenting on the proposed changes,”* it is important to note that the Oneida Trust Enrollment Committee has been involved and provided valuable input to the Legislative Operating Committee throughout the development of this Law. The Trust Enrollment Committee had representation at both the September 21, 2017, and February 22, 2018, Legislative Operating Committee work meetings when various boards, committees, and commissions of the Nation met with the Legislative Operating Committee to discuss potential amendments to the Law. The Legislative Operating Committee relied heavily on the input and suggestions of the boards, committees, and commissions in the development of this Law. The Oneida Trust Enrollment Committee’s involvement in the development of this Law demonstrates it is not inappropriate for the Oneida Trust Enrollment Committee to comment on proposed changes and engage in the legislative process.

There is no recommended revision based on this comment.

### ***LOC Consideration***

In addition to discussing the response to this comment, the LOC discussed the fact that there have been legal opinions from the Oneida Law Office that have stated the requirement for boards, committees, and commissions of the Nation to follow all laws and policies of the Nation.

The LOC determined that there is no revision to the Law needed based on this comment.

### **Comment 34 – Use of Personal and Vacation Time for Members of a Board, Committee, or Commission:**

**Jolene D. Hensberger (written):** Using Personal or Vacation Time – Some emergency meetings require Board members to have to take off of their employment to attend meetings. Is there a procedure or exception that will allow School Board members to not have to use personal or vacation time to attend urgent meetings that cannot wait?

### ***Response***

The commenter questions if there is a procedure or exception that would allow members of a board, committee, or commission to not have to use personal or vacation time to attend emergency meetings.

The Law focuses on the governance of boards, committees, and commissions of the Nation and the standard procedures that would be necessary for a board, committee, or commission of the Nation to function. [1 O.C. 105.1-1].

It is important to remember that not every member of a board, committee, or commission of the Nation is also an employee with the Nation. During a work meeting with the Management Information System Department (MIS) on April 11, 2018, MIS stated that an initial review of current board, committee, or commission members demonstrated that only about thirty-three (33) out of the one hundred and seventy (170) current board, committee, and commission members are also employees of the Nation. This equates to only nineteen percent (19%) of board, committee, or commission members also being employees of the Nation.

In recognition of the fact that not every member of a board, committee, or commission of the Nation is also an employee of the Nation, a determination as to whether members of a board, committee, or commission are required to use his or her vacation or personal time to attend meetings of the board, committee, or commission would be better addressed by the member's own place of employment. The use of personal or vacation time would be a determination of the board, committee, or commission member's own employer or supervisor.

If the Nation would choose to address whether a member of a board, committee, or commission is required to use his or her vacation and/or personal time to attend meetings of a board, committee, or commission, that policy would be more relevant to be included in the Nation's laws and policies governing employment, rather than this Law.

There is no recommended revision based on this comment. The Legislative Operating Committee may determine if this issue warrants further consideration.

### ***LOC Consideration***

The LOC understands that this comment relates to the requirement of board, committee, or commission members attending Oneida Business Committee meetings to present the quarterly reports, and the concern from board, committee, and commission members that this may be burdensome.

The LOC determined that it would not be appropriate to address the use of vacation and personal time in this Law. The Law solely governs governance of boards, committees, and commissions of the Nation, and does not govern any employment practices or procedures. Procedures regarding the use of vacation or personal time would be better addressed by the individual's employer, since not every member of a board, committee, or commission of the Nation is also an employee of the Nation.

Any reference to the use of vacation or personal time for employees of the Nation that are also members of a board, committee, or commission of the Nation would be better addressed in the Nation's laws, policies, and rules governing employment.

The LOC determined there is no revision to the Law needed based on this comment.

### Comment 35 – Law Regarding Elected Officials and Political Appointments:

**Bonnie Pigman (oral):** On August 13, 2014, included in an OBC motion there was language assigning the LOC to work to create laws and policies around elected officials and political appointments. This motion came about from an August 12, 2014, memo from HRD stating there was a lack of policy on law or law on Oneida Business Committee members and political appointments. I have not been able to find any documents that this assignment was accomplished. So I am looking for that to be a reason as to your, maybe your rational or if you haven't defined or done that work with LOC, I recommend that it be followed up on.

#### *Response*

The commenter questions the status of a directive from the Oneida Business Committee from 2014 assigning the Legislative Operating Committee to create laws and policies regarding Oneida Business Committee members and political appointments:

*“Motion by Melinda J. Danforth to accept the HRD manager's interpretation on BC members and political appointments leaving office which is dated Aug. 12 to the Business Committee as information and assign the LOC to work to create laws and policies around elected officials and political appointments, seconded by Brandon Stevens. Motion carried with one abstention.”*

The Law does not apply to the Oneida Business Committee, or political appointees of the Oneida Business Committee. Therefore, a comment regarding prior actions for proposed legislation regarding elected officials, specifically the Oneida Business Committee, or political appointees would not be considered relevant to the proposed amendments to this law.

The LOC may determine if they wish to pursue this issue further.

#### *LOC Consideration*

The LOC determined not to pursue this issue at this time.

### Comment 36 – Public Meeting Process:

**Lori Elm (oral):** If I have anything else then I'll just write them down. Do I still have to write these down then to you too?

**David Jordan (oral):** No, but if you have more comments that you want to put in writing you have until Thursday, July 28th at 4:30 p.m.

**Lori Elm (oral):** All right, thank you.

### ***Response***

The commenter questioned if she would have to provide written comments of the comments she provided during the public meeting. David P. Jordan, Chairman of the Legislative Operating Committee, clarified that she did not, but could provide additional comments in writing during the public comment period.

The Legislative Procedures Act (“LPA”), which was adopted by the General Tribal Council through resolution GTC-01-07-13-A, provides a process for the adoption of laws of the Nation. [1 O.C. 109.1-1].

The LPA requires the Legislative Operating Committee to hold a public meeting to solicit oral comments. [1 O.C. 109.8-3]. After the public meeting is held, a public comment period shall remain open for no less than five (5) business days. [1 O.C. 109.8-1(a)]. During the public comment period people are given the opportunity to submit written comments, data, opinions, arguments, or suggestions on the proposed legislation. [1 O.C. 109.8-1(c)].

The Legislative Operating Committee is then required to fully consider all written comments and oral testimony that was received during the public comment period and public meeting. [1 O.C. 109.8-4]. The Legislative Operating Committee utilizes this memorandum as a method to not only fully consider each and every comment and determine if a revision to the law will be necessary, but also as a means to provide responses to those individuals that provided comments on the proposed legislation.

There is no recommended revision based on this comment.

### ***LOC Consideration***

The LOC believes the response to this comment provides clarification on the public meeting process, and that no revision to the Law is needed.

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**Title 1. Government and Finances – Chapter 105**  
**BOARDS, COMMITTEES AND COMMISSIONS**  
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105.1. Purpose and Policy  
105.2. Adoption, Amendment, Repeal  
105.3. Definitions  
105.4. Creation of an Entity  
105.5. Applications  
105.6. Vacancies  
105.7. Appointment to an Entity  
105.8. Election to an Entity  
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105.10. Bylaws  
105.11. Electronic Polling  
105.12. Reporting Requirements  
105.13. Stipends, Reimbursement and Compensation  
105.14. Confidential Information  
105.15. Conflicts of Interest  
105.16. Use of the Nation's Assets  
105.17. Dissolution of an Entity  
105.18. Enforcement

**105.1. Purpose and Policy**

105.1-1. It is the purpose of this law to govern boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions.

(a) This law shall not apply to the Oneida Business Committee. ~~or Standing Committees of the Oneida Business Committee.~~

~~(b) This law shall apply to the Standing Committees of the Oneida Business Committee where applicable including, but not limited to, the Legislative Operating Committee, Finance Committee, Audit Committee, Quality of Life Committee, and Community Development Planning Committee.~~

~~(c)~~ (b) This law does not apply to Tribal corporations due to the corporate structure and autonomy of those entities.

105.1-2. It is the policy of the Nation to have consistent and standard procedures for choosing and appointing or electing the most qualified persons to boards, committees and commissions, for creation of bylaws governing boards committees and commissions, and for the maintenance of information created by and for boards, committees and commissions.

**105.2. Adoption, Amendment, Repeal**

105.2-1. This law was adopted by the Oneida Business Committee by resolution BC-~~505~~-14-97-F and amended by resolutions BC-09-27-06-E, BC-09-22-10-C, and BC-\_\_-\_\_-\_\_-\_\_.

105.2-2. 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.

105.2-3. 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.

105.2-4. 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.

105.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**105.3. Definitions**

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105.3-1. 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) "Application" means the form by which a person seeks to be appointed to fill a vacancy on an entity.

(b) "Appointment" means the process by which a person is chosen to fill a vacancy on an entity by the Oneida Business Committee.

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

(d) "Bylaws" means a document which provides a framework for the operation and management of a board, committee, or commission of the Nation chiefly for the government of its members and the regulation of its affairs.

(e) "Conference" means any training, seminar, meeting, or other assembly of persons which is not an assembly of the entity.

(f) "Confidential information" means all information or data, whether printed, written, or oral, concerning business or customers of the Nation, disclosed to, acquired by, or generated by a member of an entity in confidence at any time during their elected or appointed term or during their employment.

(g) "Conflict of interest" means any interest, real or apparent, whether it be personal, financial, political, or otherwise, in which an elected official, officer, political appointee, employee, contractor, or appointed or elected member, or their immediate family members, friends or associates, or any other person with whom they have contact, have that conflicts with any right of the Nation to property, information, or any other right to own and operate activities free from undisclosed competition or other violation of such rights of the Nation. In addition, conflict of interest also means any financial or familial interest an elected official, officer, political appointee, employee, contractor, or appointed or elected member or their immediate family members may have in any transaction between the Nation and an outside party.

(h) "Entity" means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose members are appointed by the Oneida Business Committee or elected by the Nation's membership.

(i) "E-poll" means an electronic poll, which is the act of delivering an ~~email~~-mail to all members of an entity, in order to seek a response which identifies a vote in favor of, opposing, or abstaining to an issue requiring approval by the entity.

(j) "Nation" means the Oneida Nation.

(k) "Per Diem" means the payment made by the Nation to offset the costs of being ~~out-~~  
~~of town or to~~on travel on behalf of the Oneida Nation.

~~(l)~~ "Political appointee" means a person appointed by a member of the Oneida Business Committee to provide assistance with the Oneida Business Committee member's daily activities and operations.

~~(m)~~ "Prohibited drugs" means marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substance included in Schedules I through V, as defined by Section 812 of Title 21 of the United States Code. This also includes prescription medication or over-the-counter medicine used in an unauthorized or unlawful manner.

~~(nn)~~ "Stipend" means ~~that~~the amount paid by the Oneida Nation to ~~persons~~a person



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serving on ~~boards, committees and commissions of the Oneida Nation to offset the expenses of being a member on the~~ a board, committee, or commission. ~~Stipends are paid of the Nation in order to compensate the individual for his or her contribution of time, effort, and work for his or her board, committee, or commission for the form~~ betterment of cash or cash equivalent, which may include, but is not limited to, gift cards. ~~the Nation.~~

(~~n~~o) "Subcommittee" means a subgroup of an entity; which is comprised of fewer than all members of the entity; which is designated one (1) or more specific responsibilities on behalf of the entity.

(~~e~~p) "Substantiated complaint" means a complaint or allegation in a complaint that was found to be valid by ~~a preponderance of the~~ clear and convincing evidence.

(~~p~~q) "Task Force or Ad Hoc" means a group of persons gathered to pursue a single goal, the accomplishment of which means the disbanding of the group. The goal is generally accomplished in a short time period, i.e. less than one year, but the goal itself may be long-term.

(~~e~~r) "Vacancy" means any position on any board, committee or commission caused by resignation, end of term, removal, termination, or creation of a new position.

#### 105.4. Creation of an Entity

105.4-1. An entity of the Nation shall be created by a resolution or law adopted by the Oneida Business Committee or General Tribal Council.

105.4-2. The law or resolution establishing the entity shall state the purpose of the entity and all powers and responsibilities delegated to the entity.

105.4-3. The Oneida Business Committee shall be responsible for drafting the initial bylaws of the entity.

#### 105.5. Applications

105.5-1. The Oneida Business Committee shall approve all applications to serve on an entity of the Nation. All application materials shall be available in the Business Committee Support Office and any other location specified by the Business Committee Support Office.

(a) All applications shall include:

(1) a statement explaining the attendance requirements of section 105.12-3; and

(2) a section regarding disclosures of conflicts of interest.

(b) An additional application form shall be required for those entities that require a background investigation. This background investigation application shall include the applicant's social security number and any other information required for a background investigation. The background investigation application shall be solely used for the background investigation and not included in the application materials that are then shared with the Oneida Business Committee, entity, and/or the Election Board.

105.5-2. Applications shall be filed with the Business Committee Support Office by 4:30 p.m. of the deadline date. Postmarked envelopes are accepted as filed if postmarked by the deadline date and received by the Business Committee Support Office within five (5) business days of the deadline.

105.5-3. ~~Five (5)~~ Eight (8) days after the posted deadline for filing applications the Business Committee Support Office shall notify all persons who have filed an application of the date his or her application was received and if his or her application met the deadline to be considered for

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the election or appointment.

105.5-4. Applications for elected positions shall be verified according to the Nation's laws and/or policies governing elections. Applications for appointed positions shall be verified by the Business Committee Support Office as needed or as required in the bylaws of the entity.

105.5-5. *Insufficient Applicants*. In the event that there are an insufficient number of applicants after the deadline date has passed for appointed positions, the Oneida Business Committee may elect to:

- (a) include within the pool of appointed persons late applications, or
- (b) repost for an additional time period. In the event of reposting, prior applicants will be considered to have filed applications within the deadline period.

#### **105.6. Vacancies**

105.6-1. The manner by which an individual fills a vacancy, either through election or appointment, shall determine that member's status as an appointed or elected official, despite the entity's classification as an appointed or elected entity pursuant to the entity's bylaws. ~~Unless, a law of the Nation indicates that removal of an official shall be done pursuant to the Removal law, an appointed individual may have his or her appointment terminated by the Oneida Business Committee.~~

105.6-2. A position on an entity shall be considered vacant in the following situations:

- (a) *End of Term*. A vacancy is effective as of 4:30 p.m. of the last day of the month in which the term ends.

- (1) Although a position is considered vacant once the term ends, the member of the entity may remain in office until the member's successor has been sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity.

- (b) *Removal*. Removal is effective, pursuant to any law and/or policy of the Nation regarding removal.

- (c) *Termination of Appointment*. A termination is effective upon a two-thirds (2/3) majority vote of the Oneida Business Committee in favor of a member's termination of appointment.

- (d) *Resignation*. A resignation is effective upon:

- (1) Deliverance of a letter to the Business Committee Support Office; and to the Chairperson of the entity, or designee; or

- ~~(A) Upon receipt of resignation, the Business Committee Support Office will notify the entity of the resignation;~~

- ~~(2) Deliverance of a letter to the Chairperson of the entity, or designee, or~~

- ~~(3)~~(2) Acceptance by motion of the entity of a verbal resignation.

- (e) *New Positions*. Vacancies on new entities are effective upon adoption of bylaws.

105.6-3. An entity shall notify the Business Committee Support Office as soon as the entity learns that a position has or will become vacant. All notices of vacancy shall be sent to the entities for clarification or confirmation prior to notification to the Oneida Business Committee.

105.6-4. The Business Committee Support Office shall forward the notice of vacancy to the Secretary. The Secretary shall request and receive approval from the Oneida Business Committee to post the notice of vacancy. ~~The Secretary~~The Business Committee Support Office shall post notice of vacancies at the following times:

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- (a) *End of Term.* Automatically ~~thirty (30)~~sixty (60) days prior to completion of the term.
- (b) *Removal.* No later than the ~~first~~next Oneida Business Committee meeting following the effective date of the removal.
- (c) *Resignation.* No later than the ~~first~~next Oneida Business Committee meeting following the ~~Secretary's~~Business Committee Support Office's receipt of notice of an effective resignation from the entity.
- (d) *New Positions.* Upon one of the following conditions:
- (1) if not specified, immediately upon creation of entity or adoption of bylaws, whichever is later, or
  - (2) upon date specified when creating the entity.
- (e) *Termination of appointment.* No later than the ~~first~~next Oneida Business Committee meeting following the effective date of the termination.

105.6-5. Notice of vacancies shall be posted by the Business Committee Support Office in ~~all~~ official media outlets of the Nation, as determined by the Oneida Business Committee, as well as any other location deemed appropriate by the Secretary.

### 105.7. Appointment to an Entity

105.7-1. *Appointment Selection.* The following procedures shall be used to determine how the applicant for an appointed position is selected:

- (a) ~~Five (5)~~Eight (8) business days after the posted deadline for submitting an application, or within twenty-one (21) days of the posted deadline if the entity requires a background investigation to be completed as part of the application process, the Business Committee Support Office shall:
- (1) deliver all applications, along with a summary of qualifications to hold office, and the results of the background investigation if required, to each member of the Oneida Business Committee as well as the entity's Chairperson; and
  - (2) place the appointment for the entity on the next executive session portion of the agenda of a regular or special Oneida Business Committee meeting in which the appointment is intended to be made.
- (b) Each member of the Oneida Business Committee shall review the application materials prior to executive session and be prepared to discuss and select an applicant for appointment.
- (1) The entity's Chairperson may have until the executive session to review the application materials and provide the Oneida Business Committee a recommendation of an applicant for appointment.
- (c) The Oneida Business Committee shall have a full and complete discussion of the merits and qualifications of the potential applicants, and any recommendation made by the Chairperson of the entity, during executive session. After completing a thorough discussion, the Oneida Business Committee shall:
- (1) choose an applicant for appointment, or
  - (2) ask the Oneida Nation's Secretary to re-notice the vacancy because of ineligible, unqualified, or under qualified applicants.
- (d) All appointments shall be made by the Oneida Business Committee during the open session of a regular or special Oneida Business Committee meeting. ~~The Oneida Business Committee shall not appoint an applicant who fails to meet the requirements set~~

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out in the entity's bylaws.

(e) During the open session of the regular or special Oneida Business Committee meeting, a member of the Oneida Business Committee may make a motion to appoint an individual. Oneida Business Committee members may:

(1) accept the selected applicant and vote to appoint the individual to the vacant position, or

(2) reject the selected applicant and vote to oppose the appointment of the individual.

(f) If the Oneida Business Committee rejects the selected applicant, the matter will be deferred to the next Oneida Business Committee meeting where another applicant may be recommended by the Oneida Business Committee, or the Oneida Business Committee may direct the vacancy to be re-posted. When a vacancy is re-posted under this section, all applications from the first posting shall be considered to have been filed within the deadline period.

105.7-2. *Notification of Appointment.* Once an individual is selected for appointment at an Oneida Business Committee meeting, the Nation's Secretary shall notify all applicants of the final status of their application.

(a) The Nation's Chairperson shall forward a list of all applicants to the Nation's Secretary and the final decision regarding the selection after the procedures for selection of an applicant described in section 105.7-1 are completed.

(b) The Nation's Secretary shall include on the notice to the applicant selected for appointment the following paragraph: "The Oneida Nation reports all income paid by the Oneida Nation in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

105.7-3. *Declination of Appointment.* An individual who has been selected for appointment to an entity by the Oneida Business Committee may decline the appointment.

(a) An individual may decline an appointment to an entity in the following ways:

(1) Delivery of an letter stating that the individual wishes to decline the appointment to the Business Committee Support Office; or

(2) The failure to take the oath of office within thirty (30) days of being selected for appointment by the Oneida Business Committee.

(b) The Business Committee Support Office shall notify the Oneida Business Committee if an individual declines an appointment to an entity. The Oneida Business Committee shall then use the original pool of applications for the vacancy posting and the process outlined in section 105.7-1 to select another applicant for appointment.

105.7-4. *Termination of Appointment.* ~~Appointed members~~An appointed member of ~~entities~~serve an entity serves 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.

(a) A two-thirds majority vote of the Oneida Business Committee shall be required in order to terminate the appointment of an individual.

(b) The Oneida Business Committee's decision to terminate an appointment is final and

not subject to appeal.

### **105.8 Election to an Entity**

105.8-1. All elected positions shall be nominated at a caucus called by the Oneida Election Board, or petition for ballot placement, in accordance with the Nation's laws and/or policies governing elections, except where an entity's bylaws allow for a vacancy to be filled by appointment.

(a) When the Election Board notifies a petitioner or nominee that he or she is eligible to be placed on the ballot, the following paragraph shall be included: "The Oneida Nation reports all income paid by the Nation in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

105.8-2. All other processes for the election of a member of an entity shall be as directed by the Nation's laws and/or policies governing elections.

### **105.9. Oath of Office**

105.9-1. All appointed and elected positions are official upon taking an oath during a regular or special Oneida Business Committee meeting. All rights and delegated authorities of membership in the entity shall vest upon taking the oath. –The Nation's Secretary shall notify the chosen persons when they shall appear for taking the oath.

(a) The appointed or elected member shall appear in person at the Oneida Business Committee meeting to take his or her oath, except if granted permission by the Secretary to appear by video conferencing equipment.

105.9-2. The Oneida Business Committee shall approve wording of oaths. Any revisions of oaths shall be approved by the Oneida Business Committee prior to usage. Oaths shall be kept on file by the Business Committee Support Office.

105.9-3. Originals of the signed oath, or electronic copies of the originals of the signed oath, shall be maintained by the Business Committee Support Office. Copies of the oath shall be forwarded to the new member of the entity and the entity.

105.9-4. The following oath is the standard oath to be used unless a specific oath for the entity is pre-approved by the Oneida Business Committee: I, [name], hereby promise to uphold the laws and regulations of the Oneida Nation, the General Tribal Council, and the Oneida Nation Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people with honor, respect, dignity, and sincerity and will strictly maintain confidential information. I will carry out the duties and responsibilities as a member of the [entity name], and all recommendations shall be made in the best interest of the Oneida Nation as a whole.

105.9-5. All oaths shall be sufficient to make the appointed or elected member of an entity aware of their duty to the Nation and as members of the entity.

### **105.10. Bylaws**

105.10-1. All entities of the Nation shall have bylaws that conform to the requirements of this law. Bylaws shall become effective upon approval of the Oneida Business Committee, unless where General Tribal Council approval is additionally required.



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(a) All existing entities must comply with this format and present bylaws for adoption within a reasonable time after creation of the entity, or within a reasonable time after adoption of this law.

(b) Bylaws must contain at least the minimum information required by law, although more information is not prohibited.

(c) *Exception.* Task Forces and Ad Hoc Committees are excepted from the requirement to have bylaws. However, these entities must have, at minimum, mission or goal statements for completion of the task.

105.10-2. *Articles.* Bylaws shall contain, at a minimum, the following Articles:

(a) Article I. Authority.

(b) Article II. Officers.

(c) Article III. Meetings.

(d) Article IV. Expectations.

(e) Article V. Stipends and Compensation.

(f) Article VI. Records and Reporting.

(g) Article VII. Amendments.

105.10-3. *Sections.* Articles shall be divided into "sections" as set out.

(a) "Article I. Authority" shall consist of the following:

(1) *Name.* The full name of the entity shall be stated, along with any short name that will be officially used.

(2) *Establishment.* This section shall state the citation and name, if any, of the creation document.

(3) *Authority.* This section shall state the purpose for which the entity was created and what, if any, authority the entity is delegated.

(4) *Office.* There shall be listed the official office or post box of the entity.

(5) *Membership.* The following information shall be in this section:

(A) Number of members on the entity;

(B) If members on the entity are elected or appointed, and how a member is elected or appointed;

(C) How vacancies are filled; and

(D) Qualifications for membership on the entity.

(i) In order to qualify for membership on an entity, a person shall meet the minimum age requirements set forth for status as a qualified voter of the Nation, unless a law, policy, or directive sets forth a minimum age requirement.

(6) *Termination or Removal.* This section shall identify causes for termination or removal, if any, in addition to those already identified in laws and/or policies of the Nation.

(7) *Trainings and Conferences.* This section shall describe any trainings and/or conferences that the entity deems necessary for members to responsibly serve the entity, if any.

(b) "Article II. Officers" shall consist of the following:

(1) *Chairperson and Vice-Chairperson.* This section creates the chairperson and vice-chairperson positions of the entity. Other officer positions may also be created here.



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(2) *Responsibilities of the Chairperson.* Because of the importance of this position, all duties and responsibilities of the chairperson, as well as limitations of the chairperson shall be specifically listed here.

(3) *Responsibilities of the Vice-Chairperson.* Because of the importance of this position, all duties and responsibilities of the vice-chairperson, as well as limitations of the vice-chairperson shall be specifically listed here.

(4) *Responsibilities of Additional Officers.* There may be additional sections as needed for every officer position created in subsection one (1) above. These sections shall state all duties and responsibilities of the officer, as well as any limitations of the officer.

(5) *Selection of Officers.* This section shall identify how a member of the entity shall be selected for an official officer position in the entity.

(6) *Budgetary Sign-Off Authority and Travel.* This section shall identify the entity's varying levels of budgetary sign-off authority, the members that are authorized to sign-off at each level, and how the entity shall handle approving travel on behalf of the entity.

(A) An entity shall follow the Nation's policies and procedures regarding purchasing and sign-off authority.

(B) An entity shall approve a member's request to travel on behalf of the entity by majority vote at a regular or emergency meeting of the entity.

(7) *Personnel.* This section shall state the entity's authority for hiring personnel, if any, and the duties of such personnel.

(c) "Article III. Meetings" shall consist of the following:

(1) *Regular meetings.* This section shall identify when and where regular meetings shall be held, and how the entity shall provide notice of the meeting agenda, documents, and minutes.

(2) *Emergency meetings.* This section shall identify what constitutes an emergency meeting, how emergency meetings shall be called, and how the entity shall provide notice of the emergency meeting.

(A) All bylaws shall include a provision requiring that 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 ~~or special~~ meeting.

(3) *Quorum.* This section shall identify how many members of an entity create a quorum.

(4) *Order of Business.* This section sets out how the agenda will be set up.

(5) *Voting.* This section shall identify voting requirements, such as, but not limited to:

(A) the percentages that shall be needed to pass different items;

(B) if, and when, the chairperson is allowed to vote;

(C) if the use of an e-poll is permissible; and

(D) if the use of and e-poll is permissible, who will serve as the Chairperson's designee for the responsibility of conducting an e-poll, if a designee is utilized.

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- 393 (d) “Article IV. Expectations” shall consist of the following information:  
394 (1) *Behavior of Members*. This section shall identify the behavioral expectations  
395 and requirements of a member of the entity, and identify how the entity shall  
396 enforce these behavioral expectations.  
397 (2) *Prohibition of Violence*. This section shall prohibit any violent intentional act  
398 committed by a member of the entity that inflicts, attempts to inflict, or threatens  
399 to inflict emotional or bodily harm on another person, or damage to property, and  
400 set forth any further expectations regarding the prohibition of violence.  
401 (3) *Drug and Alcohol Use*. This section shall prohibit the use of alcohol and  
402 prohibited drugs for a member of an entity when acting in their official capacity,  
403 and set forth any further expectations regarding the use of prohibited drugs and  
404 alcohol.  
405 (4) *Social Media*. This section shall identify expectations for the use of social  
406 media in regards to official business of the entity.  
407 (5) *Conflict of Interest*. This section shall state any standards and expectations  
408 additional to those required by law of the Nation in regards to conflicts of interest  
409 and how they are handled, as well as requirements related to prohibited activities  
410 resulting from disclosed conflicts of interest, and means by which a party can  
411 alleviate or mitigate the conflict of interest.
- 412 (e) “Article V. Stipends and Compensation” shall consist of the following information:  
413 (1) *Stipends*. This section shall include a comprehensive list of all stipends  
414 members are eligible to receive and the requirements for collecting each stipend,  
415 if any in addition to those contained in this law.  
416 (2) *Compensation*. This section shall include details regarding all other forms of  
417 compensation members are eligible to receive and the requirements for collecting  
418 such compensation, if any in addition to those contained in this law.
- 419 (f) “Article VI. Records and Reporting” shall consist of the following information:  
420 (1) *Agenda Items*. Agenda items shall be maintained in a consistent format as  
421 identified by this section.  
422 (2) *Minutes*. Minutes shall be typed and in a consistent format designed to  
423 generate the most informative record of the meetings of the entity. This may  
424 include a summary of action taken by the entity. This section shall identify the  
425 format for minutes, and a reasonable timeframe by which minutes shall be  
426 submitted to the Business Committee Support Office.  
427 (3) *Attachments*. Handouts, reports, memoranda, and the like may be attached to  
428 the minutes and agenda, or may be kept separately, provided that all materials can  
429 be identified to the meeting in which they were presented. This section shall  
430 identify how records of attachments shall be kept.  
431 (4) *Oneida Business Committee Liaison*. Entities shall regularly communicate  
432 with the Oneida Business Committee member who is their designated liaison.  
433 This section shall identify a format and frequency for communication which may  
434 be as the liaison and entity agree to, but not less than that required in any law or  
435 policy on reporting developed by the Oneida Business Committee or Oneida  
436 General Tribal Council. The purpose of the liaison relationship is to uphold the  
437 ability of the liaison to act as a support to that entity.

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(5) *Audio Recordings*. An entity shall audio record all meetings. This section shall state how the entity ~~will~~shall audio record meetings, and how the entity shall maintain the audio records.

(A) *Exception*. Audio recordings of executive session portions of a meeting shall not be required.

(g) "Article VII. Amendments" consists of:

(1) *Amendments to Bylaws*. This section shall describe how amendments to the bylaws are made. Any amendments to bylaws shall conform to the requirements of this and any other policy of the Nation. Amendments to bylaws shall be approved by the Oneida Business Committee, in addition to the General Tribal Council when applicable, prior to implementation.

### **105.11. Electronic Polling**

105.11-1. An entity may utilize an e-poll when approval of an action may be required before the next available meeting agenda of the entity.

105.11-2. *Conducting an E-Poll*. The Chairperson of the entity, or designee, shall e-mail the e-poll to all members of the entity. Requests for an e-poll shall be sent only from an official ~~email~~e-mail address of the entity. The e-poll's message shall include the following information:

(a) The ~~email~~e-mail subject line shall begin with "E-poll Request:" and include a short title describing the purpose of the request.

(b) The body of the e-poll shall contain the following elements:

(1) An executive summary of the reason for the request and why the request cannot be presented at the next available meeting of the entity;

(2) A proposed motion which shall be in bold and identified in a separate paragraph by the words "Requested Action;"

(3) All attachments in \*.pdf format, which are necessary to understand the request being made; and

(4) A deadline date for a response to be returned regarding the results of the electronic poll which shall be in bold and identified in a separate paragraph by the words "Deadline for Response."

(A) E-poll requests shall be open for response not less than one (1) hour and no more than twenty-four (24) hours.

(B) The time frame for responses shall be determined by the Secretary of the entity, or designee, based on urgency, scheduling, and any other pertinent factors.

105.11-3. *Response to an E-Poll*. A response from a member of an entity shall be valid if received from an official e-mail address of the entity. No responses from unknown e-mails or personal e-mails shall be accepted. An e-poll request shall receive responses from a majority of members of the entity in order to be an official vote.

(a) E-polls that receive at least a majority of supporting votes by the deadline are considered to be approved.

(b) E-polls for which insufficient responses were received by the deadline are considered to have failed to receive support, and result in a denied request.

(c) E-polls that result in a denied request may be reconsidered by the entity at the next available meeting.

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(d) The Chairperson, or designee, shall monitor all responses and deadline dates for responses.

105.11-4. *Entering an E-Poll in the Record.* Both approved and denied e-poll requests shall be placed on the next meeting agenda of the entity to be entered into the record. The agenda item shall contain the following information:

(a) Original e-poll request and all supporting documentation;

(b) A summary of the e-poll results identifying each member of the entity and his or her response; and

(c) A copy of any comment by a member of the entity if comments are made beyond a vote.

## **105.12. Reporting Requirements**

105.12-1. *Minutes.* All minutes shall be submitted to the Business Committee Support Office within a reasonable time after approval by the entity, as identified in the entity's bylaws.

(a) Actions taken by an entity are valid upon approval of the action by vote, unless the bylaws of the entity otherwise require minutes to be approved by the entity before the actions are valid.

(b) Minutes shall be filed according to this section, and any specific directions within approved bylaws.

(c) No action or approval of minutes is required by the Oneida Business Committee on minutes submitted by an entity unless specifically required by the bylaws of that entity.

105.12-2. *Standard Operating Procedures.* All standard operating procedures established by an entity shall be submitted to the Business Committee Support Office, where they shall be kept on file.

105.12-3. *Quarterly Reports to the Oneida Business Committee.* Entities shall provide quarterly reports to the Oneida Business Committee in accordance with the quarterly reporting schedule approved by the Oneida Business Committee. All quarterly reports shall be approved by official entity action before they are submitted. The quarterly reports shall not contain any information that conflicts with any law, resolution, or policy of the Nation. At least one (1) member of the entity shall attend the Oneida Business Committee meeting where the quarterly report is an agenda item. Quarterly reports shall follow a format prescribed by the Oneida Business Committee and contain the following information:

(a) *Contact Information.* The name of the entity, the member submitting the report, the Oneida Business Committee liaison; and a list of the members and their titles, term expiration dates and contact information.

(b) *Meetings.* When and how often the entity is holding meetings and whether any emergency ~~and/or special~~ meetings have been held.

(1) If emergency meetings were held, the report shall indicate the basis of the emergency for each meeting.

~~(2) If special meetings were held, the report shall indicate the topic of each meeting.~~

(c) *Accomplishments.* Details of what the entity has accomplished that quarter, including any special events held during the reporting period and any travel by the members and/or staff.

(d) *Goals.* Details of both the entity's long term goals, the entity's goals for the next

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quarter, and projected quarterly activities.

(e) *Budget*. The amount of the entity's budget, the status of the budget at that quarter, the amount of each stipend a member may be eligible to receive, how the budget is being utilized by the entity, and projected budgetary uses for the next quarter.

(f) *Requests*. Details of any requests to the Oneida Business Committee.

(g) *Other*. And any other information deemed appropriate by the entity, as well as any other information required by a law or policy of the Nation.

105.12-4. *Annual and Semi-Annual Reports to the General Tribal Council*. Entities shall provide annual reports to the Oneida General Tribal Council based on their activities during the previous fiscal year, and semi-annual reports based on their activities during the current fiscal year. All annual and semi-annual reports shall follow a format prescribed by the Oneida Business Committee.

(a) Annual and semi-annual reports shall contain information on the number of substantiated complaints against all members of the entity.

(b) Each entity with oversight of a department shall also submit annual and semi-annual reports for each department the entity oversees.

105.12-5. Any failure to comply with the reporting requirements may result in the Oneida Business Committee placing a hold on the release of a stipend payment.

### 105.13. Stipends, Reimbursement and Compensation

105.13-1. ~~The Nation recognizes that an individual serving on an entity of the Nation, whether elected or appointed, incurs some expense as a result of his or her position on the entity. Therefore, the Nation, in order to attract individuals to serve on entities, shall pay stipends to these members in accordance with this section.~~

105.13-2. ~~Compensation~~ Stipends and reimbursement for expenses shall follow the procedures as set out in this section and according to procedures for payment as set out by the Nation, unless otherwise declined by the entity through its bylaws, or declined by a member.

105.13-3. The Oneida Business Committee shall set stipend amounts by resolution. The Oneida Business Committee shall periodically review the amounts provided for stipends and, based on the availability of funds, shall adjust those amounts accordingly by amending the resolution. Stipends are paid in the form of cash or cash equivalent, which may include, but is not limited to, gift cards.

105.13-4. *Meeting Stipends*. A member of an entity, ~~whether elected or appointed,~~ shall only receive a meeting stipend for a meeting where a quorum has been established in accordance with the duly adopted bylaws of that entity, that lasts for at least one (1) hour, and the member collecting the stipend is physically present for the entire meeting.

(a) *Meeting Stipends for* an Appointed Members. ~~Appointed members~~ Entity. An individual serving on ~~entities an appointed entity~~ shall be paid no more than one (1) meeting stipend per month ~~when at least one (1) meeting is conducted.~~

(b) *Meeting Stipends for* an Elected Members. ~~Elected members~~ Entity. An individual serving on ~~entities an elected entity~~ shall be paid ~~a stipend for each~~ no more than two (2) meeting ~~held in accordance with this law.~~ stipends per month.

105.13-5. *Oneida Judiciary Hearings*. A member of an entity ~~may~~ shall receive a Judiciary hearing stipend if the member's attendance at the Judiciary hearing is required by official subpoena.

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105.13-~~65~~. *Hearings of an Entity*. A member of an entity that maintains hearing authority may obtain a hearing stipend for conducting hearings administered by the entity. A hearing consists of all functions related to the resolution of the matter notwithstanding the amount of time it takes to resolve the matter, including, but not limited to, any continuations of the hearing and decision drafting.

~~105.13-7. *Oneida Business Committee Meetings*. Up to two (2) members of an entity that attend the Oneida Business Committee meeting where the quarterly report of the entity is an agenda item, and present the quarterly report are eligible to receive a stipend.~~

~~105.13-86~~. *Other Stipends*. The Oneida Business Committee shall determine if, and when, any other stipends are appropriate to compensate members of entities for their official actions. All possible stipends shall be included in the Oneida Business Committee resolution which sets stipend amounts.

105.13-~~97~~. *Conferences and Training*. A member of any entity, elected or appointed, shall be reimbursed in accordance with the Nation's policy for travel and per diem, for attending a conference or training. Provided that:

(a) A member shall be eligible for a stipend for each full day the member is present at the conference or training, when attendance at the conference or training is required by law, bylaw or resolution.

(b) A member shall not be eligible for a conference and training stipend if that training is not required by law, bylaw or resolution.

(c) No stipend payments shall be made for those days spent traveling to and from the conference or training.

105.13-~~108~~. *Business Expenses*. All members of entities shall be eligible for reimbursement for normal business expenses naturally related to membership in the entity.

105.13-~~119~~. *Task Force and Ad Hoc Subcommittees*. Members of task force, ad hoc committees and subcommittees shall not be eligible for stipends unless specific exception is made by the Oneida Business Committee or the Oneida General Tribal Council.

#### 105.14. Confidential Information

105.14-1. All members of an entity shall maintain in a confidential manner all information obtained through their position on the entity. The Nation requires that all members of an entity who have access to the Nation's confidential information be subject to specific limitations in order to protect the interest of the Nation and ensure that no persons engaged in by the Nation, nor their relatives or associates, benefit from the use of confidential information.

(a) Confidential information shall be considered and kept as the private and privileged records of the Nation and will not be divulged to any person, firm, corporation, or other entity except by direct written authorization of the Oneida Business Committee.

(b) A member of an entity will continue to treat as private and privileged any confidential information, and will not release any such information to any person, firm, corporation, or other entity, either by statement, deposition, or as a witness, except upon direct written authority of Oneida Business Committee, and the Nation shall be entitled to an injunction by any competent court to enjoin and restrain the unauthorized disclosure of such information. Such restriction continues after termination of the relationship with the Nation and the entity.

(c) Upon completion or termination of his or her elected or appointed term of



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membership in an entity, for any cause whatsoever, the member of the entity will surrender to the Nation, in good condition, all records kept by the member of the entity.

(d) No member of an entity shall disclose confidential information acquired by reason of his other relationship or status with the Nation for his or her personal advantage, gain, or profit, or for the advantage, gain, or profit of a relative or associate.

105.14-2. Any records created or obtained while as an official of an entity are the property of the Nation and can only be removed or destroyed by approval from a majority vote of the entity at a duly called meeting. All removal or destruction of documents must be made in accordance with the Nation's laws and policies regarding open records and open meetings.

105.14-3. *Official Oneida Nation E-mail Address.* Each member of an entity shall be provided an official Oneida e-mail address upon election or appointment for the purpose of conducting business of the entity electronically.

(a) If a member is also an employee of the Nation, he or she shall receive a separate e-mail address from his or her regular work e-mail address.

(b) A member of an entity shall sign an acknowledgment form provided by the Nation's Secretary indicating notice of the Nation's applicable computer and media related laws, policies and rules. The Nation's Secretary shall maintain a record of all such acknowledgment forms.

(c) A member of an entity shall not use any personal or work e-mail address to electronically conduct any business of the entity.

(d) Immediately upon receipt of notice of an entity vacancy, the Nation's Secretary shall instruct the Management Information Systems department to disable the e-mail address for the member having vacated the position.

### 105.15. Conflicts of Interest

105.15-1. All members of an entity are required to adhere to the Nation's laws and policies governing conflicts of interest.

105.15-2. A member of an entity shall disclose a conflict of interest to the Nation's Secretary as soon as the conflict arises, and update a conflict of interest disclosure form with the Nation's Secretary on an annual basis.

(a) Upon receiving information of a potential conflict of interest, the Nation's Secretary shall request a determination from the Oneida Law Office whether further action must be taken by the Nation regarding the status of the official.

105.15-3. Due to the potential for a real or perceived conflict of interest to exist, political appointees ~~and legislative assistants~~ shall not serve on an appointed or elected entity.

### 105.16. Use of the Nation's Assets

105.16-1. Entities shall maintain all bank accounts for the Nation's funds in the name of the Oneida Nation. Bank accounts will be reflected on the Oneida Nation's books in accordance with Generally Accepted Accounting Principles.

105.16-2. Each member of an entity shall comply with the system of internal accounting controls sufficient to provide assurances that:

- (a) all transactions are executed in accordance with management's authorization; and
  - (b) access to assets is permitted only in accordance with management's authorization;
- and

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2018 08 15

(c) all transactions are recorded to permit preparation of financial statements in conformity with Generally Accepted Accounting Principles or other applicable criteria.

105.16-3. Any evidence of noncompliance with any policy regarding the use of tribal assets shall be immediately reported to the Internal Audit department. If the Internal Audit department finds evidence of noncompliance they shall notify the Oneida Law Office, who will then make a determination of further action to be taken, if any.

### 105.17. Dissolution of an Entity

105.17-1. *Dissolution of a Task Force or Ad Hoc Committee.* A task force or ad hoc committee dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the materials generated by a task force or ad hoc committee shall be forwarded to the Business Committee Support Office for proper disposal within two (2) weeks of the dissolution.

105.17-2. *Dissolution of an Entity.* All other entities of the Nation shall be dissolved only by motion of the Oneida General Tribal Council or the Oneida Business Committee. ~~The General Tribal Council shall have the authority to dissolve an entity created by the General Tribal Council or the Oneida Business Committee, and the Oneida Business Committee shall have the authority to dissolve an entity created by the Oneida Business Committee.~~

105.17-3. *Notice of Dissolution.* Within five (5) business days of the Oneida General Tribal Council or the Oneida Business Committee taking official action to dissolve an entity, the Oneida Business Committee shall provide the entity written notice of the dissolution.

105.17-4. *Management of Records and Materials.* All chairpersons and secretaries of dissolved entities shall be responsible for closing out open business of the entity and forwarding all materials and records to the Business Committee Support Office for proper storage and disposal within two (2) weeks of dissolution. The entity shall not alter or destroy any records. The Business Committee Support Office may utilize the assistance of the Records Management Department and/or any other appropriate department for the storage and disposal of the records and materials.

(a) The entity may request the Oneida Business Committee to grant a one (1) week extension of the time allowed to close out open business of the entity and forward all materials and records to the Business Committee Support Office.

### 105.18. Enforcement

105.18-1. Any member of an entity found to be in violation of this law may be subject to:

- (a) sanctions and penalties in accordance with any laws or policies of the Nation governing sanctions and/or penalties;
- (b) removal pursuant to any laws or policies of the Nation's governing removal, if the individual is a member of an elected entity; or
- (c) termination of appointment by the Oneida Business Committee, if the individual is a member of an appointed entity.

*End.*

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Adopted - BC-08-02-95-A  
Amended - BC-05-14-97-F  
Emergency Amendments - BC-04-12-06-JJ  
Amended - BC-09-27-06-E (permanent adoption of emergency amendments)

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2018 08 15

710 Amended – BC-09-22-10-C  
711 Amended – BC-  
712  
713



TO: Oneida Business Committee  
FROM: David P. Jordan, LOC Chairperson *DJ*  
DATE: August 22, 2018  
RE: Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions

---

Please find the following attached backup documentation for your consideration of the amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions:

1. Resolution: Amendments to the Comprehensive Policy Governing, Boards, Committees, and Commission
2. Statement of Effect: Amendments to the Comprehensive Policy Governing, Boards, Committees, and Commission
3. Comprehensive Policy Governing Boards, Committees, and Commissions Amendments Legislative Analysis
4. Comprehensive Policy Governing Boards, Committees, and Commissions Amendments (Redline)
5. Comprehensive Policy Governing Boards, Committees, and Commissions Amendments (Clean)
6. Comprehensive Policy Governing Boards, Committees, and Commissions Amendments Fiscal Impact Statement

#### *Overview*

This resolution adopts proposed amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions. The amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions will:

- Amend the name of this law from “Comprehensive Policy Governing Boards, Committees, and Commissions” to “Boards, Committees, and Commissions law;”
- Provide guidelines for the creation of a board, committee, or commission [1 O.C. 105.4];
- Update the information required to be included on an application and the process for submitting an application [1 O.C. 105.5];
- Revise how vacancies on a board, committee, and commission are handled, and allow for an individual to remain in office until the member’s successor has been sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity [1 O.C. 105.6];
- Update the appointment selection process to provide for more efficient and effective selections [1 O.C. 105.7];



- Require that oaths of office be taken at Oneida Business Committee meeting and update the oath of office [1 O.C. 105.9];
- Expand the information that boards, committees, and commissions are required to include in their bylaws [1 O.C. 105.10];
- Provide a process for electronic polling, if a board, committee, or commission decides to use electronic polling [1 O.C. 105.11];
- Expand the reporting requirements of boards, committees, and commissions to include requirements regarding standard operating procedures, quarterly reports to the Oneida Business Committee, and annual and semi-annual reports to the General Tribal Council [1 O.C. 105.12];
- Provide detailed information on what stipends or compensation is available for members of boards, committees, and commissions, and state that Oneida Business Committee shall set specific stipend amounts by resolution [1 O.C. 105.13];
- Address how confidential information is handled by boards, committees, and commissions, including the addition of a requirement for board, committee, and commission members to be provided an official Oneida e-mail address to conduct business of the board, committee, and commission on [1 O.C. 105.14];
- Simplify the information provided in the law regarding conflicts of interest clarify that due to the potential for a real or perceived conflict of interest to exist, political appointees shall not serve on an appointed or elected board, committee, or commission [1 O.C. 105.15];
- Require that the dissolution of a board, committee, or commission be noticed to the board, committee, or commission [1 O.C. 105.17]; and
- Provide greater detail on how violations of this law may be enforced [1 O.C. 105.18].

Additional minor changes are made to the draft to update the language and ensure compliance with drafting style and formatting requirements.

Throughout the development of the amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions the Legislative Operating Committee has focused on improving collaboration and public outreach.

The Legislative Operating Committee held two (2) work meetings specifically for all boards, committees, and commissions of the Nation to attend for the purpose of sharing ideas and concerns regarding the law. Twelve (12) of the eighteen (18) boards, committees, and commissions of the Nation participated during the legislative process and provided valuable input that was used in the development of the amendments. The boards, committees, and commissions that participated in the legislative process included: Environmental Resource Board, Oneida Police Commission, Oneida Nation Commission on Aging, Oneida Nation School Board, Oneida Election Board, Oneida Land Claims Commission, Oneida Trust Enrollment Committee, Oneida Veterans Affairs Committee, Oneida Gaming Commission, Oneida Pow-wow Committee, Oneida Land Commission, Oneida Library Board.

The Legislative Operating Committee held additional work meetings with the Business Committee Support Office, Records Management Department, and the Management Information System Department.

In accordance with the Legislative Procedures Act, a public meeting on the proposed amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions was held on June 21, 2018. Thirteen (13) people attended the public meeting with eight (8) people providing oral comments. The public comment period closed on June 28, 2018. The Legislative Operating Committee received two (2) submissions of written comments during the public comment period. All comments public comments received were accepted, reviewed, and considered by the Legislative Operating Committee on July 18, 2018. Any changes made based on those comments have been incorporated into this draft.

Overall, two hundred and eighty one (281) comments were collected from those individuals directly impacted by the amendments to the Comprehensive Policy Governing Boards, Committees, through various work meetings, the public meeting, and the public comment period.

**Requested Action**

Approve the Resolution: Amendments to the Comprehensive Policy Governing, Boards, Committees, and Commission.



# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## BC Resolution # \_\_\_\_\_

### Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions

- 1
- 2
- 3 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe
- 4 recognized by the laws of the United States of America; and
- 5
- 6 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- 7
- 8 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,
- 9 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- 10
- 11 **WHEREAS,** the Comprehensive Policy Governing Boards, Committees, and Commissions ("the Law")
- 12 was adopted by the Oneida Business Committee through resolution BC-05-14-97-F and
- 13 amended by resolutions BC-09-27-06-E, and BC-09-22-10-C; and
- 14
- 15 **WHEREAS,** the purpose of the Law is to govern boards, committees, and commissions of the Nation,
- 16 including the procedures regarding the appointment and election of persons to boards,
- 17 committees and commissions, creation of bylaws, maintenance of official records,
- 18 compensation, and other items related to boards, committees and commissions; and
- 19
- 20 **WHEREAS,** the amendments to this Law change the name from "Comprehensive Policy Governing
- 21 Boards, Committees, and Commissions" to "Boards, Committees, and Commissions law";
- 22 and
- 23
- 24 **WHEREAS,** the amendments to this Law provide guidelines for the creation of a board, committee, or
- 25 commission; and
- 26
- 27 **WHEREAS,** the amendments to this Law update the information required to be included on an
- 28 application and the process for submitting an application; and
- 29
- 30 **WHEREAS,** the amendments to this Law revise how vacancies on a board, committee, and
- 31 commission are handled, and allow for an individual to remain in office until the member's
- 32 successor has been sworn in by the Oneida Business Committee in an effort to prevent a
- 33 discontinuation of business or a loss of quorum for the entity; and
- 34
- 35 **WHEREAS,** the amendments to this Law update the appointment selection process to provide for
- 36 more efficient and effective selections; and
- 37
- 38 **WHEREAS,** the amendments to this Law require that oaths of office be taken at Oneida Business
- 39 Committee meeting, and provide for an updated oath of office; and
- 40
- 41 **WHEREAS,** the amendments to this Law expand the information that boards, committees, and
- 42 commissions are required to include in their bylaws; and
- 43

BC Resolution # \_\_\_\_\_

**Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions**  
Page 2 of 3

**WHEREAS,** the amendments to this Law provide a process for electronic polling, if a board, committee, or commission decides to use electronic polling; and

**WHEREAS,** the amendments to this Law expand the reporting requirements of boards, committees, and commissions to include requirements regarding standard operating procedures, quarterly reports to the Oneida Business Committee, and annual and semi-annual reports to the General Tribal Council; and

**WHEREAS,** the amendments to this Law provide detailed information on what stipends or compensation is available for members of boards, committees, and commissions, and state that Oneida Business Committee shall set specific stipend amounts by resolution; and

**WHEREAS,** the amendments to this Law address how confidential information is handled by boards, committees, and commissions, including the addition of a requirement for board, committee, and commission members to be provided an official Oneida e-mail address to conduct business of the board, committee, and commission on; and

**WHEREAS,** the amendments to this Law simplify the information provided in the law regarding conflicts of interest and clarify that due to the potential for a real or perceived conflict of interest to exist, political appointees shall not serve on an appointed or elected board, committee, or commission; and

**WHEREAS,** the amendments to this Law provide additional notice requirements for the dissolution of a board, committee, or commission; and

**WHEREAS,** the amendments to this Law provide greater detail on how violations of this Law may be enforced; and

**WHEREAS,** the amendments to this Law make other minor drafting revisions and updates; and

**WHEREAS,** a public meeting on the proposed amendments to this Law was held on June 21, 2018, in accordance with the Legislative Procedures Act, and the public comments were reviewed and accepted by the Legislative Operating Committee on July 18, 2018 ; and

**NOW THEREFORE BE IT RESOLVED,** that the Oneida Business Committee sets forth the following in regards to the implementation of this resolution:

1. *Informational Bylaws Meetings.* Section 105.10-1(a) of the Law requires that all existing boards, committees, and commissions of the Nation comply with the bylaw format prescribed in the Law and present bylaws for adoption within a reasonable time after adoption of this Law. Within thirty (30) days, the Legislative Reference Office shall provide at least two (2) informational bylaw meetings with the various boards, committees, and commissions of the Nation. The purpose of the informational bylaws meetings will be for the Legislative Reference Office to:
  - a. provide an update on the revised bylaw requirements as a result of the amendments to the Law;
  - b. provide a template for the development of revised bylaws; and
  - c. offer assistance to boards, committees, and commissions in the development and drafting of updated bylaws.
2. *Official Oneida Nation E-Mail Addresses.* Section 105.14-3 of the Law requires that each member of a board, committee, or commission be provided an official Oneida e-mail address upon election or appointment for the purpose of conducting business of the entity electronically.

BC Resolution # \_\_\_\_\_

**Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions**  
**Page 3 of 3**

The Management Information System Department shall have six (6) months from the adoption of the Fiscal Year 2019 budget to provide an official email address to all members of a board, committee, or commission of the Nation.

3. *Oneida Business Committee's Political Appointees.* Due to the potential for a real or perceived conflict of interest to exist, section 105.15-3 of this Law requires that an individual who serves as a political appointee to an Oneida Business Committee member shall not simultaneously serve on an appointed or elected board, committee, or commission.

a. *Current Political Appointees on Elected Boards, Committees, and Commissions.* All political appointees of the Oneida Business Committee that are currently simultaneously serving on an elected board, committee, or commission of the Nation shall be allowed to complete his or her term.

b. *Political Appointee Job Descriptions.* The Nation's Human Resources Department shall update the job descriptions for Oneida Business Committee political appointee positions to include a reference to the requirement that a political appointee of an Oneida Business Committee member shall forgo serving on an elected or appointed board, committee, or commission of the Nation.

**BE IT FINALLY RESOLVED**, that the amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions are hereby adopted and shall be effective September 6, 2018.



## **Statement of Effect**

### *Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions*

#### **Summary**

This resolution adopts amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions.

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

*Date: August 15, 2018*

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

The Legislative Procedures Act (“the LPA”) was adopted by the General Tribal Council through resolution GTC-01-07-13-A for the purpose of providing a process for the adoption of laws of the Nation. [1 O.C. 109.1-1]. This resolution adopts amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions, which comply with all processes and procedures required by the LPA, including the development of a legislative analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. [1 O.C. 109.6, 109.7, 109.8].

The Comprehensive Policy Governing Boards, Committees, and Commissions was adopted by the Oneida Business Committee for the purpose of governing boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions. [1 O.C. 105.1-1].

The amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions will:

- Amend the name of this law from “Comprehensive Policy Governing Boards, Committees, and Commissions” to “Boards, Committees, and Commissions law;”
- Provide guidelines for the creation of a board, committee, or commission [1 O.C. 105.4];
- Update the information required to be included on an application and the process for submitting an application [1 O.C. 105.5];
- Revise how vacancies on a board, committee, and commission are handled, and allow for an individual to remain in office until the member’s successor has been sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity [1 O.C. 105.6];
- Update the appointment selection process to provide for more efficient and effective selections [1 O.C. 105.7];
- Require that oaths of office be taken at Oneida Business Committee meeting and update the oath of office [1 O.C. 105.9];

- Expand the information that boards, committees, and commissions are required to include in their bylaws [*1 O.C. 105.10*];
- Provide a process for electronic polling, if a board, committee, or commission decides to use electronic polling [*1 O.C. 105.11*];
- Expand the reporting requirements of boards, committees, and commissions to include requirements regarding standard operating procedures, quarterly reports to the Oneida Business Committee, and annual and semi-annual reports to the General Tribal Council [*1 O.C. 105.12*];
- Provide detailed information on what stipends or compensation is available for members of boards, committees, and commissions, and state that Oneida Business Committee shall set specific stipend amounts by resolution [*1 O.C. 105.13*];
- Address how confidential information is handled by boards, committees, and commissions, including the addition of a requirement for board, committee, and commission members to be provided an official Oneida e-mail address to conduct business of the board, committee, and commission on [*1 O.C. 105.14*];
- Simplify the information provided in the law regarding conflicts of interest clarify that due to the potential for a real or perceived conflict of interest to exist, political appointees shall not serve on an appointed or elected board, committee, or commission [*1 O.C. 105.15*];
- Require that the dissolution of a board, committee, or commission be noticed to the board, committee, or commission [*1 O.C. 105.17*]; and
- Provide greater detail on how violations of this law may be enforced [*1 O.C. 105.18*].

Additional minor changes are made to the draft to update the language and ensure compliance with drafting style and formatting requirements.

In accordance with the LPA, a public meeting on the proposed amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions was held on June 21, 2018. Thirteen (13) people attended the public meeting with eight (8) people providing oral comments. The public comment period closed on June 28, 2018. The Legislative Operating Committee received two (2) submissions of written comments during the public comment period. All comments public comments received were accepted, reviewed, and considered by the Legislative Operating Committee on July 18, 2018. Any changes made based on those comments have been incorporated into this draft.

### ***Conclusion***

Adoption of this resolution would not conflict with any of the Nation's laws.



# Amendments to Comprehensive Policy on Boards, Committees and Commissions Legislative Analysis

## SECTION 1. EXECUTIVE SUMMARY

REQUESTER: LOC	SPONSOR: Jennifer Webster	DRAFTER: Clorissa Santiago	ANALYST: Brandon Wisneski
<b>Intent of the Amendments</b>	When added to the Active Files list in 2013, the original intent of the amendments was to prohibit individuals from serving on multiple boards, committees and commission at one time; set term limits; and prohibit Tribal employees from serving on tribal boards, committees and commissions. Over time, the intent has changed. The current intent of the amendments is to update requirements for bylaws, reporting, stipends, and appointment process, among other changes.		
<b>Purpose</b>	To govern the procedures regarding boards, committees and commissions of the Nation, including appointment and election, creation of bylaws, maintenance of official records, and compensation. <i>[see Boards, Committees and Commissions, 1 O.C. 105.1-1]</i>		
<b>Affected Entities</b>	Anyone serving on a Board, Committee or Commission of the Nation. Anyone applying to serve on a Board, Committee, or Commission of the Nation. Standing Committees of the Nation. Political appointees, such as legislative assistants. This law references the duties of the Business Committee Support Office, the Nation's Secretary, the Nation's Chairperson, the Oneida Election Board, Management Information Service (MIS) Department, and Records Management Department. This law does not apply to the Oneida Business Committee or Tribal corporations.		
<b>Affected Legislation</b>	Election law, Removal law, Conflict of Interest law, Code of Ethics, Computer Resources Ordinance, Social Media Policy, Travel and Expense Policy, Oneida Nation Gaming Ordinance, and bylaws of all boards, committees and commissions of the Nation.		
<b>Enforcement/Due Process</b>	A member of an entity that violates this law may be subject to sanctions and penalties in accordance with any laws and policies of the Nation governing sanctions and penalties. A member of an elected entity may be subject to removal pursuant to the Removal Law. A member of an appointed entity may be subject to termination of appointment by the Oneida Business Committee. <i>[see Boards, Committees and Commissions, 1 O.C. 105.17]</i>		
<b>Public Meeting</b>	A public meeting was held on June 21, 2018.		

## SECTION 2. LEGISLATIVE DEVELOPMENT

- A. These amendments set new standards for entity bylaws, update reporting requirements, update the appointment process to increase feedback from entities and BC members, set a procedure for the creation of new entities, create a standard e-poll process, require official email addresses for members of entities, prohibit the BC's political appointees from serving on entities, set new requirements and limitations on stipends, and allow the Business Committee to set stipend amounts by resolution, among other changes.
- B. The following chart lists the Boards, Committees and Commissions of the Nation that are governed by this law:



**Chart 1. Boards, Committees and Commissions of the Oneida Nation**

ELECTED	APPOINTED
<ul style="list-style-type: none"> <li>▪ Oneida Election Board</li> <li>▪ Oneida Gaming Commission</li> <li>▪ Oneida Land Claims Commission</li> <li>▪ Oneida Land Commission</li> <li>▪ Oneida Nation Commission on Aging (ONCOA)</li> <li>▪ Oneida Nation School Board</li> <li>▪ Trust Enrollment Committee</li> </ul>	<ul style="list-style-type: none"> <li>▪ Anna John Resident Centered Care Community Board (AJRCC)</li> <li>▪ Environmental Resource Board (ERB)</li> <li>▪ Oneida Library Board</li> <li>▪ Oneida Nation Arts Board</li> <li>▪ Oneida Police Commission</li> <li>▪ Oneida Pow Wow Committee</li> <li>▪ Oneida Nation Veterans Affairs Committee (ONVAC)</li> <li>▪ Pardon and Screening Forgiveness Committee</li> <li>▪ Southeastern WI Oneida Tribal Services Advisory Board (SEOTS)</li> </ul>

\*This law does not apply to the Oneida Business Committee, Standing Committees or tribal corporations.

### SECTION 3. CONSULTATION AND OUTREACH

- A. The Business Committee Support Office, Records Management, MIS and representatives from the following Boards, Committees and Commissions were consulted in the development of this law: Environmental Resource Board, Police Commission, Oneida Nation Commission on Aging, Oneida Nation School Board, Oneida Election Board, Oneida Land Claims Commission, Trust Enrollment Committee, Oneida Veterans Affairs Committee, Gaming Commission, Pow-wow Committee, Land Commission, Oneida Library Board. All boards, committees and commissions were invited to participate in two work meetings scheduled outside of normal business hours to meet their needs.
- B. The Election Law, Removal Law, Conflict of Interest Law, Code of Ethics, Computer Resources Ordinance, Social Media Policy, Travel and Expense Policy, and Oneida Nation Gaming Ordinance were reviewed in drafting this analysis. In addition, the following bylaws were reviewed: Oneida Election Board, Oneida Land Claims Commission, Oneida Land Commission, ONCOA, Oneida Nation School Board, Trust Enrollment Committee, Anna John Resident Centered Care Community Board, Finance Committee, Arts Board, Audit Committee, Environmental Resource Board, Oneida Library Board, ONVAC, Pardon and Forgiveness Screening Committee, Police Commission, Pow-wow Committee and Southern WI Oneida Tribal Services Advisory Board (SEOTS).

### SECTION 4. PROCESS

- A. Thus far, this law has followed the process set forth in the Legislative Procedures Act (LPA).
- B. The law was originally added to the Active Files List on April 3, 2013 and has been carried over from the previous two terms. The law was re-added to the Active Files List on September 17, 2014 and again on September 6, 2017.
- C. At the time this legislative analysis was developed, the following work meetings were held/scheduled regarding the most recent efforts to develop this law and legislative analysis:
- September 6, 2017: LOC work meeting.
  - September 21, 2017: LOC, BC Support Office, and representatives from the following Boards, Committees and Commissions: Election Board, Environmental Resource Board, Land Claims

Commission, Police Commission, ONCOA, and Trust Enrollment. In addition, the Oneida Nation School Board submitted written comments.

- October 2, 2017: BC Support Office
- October 27, 2017: LOC work meeting.
- February 2, 2018: LOC work meeting.
- February 22, 2018: LOC, BC Support Office, and representatives from the following Boards, Committees and Commissions: Election Board, Gaming Commission, Land Commission, Library Board, ONCOA, ONVAC, Police Commission, Pow-wow Committee, and Trust Enrollment. In addition, Environmental Resource Board submitted written comments.
- March 2, 2018: LOC work meeting.
- March 21, 2018: BC Support Office and Oneida Management Information Services (MIS)
- April 11, 2018: BC Support Office and MIS
- May 2, 2018: LOC work meeting.
- June 6, 2018: LOC work meeting.
- June 20, 2018: LOC work meeting.
- July 18, 2018: LOC work meeting.

## SECTION 5. CONTENTS OF THE LEGISLATION

**A. Title.** The title of the law has been changed from “Comprehensive Policy on Boards, Committees and Commissions” to “Boards, Committees and Commissions.”

**B. Creation of an Entity.** This new provision outlines a standard procedure for the creation a new board, committee or commission. Boards, committees or commissions must be created by adoption of a law or resolution by the Oneida Business Committee (OBC) or General Tribal Council (GTC). The law or resolution must include the purpose, powers and responsibilities of the entity. The Oneida Business Committee is responsible for drafting the initial bylaws when a new entity is created. This is because a newly created board will not have any members. Once board members are appointed, they may revise their bylaws in accordance with this law [*see Boards, Committees and Commissions, 1 O.C. 105.4*].

**C. Applications.** The application form to serve on a board, committee or commission must be approved by the Oneida Business Committee. The application form must include a conflict of interest disclosure. A statement has been added to the application form explaining attendance requirements. The intent is to ensure applicants are aware of these requirements when they apply. Application materials will be made available in the Business Committee (BC) Support Office.

- *Background Investigation Application.* For entities that require a background check, an additional application form will now be required. This background application form will include social security number and any other information required to conduct a background investigation. The background investigation application will not be shared with the Oneida Business Committee, entity or Election Board. The intent is to keep this personal information separate from the main application materials. Currently, only Oneida Gaming Commission and Oneida Police Commission require background checks [*see Boards, Committees and Commissions, 1 O.C. 105.5-1(b)*].
- Completed applications must be submitted by 4:30 p.m. on the deadline date. Applications may be mailed as long as they are postmarked by the deadline date and received by the Business

Committee Support Office within 5 business days of the deadline *[see Boards, Committees and Commissions, 1 O.C. 105.5-2]*.

**D. Vacancies.** This section describes the process for filling vacancies.

- *Appointments to Fill Vacancies on Elected Entities.* Individuals appointed to fill a vacancy on an elected entity will be considered an appointed official for the purposes of this law. This means that the appointed official may have their appointment terminated by the OBC, regardless of whether they serve on an elected board. *[see Boards, Committees and Commissions, 1 O.C. 105.6-1]*.
- *Serve until Successor Appointed.* A new provision was added to allow members to remain in office until their successor has been sworn in. This provision was added to ensure that entities can still maintain a quorum while they wait for new appointments to be processed *[see Boards, Committees and Commissions, 1 O.C. 105.6-2(a)(1)]*.
- *Resignations.* Previously, officials could resign by delivering a resignation letter to the entity's chairperson or by verbally resigning during a meeting. The process for resignation letters has been changed to require officials to submit their letter to both the entity's chairperson and to the BC Support Office. This is to ensure that the BC Support Office is aware of resignations as soon as they occur, so that vacancies can be posted and filled in a timely manner *[see Boards, Committees and Commissions 1 O.C. 105.6-2(d)]*
- Entities must notify the BC Support Office of vacancies as soon as they learn the position will become vacant *[see Boards, Committees and Commissions, 1 O.C. 105.6-3]*. This section also specifies when the BC Support Office must post notice of vacancies *[see Boards, Committees and Commissions, 1 O.C. 105.6-4]*. Notice of vacancies will be posted by the BC Support Office in all official media outlets of the Nation, as determined by the Oneida Business Committee. This currently includes the Kalihwisaks and the Nation's website *[see Boards, Committees and Commissions, 1 O.C. 105.6-5]*.

**E. Appointment to an Entity.** This section describes the process for appointment to an entity.

- *Current Process.* Under current law, all applications are delivered to the Nation's chairperson. The chairperson selects an applicant "within a reasonable time" and the appointment is voted on by the Oneida Business Committee. Currently, the chairperson is under no obligation to consult with OBC members prior to making an appointment, and there is no timetable for when the appointment must be made.
- *Proposed Process.* In this proposed law, the appointment process has been modified to provide individual OBC members and the entity's chairperson an opportunity to review applications and offer recommendations. In addition, this law requires the BC Support Office to place appointments on the agenda for the next BC meeting, to ensure a speedier appointment process. During executive session of the next BC meeting, all OBC members will have an opportunity to discuss the applicants and select an appointee by consensus *[see Boards, Committees and Commissions, 1 O.C. 105.7-1]*.

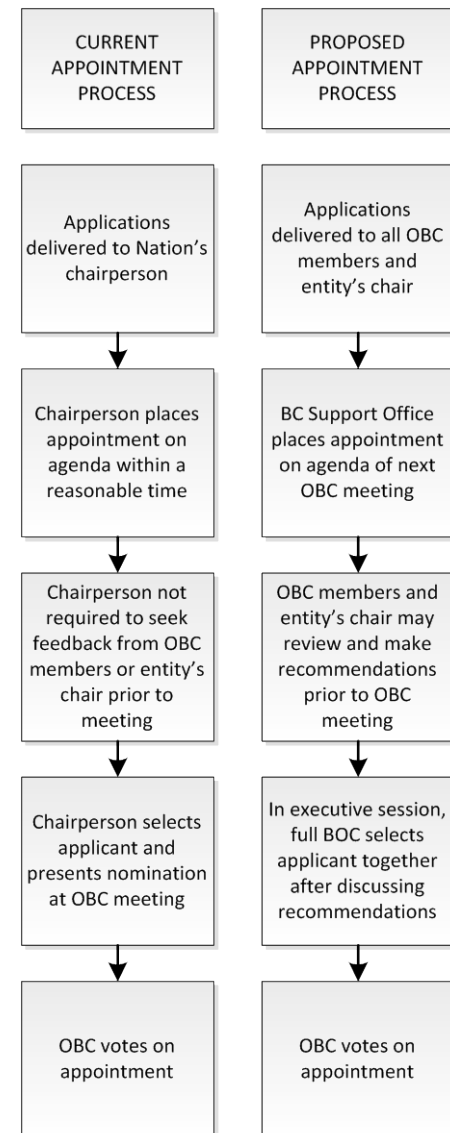
- 123 ■ *Notification of an Appointment.* After an appointment  
124 is approved by the Business Committee, the Nation's  
125 Chairperson will notify the Secretary of the appointment.  
126 The Secretary will then notify the applicant [see *Boards,*  
127 *Committees and Commissions, 1 O.C. 105.7-2*].
- 128 ■ *Declining an Appointment.* This new provision  
129 describes how an individual can decline their  
130 appointment before taking the oath of office. Individuals  
131 can decline their appointment by delivering a letter to the  
132 BC Support Office. In addition, failure to take the oath  
133 of office within 30 days of appointment will also be  
134 considered declining the appointment. Oaths of office  
135 are administered during OBC meetings, which are held  
136 twice monthly. Therefore, appointees will have at least  
137 two opportunities to take the oath. In addition, a new  
138 provision has been added later in this law to allow for  
139 oath of office by video conference. If an individual  
140 declines their appointment, the OBC will select another  
141 applicant from the original posting rather than re-post  
142 the vacancy [see *Boards, Committees and Commissions,*  
143 *1 O.C. 105.7-3*].
- 144 ■ *Termination of Appointment.* Appointed members,  
145 including individuals appointed to fill vacancies on  
146 elected entities, may have their appointment terminated  
147 by a 2/3 majority vote of the BC. Termination of  
148 appointment is final and cannot be appealed [see  
149 *Boards, Committees and Commissions, 1 O.C. 105.7-4*].

150 **F. Election to an Entity.** Candidates for an elected entity must  
151 be nominated at a caucus or petition to be placed on the  
152 ballot. Vacancies may be filled by appointment, per each  
153 entity's bylaws. The election process is governed by the  
154 Election Law [See *Boards, Committees and Commissions, 1 O.C. 105.8*]

155 **G. Oath of Office.** This section lists the oath of office and the procedure for changing the oath.

- 156 ■ *Revised Oath.* Minor revisions have been made to the wording of the oath to reflect the change  
157 from Oneida Tribe to Oneida Nation and to make it easier to recite. Specifically, "and with the  
158 strictest confidentiality" has been changed to "and will strictly maintain confidential  
159 information."
- 160 ■ *Video Conference.* A provision has been added that allows members to take their oath by video  
161 conference with permission of the Secretary. Members of the SEOTS Board, who reside in the  
162 Milwaukee area, are an example of members who may benefit from this provision.
- 163 ■ *Electronic Copies.* The BC Support Office may now store electronic copies of the signed oath,  
164 rather than keep original paper copies [See *Boards, Committees and Commissions, 1 O.C. 105.9*]

**Chart 2. Appointment Comparison**



**H. Bylaws.** Bylaws are the documents that provide a framework for the operation and management of an entity. This law outlines the format that entities must follow for developing their bylaws. Bylaws must be organized in the following manner:

- *Article I: Authority.* This section includes the following new provisions: Establishment, which cites the law or resolution that established the entity. Authority, which will state the purpose of the entity and the authority delegated to the entity. Termination or Removal, which identifies causes for termination or removal from the entity. Trainings and Conferences, which describes trainings and/or conferences the entity deems necessary for service on the entity [See *Boards, Committees and Commissions, 1 O.C. 105.10-3(a)*].
- *Article II: Officers.* This section lists the duties and responsibilities of the entity's chairperson, vice chairperson, and any additional officers. It also describes the procedure for selecting officers and whether the entity has the authority to hire personnel. A new provision on budgetary and travel sign-off authority has been added to identify which members of the entity have sign-off authority on behalf of the entity. All travel requests must be approved by majority vote during a meeting of the entity [See *Boards, Committees and Commissions, 1 O.C. 105.10-3(b)*].
- *Article III: Meetings.* This section identifies when and where regular and emergency meetings will be held and how meetings will be noticed [See *Boards, Committees and Commissions, 1 O.C. 105.10-3(c)*].
  - *Justification for Emergency Meetings.* Within 72 hours of an emergency meeting, the entity must provide the Nation's Secretary with notice of the meeting, the reason for the meeting, and an explanation for why the matter could not wait for a regular meeting. This is a new provision.
  - *Voting and E-Poll.* The Voting section has been revised to include whether the entity will allow e-polls and under what circumstances the entity's chairperson is allowed to vote.
- *Article IV: Expectations.* This is a new section which sets expectations for behavior of members of an entity. Entities must prohibit violence and the use of alcohol and illegal drugs when acting in official capacity. Entities must also list expectations regarding how official business of the entity may be posted on social media. A conflict of interest section has also been added, which lists any additional conflict of interests that may be unique to that entity. This section will also describe how conflicts of interest will be handled and mitigated [See *Boards, Committees and Commissions, 1 O.C. 105.10-3(d)*].
- *Article V: Stipends and Compensation.* This new section will list all of the stipends members are eligible to receive and the requirements for collecting each stipend [See *Boards, Committees and Commissions, 1 O.C. 105.10-3(e)*].
- *Article VI: Records and Reporting.* This section describes the procedure and format for agenda items, meeting minutes, attachments and relationship with OBC Liaison. New revisions to this section include identifying a reasonable timeframe that the entity will submit minutes to BC Support Office, and identifying how records of meeting attachments will be kept [See *Boards, Committees and Commissions, 1 O.C. 105.10-3(f)*].
  - *Audio Recording Requirement.* All entities will now be required to audio record their meetings.
- *Article VII: Amendments.* This section describes how entities may revise their bylaws, with the approval of Oneida Business Committee or General Tribal Council [See *Boards, Committees and Commissions, 1 O.C. 105.10-3(g)*].

- 209 **I. *Electronic Polling (E-Poll).*** This new provision outlines the process for conducting an electronic  
210 poll, or “e-poll.” Entities may use e-polls if approval of an action is needed before their next meeting.
- 211     ▪ *E-Poll Process.* E-polls must be sent from an official email address of the entity by the chair or  
212 designee, include a deadline for response of no greater than 24 hours, and follow the formatting  
213 requirements described in this section. Members will vote by responding to the e-poll from an  
214 official address of the entity. Responses from personal email addresses will not be accepted. In  
215 order for an e-poll to be valid, a majority of the members of the entity must respond to the e-poll.  
216 This is similar to requiring a quorum for an in-person meeting. If a majority vote in support of  
217 the e-poll, then the action will be approved. Copies of all e-poll results must be placed on the  
218 entity’s next meeting agenda to be entered into the record [*see Boards, Committees and*  
219 *Commissions, 1 O.C. 105.11*].
- 220 **J. *Reporting Requirements.*** This law describes reporting requirements for minutes, standard operating  
221 procedures and reports to the Oneida Business Committee and General Tribal Council. Several new  
222 provisions have been added:
- 223     ▪ *Minutes.* Actions taken by an entity are valid once the action has been approved by a vote. For  
224 example, if an entity passes a motion, that motion is valid immediately. Entities have the option  
225 of adding a requirement to their bylaws that minutes must be approved before the actions become  
226 valid [*See Boards, Committees and Commissions, 1 O.C. 105.12-1*].
- 227     ▪ *Standard Operating Procedures.* Entities will now be required to submit all standard operating  
228 procedures to the BC Support office to be kept on file.
- 229     ▪ *Quarterly Reports to Oneida Business Committee.* Entities must submit quarterly reports to the  
230 Oneida Business Committee. At least one member of each entity must attend the BC Meeting  
231 where their quarterly report is being presented. Quarterly reports will contain the following  
232 information: Contact information, number and type of meetings, the topics of any emergency or  
233 special meetings, accomplishments, goals, budget status, requests to the Business Committee and  
234 any other information deemed appropriate by the entity [*See Boards, Committees and*  
235 *Commissions, 1 O.C. 105.12-3*].
- 236     ▪ *Annual and Semi-Annual Reports to GTC.* Entities must submit annual and semi-annual reports  
237 to the General Tribal Council. The Business Committee will set the format for these reports.
- 238         ○ *Complaints.* New provisions were added that require entities to include the number of  
239 substantiated complaints in their annual and semi-annual reports. A substantiated  
240 complaint is a complaint that has been found valid by the BC or Judiciary. The proposed  
241 Sanctions and Penalties law will set a standard procedure for complaints.
- 242     ▪ *Failure to Submit Reports.* A new provision was added specifying that if an entity does not  
243 submit reports on time, OBC may place a hold on all stipends for that entity until the reports are  
244 received [*See Boards, Committees and Commissions, 1 O.C. 105.12-5*].
- 245 **K. *Stipends, Reimbursement and Compensation.*** This law describes the procedures for how stipends  
246 will be paid for meetings, hearings, and other expenses [*see Boards, Committees and Commissions, 1*  
247 *O.C. 105.13*].
- 248     ▪ *Stipend Amount Set by Resolution.* Rather than put the stipend amounts within the law, the  
249 Oneida Business Committee will now set stipend amounts in a separate resolution. The BC may  
250 adjust those amounts by amending the resolution. The purpose of this change is to allow for  
251 greater flexibility in adjusting stipends. It also ensures that stipend amounts for all of the Nation’s  
252 boards, committees and commissions are accurately documented in one place. At the time this



analysis was written, the LOC plans to draft a resolution setting stipend amounts and include the resolution in the adoption packet for this law.

- *Gift Card Option.* Entities will now have the option of paying stipends in the form of cash or gift cards, such as Oneida Retail cards.
  - *Requirements for Meeting Stipend.* In order to receive a stipend, meetings must have an established quorum and last at least one hour. In addition, there is a new requirement that members must be physically present for the entire meeting to earn the stipend. If members arrive late or leave early, they will not earn a stipend.
    - *Appointed Members:* Appointed members may only receive one meeting stipend per month, regardless of the number of meetings held. This is consistent with current law [See *Boards, Committees and Commissions, 1 O.C. 105.13-3(a)*].
    - *Elected Members:* Elected members may receive stipends only two meetings per month, regardless of the number of meetings held. This is a change from current law, which previously allowed elected boards to receive stipends for any number of meetings per month. [See *Boards, Committees and Commissions, 1 O.C. 105.13-3(b)*].
  - *Stipends for Oneida Judiciary Hearings.* A member of an entity will receive a stipend for attending an Oneida Judiciary hearing if that member is required to attend by subpoena [See *Boards, Committees and Commissions, 1 O.C. 105.13-5*].
  - *Hearings of an Entity:* Members may receive stipends for conducting hearings administered by the entity. Entities may only receive one stipend for each hearing, regardless of the length of the hearing. Members may not receive additional stipends for continuations of a hearing or to draft decisions [See *Boards, Committees and Commissions, 1 O.C. 105.13-6*].
    - *Boards with Hearing Authority:* The following entities currently exercise hearing authority: Election Board, Police Commission, School Board, Trust Enrollment Committee, Pardon and Forgiveness Screening Committee, and Gaming Commission. Environmental Resource Board and Land Commission have transferred hearing body authority to the Judiciary.
  - *Other Stipends:* Stipends for any other activity will be set by the OBC in the resolution setting stipend amounts. Examples of such activities include Pow-wow Committee working at Pow-wows and Election Board conducting elections or conducting hand counts at GTC meetings [See *Boards, Committees and Commissions, 1 O.C. 105.13-8*].
  - *Conferences and Training:* Members will receive stipends for attending conferences and training. Members will receive stipends for each full day of training required by law, bylaw or resolution. Members will not receive stipends for travel days. In addition, members are eligible for per diem per the Nation's Travel and Expense policy. This is consistent with current law. This section removes the \$100 amount for the travel stipend. Instead, the amount of the stipend will be set by the OBC by resolution [See *Boards, Committees and Commissions, 1 O.C. 105.13-9*].
- L. **Confidential Information.** This law requires members to maintain confidentiality in all information obtained through their position on the entity. Members cannot disclose confidential information without the written authorization of the Oneida Business Committee. After leaving an entity, a member must return all records. Members of an entity cannot use confidential information for personal gain [See *Boards, Committees and Commissions, 1 O.C. 105.14-1*].
- *Official Email Address.* Members will now be provided an official email address for conducting business of the entity. Members cannot use personal or work email to conduct the entity's

business. Employees of the Nation will receive a separate email address. Members must follow the Nation's computer and media related policies and sign an acknowledgment form provided by the Secretary. When a member leaves office, the Nation's Secretary will direct MIS to disable the email address [See *Boards, Committees and Commissions, 1 O.C. 105.14-3*].

**M. Conflicts of Interest.** This law requires members to adhere to the Nation's policies regarding conflicts of interest. It also requires members to disclose conflicts of interest as soon as they arise and submit an updated conflict of interest disclosure form to the Nation's Secretary on an annual basis [See *Boards, Committees and Commissions, 1 O.C. 105.15-2*].

- **Political Appointees.** In this new provision, political appointees are no longer allowed to serve on boards, committees or commissions. There are currently ten political appointees in the organization: Chairperson's Assistant, Chairperson's Policy Advisor, Vice Chair's Assistant, Treasurer's Assistant, Secretary's Assistant, and five Legislative Assistants [See *Boards, Committees and Commissions, 1 O.C. 105.15-3*].
- **Deleted Sections.** The current Comprehensive Policy includes a list of specifically prohibited activities covered under "conflicts of interest." This draft deletes this list of prohibited activities, and instead, directs entities to follow the Nation's laws and policies governing conflicts of interest [see *Comprehensive Policy on Boards, Committees and Commissions, 1 O.C. 105.13*]. These laws include the Conflict of Interest Law and the Code of Ethics, which both apply to members of boards, committees and commissions. Members must also follow any conflict of interest provisions in their entity's bylaws. The Conflict of Interest Law and Code of Ethics provide broad guidelines, while the deleted Conflict of Interest sections in this law provided more specific examples that fell within those guidelines.

**N. Use of the Nation's Assets.** This law describes how entities will maintain bank accounts, execute and record transactions, and use Generally Accepted Accounting Principles for the Nation's funds. Any evidence of noncompliance will be reported to the Internal Audit department [See *Boards, Committees and Commissions, 1 O.C. 105.16*].

**O. Dissolution of an Entity.** Entities can only be dissolved by GTC or OBC motion. A new requirement was added that within 5 business days of dissolving an entity, OBC will provide the entity with a written notice of the dissolution [See *Boards, Committees and Commissions, 1 O.C. 105.17-2*]. This law specifies that chairpersons and secretaries of dissolved entities are responsible for closing out business and forwarding records to the BC Support Office. The BC Support Office may use the assistance of Records Management or any other appropriate department. [See *Boards, Committees and Commissions, 1 O.C. 105.17-3*].

**P. Enforcement.** Members who violate this law are subject to sanctions and penalties, removal pursuant to the Removal law, or termination of appointment to an appointed entity. A provision regarding disqualifying candidates for election was removed, because disqualification is addressed in the Election law [See *Boards, Committees and Commissions, 1 O.C. 105.18*].

## SECTION 6. EFFECT ON EXISTING LEGISLATION

**A. Bylaws.** The bylaws of every Board, Committee and Commission will need to be updated to conform with the new bylaw requirements in this law [See *Boards, Committees and Commissions, 1 O.C. 105.10-3*].

**B. References to the Other Laws of the Nation:** The following laws of the Nation are referenced in this law. This law does not conflict with any of the referenced laws.

- **Election Law.** The process for election of a member to an elected entity will be governed by the Election Law [See Boards, Committees and Commissions, 1 O.C. 105.8-2].
- **Removal Law.** Removal of an official elected to an entity is governed by the Removal Law [See Boards, Committees and Commissions, 1 O.C. 105.6-2(b)]. Members who violate this law may be subject to Removal pursuant to the Removal Law [See Boards, Committees and Commissions, 1 O.C.105.17-1].
- **Conflict of Interest Law.** All members of an entity are required to follow the Nation's laws governing conflicts of interest [See Boards, Committees and Commissions, 1 O.C.105.15-1].
- **Code of Ethics.** All members of an entity are required to follow the Nation's laws governing conflicts of interest. The Code of Ethics also includes conflict of interest provisions [See Boards, Committees and Commissions, 1 O.C. 105.15-1].
- **Computer Resources Ordinance.** Members of an entity must sign an acknowledgment form indicating notice of the Nation's applicable computer and media related laws [See Boards, Committees and Commissions, 1 O.C. 105.14-3(b)].
- **Social Media Policy.** The bylaws of each entity must identify expectations for the use of social media in regards to official business of the entity [See Boards, Committees and Commissions, 1 O.C. 105.10-3(d)(4)].
- **Travel and Expense Policy.** Members of an entity are eligible to be reimbursed for travel and per diem to attend a conference or training in accordance with the Nation's travel policies [See Boards, Committees and Commissions, 1 O.C. 105.13-9].
- **Oneida Nation Gaming Ordinance.** Members appointed to fill a vacancy on an elected board may have their appointments terminated by the Oneida Business Committee, unless another law of the Nation states removal from that entity must be done pursuant to the Removal Law [See Boards, Committees and Commissions, 1 O.C. 105.6-1]. The Oneida Gaming Ordinance (ONGO) is an example of such a law. ONGO states that Gaming Commissioners must be removed pursuant to the Removal Law [see Oneida Nation Gaming Ordinance, 5 O.C. 501.6-12]

## SECTION 7. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR OBLIGATIONS

- A. **Right to Appeal Termination of Appointment.** After the OBC terminates an appointment, the termination is final and not subject to appeal. While appointed members have always served at the discretion of the Business Committee, for clarity, the law now specifically states that appeals are not allowed. Note that this does not impact members who were elected to their positions, which is governed by the Removal Law.
- B. **Political Appointees.** This law bans political appointees, such as legislative assistants, from serving on boards, committees and commissions. By accepting the position, political appointees will be knowingly giving up the right to serve on an entity as a condition of their employment. Any appointees currently serving on an entity will be allowed to finish their terms. [See Boards, Committees and Commissions, 1 O.C. 105.15-3].

## SECTION 8. ENFORCEMENT AND ACCOUNTABILITY

- A. Elected officials may be removed pursuant to the Removal Law and appointed officials may have their appointments terminated by the Oneida Business Committee [See Boards, Committees and Commissions, 1 O.C. 105.18-1(b-c)].

- 384 B. Any member of an entity who violates this law may be subject to sanctions and penalties. The LOC is  
385 currently developing a Sanctions and Penalties law [*See Boards, Committees and Commissions, 1*  
386 *O.C. 105.18-1(a)*].
- 387 C. Entities that fail to comply with reporting requirements in this law may have their stipends withheld  
388 until reports are submitted [*See Boards, Committees and Commissions, 1 O.C. 105.12-5*].  
389

## 390 SECTION 9. OTHER CONSIDERATIONS

391 *The LOC may want to consider the following regarding implementation of this law:*

- 392 A. **Bylaws.** Boards, Committees and Commissions have been unable to update their bylaws for the last  
393 several years while this law has been on the LOC's Active Files List. Upon adoption of this law, all  
394 entities will need to update their bylaws to conform with the new standards [*See Boards, Committees*  
395 *and Commissions, 1 O.C. 105.10*]. All bylaws must be approved by the Oneida Business Committee.  
396 Entities, LOC and the BC should expect to begin processing a large number of bylaws after passage.  
397 The LOC plans to assist entities with updating their bylaws by offering training sessions, bylaw  
398 templates, and additional assistance from LRO staff.
- 399 B. **Stipend Processing.** This law places several new requirements and limitations on how and when  
400 members may receive stipends. These new requirements will require enforcement. Enforcing these  
401 new provisions will require reviewing bylaws, entity and OBC meeting minutes, Judiciary subpoenas  
402 and other actions. Currently, stipend requests are sent directly to Accounting. The BC Support Office  
403 is in the process of taking over this responsibility and is well suited to this role given their familiarity  
404 with each of the boards. If possible, the BC Support Office should take over this role to coincide with  
405 the implementation of this law.
- 406 C. **Current Political Appointees.** This law bans political appointees from serving on boards, committees  
407 and commissions [*See Boards, Committees and Commissions, 1 O.C. 105.15-3*]. At the time this  
408 analysis was drafted, three political appointees currently serve on an entity. All three serve on elected  
409 entities. These three individuals, and any other political appointees who may be serving at the time  
410 this law is adopted, will be permitted to serve out the remainder of their terms. This decision will be  
411 included in the adopting resolution for this law. The OBC should also consider working with Oneida  
412 Human Resources Dept. to update job descriptions for political appointees to include this ban.
- 413 D. **Audio Recording Requirement.** This law adds a new requirement for all entities to audio record their  
414 meetings. According the BC Support Office, only three entities currently audio record their meetings  
415 on a regular basis. It may be necessary for the BC Support Office to acquire additional audio  
416 recording equipment to implement this provision. The LOC may want to consider delaying the  
417 implementation date of this requirement in the adopting resolution to allow for necessary planning  
418 and purchases.
- 419 E. **Email Addresses for BCC Members.** MIS, BC Support Office and Records Management have begun  
420 work to develop a process to provide and manage email addresses for member entities. Based on MIS  
421 research, this will impact approximately 130 members. To allow for necessary planning to implement  
422 protocols, set budgets, and secure licenses to set up new email addresses, the LOC intends to include  
423 a delay of the email requirement in the adopting resolution.
- 424 F. **Changes to Application Form.** The following changes must be made to the application form for  
425 boards, committees and commissions. The revised application forms must be approved by the  
426 Business Committee. The LOC may want to include the updated forms in the adoption packet to the  
427 OBC [*see Boards, Committees and Commissions, 1 O.C. 105.5-1*].

- Add a statement to the application form explaining the attendance requirements of section 105.11-3
- Create an additional Background Investigation Application Form, to include social security number and any other information needed to conduct a background investigation. This form will only be provided to applicants applying to entities that require a background check

**G. New Forms and Standard Operating Procedures:**

- *Computer Resource Acknowledgment Form.* The Secretary must provide an acknowledgment form to be signed by each member upon receiving an email address. The Nation's Secretary and BC Support Office may want to consult with MIS regarding standard forms that could be used [see *Boards, Committees and Commissions 1 O.C. 105.14-3(b)*].
- *Disabling Email Addresses.* The Secretary must direct MIS to disable the email address for members that leave office. The Nation's Secretary and BC Support Office may want to develop an SOP for this process [see *Boards, Committees and Commissions 1 O.C. 105.14-3(d)*].
- *SOP for Background Check Application Forms.* Given the sensitive information on the new background check application forms, the Nation's Secretary and BC Support Office may want to create an SOP for how these forms will be securely stored and processed, if such an SOP does not already exist.

*The following is provided for information:*

- H. Current Stipends.** Under this law, stipend amounts will be set by Business Committee resolution [see *Boards, Committees and Commissions 1 O.C. 105.13-3*]. The OBC will periodically review and adjust these stipend amounts. Below is a depiction of current stipend amounts at the time this analysis was drafted. Whether to maintain or adjust the current stipend amounts a policy decision.

**Chart 4. Current Meeting Stipends for Appointed Boards.**

NO STIPEND	
▪ Oneida Nation Arts Board	
\$50 PER MEETING	
▪ Anna John Resident Centered Care Community Board (AJRCC)	
▪ Audit Committee (1 community member seat)	
▪ Environmental Resource Board (ERB)	
▪ Finance Committee (1 community member seat)	
▪ Oneida Library Board	
▪ Oneida Police Commmission	
▪ Oneida Pow Wow Committee	
▪ Oneida Nation Veterans Affairs Committee (ONVAC)	
▪ Pardon and Screening Forgiveness Commmittee	
▪ Southeastern WI Oneida Tribal Services Advisory Board (SEOTS)	

**Chart 5. Current Meeting Stipends for Elected Boards.**

\$50 PER MEETING	
▪ Land Commission	
▪ Land Claims Commission	
\$75 PER MEETING	

<ul style="list-style-type: none"> <li>▪ Oneida Nation Commission on Aging (ONCOA)</li> <li>▪ Oneida Nation School Board</li> </ul>
<b>\$100 PER MEETING FOR CHAIR, \$75 PER MEETING FOR MEMBERS</b>
<ul style="list-style-type: none"> <li>▪ Trust Enrollment Committee</li> </ul>
<b>\$100 PER MEETING</b>
<ul style="list-style-type: none"> <li>▪ Oneida Election Board</li> </ul>
<b>FULL TIME SALARY – NO MEETING STIPENDS</b>
<ul style="list-style-type: none"> <li>▪ Oneida Gaming Commission <ul style="list-style-type: none"> <li>○ By law, compensation of Gaming Commissioners is not subject to the Comprehensive Policy on Boards, Committees and Commissions [see <i>Oneida Nation Gaming Ordinance 5 O.C. 501.6-11</i>].</li> <li>○ “Pro-Tem” Commissioners, appointed as needed to participate in hearings when full-time commissioners recuse themselves, receive \$150 per hearing.</li> </ul> </li> </ul>

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- *Summary of Current Meeting Stipends.* Currently, there are variations in stipends from board to board based on BC and entity actions over the years.
    - Members of appointed entities receive \$50 per meeting, with the exception of Oneida Arts Board, which is a volunteer board that does not accept stipends.
    - Member of elected entities receive between \$50 to \$100 per meeting. An exception is the Oneida Gaming Commission, whose members receive a full-time salary.
  - *Hearing Stipends.* Entities with hearing body authority receive stipends for conducting hearings. Hearing stipend amounts are typically the same as meeting stipends.
  - *Conferences and Training Stipends.* Members currently receive a \$100 stipend for each full day spent attending a conference or training, not including travel days.
  - *Other Stipends.* In addition, certain entities receive stipends for other activities:
    - Oneida Election Board members receive \$10 per hour for conducting elections and caucuses. They also receive a \$100 stipend for conducting hand counts at General Tribal Council meetings.
    - Oneida Pow-wow Committee members receive \$25 per hour, not to exceed \$200 per day, for planning, preparation and working Oneida Pow-wows.
- I. ***Proposed Stipend Amounts.*** At the time this analysis was drafted, the LOC intends to propose an increase in stipend amounts for all boards, committees and commissions. Below are the stipend amounts that the LOC proposes to set by resolution upon adoption of this law. For additional information, see the proposed stipend resolution included in the adoption materials for this law.

***Chart 6. Proposed Meeting Stipends for Appointed Boards.***

Appointed Entity	Current Stipend Amount	Proposed Stipend Amount
Oneida Nation Arts Board	None	\$75 per meeting
Anna John Resident Centered Care Community Board (AJRCC)	\$50 per meeting	\$75 per meeting
Oneida Community Library Board	\$50 per meeting	\$75 per meeting
Environmental Resource Board	\$50 per meeting	\$75 per meeting
Oneida Nation Veterans Affairs	\$50 per meeting	\$75 per meeting

Committee (ONVAC)		
Personnel Selection Committee	\$50 per meeting	\$75 per meeting
Oneida Police Commission	\$50 per meeting	\$75 per meeting
Oneida Pow-wow Committee	\$50 per meeting	\$75 per meeting
Pardon and Forgiveness Screening Committee	\$50 per meeting	\$75 per meeting
Southeastern Oneida Tribal Services Advisory Board (SEOTS)	\$50 per meeting	\$75 per meeting

- The LOC proposes to increase stipend amounts for appointed boards from \$50 per meeting to \$75 per meeting. In addition, the Oneida Arts Board, which currently receives no stipend, will also receive a \$75 meeting stipend. Appointed boards are limited to one meeting stipend per month.

**Chart 7. Proposed Meeting Stipends for Elected Boards.**

Elected Entity	Current Stipend Amount	Proposed Stipend Amount
Land Commission	\$50 per meeting	\$100 per meeting
Land Claims Commission	\$50 per meeting	\$100 per meeting
Oneida Nation Commission on Aging (ONCOA)	\$75 per meeting	\$100 per meeting
Oneida Nation School Board	\$75 per meeting	\$100 per meeting
Trust Enrollment Committee	\$100 per meeting for chairperson, \$75 per meeting for members	\$100 per meeting (all members)

- The LOC proposes to increase stipend amounts for all elected boards to \$100 per meeting. Upon adoption of this law, elected boards will be limited to two meeting stipends per month.
- Compensation of Oneida Gaming Commissioners is not subject to the Comprehensive Policy on Boards Committees and Commissions [see *Oneida Nation Gaming Ordinance, 5 O.C. 501.6-11*].

**J. Sanctions and Penalties.** This law references sanctions and penalties. The LOC is currently drafting a Sanctions and Penalties Law, which will provide options for reprimanding members who violate provisions of this and other laws. Currently, the only reprimand available for violating this law is termination of appointment for appointed members and removal of elected members [See *Boards, Committees and Commissions, 1 O.C. 105.18-1(a)*].

**K.** Please refer to the fiscal impact statement for any fiscal impacts.



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**Title 1. Government and Finances – Chapter 105**  
**~~COMPREHENSIVE POLICY GOVERNING~~ BOARDS, COMMITTEES AND**  
**COMMISSIONS**

**Laotiyani<hs>sh&ha k<tyohkway<-l&-se>**  
*Their laws\_\_\_\_\_ of the groups we have*

105.1. Purpose and Policy  
105.2. Adoption, Amendment, Repeal  
105.3. Definitions  
105.4. ~~Creation of an Entity~~ Applications  
105.5. Applications  
~~105.6. Vacancies~~  
105.6. Appointed Positions  
~~105.7. Elected Positions~~ Appointment to an Entity  
105.8. ~~By Laws of Boards, Committees and Commissions~~ Election to an Entity

105.9. ~~Minutes~~ Oath of Office  
105.10. ~~Dissolution of Entities~~ Bylaws  
105.11. Electronic Polling  
105.12. Reporting Requirements  
105.13. Stipends, Reimbursement and Compensation ~~for Services~~  
105.14. Confidential Information  
105.15. Conflicts of Interest  
105.16. Use of the Nation's Assets  
105.17. Dissolution of an Entity  
105.18. Enforcement

### 105.1. Purpose and Policy

105.1-1. It is the purpose of this policy law to govern boards, committees, and commissions of the standard Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of by-laws bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions. This policy

(a) This law shall not apply to the Oneida Business Committee, or Standing Committees of the Oneida Business Committee.

(b) This law does not apply to Tribal corporations due to the corporate structure and autonomy of those entities.

105.1-2. It is the policy of the Nation to have consistent and standard procedures for choosing and appointing or electing the most qualified persons to boards, committees and commissions, for creation of by-laws bylaws governing boards committees and commissions, and for the maintenance of information created by and for boards, committees and commissions.

### 105.2. Adoption, Amendment, Repeal

105.2-1. This policy law was adopted by the Oneida Business Committee by resolution ~~#-BC-505-14-97-F~~ and amended by resolutions ~~#-BC-09-27-06-E-and-#, BC-09-22-10-C-, and BC-~~  
~~- - -~~

105.2-2. This policy 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, ~~regardless of where the original adoption took place~~ pursuant to the procedures set out in the Legislative Procedures Act.

105.2-3. Should a provision of this policy law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this policy law which are considered to have legal force without the invalid portions.

~~105.2-4. Any policy, regulation, rule, resolution or motion, or portion thereof, which directly conflicts with the provisions of this policy is hereby repealed to the extent that it is inconsistent with or is contrary to this policy. Provided that meeting stipends for elected members of a~~

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~~board, committee or commission that are in effect on [adoption date of the amendments] shall remain unaffected, but prior exceptions to this policy for appointed entities shall be repealed to extent that meeting stipends are inconsistent with this policy.~~

105.2-4. 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.

105.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

### 105.3. Definitions

105.3-1. This section shall govern the definitions of words and phrases ~~as used herein~~within this law. All words not defined herein shall be used in their ordinary and everyday sense.

~~(a)~~(a) "Application" means the form by which a person seeks to be appointed to fill a vacancy on an entity.

(b) "Appointment" means the process by which a person is chosen to fill a vacancy on an entity by the Oneida Business Committee.

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

(d) "Bylaws" means a document which provides a framework for the operation and management of a board, committee, or commission of the Nation chiefly for the government of its members and the regulation of its affairs.

(e) "Conference" means any training, seminar, meeting, or other assembly of persons which is not an assembly of the entity.

(f) "Confidential information" means all information or data, whether printed, written, or oral, concerning business or customers of the Nation, disclosed to, acquired by, or generated by a member of an entity in confidence at any time during their elected or appointed term or during their employment.

(g) "Conflict of interest" means any interest, real or apparent, whether it be personal, financial, political, or otherwise, in which an elected official, officer, political appointee, employee, contractor, or appointed or elected member, or their immediate family members, friends or associates, or any other person with whom they have contact, have that conflicts with any right of the Nation to property, information, or any other right to own and operate activities free from undisclosed competition or other violation of such rights of the Nation. In addition, conflict of interest also means any financial or familial interest an elected official, officer, political appointee, employee, contractor, or appointed or elected member or their immediate family members may have in any transaction between the Nation and an outside party.

(h) "Entity" means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose members are appointed by the Oneida Business Committee or elected by the ~~General Tribal Council~~ Nation's membership.

~~(b) "Vacancy"~~(i) "E-poll" means any position an electronic poll, which is the act of delivering an e-mail to all members of an entity, in order to seek a response which identifies a vote in favor of, opposing, or abstaining to an issue requiring approval by the entity.

(j) "Nation" means the Oneida Nation.

(k) "Per Diem" means the payment made by the Nation to offset the costs of being on

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~~any~~ travel on behalf of the Oneida Nation.

(l) "Political appointee" means a person appointed by a member of the Oneida Business Committee to provide assistance with the Oneida Business Committee member's daily activities and operations.

(m) "Prohibited drugs" means marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substance included in Schedules I through V, as defined by Section 812 of Title 21 of the United States Code. This also includes prescription medication or over-the-counter medicine used in an unauthorized or unlawful manner.

(n) "Stipend" means the amount paid by the Oneida Nation to a person serving on a board, committee, or commission ~~caused by resignation, end of term, removal, termination, or creation of a new position~~ of the Nation in order to compensate the individual for his or her contribution of time, effort, and work for his or her board, committee, or commission for the betterment of the Nation.

~~(c) "Application" means any process by which a person proceeds to be appointed to a vacancy.~~

~~(d) "Appointment" means the process by which a person is chosen to fill a vacancy.~~

~~(e)~~(o) "Subcommittee" means a subgroup of an entity; which is comprised of fewer than all members of the entity; which is designated one (1) or more specific responsibilities on behalf of the entity.

(p) "Substantiated complaint" means a complaint or allegation in a complaint that was found to be valid by clear and convincing evidence.

(q) "Task Force or Ad Hoc" means a group of persons gathered to pursue a single goal, the accomplishment of which means the disbanding of the group. The goal is generally accomplished in a short time period, i.e. less than one year, but the goal itself may be long-term.

~~(f) "Conference"~~(r) "Vacancy" means any ~~training, seminar, meeting, or other assembly~~ position on any board, committee or commission ~~caused by resignation, end of persons which is not~~ term, removal, termination, or creation of a new position.

#### **105.4. Creation of an assembly Entity**

105.4-1. An entity of the ~~entity~~ Nation shall be created by a resolution or law adopted by the Oneida Business Committee or General Tribal Council.

~~(g) "Per Diem" means the payment made by 105.4-2. The law or resolution establishing the Tribe to offset~~entity shall state the ~~costs of being out of town or to travel on behalf~~purpose of the ~~Oneida Tribe of Indians of Wisconsin.~~

~~(h) "Stipend" means that amount paid by~~entity and all powers and responsibilities delegated to the ~~entity.~~

105.4-3. The Oneida Business Committee shall be responsible for drafting the initial bylaws of the entity.

#### **105.5. Applications**

105.5-1. The Oneida ~~Tribe of Indians of Wisconsin to persons serving on boards, committees and commissions of the Oneida Tribe of Indians of Wisconsin to offset the~~

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~~expenses of being a member on the board, committee or commission.~~

~~(i) "Official" means any person appointed or elected to membership~~ Business Committee  
shall approve all applications to serve on an entity of the ~~Oneida Tribe.~~

#### ~~105.4~~ Nation. ~~Applications~~

~~105.4-1.~~ All ~~applications~~ application materials shall be ~~generated by~~ available in the ~~Tribal Secretary's~~ Business Committee Support Office and ~~approved~~ any other location specified by the ~~Oneida~~ Business Committee Support Office.

~~105.4-2.~~ The content of ~~(a)~~ All applications shall ~~be as follows~~ include:

~~(a)~~ questions designed to obtain the following information

- ~~(1)~~ name
- ~~(2)~~ address
- ~~(3)~~ phone number
- ~~(4)~~ enrollment number
- ~~(5)~~ position applied for

~~(b)~~ applications may contain any other questions necessary to obtain information necessary to making an informed decision as to the qualifications of any individual to hold any vacancy.

~~(c)~~ Form A-1, attached, is the current approved application form in use and shall be placed in the Tribal Secretary's Office and other locations specified by the Tribal Secretary's Office.

(1) a statement explaining the attendance requirements of section 105.12-3; and

(2) a section regarding disclosures of conflicts of interest.

(b) An additional application form shall be required for those entities that require a background investigation. This background investigation application shall include the applicant's social security number and any other information required for a background investigation. The background investigation application shall be solely used for the background investigation and not included in the application materials that are then shared with the Oneida Business Committee, entity, and/or the Election Board.

~~105.5-2.~~ ~~105.4-3.~~ Applications shall be filed with the ~~Tribal Secretary's office~~ Business Committee Support Office by 4:30 p.m. of the deadline date. Postmarked envelopes are accepted as filed if postmarked by the deadline date and received by the ~~Tribal Secretary's Office~~ Business Committee Support Office within five (5) business days of the deadline. ~~At the completion of the posted deadline for filing applications the Tribal Secretary shall notify by postcard all persons who have filed an application of the date the application was filed and whether it will be considered for the election or appointment. A tentative date for appointment will be placed on the post card with the instruction that this is a tentative date and further information can be requested by calling the Tribal Secretary's Office. Postcard information should be in substantially similar format as that in Figure 1.~~ Business Committee Support Office within five (5) business days of the deadline.

Your application was received on:

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~~Tentative date for appointment or election:~~

~~You application 9 is -9 is not being considered.~~

~~For more information, call the Tribal Secretary's Office at 869-2214.~~

~~105.105.5-3.~~ Eight (8) days after the posted deadline for filing applications the Business Committee Support Office shall notify all persons who have filed an application of the date his or her application was received and if his or her application met the deadline to be considered for the election or appointment.

~~105.5-4-4.~~ Applications for elected positions shall be verified according to the Oneida Election Ordinance. ~~Nation's laws and/or policies governing elections.~~ Applications for appointed positions shall be verified by the Tribal Secretary's Business Committee Support Office as needed or as required in the by-laws ~~bylaws~~ of the entity.

~~105.4-5-5.~~ Insufficient Applicants. In the event that there are an insufficient number of applicants after the deadline date has passed for appointed positions, the Tribal Chairperson ~~Oneida Business Committee~~ may elect to:

- (a) ~~Include~~ include within the pool of appointed persons late applications, or
- (b) ~~Repost~~ repost for an additional time period. In the event of reposting, prior applicants will be considered to have filed applications within the deadline period.

## **105.56. Vacancies**

~~105.5-1.~~ This section shall govern when vacancies occur, and where and when notice of the vacancies shall be posted.

~~105.5-2.~~ The following vacancies shall be effective as listed herein.

105.6-1. The manner by which an individual fills a vacancy, either through election or appointment, shall determine that member's status as an appointed or elected official, despite the entity's classification as an appointed or elected entity pursuant to the entity's bylaws.

105.6-2. A position on an entity shall be considered vacant in the following situations:

- (a) *End of Term.* A vacancy is effective as of 4:30 p.m. of the last day of the month in which the term ends ~~as of the by-laws of the entity.~~

(1) Although a position is considered vacant once the term ends, the member of the entity may remain in office until the member's successor has been sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity.

- (b) *Removal.* Removal is effective, ~~under adopted~~ pursuant to any law and ~~approved procedures of the entity, when the final action has taken place. Where a final action is defined as~~ or policy of the Nation regarding removal.

- ~~(1) failure to file a timely appeal,~~
- ~~(2) denial of appeal, or~~
- ~~(3) final written opinion is filed.~~

- (c) Termination of Appointment. A termination is effective upon a two-thirds (2/3)

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majority vote of the Oneida Business Committee in favor of a member's termination of appointment.

(d) Resignation. A resignation is effective upon:

- (1) Deliverance of a letter to the entity, or Business Committee Support Office and to the Chairperson of the entity, or designee; or
- (2) Acceptance by motion of the entity of a verbal resignation.

(de) New Positions. Vacancies on new entities are effective upon adoption of by-laws ~~by laws~~.

105.6-3. (e) Interim Positions. ~~Vacancies of interim positions are effective upon creation of interim positions by~~ An entity shall notify the Oneida Business Committee Support Office as soon as the entity learns that a position has or General Tribal Council.

105.5-3 will become vacant. All notices of vacancy shall be sent to the entities for clarification or confirmation prior to notification to the Oneida Business Committee. ~~The following guidelines are minimum notice requirements:~~

~~(a) End of Term.~~ Entity should be notified 60 days prior to end of term by the Tribal Secretary.

~~(b) Removal or Resignation.~~ Entity should be notified as soon as final action is taken by the Oneida Business Committee or General Tribal Council to accept the resignation, or final action according to any Removal law of the Tribe.

105.5-4. ~~Notice of vacancies shall be by the Tribal Secretary's Office in the following locations:~~

~~(a) Tribal Secretary's Office~~

~~(b) The Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida Community Health Center, the South Eastern Wisconsin Oneida Tribal Services (SEOTS) building and the Highway 54 and E & EE Oneida One Stops.~~

~~(c) Kalihwisaks~~

~~(d) Minutes of the Oneida Business Committee, and~~

~~(e) Any reasonable location requested by the entity.~~

105.5-5. ~~The Tribal Secretary's~~ Support Office shall forward the notice of vacancy to the Oneida Secretary. The Secretary shall request and receive approval from the Oneida Business Committee to post the notice of vacancy. The Business Committee ~~for approval and direction to post notice as set out in this section. The Tribal Secretary shall~~ Support Office shall post notice of vacancies at the following times:

~~(a) End of Term.~~ (a) End of Term. Automatically ~~thirtysixty (60)~~ thirty (30) days prior to completion of the term.

~~(b) Removal.~~ Upon notice by Secretary, or other person authorized by ~~No later than~~ the by-laws next Oneida Business Committee meeting following the effective date of the entity, to the Tribal Secretary's Office. ~~removal.~~

~~(c) Resignation.~~ Upon notice by ~~No later than~~ the Secretary, or other person authorized by next Oneida Business Committee meeting following the by-laws Business Committee Support Office's receipt of notice of an effective resignation from the entity, ~~to the Tribal Secretary's Office.~~

(d) New Positions. Upon one of the following conditions:

- (1) if not specified, immediately upon creation of entity or adoption of ~~by~~

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~~laws~~bylaws, whichever is later, or

(2) upon date specified when creating the entity.

~~(e) Interim Members. Upon one of the following:~~

~~(1) upon completion of the term designated to hold in new entity, or~~

~~(2) upon completion of vacant term of the pre-existing entity~~

~~(f) Termination of appointment. At~~No later than the next Oneida Business Committee meeting following the effective date of the ~~termination of appointment.~~

#### 105.6. ~~Appointed Positions~~

~~105.6.1. All appointments-~~5. Notice of vacancies shall be made posted by the Business Committee Support Office in all official media outlets of the Nation, as determined by the Oneida Business Committee at regular or special Oneida Business Committee meetings. Provided that, no applicant may be appointed who fails to meet, as well as any other location deemed appropriate by the requirements set out in the entity's by laws~~Secretary.~~

#### 105.7. Appointment to an Entity

~~105.6.2-7-1. Appointment Selection.~~ The following procedures shall be used to determine ~~who shall be~~how the applicant for an appointed position is selected:

(a) ~~Five (5)~~Eight (8) business days after ~~close of notice,~~the posted deadline for submitting an application, or within twenty-one (21) days of the posted deadline if the entity requires a background investigation to be completed as part of the application process, the Business Committee Support Office shall:

(1) deliver all applications~~shall be delivered to the Tribal Chairperson,~~ along with a summary of qualifications to hold office, and the results of the background investigation if required, to each member of the Oneida Business Committee as well as the entity's Chairperson; and

~~(b) Within a reasonable time, the Tribal Chairperson shall:~~

(2) place the appointment for the entity on the next executive session portion of the agenda of a regular or special Oneida Business Committee meeting in which the appointment is intended to be made.

(b) Each member of the Oneida Business Committee shall review the application materials prior to executive session and be prepared to discuss and select an applicant for appointment.

(1) The entity's Chairperson may have until the executive session to review the application materials and provide the Oneida Business Committee a recommendation of an applicant for appointment.

(c) The Oneida Business Committee shall have a full and complete discussion of the merits and qualifications of the potential applicants, and any recommendation made by the Chairperson of the entity, during executive session. After completing a thorough discussion, the Oneida Business Committee shall:

(1) choose an applicant for appointment, or

(2) ask the ~~Tribal Secretary's Office~~Oneida Nation's Secretary to re-notice the vacancy because of ineligible, unqualified, or under qualified applicants.

~~(e) Forward choice of applicants to all Council members prior to appointment:~~



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- ~~(1) Council members may accept the Tribal Chairperson's selected applicants, or~~  
~~(2) Reject an applicant.~~ (d) All appointments shall be made by majority vote the Oneida Business Committee during the open session of a quorum at any regular or special Oneida Business Committee meeting. The Oneida Business Committee shall not appoint an applicant who fails to meet the requirements set out in the entity's bylaws.  
(e) During the open session of the 105.6-3. All appointments are official upon taking an oath at a regular or special Oneida Business Committee meeting and all rights and delegated authorities of membership in the entity shall vest upon taking the oath. The Tribal Secretary shall notify the chosen persons when they should appear for taking the oath, a member of the Oneida Business Committee may make a motion to appoint an individual. Oneida Business Committee members may:  
~~(a) Originals~~ (1) accept the selected applicant and vote to appoint the individual to the vacant position, or  
(2) reject the selected applicant and vote to oppose the appointment of the signed oath shall be maintained individual.  
(f) If the Oneida Business Committee rejects the selected applicant, the matter will be deferred to the next Oneida Business Committee meeting where another applicant may be recommended by the Tribal Secretary's Office. Oneida Business Committee, or the Oneida Business Committee may direct the vacancy to be re-posted. When a vacancy is re-posted under this section, all applications from the first posting shall be considered to have been filed within the deadline period.  
~~(b) Copies~~ 105.7-2. Notification of the oath shall be forwarded to the new member and the entity.  
~~(c) Wording of oaths shall be approved by the~~ Appointment. Once an individual is selected for appointment at an Oneida Business Committee and kept on file by the Tribal Secretary's Office.  
~~(1) The following oath is the standard oath to be used unless a specific oath for the entity is pre-approved by the Oneida Business Committee:~~  
~~I, ♦name♦, do hereby promise to uphold the laws and regulations of the Oneida Tribe of Indians of Wisconsin, the General Tribal Council, and the Tribal Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people with honor, respect, dignity, and sincerity and with the strictest confidentiality.~~  
~~I will carry out the duties and responsibilities as a member of the ♦entity name♦, and all recommendations shall be made in the best interest of the Oneida Tribe as a whole.~~  
~~(d) Revisions of oaths shall be approved by the Oneida Business Committee prior to usage.~~  
~~(e) All oaths shall be sufficient to make the appointee aware of their duty to the Oneida Tribe and as members of the entity.~~  
105.6-4. The Tribal meeting, the Nation's Secretary shall notify all applicants of the final status of their application.  
(a) The Tribal Nation's Chairperson shall forward a list of all applicants to the Tribal Nation's Secretary and the final decision regarding the selection after the procedures in sec. 6-2 for selection of an applicant described in section 105.7-1 are completed. Provided that, the Tribal  
(b) The Nation's Secretary shall include on the notice to the applicant selected for appointment

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the following paragraph:

~~"The Oneida Tribe of Indians of Wisconsin reports all income paid by the Oneida Tribe in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."~~

~~105.6-5. Termination of Appointment. Appointed members of entities serve at the discretion of the Oneida Business Committee. Upon the recommendation of the Tribal Chair, an appointed member of an entity may have his or her appointment terminated by the Oneida Business Committee by a two-thirds majority vote of the entire Oneida Business Committee.~~

### ~~105.7 Elected Positions~~

~~105.7-1. All elected positions, unless otherwise noted in the by laws of the entity, shall be nominated at a caucus called by the Oneida Election Board, or petition for ballot placement, in accordance with the Oneida Election Law. Provided that, when the Election Board notifies a petitioner or nominee that he or she is eligible to be placed on the ballot, the following paragraph shall be included:~~

~~"The Oneida Tribe of Indians of Wisconsin~~Nation ~~reports all income paid by the Tribe~~Oneida Nation ~~in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."~~

~~105.7-2. All other processes shall be as directed in the Oneida Election Law~~3. Declination of Appointment. An individual who has been selected for appointment to an entity by the Oneida Business Committee may decline the appointment.

(a) An individual may decline an appointment to an entity in the following ways:

(1) Delivery of an letter stating that the individual wishes to decline the appointment to the Business Committee Support Office; or

(2) The failure to take the oath of office within thirty (30) days of being selected for appointment by the Oneida Business Committee.

(b) The Business Committee Support Office shall notify the Oneida Business Committee if an individual declines an appointment to an entity. The Oneida Business Committee shall then use the original pool of applications for the vacancy posting and the process outlined in section 105.7-31 to select another applicant for appointment.

~~105.7-4. Termination of Appointment. An appointed member of an entity serves 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.~~

(a) A two-thirds majority vote of the Oneida Business Committee shall be required in order to terminate the appointment of an individual.

(b) The Oneida Business Committee's decision to terminate an appointment is final and not subject to appeal.

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### **105.8 Election to an Entity**

105.8-1. All elected positions shall be nominated at a caucus called by the Oneida Election Board, or petition for ballot placement, in accordance with the Nation's laws and/or policies governing elections, except where an entity's bylaws allow for a vacancy to be filled by appointment.

(a) When the Election Board notifies a petitioner or nominee that he or she is eligible to be placed on the ballot, the following paragraph shall be included: "The Oneida Nation reports all income paid by the Nation in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

105.8-2. All other processes for the election of a member of an entity shall be as directed by the Nation's laws and/or policies governing elections.

### **105.9. Oath of Office**

105.9-1. All appointed and elected positions are official upon taking an oath ~~at~~during a regular or special Oneida Business Committee meeting-and-all. All rights and delegated authorities of membership in the entity shall vest upon taking the oath. The Nation's Secretary shall notify the chosen persons when they shall appear for taking the oath.

(a) The appointed or elected member shall appear in person at the Oneida Business Committee meeting to take his or her oath, except if granted permission by the Secretary to appear by video conferencing equipment.

105.9-2. The Oneida Business Committee shall approve wording of oaths. Any revisions of oaths shall be approved by the Oneida Business Committee prior to usage. Oaths shall be kept on file by the Business Committee Support Office.

105.9-3.(a)— Originals of the signed oath, or electronic copies of the originals of the signed oath, shall be maintained by the Tribal Secretary's Business Committee Support Office.

(b) Copies of the oath shall be forwarded to the new member of the entity and the entity.

105.9-4. © Wording of oaths shall be approved by the Oneida Business Committee and kept on file by the Tribal Secretary's Office. The following oath is the standard oath to be used unless a specific oath for the entity is pre-approved by the Oneida Business Committee:

I, ~~♣~~[name~~♣~~], hereby promise to uphold the laws and regulations of the Oneida ~~Tribe of Indians of Wisconsin~~Nation, the General Tribal Council, and the ~~Tribal~~Oneida Nation Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people with honor, respect, dignity, and sincerity and ~~with~~will strictly maintain confidential information. I will carry out the ~~strictest confidentiality~~duties and responsibilities as a member of the [entity name], and all recommendations shall be made in the best interest of the Oneida Nation as a whole.

I will carry out the duties and responsibilities as a member of the ~~♣~~entity name~~♣~~, and all recommendations shall be made in the best interest of the Oneida Tribe as a whole.

(d) Revisions of oaths shall be approved by the Oneida Business Committee prior to usage.

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~~(e)~~105.9-5. All oaths shall be sufficient to make the ~~appointee~~appointed or elected member of an entity aware of their duty to the ~~Tribe~~Nation and as members of the entity.

## ~~105.8. By-Laws of Boards, Committees and Commissions~~

### ~~105.8~~10. Bylaws

~~105.10-1. By-Laws~~All entities of ~~all Boards, Committees and Commissions~~the Nation shall have bylaws that conform to the requirements of this outline law. Bylaws shall become effective upon approval of the Oneida Business Committee, unless where General Tribal Council approval is additionally required.

(a) All existing entities must comply with this format and present ~~by-laws~~bylaws for adoption within a reasonable time after creation of the entity, or within a reasonable time after adoption of this ~~policy~~law.

(b) Bylaws must contain ~~this~~at least the minimum information required by law, although more information is not prohibited.

~~105.8-2. Specifically excepted from this section are (c) Exception.~~ Task Forces and Ad Hoc Committees are excepted from the requirement to have bylaws. However, these entities must have, at minimum, mission or goal statements for completion of the task.

~~105.8-3. There~~10-2. Articles. Bylaws shall ~~be~~contain, at a minimum, the following Articles:

- (a) Article I. Authority.
- (b) Article II. Officers.
- (c) Article III. Meetings.
- (d) Article IV. ~~Reporting~~Expectations.
- (e) Article V. Stipends and Compensation.
- (f) Article VI. Records and Reporting.
- (g) Article VII. Amendments.

~~105.8-4~~10-3. Sections. Articles shall be divided into "~~Sections~~sections" as set out.

(a) "Article I. Authority" ~~consists~~shall consist of the following ~~information~~:

(1) Name. ~~All entities should list the~~The full name of the entity. ~~In addition, there should be listed~~ shall be stated, along with any short name that will be officially used.

(2) ~~Authority~~Establishment. This section ~~should~~shall state the citation and name, if any, of the creation document.

(3) Authority. This section shall state the purpose for which the entity was created and what, if any, authority the entity is delegated.

(4) Office. There ~~should~~shall be listed the official office or post box of the entity.

(5) Membership. The following information ~~should~~shall be in this section:

- (A) Number of members on the entity;
- (B) ~~How~~If members on the entity are elected or appointed; and how a member is elected or appointed;
- (C) How vacancies are filled; and
- (D) ~~The qualifications~~Qualifications for membership on the entity.

(i) In order to qualify for membership on an entity, a person shall meet the minimum age requirements set forth for status as a

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qualified voter of the Nation, unless a law, policy, or directive sets forth a minimum age requirement.

(6) Termination or Removal. This section shall identify causes for termination or removal, if any, in addition to those already identified in laws and/or policies of the Nation.

(7) Trainings and Conferences. This section shall describe any trainings and/or conferences that the entity deems necessary for members to responsibly serve the entity, if any.

(b) "Article II. Officers" ~~consists~~shall consist of the following ~~information~~:

(1) ~~Chair~~Chairperson and Vice-~~Chair~~Chairperson. This section creates the chairperson and vice-chairperson positions of the entity. Other officer positions may also be created here.

(2) ~~Chair duties. Because of the importance~~Responsibilities of this position; ~~those duties and limitations should be specifically listed.~~

~~(3) Vice Chair duties.~~the Chairperson. Because of the importance of this position, ~~those~~all duties and responsibilities of the chairperson, as well as limitations ~~should~~of the chairperson shall be specifically listed here.

(3) Responsibilities of the Vice-Chairperson. Because of the importance of this position, all duties and responsibilities of the vice-chairperson, as well as limitations of the vice-chairperson shall be specifically listed here.

(4) Responsibilities of Additional ~~Offices and Duties.~~Officers. There ~~should~~may be additional sections as needed for every ~~office~~officer position created in subsection one (1) above. These sections shall state all duties and responsibilities of the officer, as well as any limitations of the officer.

(5) ~~How chosen. There should be specifically set out~~Selection of Officers. This section shall identify how a member of the entity ~~will occupy~~shall be selected for an official officer position ~~as set out in this section~~the entity.

~~(6) Budgetary Sign-Off Authority and Travel.~~ This section shall identify the entity's varying levels of budgetary sign-off authority, the members that are authorized to sign-off at each level, and how the entity shall handle approving travel on behalf of the entity.

(A) An entity shall follow the Nation's policies and procedures regarding purchasing and sign-off authority.

(B) An entity shall approve a member's request to travel on behalf of the entity by majority vote at a regular or emergency meeting of the entity.

(7) Personnel. State entities ~~This section shall state the entity's~~ authority for hiring personnel, if any, and the duties of such personnel.

(c) "Article III. Meetings" ~~consists~~shall consist of the following ~~information~~:

(1) Regular meetings. There ~~This section shall be listed~~identify when and where regular meetings shall be held, and, how the entity shall provide notice of the meeting agenda, documents, and minutes ~~will be disbursed to the members~~.

(2) Emergency meetings. There ~~This section shall be listed~~identify what constitutes an emergency meeting, how Emergency~~emergency~~ meetings shall be called ~~and noticed,~~ and how the entity shall provide notice of the emergency

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meeting.

(A) All bylaws shall include a provision requiring that 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) *Quorum*. This section shall ~~list~~identify how many members of an entity create a quorum.

(4) *Order of Business*. This section sets out how the agenda will be set up.

(5) *Voting*. This section ~~should list how~~shall identify voting ~~shall be taken, what percentages shall be needed~~requirements, such as, but not limited to—pass different items.;

(A) the percentages that shall be needed to pass different items;

(B) if, and when, the chairperson is allowed to vote;

(C) if the use of an e-poll is permissible; and

(D) if the use of and e-poll is permissible, who will serve as the Chairperson's designee for the responsibility of conducting an e-poll, if a designee is utilized.

(d) ~~“Article IV. Reporting”~~“Article IV. Reporting” ~~consists~~shall consist of the following information:

(1) *Behavior of Members*. This section shall identify the behavioral expectations and requirements of a member of the entity, and identify how the entity shall enforce these behavioral expectations.

(2) *Prohibition of Violence*. This section shall prohibit any violent intentional act 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, and set forth any further expectations regarding the prohibition of violence.

(3) *Drug and Alcohol Use*. This section shall prohibit the use of alcohol and prohibited drugs for a member of an entity when acting in their official capacity, and set forth any further expectations regarding the use of prohibited drugs and alcohol.

(4) *Social Media*. This section shall identify expectations for the use of social media in regards to official business of the entity.

(5) *Conflict of Interest*. This section shall state any standards and expectations additional to those required by law of the Nation in regards to conflicts of interest and how they are handled, as well as requirements related to prohibited activities resulting from disclosed conflicts of interest, and means by which a party can alleviate or mitigate the conflict of interest.

(e) “Article V. Stipends and Compensation” shall consist of the following information:

(1) *Stipends*. This section shall include a comprehensive list of all stipends members are eligible to receive and the requirements for collecting each stipend, if any in addition to those contained in this law.

(2) *Compensation*. This section shall include details regarding all other forms of



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compensation members are eligible to receive and the requirements for collecting such compensation, if any in addition to those contained in this law.

(f) "Article VI. Records and Reporting" shall consist of the following information:

(1) Agenda Items. Agenda items shall be maintained in ~~an~~ a consistent format as identified ~~format~~ by this section.

(2) Minutes. Minutes shall be typed and in a consistent format designed to generate the most informative record of the meetings of the entity. This may include a summary of action taken by the entity. This section shall identify the format for minutes, and a reasonable timeframe by which minutes shall be submitted to the Business Committee Support Office.

(3) Attachments. Handouts, reports, memoranda, and the like may be attached to the minutes and agenda, or may be kept separately, provided that all materials can be identified to the meeting in which they were presented. This section shall identify how records of attachments shall be kept.

(4) Oneida Business Committee Liaison. Entities ~~will report to~~ shall regularly communicate with the Oneida Business Committee member who is their designated liaison. This ~~reporting~~ section shall identify a format and frequency for communication which may be as the liaison and entity agree to, but not less than that required in any law or policy on reporting developed by the Oneida Business Committee or Oneida General Tribal Council. ~~Reports shall be made within a reasonable time after a meeting is held, or as the Oneida Business Committee member liaison and entity agree. Provided that, the agreement~~ The purpose of the liaison relationship is to uphold the ability of the liaison to act as a support to that entity.

~~(5)~~ Audio Recordings. An entity shall audio record all meetings. This section shall state how the entity shall audio record meetings, and how the entity shall maintain the audio records.

(A) Exception. Audio recordings of executive session portions of a meeting shall not be required.

(g) "Article ~~V~~ VII. Amendments" consists of:

(1) Amendments to By laws. ~~There should be described~~ Bylaws. This section shall describe how amendments to the ~~by laws shall take place. Provided that,~~ bylaws are made. Any amendments to bylaws shall conform to the requirements of this and any other policy. ~~Provided further, that amendments are of the Nation. Amendments to bylaws shall be~~ approved by the Oneida Business Committee, in addition to the General Tribal Council when applicable, prior to implementation.

### 105.11. Electronic Polling

105.11-1. An entity may utilize an e-poll when approval of an action may be required before the next available meeting agenda of the entity.

105.11-2. Conducting an E-Poll. The Chairperson of the entity, or designee, shall e-mail the e-poll to all members of the entity. Requests for an e-poll shall be sent only from an official e-mail address of the entity. The e-poll's message shall include the following information:



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(a) The e-mail subject line shall begin with "E-poll Request:" and include a short title describing the purpose of the request.

(b) The body of the e-poll shall contain the following elements:

(1) An executive summary of the reason for the request and why the request cannot be presented at the next available meeting of the entity;

(2) A proposed motion which shall be in bold and identified in a separate paragraph by the words "Requested Action;"

(3) All attachments in \*.pdf format, which are necessary to understand the request being made; and

(4) A deadline date for a response to be returned regarding the results of the electronic poll which shall be in bold and identified in a separate paragraph by the words "Deadline for Response."

(A) E-poll requests shall be open for response not less than one (1) hour and no more than twenty-four (24) hours.

(B) The time frame for responses shall be determined by the Secretary of the entity, or designee, based on urgency, scheduling, and any other pertinent factors.

### 105.11-3.

~~105.9~~ *Response to an E-Poll.* A response from a member of an entity shall be valid if received from an official e-mail address of the entity. No responses from unknown e-mails or personal e-mails shall be accepted. An e-poll request shall receive responses from a majority of members of the entity in order to be an official vote.

(a) E-polls that receive at least a majority of supporting votes by the deadline are considered to be approved.

(b) E-polls for which insufficient responses were received by the deadline are considered to have failed to receive support, and result in a denied request.

(c) E-polls that result in a denied request may be reconsidered by the entity at the next available meeting.

(d) The Chairperson, or designee, shall monitor all responses and deadline dates for responses.

105.11-4. *Entering an E-Poll in the Record.* Both approved and denied e-poll requests shall be placed on the next meeting agenda of the entity to be entered into the record. The agenda item shall contain the following information:

(a) Original e-poll request and all supporting documentation;

(b) A summary of the e-poll results identifying each member of the entity and his or her response; and

(c) A copy of any comment by a member of the entity if comments are made beyond a vote.

## 105.12. Reporting Requirements

### 105.12-1. Minutes

~~105.9-1.~~ All minutes shall be submitted to the ~~Tribal Secretary's~~ Business Committee Support Office within a reasonable time after approval by the entity, as identified in the entity's bylaws.

~~105.9-2.~~ (a) Actions taken by an entity are valid when upon approval of the action by

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vote, unless the bylaws of the entity otherwise require minutes are approved, provided that, minutes are to be approved by the entity before the actions are valid.

(b) Minutes shall be filed according to this section, and any specific directions within approved ~~by laws~~bylaws.

~~(c) 105.9-3.~~ No action or approval of minutes is required by the Oneida Business Committee on minutes submitted by an entity unless specifically required by the ~~by-laws~~bylaws of that entity.

105.12-2. Standard Operating Procedures. All standard operating procedures established by an entity shall be submitted to the Business Committee Support Office, where they shall be kept on file.

105.12-3. Quarterly Reports to the Oneida Business Committee. Entities shall provide quarterly reports to the Oneida Business Committee in accordance with the quarterly reporting schedule approved by the Oneida Business Committee. All quarterly reports shall be approved by official entity action before they are submitted. The quarterly reports shall not contain any information that conflicts with any law, resolution, or policy of the Nation. At least one (1) member of the entity shall attend the Oneida Business Committee meeting where the quarterly report is an agenda item. Quarterly reports shall follow a format prescribed by the Oneida Business Committee and contain the following information:

(a) Contact Information. The name of the entity, the member submitting the report, the Oneida Business Committee liaison; and a list of the members and their titles, term expiration dates and contact information.

(b) Meetings. When and how often the entity is holding meetings and whether any emergency meetings have been held.

(1) If emergency meetings were held, the report shall indicate the basis of the emergency for each meeting.

(c) Accomplishments. Details of what the entity has accomplished that ~~entity~~quarter, including any special events held during the reporting period and any travel by the members and/or staff.

(d) Goals. Details of both ~~105.9-4. In the event of dissolution~~entity's long term goals, the entity's goals for the next quarter, and projected quarterly activities.

(e) Budget. The amount of ~~an~~the entity's budget, the status of the budget at that quarter, the amount of each stipend a member may be eligible to receive, how the budget is being utilized by the entity, ~~all files and documents are~~and projected budgetary uses for the next quarter.

(f) Requests. Details of any requests to the Oneida Business Committee.

(g) Other. And any other information deemed appropriate by the entity, as well as any other information required ~~to be forwarded to the Tribal Secretary's Office for proper storage and disposal~~by a law or policy of the Nation.

~~105.10. Dissolution of~~ 12-4. Annual and Semi-Annual Reports to the General Tribal Council.  
Entities

~~105.10-1. All entities of the Tribe shall be dissolved according to this section. Provided that other specific directions may be included within by laws.~~

~~105.10-2. A task force or ad hoc committee dissolves upon a set date or acceptance of a final~~

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~~report. Unless otherwise indicated, the materials generated by a task force or ad hoc committee shall be forwarded to the Tribal Secretary's Office for proper disposal within two weeks of dissolution.~~

~~105.10 3. All other entities of the Tribe shall be dissolved only by motion of~~ provide annual reports to the Oneida General Tribal Council ~~or based on their activities during the previous fiscal year, and semi-annual reports based on their activities during the current fiscal year. All annual and semi-annual reports shall follow a format prescribed by the Oneida Business Committee. Unless otherwise indicated, the materials generated by these entities shall be forwarded to the Tribal Secretary's Office for proper disposal within two weeks of dissolution.~~

~~105.10 4. All Chairpersons~~ (a) Annual and ~~Secretaries of dissolved entities~~ semi-annual reports shall be responsible for closing out open business contain information on the number of substantiated complaints against all members of the entity.

(b) Each entity with oversight of a department shall also submit annual and forwarding materials semi-annual reports for each department the entity oversees.

~~105.11-105.12-5.~~ Any failure to comply with the reporting requirements may result in the Oneida Business Committee placing a hold on the release of a stipend payment.

### **105.13. Stipends, Reimbursement and Compensation for Service**

~~105.13-1. Stipends~~ 105.11 1. Compensation and reimbursement for expenses shall ~~be follow the procedures as set out in this section and according to procedures for payment as set out in this section and according to procedures for payment as set out by the Oneida Tribe of Indians of Wisconsin by the Nation.~~

~~105.11 2. The Oneida Tribe recognizes that persons serving on entities of the Tribe, whether elected or appointed, incur some expense. Therefore, the Tribe, in order to attract persons to serve on entities, shall pay stipends to these members in accordance with this section.~~

~~105.11 3. Meeting Stipends for Appointed Members. Except provided in sub (a) and unless otherwise declined by the entity through its bylaws, or declined by a member(s), appointed members serving on entities shall be paid a stipend of no more than \$50 per month when at least one (1) meeting is conducted where a quorum has been established in accordance with the duly adopted by laws of that entity. Provided that the meeting lasts for at least one (1) hour and that members collecting stipends must be present for at least one (1) hour of the meeting.~~

~~(a) Members serving on the Oneida Child Protective Board shall be exempt from the \$50 stipend per month limitation and shall receive a \$50~~ 105.13-2. The Oneida Business Committee shall set stipend for each meeting held in accordance with amounts by resolution. ~~105.11 3.~~

~~105.11 4. Meeting Stipends for Elected Members. Unless otherwise declined by the entity through its bylaws, or declined by a member(s), elected members serving on entities shall be paid a minimum stipend of \$50 for each meeting which has established a quorum in accordance with the duly adopted by laws of that entity for at least one (1) hour, regardless of the length of the meeting. Members collecting stipends must be present for at least one (1) hour of the meeting, regardless of the length of the meeting.~~

~~105.11 5.~~ The Oneida Business Committee shall periodically review the amounts provided for meeting stipends and, based on the availability of funds, shall adjust those amounts accordingly

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by amending ~~this Policy~~ the resolution. Stipends are paid in the form of cash or cash equivalent, which may include, but is not limited to, gift cards.

105.13-3. Meeting Stipends. A member of an entity shall only receive a meeting stipend for a meeting where a quorum has been established in accordance with the duly adopted bylaws of that entity, that lasts for at least one (1) hour, and the member collecting the stipend is physically present for the entire meeting.

(a) Meeting Stipends for an Appointed Entity. An individual serving on an appointed entity shall be paid no more than one (1) meeting stipend per month.

(b) Meeting Stipends for an Elected Entity. An individual serving on an elected entity shall be paid no more than two (2) meeting stipends per month.

105.13-4. Oneida Judiciary Hearings. A member of an entity shall receive a Judiciary hearing stipend if the member's attendance at the Judiciary hearing is required by official subpoena.

105.13-5. Hearings of an Entity. A member of an entity that maintains hearing authority may obtain a hearing stipend for conducting hearings administered by the entity. A hearing consists of all functions related to the resolution of the matter notwithstanding the amount of time it takes to resolve the matter, including, but not limited to, any continuations of the hearing and decision drafting.

105.13-6. ~~105.11-6.~~ Other Stipends. The Oneida Business Committee shall determine if, and when, any other stipends are appropriate to compensate members of entities for their official actions. All possible stipends shall be included in the Oneida Business Committee resolution which sets stipend amounts.

105.13-7. Conferences and Training. A member of any entity, elected or appointed, shall be reimbursed in accordance with the ~~Tribal~~Nation's policy for travel and per diem, for attending a conference or training. Provided that:

(a) A member shall be eligible for a ~~\$100~~ stipend for each full day the member is present at the conference or training, when attendance at the conference or training is required by law, bylaw or resolution.

(b) A member shall not be eligible for a conference and training stipend if that training is not required by law, bylaw or resolution.

(c) No stipend payments shall be made for those days spent traveling to and from the conference or training.

105.~~11-7.~~13-8. Business Expenses. All members of entities shall be eligible for reimbursement for normal business expenses naturally related to membership in the entity.

105.~~11-8~~13-9. Task Force ~~members and members~~Ad Hoc Subcommittees. Members of task force, ad hoc committees and subcommittees shall not be eligible for stipends unless specific exception is made by the Oneida Business Committee or the Oneida General Tribal Council.

## **105.~~12~~14. Confidential Information**

105.~~12~~14-1. ~~The Oneida Tribe is involved in numerous business ventures and governmental functions where it is necessary that private information be kept in the strictest confidence to assure the continued success and welfare~~All members of the Tribe. ~~It is in the best interest of the Oneida Tribe that all officials~~an entity shall maintain in a confidential manner all information, ~~whether of historical, immediate, or future use or need.~~obtained through their position on the entity. The ~~Oneida Tribe desires~~Nation requires that all ~~officials~~members of an

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entity who have access to the Oneida Tribe's Nation's confidential information be subject to specific limitations in order to protect the interest of the Oneida Tribe. ~~It is the intention of the Oneida Tribe~~ Nation and ensure that no persons engaged in by the Tribe Nation, nor their relatives or associates, benefit from the use of confidential information.

~~105.12-2. Confidential information means all information or data, whether printed, written, or oral, concerning business or customers of the Oneida Tribe, disclosed to, acquired by, or generated by officials in confidence at any time during their elected or appointed term or during their employment.~~

~~(a) 105.12-3.~~ Confidential information shall be considered and kept as the private and privileged records of the Oneida Tribe Nation and will not be divulged to any person, firm, corporation, or other entity except by direct written authorization of the Oneida Business Committee.

~~105.12-4. An official~~ (b) A member of an entity will continue to treat as private and privileged any confidential information, and will not release any such information to any person, firm, corporation, or other entity, either by statement, deposition, or as a witness, except upon direct written authority of Oneida Business Committee, and the Oneida Tribe Nation shall be entitled to an injunction by any competent court to enjoin and restrain the unauthorized disclosure of such information. Such restriction continues after termination of the relationship with the Oneida Tribe Nation and the entity.

~~(c) 105.12-5.~~ Upon completion or termination of his ~~/or~~ her elected or appointed term of membership in an entity, for any cause whatsoever, the ~~official~~ member of the entity will surrender to the Oneida Tribe Nation, in good condition, all records kept by the ~~employee~~ member of the entity.

~~105.12-6.~~ (d) No official member of an entity shall disclose confidential information acquired by reason of his ~~/her~~ other relationship or status with the Oneida Tribe Nation for his ~~/or~~ her personal advantage, gain, or profit, or for the advantage, gain, or profit of a relative or associate.

105.14-2. Any records created or obtained while as an official of an entity are the property of the Nation and can only be removed or destroyed by approval from a majority vote of the entity at a duly called meeting. All removal or destruction of documents must be made in accordance with the Nation's laws and policies regarding open records and open meetings.

105.14-3. Official Oneida Nation E-mail Address. Each member of an entity shall be provided an official Oneida e-mail address upon election or appointment for the purpose of conducting business of the entity electronically.

(a) If a member is also an employee of the Nation, he or she shall receive a separate e-mail address from his or her regular work e-mail address.

(b) A member of an entity shall sign an acknowledgment form provided by the Nation's Secretary indicating notice of the Nation's applicable computer and media related laws, policies and rules. The Nation's Secretary shall maintain a record of all such acknowledgment forms.

(c) A member of an entity shall not use any personal or work e-mail address to electronically conduct any business of the entity.

(d) Immediately upon receipt of notice of an entity vacancy, the Nation's Secretary shall instruct the Management Information Systems department to disable the e-mail

address for the member having vacated the position.

### **105.15. Conflicts of Interest**

105.15-1. All members of an entity are required to adhere to the Nation's laws and policies governing conflicts of interest.

105.15-2. A member of an entity shall disclose a conflict of interest to the Nation's Secretary as soon as the conflict arises, and update a conflict of interest disclosure form with the Nation's Secretary on an annual basis.

(a) Upon receiving information of a potential conflict of interest, the Nation's Secretary shall request a determination from the Oneida Law Office whether further action must be taken by the Nation regarding the status of the official.

105.15-3. Due to the potential for a real or perceived conflict of interest to exist, political appointees shall not serve on an appointed or elected entity.

### **105.16. Use of the Nation's Assets**

### **105.13. Conflicts of Interest**

#### *Subpart A. General*

~~105.13-1. The Oneida Tribe recognizes the ability of all persons to serve on entities of the Oneida Tribe. However, it is also recognized that the delegated authority and responsibilities of an entity may cause conflict with membership on other entities or employment.~~

~~105.13-2. It is the policy of the Oneida Tribe to request a candidate to disclose possible conflicts prior to election or appointment to allow the conflicts to be resolved in a timely manner.~~

~~105.13-3. Officials shall disclose and resolve conflicts of interest in a reasonable and timely manner. Failure to resolve conflicts shall result in removal from office for elected officials and may result in termination of appointment for appointed officials. Provided that, all applicants shall submit, with the application forms, a signed conflict of interest declaration disclosing all known conflicts.~~

~~105.13-4. This section sets forth specifically prohibited conflicts of interests. However, for any individual candidate or member on an entity, conflicts may arise within the by laws of that entity or employment relationships.~~

~~105.13-5. No official shall act as a consultant, agent, representative for, or hold any position as an officer, director, partner, trustee, or belong as a member in a board, committee or commission, or the like without first disclosing such activity to determine possible conflicts of interest.~~

#### *Subpart B. Employment Interests*

~~105.13-6. No official shall hold office in an entity which has authority over the area in which the official is employed by the Oneida Tribe or elsewhere. The Oneida Tribe recognizes the ability of all persons to serve on entities of the Oneida Tribe, however, recognizes the conflict arising out of membership on an entity and employment in an area over which the entity has authority.~~

~~105.13-7. Employment is defined for this subpart as that area which the employee supervises or~~



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is supervised in regards to a specific subject matter.

~~105.13-8. Authority of an entity is defined for this subpart as that area over which the entity has subject matter jurisdiction delegated either by the Oneida Business Committee or Oneida General Tribal Council, and for which that authority may be regulatory, oversight, or otherwise.~~

*~~Subpart C. Financial Interests, Investments, and Gifts~~*

~~105.13-9. No official, or their immediate family, may have a financial interest in any transaction between the entity and an outside party where the official has a financial or familial relationship.~~

~~105.13-10. The following words are defined for the purposes of this subpart:~~

~~(a) "Financial interest" means any profit sharing arrangements, rebates, payments, commissions, or compensation in any form, and shall include any form of ownership, regardless of ability to control the activities of the business. Provided that, this shall not include ownership of shares which, other than in combination with others, cannot exert a controlling influence on the activities of the business and in relation to the outstanding shares, the ownership of shares represents a small part of the whole.~~

~~(b) "Transaction" means any activity wherein a provider of goods and/or services is compensated in any form.~~

~~(c) "Immediate family" means the mother, father, sister, brother, daughter, son, granddaughter, grandson, grandfather, grandmother and these relationships with any spouse.~~

~~105.13-11. As referred to in this Subpart, entity includes for the purposes of defining conflicts, the programs or enterprises over which the entity has delegated authority.~~

~~105.13-12. Officials shall avoid personal investment in any business with which the Oneida Tribe has or is expected to have a contractual or other business relationship. Notwithstanding the foregoing, however, an investment by an official in a business with which the Oneida Tribe has dealings is permissible if the Oneida Business Committee or other delegated authority determines in writing that:~~

~~(a) the investment is not made or cannot be considered to have been made on the basis of confidential information, and~~

~~(b) the investment cannot be expected to adversely affect or influence the official's judgement in the performance of any services or obligations on behalf of the Oneida Tribe.~~

~~105.13-13. Officials shall not use their relationship with the Oneida Tribe to exercise undue influence to obtain anything which is not freely available to all prospective purchasers.~~

~~105.13-14. No official~~**16-1. Entities** ~~shall accept gifts, payments for personal gain, opportunities to invest, opportunities to act as an agent, a consultant, or a representative for actual or potential purchasers, sales sources, contractors, consultants, customers or suppliers, or accept any direct or indirect benefit from any actual or potential purchaser, sales source, contractor, consultant, customer, or supplier.~~

~~105.13-15. No official shall accept any gift, entertainment, service, loan, promise of future benefits or payment of any kind which the Oneida Business Committee or other delegated authority determines adversely affects or influence his/her judgement in the performance of any services, duties, obligations or responsibilities to the Oneida Tribe, or impairs confidence in the~~

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Oneida Tribe.

~~105.13-16. Notwithstanding the foregoing, however, officials may accept or provide business-related meals, entertainment, gifts or favors when the value involved is insignificant and the Oneida Business Committee or other delegated authority has determined that it clearly will not place him/her under any obligation.~~

#### *Subpart D. Competition With The Oneida Tribe*

~~105.13-17. No official shall enter into competition with the Oneida Tribe in the purchase or sale of any property, property rights or interests, without prior consent of the Oneida Tribe.~~

~~105.13-18. An official may enter into competition with the Oneida Tribe where the activity engaged is approved through an Oneida entrepreneur development program or other similar Oneida program and does not otherwise violate this policy.~~

#### *Subpart E. Use Of Tribal Assets*

~~105.13-19. All~~ maintain all bank accounts for ~~tribal~~ the Nation's funds ~~shall be maintained~~ in the name of the Oneida ~~Tribe and Nation.~~ Bank accounts will be reflected on the Oneida ~~Tribe's~~ Nation's books in accordance with Generally Accepted Accounting ~~Procedures~~ Principles.

~~105.13-20~~ 16-2. Each ~~official~~ member of an entity shall comply with the system of internal accounting controls sufficient to provide assurances that:

- (a) all transactions are executed in accordance with management's authorization; and
- (b) access to assets is permitted only in accordance with management's authorization; and
- (c) ~~all transactions are recorded to permit preparation of financial statements in conformity with generally accepted accounting principles~~ Generally Accepted Accounting Principles or other applicable criteria.

~~105.13-21. Any records created or obtained while as an official of an entity of the Oneida Tribe is/are the property of the Oneida Tribe and can only be removed or destroyed by approval from a quorum of the entity at a duly called meeting. All removal or destruction of documents must be made in accordance with the Open Records and Open Meetings law.~~

#### *Subpart F. Disclosure*

~~105.13-22. Each official shall disclose any outside activities or interests that conflict or suggest a potential conflict with the best interests of the Oneida Tribe by completely filling out the application for membership or informing the Oneida Business Committee or other designated authority after election or appointment of a conflict arising during membership on an entity.~~

#### *Subpart G. Reporting*

~~105.13-23. All conflicts or potential conflicts that arise during membership on an entity shall be immediately reported to the Tribal Secretary of the Oneida Tribe. Upon receiving information of a potential conflict of interest, the Tribal Secretary shall request a determination from the Oneida Law Office whether further action must be taken by the Oneida Tribe regarding the status of the official.~~

~~105.13-24.~~ 105.16-3. Any evidence of noncompliance with any policy regarding the use of tribal assets shall be immediately reported to the ~~internal audit staff.~~ Internal Audit department. If the ~~internal audit staff~~ Internal Audit department finds evidence of noncompliance they shall notify

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the Oneida Law Office ~~of the Oneida Tribe~~, who will then make a determination of further action to be taken, if any.

### **105.17. Dissolution of an Entity**

105.17-1. Dissolution of a Task Force or Ad Hoc Committee. A task force or ad hoc committee dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the materials generated by a task force or ad hoc committee shall be forwarded to the *Subpart H*. Business Committee Support Office for proper disposal within two (2) weeks of the dissolution.

105.17-2. Dissolution of an Entity. All other entities of the Nation shall be dissolved only by motion of the Oneida General Tribal Council or the Oneida Business Committee.

105.17-3. Notice of Dissolution. Within five (5) business days of the Oneida General Tribal Council or the Oneida Business Committee taking official action to dissolve an entity, the Oneida Business Committee shall provide the entity written notice of the dissolution.

105.17-4. Management of Records and Materials. All chairpersons and secretaries of dissolved entities shall be responsible for closing out open business of the entity and forwarding all materials and records to the Business Committee Support Office for proper storage and disposal within two (2) weeks of dissolution. The entity shall not alter or destroy any records. The Business Committee Support Office may utilize the assistance of the Records Management Department and/or any other appropriate department for the storage and disposal of the records and materials.

(a) The entity may request the Oneida Business Committee to grant a one (1) week extension of the time allowed to close out open business of the entity and forward all materials and records to the Business Committee Support Office.

### **105.18. Enforcement ~~And Penalties~~**

~~105.13-25. Officials~~105.18-1. Any member of an entity found to be in violation of this policy ~~law~~ may be ~~removed~~ subject to:

(a) sanctions and penalties in accordance with any laws or policies of the Nation governing sanctions and/or penalties;

(b) removal pursuant to ~~the Removal Law~~ any laws or policies of the Nation's governing removal, if the individual is a member of an elected entity; or ~~have their~~

(c) termination of appointment ~~terminated~~ by the Oneida Business Committee, if the individual is a member of an appointed entity.

~~105.13-26. Candidates for appointment or election to office found in violation of this policy may be disqualified from taking office.~~

End.

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Adopted - BC-~~8-208-02~~-95-A

Amended - BC-~~505~~-14-97-F

Emergency Amendments - BC-04-12-06-JJ

Amended - BC-~~909~~-27-06-E (permanent adoption of emergency amendments)

Amended - BC-09-22-10-C

Amended - BC-

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**Title 1. Government and Finances – Chapter 105**  
**BOARDS, COMMITTEES AND COMMISSIONS**

**Laotiyani<hsla>sh&ha k<tyohkway<=se>**

*Their laws of the groups we have*

105.1. Purpose and Policy  
105.2. Adoption, Amendment, Repeal  
105.3. Definitions  
105.4. Creation of an Entity  
105.5. Applications  
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105.7. Appointment to an Entity  
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105.13. Stipends, Reimbursement and Compensation  
105.14. Confidential Information  
105.15. Conflicts of Interest  
105.16. Use of the Nation's Assets  
105.17. Dissolution of an Entity  
105.18. Enforcement

**105.1. Purpose and Policy**

105.1-1. It is the purpose of this law to govern boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions.

(a) This law shall not apply to the Oneida Business Committee, or Standing Committees of the Oneida Business Committee.

(b) This law does not apply to Tribal corporations due to the corporate structure and autonomy of those entities.

105.1-2. It is the policy of the Nation to have consistent and standard procedures for choosing and appointing or electing the most qualified persons to boards, committees and commissions, for creation of bylaws governing boards committees and commissions, and for the maintenance of information created by and for boards, committees and commissions.

**105.2. Adoption, Amendment, Repeal**

105.2-1. This law was adopted by the Oneida Business Committee by resolution BC-05-14-97-F and amended by resolutions BC-09-27-06-E, BC-09-22-10-C, and BC-\_\_-\_\_-\_\_-\_\_.

105.2-2. 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.

105.2-3. 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.

105.2-4. 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.

105.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**105.3. Definitions**

105.3-1. 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) "Application" means the form by which a person seeks to be appointed to fill a vacancy on an entity.

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(b) "Appointment" means the process by which a person is chosen to fill a vacancy on an entity by the Oneida Business Committee.

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

(d) "Bylaws" means a document which provides a framework for the operation and management of a board, committee, or commission of the Nation chiefly for the government of its members and the regulation of its affairs.

(e) "Conference" means any training, seminar, meeting, or other assembly of persons which is not an assembly of the entity.

(f) "Confidential information" means all information or data, whether printed, written, or oral, concerning business or customers of the Nation, disclosed to, acquired by, or generated by a member of an entity in confidence at any time during their elected or appointed term or during their employment.

(g) "Conflict of interest" means any interest, real or apparent, whether it be personal, financial, political, or otherwise, in which an elected official, officer, political appointee, employee, contractor, or appointed or elected member, or their immediate family members, friends or associates, or any other person with whom they have contact, have that conflicts with any right of the Nation to property, information, or any other right to own and operate activities free from undisclosed competition or other violation of such rights of the Nation. In addition, conflict of interest also means any financial or familial interest an elected official, officer, political appointee, employee, contractor, or appointed or elected member or their immediate family members may have in any transaction between the Nation and an outside party.

(h) "Entity" means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose members are appointed by the Oneida Business Committee or elected by the Nation's membership.

(i) "E-poll" means an electronic poll, which is the act of delivering an e-mail to all members of an entity, in order to seek a response which identifies a vote in favor of, opposing, or abstaining to an issue requiring approval by the entity.

(j) "Nation" means the Oneida Nation.

(k) "Per Diem" means the payment made by the Nation to offset the costs of being on travel on behalf of the Oneida Nation.

(l) "Political appointee" means a person appointed by a member of the Oneida Business Committee to provide assistance with the Oneida Business Committee member's daily activities and operations.

(m) "Prohibited drugs" means marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substance included in Schedules I through V, as defined by Section 812 of Title 21 of the United States Code. This also includes prescription medication or over-the-counter medicine used in an unauthorized or unlawful manner.

(n) "Stipend" means the amount paid by the Oneida Nation to a person serving on a board, committee, or commission of the Nation in order to compensate the individual for his or her contribution of time, effort, and work for his or her board, committee, or commission for the betterment of the Nation.

(o) "Subcommittee" means a subgroup of an entity; which is comprised of fewer than all



members of the entity; which is designated one (1) or more specific responsibilities on behalf of the entity.

(p) "Substantiated complaint" means a complaint or allegation in a complaint that was found to be valid by clear and convincing evidence.

(q) "Task Force or Ad Hoc" means a group of persons gathered to pursue a single goal, the accomplishment of which means the disbanding of the group. The goal is generally accomplished in a short time period, i.e. less than one year, but the goal itself may be long-term.

(r) "Vacancy" means any position on any board, committee or commission caused by resignation, end of term, removal, termination, or creation of a new position.

#### **105.4. Creation of an Entity**

105.4-1. An entity of the Nation shall be created by a resolution or law adopted by the Oneida Business Committee or General Tribal Council.

105.4-2. The law or resolution establishing the entity shall state the purpose of the entity and all powers and responsibilities delegated to the entity.

105.4-3. The Oneida Business Committee shall be responsible for drafting the initial bylaws of the entity.

#### **105.5. Applications**

105.5-1. The Oneida Business Committee shall approve all applications to serve on an entity of the Nation. All application materials shall be available in the Business Committee Support Office and any other location specified by the Business Committee Support Office.

(a) All applications shall include:

(1) a statement explaining the attendance requirements of section 105.12-3; and

(2) a section regarding disclosures of conflicts of interest.

(b) An additional application form shall be required for those entities that require a background investigation. This background investigation application shall include the applicant's social security number and any other information required for a background investigation. The background investigation application shall be solely used for the background investigation and not included in the application materials that are then shared with the Oneida Business Committee, entity, and/or the Election Board.

105.5-2. Applications shall be filed with the Business Committee Support Office by 4:30 p.m. of the deadline date. Postmarked envelopes are accepted as filed if postmarked by the deadline date and received by the Business Committee Support Office within five (5) business days of the deadline.

105.5-3. Eight (8) days after the posted deadline for filing applications the Business Committee Support Office shall notify all persons who have filed an application of the date his or her application was received and if his or her application met the deadline to be considered for the election or appointment.

105.5-4. Applications for elected positions shall be verified according to the Nation's laws and/or policies governing elections. Applications for appointed positions shall be verified by the Business Committee Support Office as needed or as required in the bylaws of the entity.

105.5-5. *Insufficient Applicants*. In the event that there are an insufficient number of applicants after the deadline date has passed for appointed positions, the Oneida Business Committee may

elect to:

- (a) include within the pool of appointed persons late applications, or
- (b) repost for an additional time period. In the event of reposting, prior applicants will be considered to have filed applications within the deadline period.

#### **105.6. Vacancies**

105.6-1. The manner by which an individual fills a vacancy, either through election or appointment, shall determine that member's status as an appointed or elected official, despite the entity's classification as an appointed or elected entity pursuant to the entity's bylaws.

105.6-2. A position on an entity shall be considered vacant in the following situations:

- (a) *End of Term.* A vacancy is effective as of 4:30 p.m. of the last day of the month in which the term ends.

- (1) Although a position is considered vacant once the term ends, the member of the entity may remain in office until the member's successor has been sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity.

- (b) *Removal.* Removal is effective, pursuant to any law and/or policy of the Nation regarding removal.

- (c) *Termination of Appointment.* A termination is effective upon a two-thirds (2/3) majority vote of the Oneida Business Committee in favor of a member's termination of appointment.

- (d) *Resignation.* A resignation is effective upon:

- (1) Deliverance of a letter to the Business Committee Support Office and to the Chairperson of the entity, or designee; or
  - (2) Acceptance by motion of the entity of a verbal resignation.

- (e) *New Positions.* Vacancies on new entities are effective upon adoption of bylaws.

105.6-3. An entity shall notify the Business Committee Support Office as soon as the entity learns that a position has or will become vacant. All notices of vacancy shall be sent to the entities for clarification or confirmation prior to notification to the Oneida Business Committee.

105.6-4. The Business Committee Support Office shall forward the notice of vacancy to the Secretary. The Secretary shall request and receive approval from the Oneida Business Committee to post the notice of vacancy. The Business Committee Support Office shall post notice of vacancies at the following times:

- (a) *End of Term.* Automatically sixty (60) days prior to completion of the term.

- (b) *Removal.* No later than the next Oneida Business Committee meeting following the effective date of the removal.

- (c) *Resignation.* No later than the next Oneida Business Committee meeting following the Business Committee Support Office's receipt of notice of an effective resignation from the entity.

- (d) *New Positions.* Upon one of the following conditions:

- (1) if not specified, immediately upon creation of entity or adoption of bylaws, whichever is later, or
  - (2) upon date specified when creating the entity.

- (e) *Termination of appointment.* No later than the next Oneida Business Committee meeting following the effective date of the termination.

105.6-5. Notice of vacancies shall be posted by the Business Committee Support Office in all official media outlets of the Nation, as determined by the Oneida Business Committee, as well as any other location deemed appropriate by the Secretary.

### **105.7. Appointment to an Entity**

105.7-1. *Appointment Selection.* The following procedures shall be used to determine how the applicant for an appointed position is selected:

(a) Eight (8) business days after the posted deadline for submitting an application, or within twenty-one (21) days of the posted deadline if the entity requires a background investigation to be completed as part of the application process, the Business Committee Support Office shall:

(1) deliver all applications, along with a summary of qualifications to hold office, and the results of the background investigation if required, to each member of the Oneida Business Committee as well as the entity's Chairperson; and

(2) place the appointment for the entity on the next executive session portion of the agenda of a regular or special Oneida Business Committee meeting in which the appointment is intended to be made.

(b) Each member of the Oneida Business Committee shall review the application materials prior to executive session and be prepared to discuss and select an applicant for appointment.

(1) The entity's Chairperson may have until the executive session to review the application materials and provide the Oneida Business Committee a recommendation of an applicant for appointment.

(c) The Oneida Business Committee shall have a full and complete discussion of the merits and qualifications of the potential applicants, and any recommendation made by the Chairperson of the entity, during executive session. After completing a thorough discussion, the Oneida Business Committee shall:

(1) choose an applicant for appointment, or

(2) ask the Oneida Nation's Secretary to re-notice the vacancy because of ineligible, unqualified, or under qualified applicants.

(d) All appointments shall be made by the Oneida Business Committee during the open session of a regular or special Oneida Business Committee meeting. The Oneida Business Committee shall not appoint an applicant who fails to meet the requirements set out in the entity's bylaws.

(e) During the open session of the regular or special Oneida Business Committee meeting, a member of the Oneida Business Committee may make a motion to appoint an individual. Oneida Business Committee members may:

(1) accept the selected applicant and vote to appoint the individual to the vacant position, or

(2) reject the selected applicant and vote to oppose the appointment of the individual.

(f) If the Oneida Business Committee rejects the selected applicant, the matter will be deferred to the next Oneida Business Committee meeting where another applicant may be recommended by the Oneida Business Committee, or the Oneida Business Committee may direct the vacancy to be re-posted. When a vacancy is re-posted under this section,

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all applications from the first posting shall be considered to have been filed within the deadline period.

105.7-2. *Notification of Appointment.* Once an individual is selected for appointment at an Oneida Business Committee meeting, the Nation's Secretary shall notify all applicants of the final status of their application.

(a) The Nation's Chairperson shall forward a list of all applicants to the Nation's Secretary and the final decision regarding the selection after the procedures for selection of an applicant described in section 105.7-1 are completed.

(b) The Nation's Secretary shall include on the notice to the applicant selected for appointment the following paragraph: "The Oneida Nation reports all income paid by the Oneida Nation in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

105.7-3. *Declination of Appointment.* An individual who has been selected for appointment to an entity by the Oneida Business Committee may decline the appointment.

(a) An individual may decline an appointment to an entity in the following ways:

(1) Delivery of an letter stating that the individual wishes to decline the appointment to the Business Committee Support Office; or

(2) The failure to take the oath of office within thirty (30) days of being selected for appointment by the Oneida Business Committee.

(b) The Business Committee Support Office shall notify the Oneida Business Committee if an individual declines an appointment to an entity. The Oneida Business Committee shall then use the original pool of applications for the vacancy posting and the process outlined in section 105.7-1 to select another applicant for appointment.

105.7-4. *Termination of Appointment.* An appointed member of an entity serves 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.

(a) A two-thirds majority vote of the Oneida Business Committee shall be required in order to terminate the appointment of an individual.

(b) The Oneida Business Committee's decision to terminate an appointment is final and not subject to appeal.

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**105.8 Election to an Entity**

105.8-1. All elected positions shall be nominated at a caucus called by the Oneida Election Board, or petition for ballot placement, in accordance with the Nation's laws and/or policies governing elections, except where an entity's bylaws allow for a vacancy to be filled by appointment.

(a) When the Election Board notifies a petitioner or nominee that he or she is eligible to be placed on the ballot, the following paragraph shall be included: "The Oneida Nation reports all income paid by the Nation in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

105.8-2. All other processes for the election of a member of an entity shall be as directed by the Nation's laws and/or policies governing elections.

**105.9. Oath of Office**

105.9-1. All appointed and elected positions are official upon taking an oath during a regular or special Oneida Business Committee meeting. All rights and delegated authorities of membership in the entity shall vest upon taking the oath. The Nation's Secretary shall notify the chosen persons when they shall appear for taking the oath.

(a) The appointed or elected member shall appear in person at the Oneida Business Committee meeting to take his or her oath, except if granted permission by the Secretary to appear by video conferencing equipment.

105.9-2. The Oneida Business Committee shall approve wording of oaths. Any revisions of oaths shall be approved by the Oneida Business Committee prior to usage. Oaths shall be kept on file by the Business Committee Support Office.

105.9-3. Originals of the signed oath, or electronic copies of the originals of the signed oath, shall be maintained by the Business Committee Support Office. Copies of the oath shall be forwarded to the new member of the entity and the entity.

105.9-4. The following oath is the standard oath to be used unless a specific oath for the entity is pre-approved by the Oneida Business Committee: I, [name], hereby promise to uphold the laws and regulations of the Oneida Nation, the General Tribal Council, and the Oneida Nation Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people with honor, respect, dignity, and sincerity and will strictly maintain confidential information. I will carry out the duties and responsibilities as a member of the [entity name], and all recommendations shall be made in the best interest of the Oneida Nation as a whole.

105.9-5. All oaths shall be sufficient to make the appointed or elected member of an entity aware of their duty to the Nation and as members of the entity.

**105.10. Bylaws**

105.10-1. All entities of the Nation shall have bylaws that conform to the requirements of this law. Bylaws shall become effective upon approval of the Oneida Business Committee, unless where General Tribal Council approval is additionally required.

(a) All existing entities must comply with this format and present bylaws for adoption within a reasonable time after creation of the entity, or within a reasonable time after

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adoption of this law.

(b) Bylaws must contain at least the minimum information required by law, although more information is not prohibited.

(c) *Exception.* Task Forces and Ad Hoc Committees are excepted from the requirement to have bylaws. However, these entities must have, at minimum, mission or goal statements for completion of the task.

105.10-2. *Articles.* Bylaws shall contain, at a minimum, the following Articles:

(a) Article I. Authority.

(b) Article II. Officers.

(c) Article III. Meetings.

(d) Article IV. Expectations.

(e) Article V. Stipends and Compensation.

(f) Article VI. Records and Reporting.

(g) Article VII. Amendments.

105.10-3. *Sections.* Articles shall be divided into "sections" as set out.

(a) "Article I. Authority" shall consist of the following:

(1) *Name.* The full name of the entity shall be stated, along with any short name that will be officially used.

(2) *Establishment.* This section shall state the citation and name, if any, of the creation document.

(3) *Authority.* This section shall state the purpose for which the entity was created and what, if any, authority the entity is delegated.

(4) *Office.* There shall be listed the official office or post box of the entity.

(5) *Membership.* The following information shall be in this section:

(A) Number of members on the entity;

(B) If members on the entity are elected or appointed, and how a member is elected or appointed;

(C) How vacancies are filled; and

(D) Qualifications for membership on the entity.

(i) In order to qualify for membership on an entity, a person shall meet the minimum age requirements set forth for status as a qualified voter of the Nation, unless a law, policy, or directive sets forth a minimum age requirement.

(6) *Termination or Removal.* This section shall identify causes for termination or removal, if any, in addition to those already identified in laws and/or policies of the Nation.

(7) *Trainings and Conferences.* This section shall describe any trainings and/or conferences that the entity deems necessary for members to responsibly serve the entity, if any.

(b) "Article II. Officers" shall consist of the following:

(1) *Chairperson and Vice-Chairperson.* This section creates the chairperson and vice-chairperson positions of the entity. Other officer positions may also be created here.

(2) *Responsibilities of the Chairperson.* Because of the importance of this position, all duties and responsibilities of the chairperson, as well as limitations of

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the chairperson shall be specifically listed here.

(3) *Responsibilities of the Vice-Chairperson.* Because of the importance of this position, all duties and responsibilities of the vice-chairperson, as well as limitations of the vice-chairperson shall be specifically listed here.

(4) *Responsibilities of Additional Officers.* There may be additional sections as needed for every officer position created in subsection one (1) above. These sections shall state all duties and responsibilities of the officer, as well as any limitations of the officer.

(5) *Selection of Officers.* This section shall identify how a member of the entity shall be selected for an official officer position in the entity.

(6) *Budgetary Sign-Off Authority and Travel.* This section shall identify the entity's varying levels of budgetary sign-off authority, the members that are authorized to sign-off at each level, and how the entity shall handle approving travel on behalf of the entity.

(A) An entity shall follow the Nation's policies and procedures regarding purchasing and sign-off authority.

(B) An entity shall approve a member's request to travel on behalf of the entity by majority vote at a regular or emergency meeting of the entity.

(7) *Personnel.* This section shall state the entity's authority for hiring personnel, if any, and the duties of such personnel.

(c) "Article III. Meetings" shall consist of the following:

(1) *Regular meetings.* This section shall identify when and where regular meetings shall be held, and how the entity shall provide notice of the meeting agenda, documents, and minutes.

(2) *Emergency meetings.* This section shall identify what constitutes an emergency meeting, how emergency meetings shall be called, and how the entity shall provide notice of the emergency meeting.

(A) All bylaws shall include a provision requiring that 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) *Quorum.* This section shall identify how many members of an entity create a quorum.

(4) *Order of Business.* This section sets out how the agenda will be set up.

(5) *Voting.* This section shall identify voting requirements, such as, but not limited to:

(A) the percentages that shall be needed to pass different items;

(B) if, and when, the chairperson is allowed to vote;

(C) if the use of an e-poll is permissible; and

(D) if the use of an e-poll is permissible, who will serve as the Chairperson's designee for the responsibility of conducting an e-poll, if a designee is utilized.

(d) "Article IV. Expectations" shall consist of the following information:

(1) *Behavior of Members.* This section shall identify the behavioral expectations



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and requirements of a member of the entity, and identify how the entity shall enforce these behavioral expectations.

(2) *Prohibition of Violence*. This section shall prohibit any violent intentional act 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, and set forth any further expectations regarding the prohibition of violence.

(3) *Drug and Alcohol Use*. This section shall prohibit the use of alcohol and prohibited drugs for a member of an entity when acting in their official capacity, and set forth any further expectations regarding the use of prohibited drugs and alcohol.

(4) *Social Media*. This section shall identify expectations for the use of social media in regards to official business of the entity.

(5) *Conflict of Interest*. This section shall state any standards and expectations additional to those required by law of the Nation in regards to conflicts of interest and how they are handled, as well as requirements related to prohibited activities resulting from disclosed conflicts of interest, and means by which a party can alleviate or mitigate the conflict of interest.

(e) "Article V. Stipends and Compensation" shall consist of the following information:

(1) *Stipends*. This section shall include a comprehensive list of all stipends members are eligible to receive and the requirements for collecting each stipend, if any in addition to those contained in this law.

(2) *Compensation*. This section shall include details regarding all other forms of compensation members are eligible to receive and the requirements for collecting such compensation, if any in addition to those contained in this law.

(f) "Article VI. Records and Reporting" shall consist of the following information:

(1) *Agenda Items*. Agenda items shall be maintained in a consistent format as identified by this section.

(2) *Minutes*. Minutes shall be typed and in a consistent format designed to generate the most informative record of the meetings of the entity. This may include a summary of action taken by the entity. This section shall identify the format for minutes, and a reasonable timeframe by which minutes shall be submitted to the Business Committee Support Office.

(3) *Attachments*. Handouts, reports, memoranda, and the like may be attached to the minutes and agenda, or may be kept separately, provided that all materials can be identified to the meeting in which they were presented. This section shall identify how records of attachments shall be kept.

(4) *Oneida Business Committee Liaison*. Entities shall regularly communicate with the Oneida Business Committee member who is their designated liaison. This section shall identify a format and frequency for communication which may be as the liaison and entity agree to, but not less than that required in any law or policy on reporting developed by the Oneida Business Committee or Oneida General Tribal Council. The purpose of the liaison relationship is to uphold the ability of the liaison to act as a support to that entity.

(5) *Audio Recordings*. An entity shall audio record all meetings. This section shall state how the entity shall audio record meetings, and how the entity shall

maintain the audio records.

(A) *Exception.* Audio recordings of executive session portions of a meeting shall not be required.

(g) "Article VII. Amendments" consists of:

(1) *Amendments to Bylaws.* This section shall describe how amendments to the bylaws are made. Any amendments to bylaws shall conform to the requirements of this and any other policy of the Nation. Amendments to bylaws shall be approved by the Oneida Business Committee, in addition to the General Tribal Council when applicable, prior to implementation.

### **105.11. Electronic Polling**

105.11-1. An entity may utilize an e-poll when approval of an action may be required before the next available meeting agenda of the entity.

105.11-2. *Conducting an E-Poll.* The Chairperson of the entity, or designee, shall e-mail the e-poll to all members of the entity. Requests for an e-poll shall be sent only from an official e-mail address of the entity. The e-poll's message shall include the following information:

(a) The e-mail subject line shall begin with "E-poll Request:" and include a short title describing the purpose of the request.

(b) The body of the e-poll shall contain the following elements:

(1) An executive summary of the reason for the request and why the request cannot be presented at the next available meeting of the entity;

(2) A proposed motion which shall be in bold and identified in a separate paragraph by the words "Requested Action;"

(3) All attachments in \*.pdf format, which are necessary to understand the request being made; and

(4) A deadline date for a response to be returned regarding the results of the electronic poll which shall be in bold and identified in a separate paragraph by the words "Deadline for Response."

(A) E-poll requests shall be open for response not less than one (1) hour and no more than twenty-four (24) hours.

(B) The time frame for responses shall be determined by the Secretary of the entity, or designee, based on urgency, scheduling, and any other pertinent factors.

105.11-3. *Response to an E-Poll.* A response from a member of an entity shall be valid if received from an official e-mail address of the entity. No responses from unknown e-mails or personal e-mails shall be accepted. An e-poll request shall receive responses from a majority of members of the entity in order to be an official vote.

(a) E-polls that receive at least a majority of supporting votes by the deadline are considered to be approved.

(b) E-polls for which insufficient responses were received by the deadline are considered to have failed to receive support, and result in a denied request.

(c) E-polls that result in a denied request may be reconsidered by the entity at the next available meeting.

(d) The Chairperson, or designee, shall monitor all responses and deadline dates for responses.

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105.11-4. *Entering an E-Poll in the Record.* Both approved and denied e-poll requests shall be placed on the next meeting agenda of the entity to be entered into the record. The agenda item shall contain the following information:

- (a) Original e-poll request and all supporting documentation;
- (b) A summary of the e-poll results identifying each member of the entity and his or her response; and
- (c) A copy of any comment by a member of the entity if comments are made beyond a vote.

## **105.12. Reporting Requirements**

105.12-1. *Minutes.* All minutes shall be submitted to the Business Committee Support Office within a reasonable time after approval by the entity, as identified in the entity's bylaws.

- (a) Actions taken by an entity are valid upon approval of the action by vote, unless the bylaws of the entity otherwise require minutes to be approved by the entity before the actions are valid.
- (b) Minutes shall be filed according to this section, and any specific directions within approved bylaws.
- (c) No action or approval of minutes is required by the Oneida Business Committee on minutes submitted by an entity unless specifically required by the bylaws of that entity.

105.12-2. *Standard Operating Procedures.* All standard operating procedures established by an entity shall be submitted to the Business Committee Support Office, where they shall be kept on file.

105.12-3. *Quarterly Reports to the Oneida Business Committee.* Entities shall provide quarterly reports to the Oneida Business Committee in accordance with the quarterly reporting schedule approved by the Oneida Business Committee. All quarterly reports shall be approved by official entity action before they are submitted. The quarterly reports shall not contain any information that conflicts with any law, resolution, or policy of the Nation. At least one (1) member of the entity shall attend the Oneida Business Committee meeting where the quarterly report is an agenda item. Quarterly reports shall follow a format prescribed by the Oneida Business Committee and contain the following information:

- (a) *Contact Information.* The name of the entity, the member submitting the report, the Oneida Business Committee liaison; and a list of the members and their titles, term expiration dates and contact information.
- (b) *Meetings.* When and how often the entity is holding meetings and whether any emergency meetings have been held.
  - (1) If emergency meetings were held, the report shall indicate the basis of the emergency for each meeting.
- (c) *Accomplishments.* Details of what the entity has accomplished that quarter, including any special events held during the reporting period and any travel by the members and/or staff.
- (d) *Goals.* Details of both the entity's long term goals, the entity's goals for the next quarter, and projected quarterly activities.
- (e) *Budget.* The amount of the entity's budget, the status of the budget at that quarter, the amount of each stipend a member may be eligible to receive, how the budget is being utilized by the entity, and projected budgetary uses for the next quarter.

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(f) *Requests.* Details of any requests to the Oneida Business Committee.

(g) *Other.* And any other information deemed appropriate by the entity, as well as any other information required by a law or policy of the Nation.

105.12-4. *Annual and Semi-Annual Reports to the General Tribal Council.* Entities shall provide annual reports to the Oneida General Tribal Council based on their activities during the previous fiscal year, and semi-annual reports based on their activities during the current fiscal year. All annual and semi-annual reports shall follow a format prescribed by the Oneida Business Committee.

(a) Annual and semi-annual reports shall contain information on the number of substantiated complaints against all members of the entity.

(b) Each entity with oversight of a department shall also submit annual and semi-annual reports for each department the entity oversees.

105.12-5. Any failure to comply with the reporting requirements may result in the Oneida Business Committee placing a hold on the release of a stipend payment.

### **105.13. Stipends, Reimbursement and Compensation**

105.13-1. Stipends and reimbursement for expenses shall follow the procedures as set out in this section and according to procedures for payment as set out by the Nation, unless otherwise declined by the entity through its bylaws, or declined by a member.

105.13-2. The Oneida Business Committee shall set stipend amounts by resolution. The Oneida Business Committee shall periodically review the amounts provided for stipends and, based on the availability of funds, shall adjust those amounts accordingly by amending the resolution. Stipends are paid in the form of cash or cash equivalent, which may include, but is not limited to, gift cards.

105.13-3. *Meeting Stipends.* A member of an entity shall only receive a meeting stipend for a meeting where a quorum has been established in accordance with the duly adopted bylaws of that entity, that lasts for at least one (1) hour, and the member collecting the stipend is physically present for the entire meeting.

(a) *Meeting Stipends for an Appointed Entity.* An individual serving on an appointed entity shall be paid no more than one (1) meeting stipend per month.

(b) *Meeting Stipends for an Elected Entity.* An individual serving on an elected entity shall be paid no more than two (2) meeting stipends per month.

105.13-4. *Oneida Judiciary Hearings.* A member of an entity shall receive a Judiciary hearing stipend if the member's attendance at the Judiciary hearing is required by official subpoena.

105.13-5. *Hearings of an Entity.* A member of an entity that maintains hearing authority may obtain a hearing stipend for conducting hearings administered by the entity. A hearing consists of all functions related to the resolution of the matter notwithstanding the amount of time it takes to resolve the matter, including, but not limited to, any continuations of the hearing and decision drafting.

105.13-6. *Other Stipends.* The Oneida Business Committee shall determine if, and when, any other stipends are appropriate to compensate members of entities for their official actions. All possible stipends shall be included in the Oneida Business Committee resolution which sets stipend amounts.

105.13-7. *Conferences and Training.* A member of any entity, elected or appointed, shall be reimbursed in accordance with the Nation's policy for travel and per diem, for attending a

conference or training. Provided that:

(a) A member shall be eligible for a stipend for each full day the member is present at the conference or training, when attendance at the conference or training is required by law, bylaw or resolution.

(b) A member shall not be eligible for a conference and training stipend if that training is not required by law, bylaw or resolution.

(c) No stipend payments shall be made for those days spent traveling to and from the conference or training.

105.13-8. *Business Expenses*. All members of entities shall be eligible for reimbursement for normal business expenses naturally related to membership in the entity.

105.13-9. *Task Force and Ad Hoc Subcommittees*. Members of task force, ad hoc committees and subcommittees shall not be eligible for stipends unless specific exception is made by the Oneida Business Committee or the Oneida General Tribal Council.

#### **105.14. Confidential Information**

105.14-1. All members of an entity shall maintain in a confidential manner all information obtained through their position on the entity. The Nation requires that all members of an entity who have access to the Nation's confidential information be subject to specific limitations in order to protect the interest of the Nation and ensure that no persons engaged in by the Nation, nor their relatives or associates, benefit from the use of confidential information.

(a) Confidential information shall be considered and kept as the private and privileged records of the Nation and will not be divulged to any person, firm, corporation, or other entity except by direct written authorization of the Oneida Business Committee.

(b) A member of an entity will continue to treat as private and privileged any confidential information, and will not release any such information to any person, firm, corporation, or other entity, either by statement, deposition, or as a witness, except upon direct written authority of Oneida Business Committee, and the Nation shall be entitled to an injunction by any competent court to enjoin and restrain the unauthorized disclosure of such information. Such restriction continues after termination of the relationship with the Nation and the entity.

(c) Upon completion or termination of his or her elected or appointed term of membership in an entity, for any cause whatsoever, the member of the entity will surrender to the Nation, in good condition, all records kept by the member of the entity.

(d) No member of an entity shall disclose confidential information acquired by reason of his other relationship or status with the Nation for his or her personal advantage, gain, or profit, or for the advantage, gain, or profit of a relative or associate.

105.14-2. Any records created or obtained while as an official of an entity are the property of the Nation and can only be removed or destroyed by approval from a majority vote of the entity at a duly called meeting. All removal or destruction of documents must be made in accordance with the Nation's laws and policies regarding open records and open meetings.

105.14-3. *Official Oneida Nation E-mail Address*. Each member of an entity shall be provided an official Oneida e-mail address upon election or appointment for the purpose of conducting business of the entity electronically.

(a) If a member is also an employee of the Nation, he or she shall receive a separate e-mail address from his or her regular work e-mail address.

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(b) A member of an entity shall sign an acknowledgment form provided by the Nation's Secretary indicating notice of the Nation's applicable computer and media related laws, policies and rules. The Nation's Secretary shall maintain a record of all such acknowledgment forms.

(c) A member of an entity shall not use any personal or work e-mail address to electronically conduct any business of the entity.

(d) Immediately upon receipt of notice of an entity vacancy, the Nation's Secretary shall instruct the Management Information Systems department to disable the e-mail address for the member having vacated the position.

### **105.15. Conflicts of Interest**

105.15-1. All members of an entity are required to adhere to the Nation's laws and policies governing conflicts of interest.

105.15-2. A member of an entity shall disclose a conflict of interest to the Nation's Secretary as soon as the conflict arises, and update a conflict of interest disclosure form with the Nation's Secretary on an annual basis.

(a) Upon receiving information of a potential conflict of interest, the Nation's Secretary shall request a determination from the Oneida Law Office whether further action must be taken by the Nation regarding the status of the official.

105.15-3. Due to the potential for a real or perceived conflict of interest to exist, political appointees shall not serve on an appointed or elected entity.

### **105.16. Use of the Nation's Assets**

105.16-1. Entities shall maintain all bank accounts for the Nation's funds in the name of the Oneida Nation. Bank accounts will be reflected on the Oneida Nation's books in accordance with Generally Accepted Accounting Principles.

105.16-2. Each member of an entity shall comply with the system of internal accounting controls sufficient to provide assurances that:

(a) all transactions are executed in accordance with management's authorization; and

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

(c) all transactions are recorded to permit preparation of financial statements in conformity with Generally Accepted Accounting Principles or other applicable criteria.

105.16-3. Any evidence of noncompliance with any policy regarding the use of tribal assets shall be immediately reported to the Internal Audit department. If the Internal Audit department finds evidence of noncompliance they shall notify the Oneida Law Office, who will then make a determination of further action to be taken, if any.

### **105.17. Dissolution of an Entity**

105.17-1. *Dissolution of a Task Force or Ad Hoc Committee.* A task force or ad hoc committee dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the materials generated by a task force or ad hoc committee shall be forwarded to the Business Committee Support Office for proper disposal within two (2) weeks of the dissolution.

105.17-2. *Dissolution of an Entity.* All other entities of the Nation shall be dissolved only by motion of the Oneida General Tribal Council or the Oneida Business Committee.

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105.17-3. *Notice of Dissolution.* Within five (5) business days of the Oneida General Tribal Council or the Oneida Business Committee taking official action to dissolve an entity, the Oneida Business Committee shall provide the entity written notice of the dissolution.

105.17-4. *Management of Records and Materials.* All chairpersons and secretaries of dissolved entities shall be responsible for closing out open business of the entity and forwarding all materials and records to the Business Committee Support Office for proper storage and disposal within two (2) weeks of dissolution. The entity shall not alter or destroy any records. The Business Committee Support Office may utilize the assistance of the Records Management Department and/or any other appropriate department for the storage and disposal of the records and materials.

(a) The entity may request the Oneida Business Committee to grant a one (1) week extension of the time allowed to close out open business of the entity and forward all materials and records to the Business Committee Support Office.

### **105.18. Enforcement**

105.18-1. Any member of an entity found to be in violation of this law may be subject to:

- (a) sanctions and penalties in accordance with any laws or policies of the Nation governing sanctions and/or penalties;
- (b) removal pursuant to any laws or policies of the Nation's governing removal, if the individual is a member of an elected entity; or
- (c) termination of appointment by the Oneida Business Committee, if the individual is a member of an appointed entity.

*End.*

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Adopted - BC-08-02-95-A

Amended - BC-05-14-97-F

Emergency Amendments - BC-04-12-06-JJ

Amended - BC-09-27-06-E (permanent adoption of emergency amendments)

Amended – BC-09-22-10-C

Amended – BC-



# Oneida Nation

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Oneida, WI 54155

## BC Resolution # \_\_\_\_\_ Boards, Committees, and Commissions Law Stipends

**WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

**WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and

**WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

**WHEREAS,** the Boards, Committees, and Commissions law ("the Law") was adopted by the Oneida Business Committee through resolution BC-5-14-97-F and amended by resolutions BC-09-27-06-E, BC-09-22-10-C, and most recently BC-\_\_-\_\_-\_\_-\_\_ ; and

**WHEREAS,** the Law provides stipends paid by the Oneida Nation to a person serving on a board, committee, and commission of the Nation in order to compensate the individual for his or her contribution of time, effort, and work for the boards, committee, or commission for the betterment of the Nation; and

**WHEREAS,** the Law requires the Oneida Business Committee to set stipend amounts by resolution; and

**WHEREAS,** the Oneida Business Committee shall periodically review the amounts provided for stipends and, based on the availability of funds, shall adjust those amounts accordingly by amending this resolution; and

**NOW THEREFORE BE IT RESOLVED,** that the Oneida Business Committee sets forth the following stipend amounts allowed to be paid to a member of a board, committee, or commission of the Nation:

1. *Meetings of a Board, Committee, or Commission of the Nation.* A member of a board, committee, or commission of the Nation shall receive a stipend for attending a duly called meeting of the board, committee, or commission in accordance with the Law.
  - a. *Appointed Boards, Committees, and Commissions.* A member of an appointed board, committee, or commission of the Nation shall receive a stipend of seventy-five dollars (\$75) for a duly called meeting of the board, committee, or commission for up to one (1) meeting per month.
    - i. Appointed boards, committees, and commissions of the Nation include the following:
      1. Anna John Resident Centered Care Community Board;
      2. Oneida Community Library Board;
      3. Environmental Resource Board;
      4. Oneida Nation Arts Board;
      5. Oneida Nation Veterans Affairs Committee;

6. Personnel Selection Committee;
  7. Oneida Police Commission;
  8. Oneida Pow-wow Committee;
  9. Pardon and Forgiveness Screening Committee; and
  10. Southeastern Oneida Tribal Services Advisory Board.
- b. *Elected Boards, Committees, and Commissions.* A member of an elected board, committee, or commission of the Nation shall receive a stipend of one hundred dollars (\$100) for a duly called meeting of the boards, committee, or commission for up to two (2) meetings per month.
- i. Elected boards, committees, and commissions of the Nation include the following:
    1. Oneida Nation Commission on Aging;
    2. Oneida Election Board;
    3. Oneida Land Claims Commission;
    4. Oneida Land Commission;
    5. Oneida Nation School Board;
    6. Oneida Trust Enrollment Committee; and
    7. Oneida Gaming Commission;
    - a. Although the Oneida Gaming Commission is an elected commission of the Nation, the Oneida Nation Gaming Ordinance provides that the compensation of Oneida Nation Gaming Commissioners is not subject to the Nation's Boards, Committees, and Commissions law.
2. *Oneida Judiciary Hearings.* A member of a board, committee, or commission of the Nation shall receive a stipend of fifty dollars (\$50) for attending a hearing of the Oneida Judiciary if the member's attendance at the hearing is required by official subpoena.
3. *Hearings of a Board, Committee, or Commission of the Nation.* A member of a board, committee, or commission of the Nation shall receive a stipend of fifty dollars (\$50) for conducting an official hearing of the board, committee, or commission.
4. *Miscellaneous Stipends.* The Oneida Business Committee shall have the discretion to determine any other stipends deemed appropriate.
- a. *Pow-wow Activities.* A member of the Oneida Pow-wow Committee shall receive a stipend of twenty-five dollars (\$25) per hour for services he or she provides during each Pow-wow, not to exceed two hundred dollars (\$200) per day, contingent upon available budgeted funds.
  - b. *Election Activities.* A member of the Oneida Election Board shall receive a stipend of ten dollars (\$10) per hour for services he or she provides during an election.
  - c. *General Tribal Council Meetings.* A member of the Oneida Election Board shall receive a stipend of one hundred dollars (\$100) for attendance and service provided at a General Tribal Council meeting of the Nation.
  - d. *Interviews and Job Selection Pre-Screening.* A member of the Personnel Selection Committee shall receive a stipend of twenty-five dollars (\$25) for up to four (4) hours of participating in interviews and/or job description pre-screens conducted by the Human Resource Department, and a stipend of fifty dollars (\$50) for more than four (4) hours of participating in interviews and/or job description pre-screens conducted by the Human Resource Department.
5. *Conferences and Training.* A member of a board, committee, or commission of the Nation shall receive a stipend of one hundred dollars (\$100) per day for attendance at a conference or training that is required by law, bylaw, or resolution.

**BE IT FINALLY RESOLVED**, that this resolution hereby adopted and shall be effective September 6, 2018.



## **Statement of Effect**

### *Boards, Committees, and Commissions Law Stipends*

#### **Summary**

This resolution sets forth specific stipend amounts allowed to be paid to a member of a board, committee, or commission of the Nation.

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

*Date: August 15, 2018*

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

The Boards, Committees, and Commissions law (“the Law”) was adopted by the Oneida Business Committee for the purpose of governing boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions. [1 O.C. 105.1-1].

Stipends are paid by the Oneida Nation to a person serving on a board, committee, or commission of the Nation in order to compensate the individual for his or her contribution of time, effort, and work for his or her board, committee, or commission for the betterment of the Nation. [1 O.C. 105.3-1(n)].

The Law requires that the Oneida Business Committee set stipend amounts by resolution. [1 O.C. 105.13-2]. Through this resolution the Oneida Business Committee sets forth the specific amounts for the various stipends a member of a board, committee, or commission may be eligible to receive.

#### **Conclusion**

Adoption of this resolution would not conflict with any of the Nation’s laws.



Legislative Operating Committee  
August 15, 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 LOC:** Motion by Kirby Metoxen to 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.

**11/1/17:** *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 Duxtator, 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.
- 6/6/18/ LOC:** Motion by Jennifer Webster to accept the draft of the Sanctions and Penalties law and direct that a legislative analysis be completed; seconded by Ernest Stevens III. Motion carried unanimously.
- 7/9/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Brooke Duxtator. The purpose of this work meeting was to review the BCSO's involvement in the Sanctions and Penalties law to ensure their role can be implemented as required by law.
- 7/18/18 LOC:** Motion by Kirby Metoxen to accept the legislative analysis for the Sanctions and Penalties Law and defer to a work meeting; seconded by Daniel Guzman King. Motion carried unanimously.
- 8/1/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Kristen Hooker. The purpose of this work meeting was to review and consider the legislative analysis.

**Next Steps:**

- Approve the public meeting packet and forward the Sanctions and Penalties law to a public meeting to be held on September 20, 2018.
- Forward the Sanctions and Penalties law to the Finance Office for a fiscal analysis to 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

120.7. 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

#### **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, or was discovered to have 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 minimum wage rate of ~~ten dollars (\$10)~~ the Nation 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~~ Once terminated from office, an appointed 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 – GTC- - - -

# ONEIDA NATION PUBLIC MEETING NOTICE

LEGISLATIVE OPERATING COMMITTEE  
WWW.ONEIDA-NSN.GOV/GOVERNMENT

**Thursday, September 20, 2018, 12:15pm**

Norbert Hill Center-Business Committee Conference Room  
N7210 Seminary Rd., Oneida, Wisconsin

## SANCTIONS AND PENALTIES LAW



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 proposed Sanctions and Penalties law will:

1. Set parameters for what behavior constitutes misconduct.
2. Describe how an individual can file a complaint against both an elected and appointed official.
3. Provide procedures for making a determination of whether or not the official engaged in misconduct based on the alleged complaint against the elected or appointed official.
4. Describe potential sanctions and penalties that can be imposed upon elected and appointed officials found to have engaged in misconduct, and the factors that will be utilized to determine an appropriate sanction or penalty.
5. Requires a record of conduct for each appointed and elected official to be maintained.

## PUBLIC COMMENTS PERIOD CLOSSES THURSDAY, SEPTEMBER 27, 2018

During the Public Comment Period, all interested persons may submit written comments. Comments may be submitted to the Oneida Nation Secretary's Office or the Legislative Reference Office in person, by U.S. mail, interoffice mail, or e-mail.



**-PUBLIC MEETING PACKETS ARE AVAILABLE AT-**  
www.oneida-nsn.gov/Register/Public Meetings or contact Oneida Nation Legislative Reference Office located  
in the Norbert Hill Center, PO Box 365, Oneida, Wisconsin 54155  
Email: LOC@oneidanation.org Phone: 920-869-4376



## SANCTIONS AND PENALTIES LEGISLATIVE ANALYSIS

### SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Oneida Business Committee	SPONSOR: Jennifer Webster	DRAFTER: Clorissa N. Santiago	ANALYST: Brandon Wisneski
Intent of the Amendments	To increase accountability among elected and appointed officials of the Nation, including members of the Oneida Business Committee. This new law creates a formal complaint process and allows for corrective actions against officials who engage in misconduct.		
Purpose	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 <i>[see Sanctions and Penalties, 1 O.C. 120.1-1]</i> .		
Affected Entities	Oneida Business Committee; All elected and appointed members of boards, committees, and commissions; Any individual who has knowledge that an official has committed misconduct, Judiciary Trial Court, Judiciary Court of Appeals, Business Committee Support Office. This law does not apply to the judges of the Oneida Judiciary, whose misconduct process is located in the Judiciary Law. This does not apply to members of corporate boards.		
Affected Legislation	Rules of Civil Procedure, Rules of Appellate Procedure, Code of Ethics, Comprehensive Policy on Boards, Committees and Commissions, Garnishment Law, Per Capita Law, and any of the Nation's laws and bylaws.		
Enforcement/Due Process	Sanctions and penalties against appointed officials will be imposed by the Business Committee. Sanctions and penalties against elected officials will be imposed by the Trial Court. Officials accused of misconduct have the right to be represented by an attorney or advocate. Officials also have the right to submit a written response to the complaint, and an opportunity to appear at the investigatory hearing to answer the allegations, provide witness testimony, documents and evidence on their behalf. Complaints against officials must be proven by clear and convincing evidence.		
Public Meeting	A public meeting has not yet been held.		

### SECTION 2. LEGISLATIVE DEVELOPMENT

- A. When officials of the Nation commit misconduct in office, there are few remedies available for the Nation to discipline that official. Currently, appointed officials may have their appointment terminated by the Business Committee, and elected officials may be removed in accordance with the Removal Law. However, there have been instances of misconduct that do not rise to the level of removal. For example, officials with multiple unexcused absences, failure to submit reports on time, or behaving disrespectfully to community members or fellow officials. In these cases, other remedies such as verbal reprimands, fines, or suspensions may be more appropriate.

- 9 **B.** This law creates a formal complaint process that gives all tribal members an opportunity to file  
10 complaints while ensuring that due process rights for those accused are protected. This law also  
11 creates a range of potential sanctions and penalties for officials who violate the laws of the Nation or  
12 commit other forms of misconduct.
- 13 **C.** During the Special Election held on July 9, 2016, the following referendum question was approved by  
14 a vote of 178 to 59: “Should the BC develop a law which provides for sanctions and due process for  
15 elected officials?” The Election Law requires the Oneida Business Committee to present referendum  
16 questions that receive a majority vote to the General Tribal Council (GTC) for discussion and action  
17 [*see Election Law 1 O.C. 102.12-9(c)*]. The LOC intends to present the final draft of this law to GTC  
18 for consideration.
- 19 **D.** This law will apply to the following officials of the Nation:
- 20     ▪ Members of the Oneida Business Committee;
- 21     ▪ Members of the following Boards, Committees and Commissions:

ELECTED	APPOINTED
<ul style="list-style-type: none"> <li>▪ Oneida Election Board</li> <li>▪ Oneida Gaming Commission</li> <li>▪ Oneida Land Claims Commission</li> <li>▪ Oneida Land Commission</li> <li>▪ Oneida Nation Commission on Aging (ONCOA)</li> <li>▪ Oneida Nation School Board</li> <li>▪ Trust Enrollment Committee</li> </ul>	<ul style="list-style-type: none"> <li>▪ Anna John Resident Centered Care Community Board (AJRCC)</li> <li>▪ Audit Committee</li> <li>▪ Environmental Resource Board (ERB)</li> <li>▪ Finance Committee</li> <li>▪ Oneida Library Board</li> <li>▪ Oneida Nation Arts Board</li> <li>▪ Oneida Police Commission</li> <li>▪ Oneida Pow Wow Committee</li> <li>▪ Oneida Nation Veterans Affairs Committee (ONVAC)</li> <li>▪ Pardon and Screening Forgiveness Committee</li> <li>▪ Southeastern WI Oneida Tribal Services Advisory Board (SEOTS)</li> </ul>

### SECTION 3. CONSULTATION AND OUTREACH

- 24 **A.** The Rules of Civil Procedure, Rules of Appellate Procedure, Judiciary Law, Code of Ethics, Open  
25 Meetings and Open Records Law, and Comprehensive Policy on Boards Committees and  
26 Commissions were reviewed in drafting this analysis. In addition, the following laws were reviewed  
27 in drafting this analysis:
- 28     ▪ Ho Chunk Nation Code of Ethics 2 HCC 1;
- 29     ▪ Oglala Sioux Tribe Code of Ethics Ordinance No. 08-11;
- 30     ▪ Pokagon Band of Potawatomi Indians Ethics Code;
- 31     ▪ Rosebud Sioux Tribal Code of Ethics Ordinance 86-04;
- 32     ▪ Siletz Tribal Council Ethics Ordinance –Siletz Tribal Code 2.200;
- 33     ▪ Skokomish Code of Ethics S.T.C. 1.05;
- 34     ▪ Pit River Tribal Government Code of Conduct Section 80.
- 35 **B.** The Business Committee Support Office, Records Management Department, Human Resources  
36 Department and representatives from the following Boards, Committees and Commissions were  
37 consulted in the development of this law and analysis:
- 38     ▪ Anna John Resident Centered Care Community Board (AJRCC);
- 39     ▪ Election Board;

- Environmental Resource Board (ERB);
- Gaming Commission;
- Land Commission;
- Police Commission;
- Pow-wow Committee;
- Trust Enrollment Committee;
- Oneida Nation Veterans Affairs Committee (ONVAC).

C. A community pot-luck meeting was held on May 3, 2018 to gather community input on this law. Sixteen (16) people attended this meeting.

## SECTION 4. PROCESS

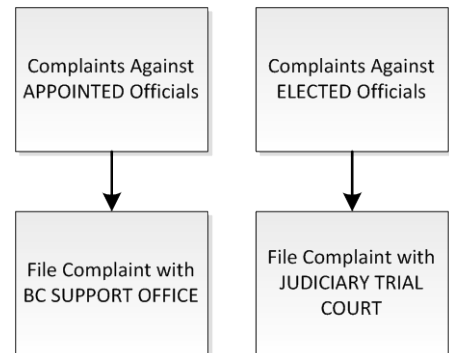
- A. Thus far, this law has followed the process set forth in the Legislative Procedures Act (LPA).
- B. The law was originally added to the Active Files List on October 15, 2014 and was carried over from the previous term. The law was re-added to the Active Files List on September 6, 2017.
- C. At the time this legislative analysis was developed, the following work meetings had been held regarding the most recent efforts to develop this law and legislative analysis:
- September 6, 2017: LOC work meeting.
  - November 1, 2017: LOC work meeting with representatives from the following boards, committees and commissions: Police Commission, Trust Enrollment Committee, Election Board, Land Commission, Oneida Gaming Commission, Pow-wow Committee. All board, committees and committees were invited to attend this work meeting.
  - December 6, 2017: LOC work meeting.
  - March 9, 2018: LOC work meeting.
  - May 3, 2018: Community meeting with LOC, BC Support Office, Oneida community members, and representatives from the following boards, committees and commissions: Police Commission, ONVAC, ERB, AJRCCC, and Gaming Commission. All board, committees and commissions were invited to attend this meeting.
  - May 11, 2018: LOC work meeting.
  - July 9, 2018: Work meeting with BC Support Office.
  - August 1, 2018: LOC work meeting.

## SECTION 5. CONTENTS OF THE LEGISLATION .

- A. *What Qualifies as Misconduct.* The Oneida Nation expects elected and appointed officials to uphold high ethical and moral standards. Officials who engage in misconduct may be subject to sanctions and penalties. This section describes what behaviors could be considered misconduct [see *Sanctions and Penalties 120.4*]. Under this law, the definition of misconduct is very broad and includes any of the following:
- Violating the Oneida Constitution or any law, policy or rule of the Oneida Nation.
  - Violating the bylaws or standard operating procedures of the board the official serves on.
  - Being convicted of a felony under federal or Wisconsin law, or being convicted of a crime elsewhere that would be considered a felony in the state of Wisconsin or the United States.
  - Any other activity that does not uphold the moral and ethical standards expected of the Nation's officials.

**B. *Filing a Complaint.*** Under this law, anyone eighteen (18) years or older who believes that an official has committed misconduct can file a complaint. The person filing the complaint does not need to be an enrolled tribal member. Examples of individuals who might file complaints include community members, employees of the Nation, and fellow officials. The complaint must be filed within 90 days of when the alleged misconduct occurred or was discovered [*see Sanctions and Penalties 120.5*].

**Chart 2. Where to File Complaints**



- ***Contents of the Complaint.*** Complaints must include the following information:
  - Information about the official, including the official's name and the entity they serve on.
  - Information about the alleged misconduct, including date, time, location and specific details.
  - The specific law, policy, rule or bylaw that the official violated.
  - Information about any witnesses or others with knowledge of the violation.
  - Contact information of the individual filing the complaint.
  - Supporting documents and any other information required by the Rules of Civil Procedure.
    - The Rules of Civil Procedure must be followed for complaints against elected officials, which are filed in the Trial Court. More detail on the Rules of Civil Procedure is included later in this analysis.
- ***Where to File Complaints.*** Complaints against appointed officials are filed with the Business Committee (BC) Support Office, which is currently located at the Norbert Hill Center. Complaints against elected officials are filed with the Trial Court, which is located within the Oneida Judiciary.
- ***Retaliation.*** Retaliation against someone who files a complaint or cooperates with a misconduct investigation is not allowed.
- ***Right to an Attorney or Advocate.*** Any official who has been accused of misconduct has the right to be represented by an attorney or an advocate, at their own expense.
  - ***Legal Resource Center.*** The Legal Resource Center Law established an office to provide legal advice and representation to Tribal members and employees in cases before the Judiciary. This office currently has two advocates who provide services at cost.

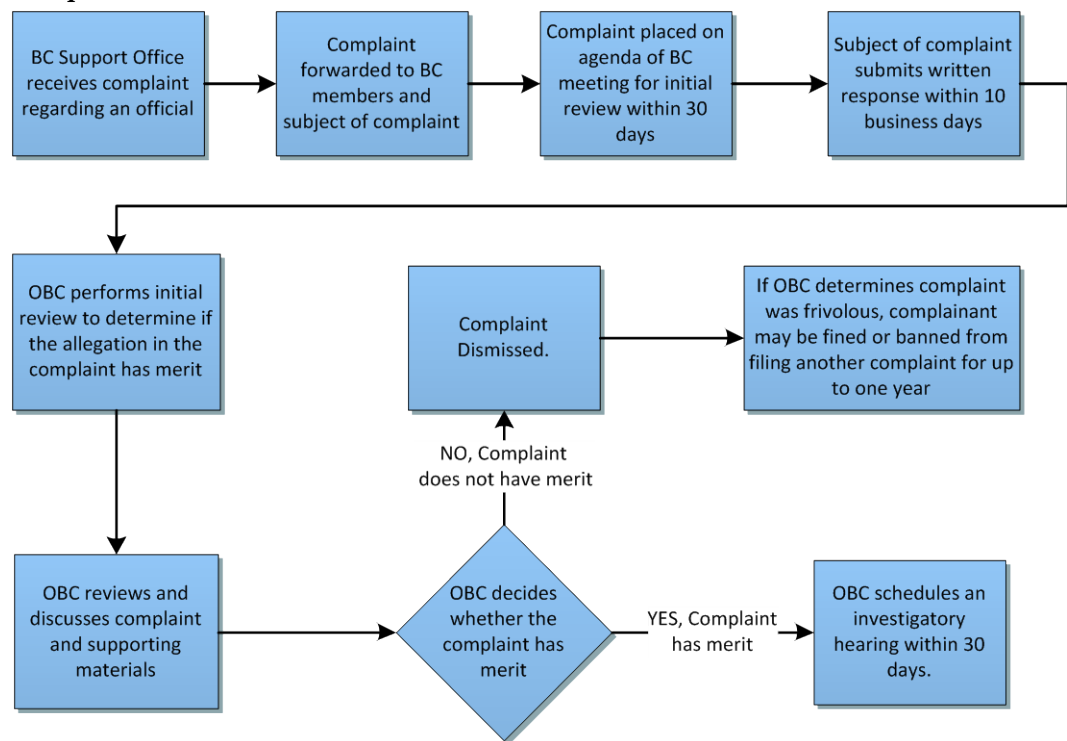
**C. *Complaints Against an Appointed Official.*** Complaints against an appointed official will be filed with the Business Committee (BC) Support Office. Appointed officials serve at the discretion of the Oneida Business Committee (BC), who may terminate appointments at any time. The LOC has determined that because the BC is responsible for selecting and appointing officials, the BC should be responsible for holding appointed officials accountable through sanctions and penalties. The following is a description of the complaint process for appointed officials [*see Sanctions and Penalties 120.6*].

- ***Receipt of Complaint.*** When the BC Support Office receives a complaint, it will forward copies of the complaint to all members of the Oneida Business Committee (BC) for review, and to the

official the complaint has been made against. The BC Support Office will place the complaint on the agenda of a Business Committee meeting within thirty (30) days.

- **Answer to the Complaint.** The official who has been accused of misconduct will have ten (10) business days to respond in writing to the complaint. The official may admit to the misconduct, deny the misconduct, or provide an affirmative defense. An affirmative defense means that an official admits they committed the alleged acts, but that they were justified in doing so.
- **Conflict of Interest.** If a member of the Oneida Business Committee (BC) has a conflict of interest regarding a complaint, they must recuse themselves and not participate in the review or hearings. If a member of the BC fails to recuse themselves, that member may be subject to sanctions and penalties under this law.
- **Initial Review.** The Oneida Business Committee (BC) will review the complaint, the official's written response, and any documentation. The BC will discuss and decide whether the complaint has merit by majority vote. If the BC decides the complaint has merit, they will schedule an investigatory hearing. If BC decides the complaint does not have merit, it the complaint will be dismissed.
  - **Frivolous Complaints.** If the BC decides that an individual filed a complaint that was frivolous, false, or made with malicious intent, they may fine that individual up to \$500 or ban them from filing another complaint for up to 1 year. In addition, the official the complaint was filed against may also file a civil suit in the Trial Court.

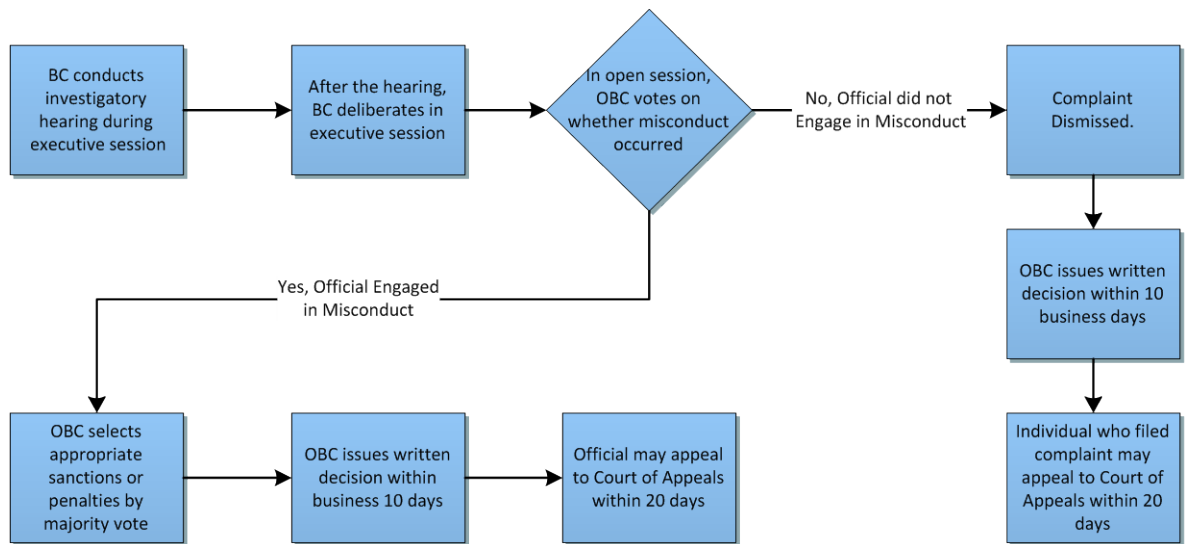
**Chart 3. Complaint Process Against Appointed Officials: Receipt and Initial Review of Complaint.**





- 150     ▪ **Investigatory Hearing.** The BC will conduct an investigatory hearing during executive session of  
151     a regular or special BC meeting. During this hearing, the BC will determine whether there's  
152     enough evidence to substantiate the allegations by clear and convincing evidence.
  - 153         ○ **Burden of Proof.** The burden of proof for allegations made under this law is "clear and  
154         convincing evidence." This is the same standard the Nation uses in misconduct cases  
155         against judges in the Oneida Judiciary [see 8 O.C. Judiciary Law 801.12-6(c)]. This  
156         means that the person filing the complaint must provide evidence "indicating that the  
157         [allegation] to be proved is highly probably or reasonably certain" [see *Black's Law*  
158         *Dictionary*]. This is a greater burden than "preponderance of the evidence," the standard  
159         in most civil trials, but less than evidence "beyond a reasonable doubt," which is used for  
160         criminal trials.
- 161     ▪ The BC will have the authority to call witnesses to provide testimony and physical evidence  
162     under oath.
  - 163         ○ **Testimony.** The official accused of misconduct will have the opportunity to answer  
164         allegations, provide witness testimony and evidence on their own behalf. The individual  
165         who filed the complaint will also have an opportunity to answer questions, provide  
166         witness testimony and information to support their claim. The hearing will be informal.
- 167     ▪ **Deliberation.** After the investigatory hearing, the BC will remain in executive session to discuss  
168     the evidence and information provided. The BC will also discuss which sanctions and penalties to  
169     impose, if appropriate.
- 170     ▪ **Determination.** During an open session of a special or regular Oneida Business Committee  
171     meeting, the BC will vote to decide whether the allegations of misconduct have been proven by  
172     clear and convincing evidence. If the BC finds that the official has engaged in misconduct, then  
173     they will also decide the appropriate sanction or penalty by majority vote. The BC must issue a  
174     written decision within 10 days of the investigatory hearing, and provide copies of the decision to  
175     the person who made the complaint, the official accused of misconduct, and the BC Support  
176     Office.
- 177     ▪ **Appeal.** Both the official accused of misconduct and the individual who filed the complaint have  
178     the right to appeal the decision of the Oneida Business Committee. The appeal must be filed with  
179     the Court of Appeals within 20 days of the BC's written decision.

**Chart 4. Complaint Process Against Appointed Officials: Investigatory Hearing & Decision**



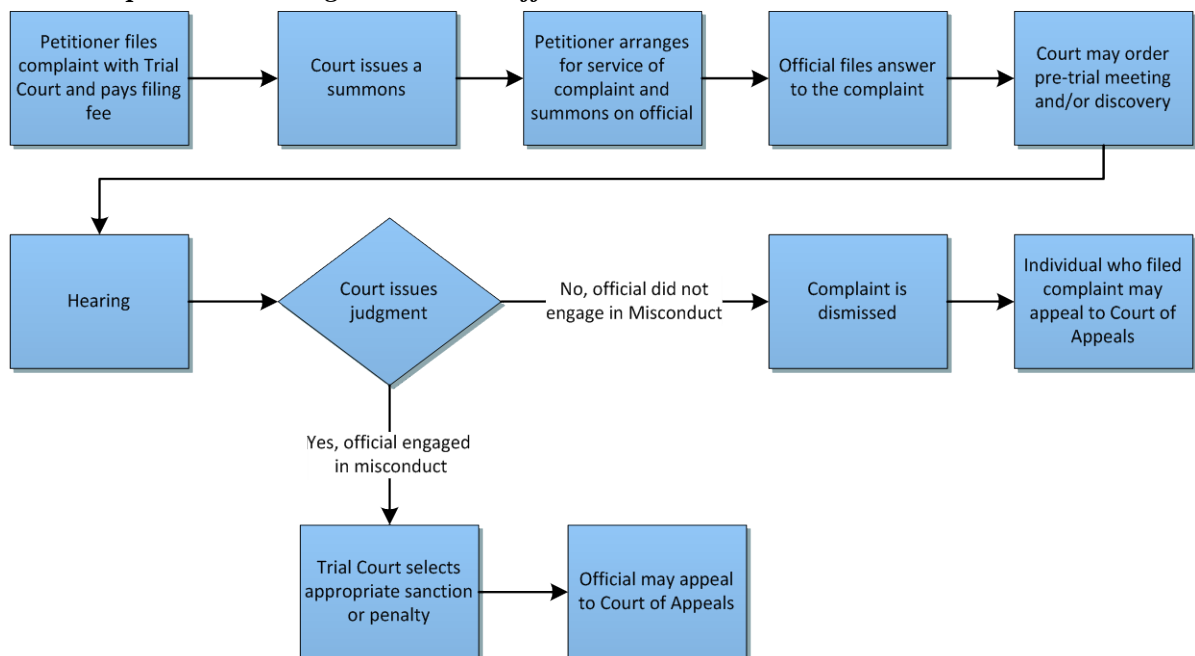
#### D. Complaints Against an Elected Official.

- Complaints against elected officials, including members of the Oneida Business Committee, will be heard by the Nation's Trial Court. Because elected officials are chosen by the tribal membership, it has been determined that complaints against these officials should go to the Nation's Trial Court.
- All complaints must follow the Trial Court's Rules of Civil Procedure. The following is a brief overview of how a civil case is processed by the Trial Court *[see Sanctions and Penalties 120.7]*.
  - *Petitioner Files a Complaint with the Trial Court and Pays Filing Fee.* The Trial Court has a standard complaint form with instructions to fill out the complaint.
    - *Complaint.* At the time this analysis was drafted, the Rules of Civil Procedure require the complaint to include the full name and address of the plaintiff and defendant, why the defendant is being sued, facts supporting each claim, why the trial court has jurisdiction, specifically what relief is sought from the defendant, and a summons *[see Oneida Judiciary Rules of Civil Procedure 803.5-1]*.
    - *Filing Fee.* The Oneida Judiciary Trial Court charges a \$50 filing fee to file a general civil case. However, individuals may request a fee waiver from the court for the following reasons: unemployed, health/medical, or below poverty level. Note that this fee applies only to cases filed against elected officials. Complaints against appointed officials will be filed with the BC Support Office, which does not charge a fee.
    - *Summons:* A summons is a document ordering a defendant to appear before a judge. The Trial Court has a standard summons form.
  - *Complaint and Summons are served on official.* The complaint and summons must be delivered to the official within 30 days after the complaint is filed. In addition, for complaints against officials, notice must also be served to the Secretary's office *[see 8 O.C. Rules of Civil Procedure 803.5]*.
  - *Petitioner Files Proof of Service.* The petitioner must provide proof to the Court that the complaint and summons were delivered to the defendant within 10 days of delivery. If

proof of service is not completed, then the case will be dismissed. [see *Rules of Civil Procedure* 803.5-3].

- *Official Files an Answer.* The official responds to the complaint by filing an answer. The official can either admit to or deny the allegations made in the complaint and provide defenses to each claim made in the complaint.
- *Pre-Trial Meeting.* A pre-trial meeting may be scheduled between the judge, petitioner and defendant. The purpose for this meeting could include preparing for the trial, creating a plan regarding discovery, or facilitating a settlement, such as peacemaking [see *Rules of Civil Procedure* 803.12].
- *Discovery.* The petitioner may make efforts to obtain information relevant to the case, such as documents and electronic information. The judge may place limitations on the information.
- *Hearing.* The individual who filed the complaint must prove by clear and convincing evidence that the elected official committed misconduct.
- *Judgment.* If the Trial Court determines by clear and convincing evidence that the official engaged in misconduct, then the Trial Court will impose sanctions and penalties that they deem appropriate.
- *Appeals.* Both the official accused of misconduct and the individual who filed the complaint have the right to appeal the decision of the Trial Court. The appeal must be filed with the Court of Appeals in accordance with the Rules of Appellate Procedure.

**Chart 5. Complaint Process Against Elected Officials**



**E. Sanctions and Penalties.** This law includes a list of sanctions and penalties that may be imposed on an official for misconduct in office. The Trial Court is responsible for imposing sanctions on an elected official. The Oneida Business Committee is responsible for imposing sanctions on an

appointed official. Officials may receive one or more of the following penalties. The Trial Court or BC will select whichever penalty they feel is appropriate [see *Sanctions and Penalties 120.8*].

- *Verbal Reprimand.* During a BC or GTC meeting, the Nation’s chairperson will read a statement describing the official’s misconduct. The chairperson will also state that the official’s behavior was unacceptable and that the official should not engage in misconduct again.
- *Public Apology.* An official may be ordered to make a public apology at a BC or GTC meeting. The apology must include a description of the misconduct, a statement that the actions were wrong, a description of the harm caused by the misconduct, and a “clear and unambiguous” apology.
- *Written Reprimand.* The Oneida Business Committee or Judiciary Trial Court may publish a written reprimand in the Nation’s official media outlets. The Nation’s official media outlets are the Oneida Nation website and the Kalihwisaks newspaper [see *BC Resolution #03-22-17-B*]. The written reprimand will include the same information as a verbal reprimand.
- *Suspension.* The BC or Trial Court may suspend an official for up to sixty (60) days. During a suspension, the official cannot attend meetings, trainings, or conferences. The official also cannot vote or perform work for the board. In addition, the official cannot earn any stipends, salary or mileage during the suspension.
- *Restitution.* An official can be ordered to pay restitution, which means paying back any improperly received benefit, such as stolen money or items or replacing damaged property. Examples of restitution could include paying back money that was improperly taken or paying to repair or replace damaged items.
- *Fines.* An official can be ordered to pay a fine for each act of misconduct. Unlike restitution, a fine is a punishment. The maximum amount of each fine is \$5000.
  - *Fine Process.* All fines will be paid to the trial court and deposited into the Nation’s General Fund. Officials must pay their fine within 90 days after the fine is issued or upheld on final appeal. If the fine is not paid on time, the Nation may collect the money through garnishment or the official’s per capita payment.
  - *Community Service Alternative.* An official can complete community service to make up all or part of their fine. The rate earned for community service will be the Nation’s minimum wage, which is currently \$10.10 per hour. The Nation currently allows community service for fines issued in the Hunting, Fishing and Trapping Law [see *Hunting Fishing and Trapping 406.10-5(a)*].
- *Loss of Stipend.* An official may lose their stipend for up to twelve (12) meetings. Appointed boards are eligible for only one meeting stipend per month, so at most this could amount to one year’s worth of stipends. Elected boards are allowed to meet more frequently, so this could amount to six (6) months of stipends for a board that meets twice per month.
- *Termination of Appointment.* The Oneida Business Committee can terminate the appointment of any appointed official at any time. All appointed members serve at the discretion of the BC [see *Comprehensive Policy 1 O.C. 105.6-5*].
- *Removal.* The Trial Court can recommend that an official be removed from office in accordance with the Removal Law. However, this would only be a recommendation. The Removal Law provides a strict process that must be followed to remove elected officials:
  - *Removal Law Process.* In order to remove an elected official, an eligible voter must file a petition with the Secretary signed by at least 30% of the vote cast in the previous general

election. For example, the number of votes cast in the 2017 general election was 1612, so the number of signatures needed to initiate removal is 484. Then, the Judiciary conducts a preliminary review to determine whether there is sufficient grounds for removal. If so, the Judiciary holds a hearing. If the Judiciary determines that sufficient grounds for removal has been proven, the findings are forwarded to the Nation's Chair, who schedules a GTC meeting. At the GTC meeting, an elected official may be removed from office after a 2/3 vote [see *Removal Law 1 O.C. 104*].

- **Prohibition.** An appointed official can be banned from serving on an entity for up to three years.
  - **Election Law.** The Election law contains a similar provision that bans members of the Election Board from serving for up to three years if they are removed from office [see *Election Law 1 O.C. 102.4-4*].

**F. Factors in Determining Appropriate Sanction and/or Penalty.** The Trial Court and Oneida Business Committee may consider the following when deciding which sanction or penalty to apply [see *Sanctions and Penalties 120.8-3*].

- How severe the misconduct was, whether it was intentional, and how likely the official is to repeat the misconduct.
- The damage to the finances or reputation of the Nation, the entity, or any person or organization.
- Whether the official has expressed remorse and is willing to take steps to correct the harm done.
- Whether any prior complaints have been filed against the official. For example, is this the first complaint against the official or does it represent a pattern of behavior.

**G. Civil Liability and Criminal Prosecution.** In addition to the sanctions and penalties in this law, an official who commits misconduct may also suffer other consequences. [see *Sanctions and Penalties 120.8-4*]. These include:

- Removal from office or termination of appointment.
- Criminal prosecution, if the official violated a criminal law. For example, criminal charges for theft or violent acts.
- Civil liability, in accordance with any applicable law of any jurisdiction. For example, a lawsuit in court for damages.
- Any other penalties listed in another law of the Oneida Nation.
  - For example, a violation of the Computer Resources Ordinance may result in loss of access to the Nation's computer resources [see *Computer Resources 2 O.C. 215.9-1*].

**H. Effect of Resignation by an Official.** If an official resigns from office after a complaint has been filed, that complaint will still be investigated and sanctions and penalties may still be pursued. Resigning from office does not end or prevent an investigation [see *Sanctions and Penalties 120.9*].

**I. Record of Conduct in Office.** A record of conduct for each official will be maintained by the BC Support Office, which will include copies of complaints filed against the official, outcome of the complaints, and any sanctions and penalties the official received. This record will be maintained for at least 10 years [see *Sanctions and Penalties 120.10*].

- **Public Access to Record of Conduct.** The Open Records and Open Meetings law provides tribal members with access to public records of the Nation. However, the Open Records and Open Meetings law also states that "any record containing personally identifiable information that is collected or maintained in connection with a complaint, investigation or other circumstances that may lead to an enforcement action, administrative proceeding, arbitration or court proceeding" is exempt from inspection and copying [see *Open Records and Open Meetings Law 1 O.C. 107.4-*

*I(j)]*. Therefore, this suggests that the record of conduct maintained by the BC Support Office would not be available for the public to view or copy. However, it should be noted that sanctions such as verbal reprimands, written reprimands and public apologies will occur in public meetings or be published in the Nation's newspaper.

## SECTION 6. EFFECT ON EXISTING LEGISLATION

**A. *References to the Other Laws of the Nation:*** The following laws of the Nation are referenced in this law. This law does not conflict with any of the referenced laws.

- *Rules of Civil Procedure.*
- *Rules of Appellate Procedure.*
- *Garnishment Law.*
- *Per Capita Law.*

## SECTION 7. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR OBLIGATIONS

**A. *Due Process.*** Officials accused of misconduct have the right to be represented by an attorney or advocate. Officials also have the right to submit a written response to the complaint, and an opportunity to appear at the investigatory hearing to answer the allegations, provide witness testimony, documents and evidence on their behalf. Complaints against officials must be proven by clear and convincing evidence.

## SECTION 8. ENFORCEMENT AND ACCOUNTABILITY

**A.** Sanctions and penalties against appointed officials will be imposed by the Business Committee. Sanctions and penalties against elected officials will be imposed by the Nation's Trial Court.

## SECTION 9. OTHER CONSIDERATIONS

**A. *Code of Ethics.*** Most other tribal, municipal and state governments place sanctions and penalties within their Code of Ethics law. This makes sense, as the Code of Ethics and Sanctions and Penalties are closely related. The Code of Ethics provides guidelines that officials must follow, while the sanctions and penalties describe what happens if those guidelines are violated.

- ***Need for Revision of Code of Ethics.*** Any efforts to create a Sanctions and Penalties law should include a review of the Code of Ethics so that the two documents work together harmoniously. Currently, portions of the Nation's Code of Ethics are written in vague, broad terms. In contrast, the Codes of Ethics of other Tribal Nations and municipalities often provide clear, specific examples. Updating the Code of Ethics would provide clear guidance to officials, individuals filing complaints, the Business Committee and the Judiciary when they begin hearing complaints under this law.
- ***Recommendation:*** The Code of Ethics is currently on the LOC's Active Files List. It is suggested that work proceed on reviewing and updating the Code of Ethics as this Sanctions and Penalties law moves forward.

**B. *Number of Potential Complaints.*** Since the Nation currently has no formal sanctions and penalties process, it is not possible to predict the number of complaints that may be filed against elected and appointed officials.

- ***Other Forms of Complaint.*** The Removal Law requires a large number of signatures and has rarely (if ever) been successfully used. GTC petitions provide another opportunity for

- tribal members to express their complaints and opinions regarding actions of the Nation. Petitions require 50 (fifty) signatures, and over the past decade GTC has received between five (5) and (17) petitions per year. Both Removal Law and GTC petitions require signatures, while this process does not. Therefore, it is reasonable to assume that the number of complaints filed using this law may be much higher. GTC Meetings regularly feature complaints from GTC members regarding individual office holders or specific boards, committees and commissions. It is not known how many of these verbal complaints would result in written complaints under this law.
- **Recommendation:** Given the uncertainty regarding the number of potential complaints, the Business Committee, BC Support Office and Judiciary should be prepared to potentially process a large number of complaints upon passage of this law.
- C. Impact of Suspension on Full-Time Officials.** Members of the Oneida Business Committee and Oneida Gaming Commission are full-time elected officials. Therefore, suspension of these officials will impact salaries, benefits such as health insurance, and access to buildings and email. The Human Resources Department reports that they have a suspension procedure in place for employees of the Nation, and that this procedure could be used for suspension of full-time officials.
- **Recommendation:** Since notifications of suspension go to the BC Support Office, it is suggested that the BC Support Office work with HRD to develop a process should suspensions of full-time BC members or Gaming Commissioners occur.
- D. Public Apologies.** Under this law, an official may be ordered to issue a “clear and unambiguous” public apology. The practice of ordering an apology is used in the state of Wisconsin. The WI Department of Corrections notes that “some offenders are ordered by a court to write apology letters to their victims.” However, it is possible that an official may decline to offer an apology, or offer an apology that appears insincere. The LOC may also consider whether it is appropriate to “force” an individual to make a statement if they do not agree with it.
- **Recommendation:** Rather than requiring an apology, the LOC may want to consider offering public apology as an alternative to other sanctions and penalties. For example, ordering an official to give a public apology OR receive a written reprimand.
- E. Comparison to Other Nations.** Research of other tribal nations and municipalities indicate that there are many different processes for sanctions and penalties of public officials. There is not a single standard used by all tribal governments. Examples of other sanctions and penalties processes are provided below for information:

***Chart 6. Sanctions and Penalties Process of other Tribal Nations***

Tribe	Where Complaints Are Filed	Who Investigates the Complaint	Who Decides the Sanction or Penalty
<b>Siletz</b>	Tribal Council*	Ad Hoc Committee or Special Advisor appointed by Tribal Council*	Tribal Council*
<b>Ho Chunk</b>	Judiciary	Judiciary	President
<b>Rosebud Sioux</b>	Ethics Commission, appointed by Tribal Council*	Ethics Commission, appointed by Tribal Council*	Tribal Council*
<b>Skokomish</b>	Ethics Officer, appointed by Tribal	Ethics Officer, appointed by Tribal	Chairman



	Council*	Council*	
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\*Note that "Tribal Council" refers to an elected body similar to the Oneida Business Committee.

- F. Create a Standard Complaint Form.** The BC Support Office and Judiciary may want to consider drafting standard complaint forms to provide to individuals who wish to file a complaint against officials under this law. This form could include the information required under 120.5-3, instructions, and clearly state where complaints against elected officials or appointed officials must be filed. The Nation' Trial Court has a standard civil complaint packet which could be used as an example.
- G. Community Service.** This law allows officials to complete community service instead of paying a fine. These volunteer hours will need to be tracked and reported to ensure that they have been completed. The Hunting, Fishing and Trapping Law has a similar community service provision for fines issued under that law. The Trial Court has developed a form for documenting community service. The individual is required to contact entities on their own to schedule their own community service. Environmental Resource Board (ERB) reports that a deadline was typically placed on when the community service had to be completed. At this time, the completed volunteer forms are turned in to the Law Office.
- **Recommendation:** The Judiciary and/or Law Office should be prepared to accept and track community service hours should individuals be fined under this law.
- H. Complaints against Judiciary.** The Judiciary Law already contains a process for reprimand, suspension and removal of judges [see Judiciary Law 8 O.C. 801.12]. Therefore, the Judiciary is not included in this law.
- I. Rules of Civil Procedure.** Complaints filed in the Judiciary Trial Court must follow the Rules of Civil Procedure. The Rules of Civil Procedure are currently on the LOC's Active Files List and may be revised in the near future.
- J. Fiscal Impacts.** Please refer to the fiscal impact statement for any fiscal impacts.

## **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 Onoyote'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, or was discovered to have 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 minimum wage rate of the Nation 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.* Once terminated from office, an appointed 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 – GTC-\_\_-\_\_-\_\_-\_\_



## Legislative Operating Committee August 15, 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.

**6/6/18 LOC:** Motion by Jennifer Webster to accept the draft of the Oneida Personnel, Policies, and Procedures amendments and direct that a legislative analysis be completed; seconded by Ernest Stevens III. Motion carried unanimously.

**7/18/18 LOC:** Motion by Ernest Stevens III to accept the legislative analysis for the Oneida Personnel Policies and Procedures amendments and defer to a work meeting; seconded by Daniel Guzman King. Motion carried unanimously.

**7/18/18:**      *Work Meeting.* Present: David P. Jordan, Ernest Stevens III, Daniel Guzman, Brandon Stevens, Jennifer Falck, Clorissa Santiago, Brandon Wisneski. The purpose of this work meeting was to review the legislative analysis, and discuss the included policy considerations.

**Next Steps:**

- Approve the public meeting packet and forward the amendments to the Oneida Personnel Policies and Procedures to a public meeting to be held on September 20, 2018.
- Forward the amendments to the Oneida Personnel Policies and Procedures to the Finance Office for a fiscal analysis to 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 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 and after a review of each affected job by the Human Resources Department Manager,  
399 or designee.
- 400 c. Interim Job Reassignments (Work Standard 7-11-13)  
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.

- 485 f. Exempt employees are not eligible for overtime.  
486 1) The HRD Office will maintain a list of exempt employees.
- 487 4. Holidays [\(Work Standard, 4-15-11\)](#)
- 488 a. Tribal holidays consist of the following:
- 489 1) One-half day Christmas Eve  
490 2) Christmas Day  
491 3) New Year's Day  
492 4) Memorial Day  
493 5) Veteran's Day  
494 6) Independence Day  
495 7) Labor day  
496 8) Thanksgiving Day  
497 9) Indian Day (day after Thanksgiving)  
498 10) One-half day Good Friday  
499 11) Code Talker's Day (Oneida Day, Friday prior to Memorial Day)  
500 [\(BC Resolution – 12-11-13A\)](#)
- 501 b. To be eligible for a paid holiday, employees must work the preceding and following  
502 scheduled work days (except for employees who are on a prescheduled work leave or an  
503 approved extended sick leave.) Employees who are granted a sick day directly prior to a  
504 holiday must certify that they were capable of working the holiday in order to qualify for a  
505 paid holiday.
- 506 c. All regular employees will be given holiday pay for the maximum pay of eight (8) hours per  
507 day.
- 508 d. Holidays falling on a Saturday will be observed the preceding Friday; holidays falling on a  
509 Sunday will be observed on the following Monday. [\(2017 Holiday Observance Calendar\)](#) [\(2016 Holiday Observance  
510 Calendar\)](#)
- 511 e. The Oneida Nation acknowledges its responsibility to make a reasonable accommodation to  
512 employees who wish time off to observe religious holidays. Requests for such time off will  
513 be granted where possible, based on the scheduling and staffing needs of affected  
514 departments. Employees wishing to take time off work for religious observances should  
515 inform their supervisor as early as possible. Employees may use personal time for such  
516 requests if eligible; otherwise the time off will be treated as unpaid leave.
- 517 5. Vacation/Personal Days
- 518 a. Every employee of the Nation, except temporary employees, shall be allowed personal and  
519 vacation days with pay to the extent that personal days and vacation are accumulated.  
520 Temporary employees shall be allowed personal and vacation days in accordance with  
521 Section II.C.4. [\(GTC Resolution – 7-02-12-A\)](#)
- 522 b. The amount of personal and vacations days shall be determined by continuous service for  
523 the Nation. A "lay-off" from employment of the Nation shall not be considered in  
524 interruption in continuous service where the lay-off is in accordance with the Nation's Layoff  
525 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.

- 649  
650  
651 b. A Military Leave of Absence is afforded employees entering active duty without  
652 accumulation of holiday, vacation or personal time during the period of leave. Any  
653 accumulated benefits prior to leave will be maintained for the employee.  
654 c. Time off for inactive duty training, examinations to determine fitness for duty and funeral  
655 honors duty shall be afforded to employees without the accumulation or loss of holiday,  
656 vacation or personal time. An employee will receive pay from the Nation for any hours work  
657 that the employee was required to miss due to reservist training.  
658 1) Any pay received for performing any of the above duties shall be deducted from the  
659 employee's pay. (GTC Resolution - 1-26-08A)  
660  
661 6. Jury Duty  
662 a. During a period of jury duty, an employee will receive pay from the Nation for any hours of  
663 work missed due to jury duty.  
664 1) Jury duty pay will be deducted from the employee's paycheck when determining the  
665 amount of pay  
666 2) No overtime will be allowed in determining employee pay while serving on jury duty.  
667 7. Educational Leave (BC Action, 5-4-90)  
668 a. A leave of absence for education purposes will not exceed one (1) year.  
669 8. Parent Policy Leave (BC Action, 3-2-94A)  
670 a. Employees who are parents, guardians, or those individuals specifically referred to as  
671 "immediate family" as defined in Section IV, page 6 of these Personnel Policies and  
672 Procedures which includes husband, wife, mother, father, brother, sister, son, daughter,  
673 mother-in-law, father-in-law, grandparent and grandchild may request to participate in their  
674 child(ren)'s educationally sanctioned events not to exceed four (4) hours per employee per  
675 month  
676 1) These four (4) hours shall not accumulate.  
677 b. Approval to utilize the four (4) hours must be obtained from the supervisor.  
678 1) An employee shall request his/her supervisor to utilize this leave with a minimum of  
679 twenty-four (24) hours' notice.  
680 2) The Supervisor may request verification of  
681 i. Guardianship of the child(ren) and/or  
682 ii. The attendance of the employee at their child(ren)'s educationally sanctioned -  
683 event.  
684 c. The burden shall be on the supervisor to show that a denial of the Parent Policy Leave which  
685 is based upon interference with the business of the Nation.  
686 d. This leave shall not be paid as overtime. The supervisor may have the option to use flex time  
687 to cover this time off to attend their child(ren)'s educationally sanctioned events.  
688 e. All employees, except Emergency/Temporary, Youth Workers, Student Interns, and Seasonal  
689 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

- 854 candidates for office.
- 855 2. Resolutions or petitions which propose that a political action be initiated.
- 856
- 857 3. Leaflets, newsletters, or other written materials the purpose of which is to
- 858 espouse political views or opinions.
- 859 h) The acceptance of gifts or gratuities for personal gain in the course of official duties.
- 860 (Customers are allowed to tip Bingo workers, Oneida Tobacco Enterprise workers,
- 861 and Museum Workers.) (W/S/T)
- 862 i) Inappropriate dress or personal hygiene which adversely affects the proper
- 863 performance of duties or constitutes a health or safety hazard. (W/S)
- 864 j) Failure to exercise proper judgment. (W/S/T)
- 865 k) Failure to be courteous in dealing with fellow employees or the general public.
- 866 (W/S/T)
- 867 l) Any of the following acts by employees: Arson, bribery, perjury, obstruction or
- 868 interference with an investigation authorized by the Oneida Nation. (S/T)
- 869 [\(BC Action – 12-2-88\)](#)
- 870 m) The use, possession, selling or purchasing of, or attempt to sell or purchase alcohol,
- 871 and/or controlled substances on or about premises of the Nation. (S/T)
- 872 [\(BC Action – 12-2-88\)](#)
- 873 n) Any violation of duly adopted ordinances of the Nation. (W/S/T) [\(BC Action – 12-2-88\)](#)
- 874 5) Sexual Harassment Policy
- 875 It is the Oneida Nation's Policy that all employees have a right to work in an
- 876 environment free of discrimination which includes freedom from harassment, more
- 877 specifically sexual harassment. The Oneida Nation considers sexual harassment, in
- 878 whatever form, in the workplace to be a serious violation of an individual's dignity and
- 879 personal rights. In all matters, where complaint of sexual harassment is lodged against
- 880 an employee, the Oneida Nation has a duty and obligation to conduct a thorough
- 881 investigation using discretion, good judgment and the principles and practice of strict
- 882 confidentiality. If sexual harassment has been committed, the progressive disciplinary
- 883 process is as follows (W/S/T).
- 884
- 885 Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors,
- 886 and other verbal or physical conduct of a sexual nature when (1) submission to such
- 887 conduct is made either explicitly or implicitly a term or condition of an individual's
- 888 employment, (2) submissions to or rejection of such conduct by an individual is used as
- 889 the basis for employment decisions affecting such individuals, or (3) such conduct has
- 890 the purpose or effect of substantially interfering with an individual's work performance
- 891 or creating an intimidating, hostile, or offensive work environment.
- 892 a) Sexual Harassment (W/S/T)
- 893 i. Procedure
- 894 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 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.

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1057 **SECTION VI – SAFETY AND HEALTH**  
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1059 A. POLICY

1060 The personal safety and health of each employee, customer and client of the Oneida Nation is of  
1061 primary importance. The prevention of injuries and illnesses is of such importance that it will take  
1062 precedence over operating productivity whenever necessary.  
1063

1064 The Oneida Nation will maintain a safety and health program conforming to the best practices available.  
1065 To be successful, this program will work to develop the proper attitudes toward on-the-job injury and  
1066 illness prevention on the part of supervisors and employees. This program will strive to develop a high  
1067 level of cooperation in all safety and health matters between supervisors and employees and among  
1068 employees.  
1069

1070 The objective of this program is a safe and healthy environment that will reduce the number of job-  
1071 related injuries and illnesses to an absolute minimum. The Nation's goal is zero  
1072 accidents and illnesses.  
1073

1074 B. PROCEDURES

1075 The Tribal Safety Committee will adopt and enforce through the Personnel Department  
1076 procedures related to the education of the Nation's work force in matters of safety and health.  
1077 These procedures will include all education and prevention activities, assessments and  
1078 evaluations, and reporting.  
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## **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. [\(Archived 29, October 2010\)](#) [\(BC Action, 10-14-09B\)](#)

# ONEIDA NATION PUBLIC MEETING NOTICE

LEGISLATIVE OPERATING COMMITTEE  
WWW.ONEIDA-NSN.GOV/GOVERNMENT

**Thursday, September 20, 2018, 12:15pm**

Norbert Hill Center-Business Committee Conference Room  
N7210 Seminary Rd., Oneida, Wisconsin

## AMENDMENTS TO THE ONEIDA PERSONNEL POLICES AND PROCEDURES



The amendments to the Oneida Personnel Policies and Procedures will permanently adopt emergency amendments that were made through Oneida Business Committee resolution BC-04-25-18-E as a result of the dissolution of the Personnel Commission for the purpose of consolidating employment related grievance hearings into the Judiciary in an effort to increase consistency in hearing processes, efficiency, and reduce overall costs to the Oneida Nation.

The amendments to the Oneida Personnel Policies and Procedures will:

1. Replace any reference to the Personnel Commission which refer to actions affecting employees involving adverse employment actions for which a hearing is authorized with a reference to the Judiciary – Trial Court.
2. Replace any reference to the Personnel Commission which refer to actions involving hiring, including screening and interviews with a reference to the Personnel Selection Committee.
3. Make minor drafting revisions.

## PUBLIC COMMENTS PERIOD CLOSSES THURSDAY, SEPTEMBER 27, 2018

During the Public Comment Period, all interested persons may submit written comments. Comments may be submitted to the Oneida Nation Secretary's Office or the Legislative Reference Office in person, by U.S. mail, interoffice mail, or e-mail.



**-PUBLIC MEETING PACKETS ARE AVAILABLE AT-**

[www.oneida-nsn.gov/Register/Public Meetings](http://www.oneida-nsn.gov/Register/Public%20Meetings) or contact Oneida Nation Legislative Reference Office located in the Norbert Hill Center, PO Box 365, Oneida, Wisconsin 54155  
Email: [LOC@oneidanation.org](mailto:LOC@oneidanation.org) Phone: 920-869-4376



# AMENDMENTS TO PERSONNEL POLICIES AND PROCEDURES LEGISLATIVE ANALYSIS

## SECTION 1. EXECUTIVE SUMMARY

REQUESTER: OBC	SPONSOR: David P. Jordan	DRAFTER: Clorissa N. Santiago	ANALYST: Brandon Wisneski
Intent of the Amendments	To permanently remove references to the Personnel Commission and transfer their responsibilities under this law to the Oneida Judiciary, the newly created Personnel Selection Committee, and the Oneida Human Resources Department.		
Purpose	The purpose of the Personnel Policies and Procedures, also referred to as “the blue book,” is to govern the Nation’s employment policies regarding recruitment, selection, compensation and benefits, employee relations, safety and health, record keeping and other work standards.		
Affected Entities	Oneida Human Resources Department, Oneida Judiciary, Oneida Personnel Commission, Oneida Personnel Selection Committee, All employees of the Nation, All applicants who interview for jobs with the Nation.		
Affected Legislation	Oneida Personnel Policies and Procedures		
Enforcement/Due Process	This law includes a disciplinary process for violations. Employees may appeal disciplinary actions to their area manager or Oneida Judiciary Trial Court [see <i>Personnel Policies and Procedures – Section V</i> ].		
Public Meeting	A public meeting has not yet been held.		

## SECTION 2. LEGISLATIVE DEVELOPMENT

- A. On April 11, 2018, the Oneida Business Committee (OBC) dissolved the Oneida Personnel Commission and directed that the Commission’s hearing authority be transferred to the Oneida Judiciary [see *BC Resolution 04-11-18-A*]. On the same day, the Oneida Business Committee recreated the Personnel Selection Committee to assume the Personnel Commission’s responsibilities related to job screening and interviews [see *BC Resolution 04-11-18-B*]. The Personnel Selection Committee was originally created by the General Tribal Council to monitor the hiring process to protect against issues of nepotism and enforce Oneida and Indian preference. In 1990, the OBC changed the committee’s name to the “Personnel Commission” [see *BC Resolution BC-04-13-90*]. Over time, the Personnel Commission assumed additional responsibilities beyond the hiring process, such as hearing employment-related grievances [see *BC Resolution 05-12-93-J*].
- B. References to the Personnel Commission appear in several of the Nation’s laws. Now that the Personnel Commission is dissolved, amendments are necessary to transfer the Personnel Commission’s responsibilities to the Oneida Judiciary or to the newly recreated Personnel Selection Committee.
- C. On April 25, 2018, the Oneida Business Committee adopted emergency amendments to transfer the Personnel Commission’s responsibilities under this law to the Oneida Judiciary Trial Court and the Personnel Selection Committee. The emergency amendments expire on October, 25, 2018 and may be renewed for one additional six-month period. [see *BC Resolution 04-25-18-D*].



- D. Permanent adoption of these amendments will ensure that the Nation's employees can continue to have their employment-related grievances heard. These amendments also ensure that the Nation's job screening and interview process will include participation from the newly recreated Personnel Selection Committee.

### SECTION 3. CONSULTATION AND OUTREACH

- A. The Judiciary Law, Personnel Policies and Procedures, Employee Protection Policy, and Military Service Employee Protection Act, and draft Employment law were reviewed in drafting this analysis.
- B. The Human Resources Department, Judiciary and a former Personnel Commission staff were consulted in the development of this analysis.

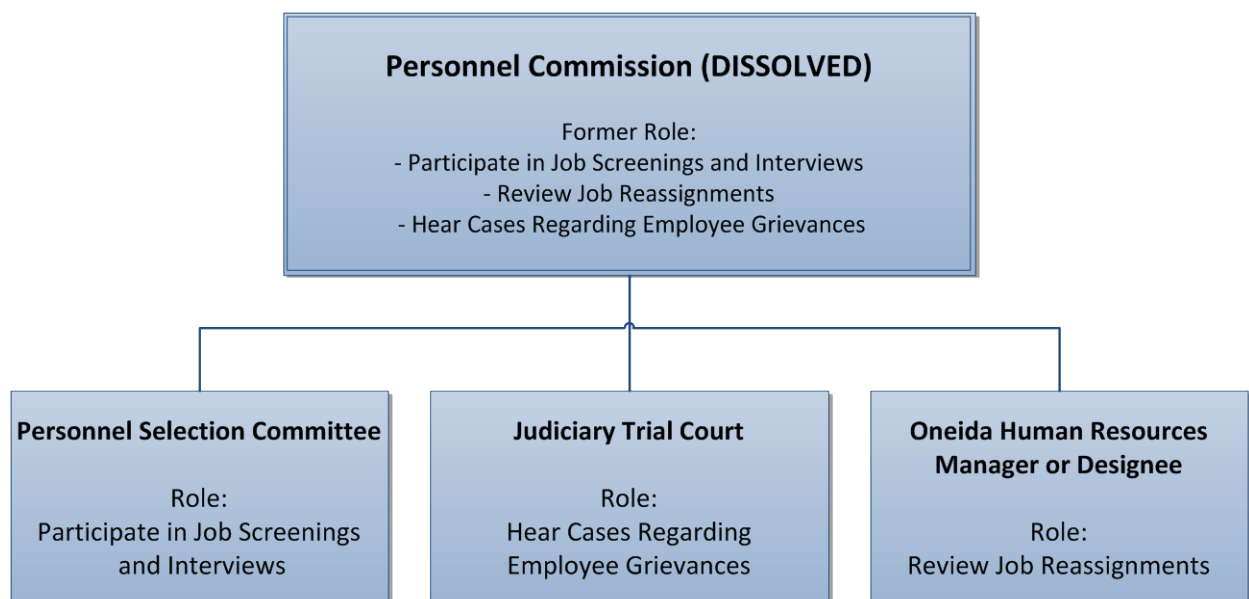
### SECTION 4. PROCESS

- A. Thus far, this law has followed the process set forth in the Legislative Procedures Act (LPA).
- B. This law was added to the Active Files List as emergency amendments on 4/18/2018. Emergency amendments to this law were adopted by the BC on 4/25/2018. The emergency amendments expire on 10/25/18 and may be renewed for one additional six-month period.
- C. The Legislative Procedures Act did not require a public meeting or fiscal impact statement when considering emergency legislation. However, they are now required when considering permanent adoption of these amendments.

### SECTION 5. CONTENTS OF THE LEGISLATION

- A. **Removal of Personnel Commission.** The Personnel Commission served two roles in the Personnel Policies and Procedures: Participating in hiring through job screening, interviews and reassignment and participating in grievances by hearing appeals regarding disciplinary actions and employee grievances. These amendments divide these duties between the Judiciary Trial Court, the new Personnel Selection Committee, and the Oneida Human Resources Department.

*Chart 1. Transfer of Personnel Commission's Responsibilities:*



- i. **Personnel Selection Committee.** The Oneida Business Committee created the Personnel Selection Committee on April 11, 2018 to replace the Personnel Commission. Members of the committee will be appointed by the Oneida Business Committee and participate in job screenings and job interviews. The Personnel Selection Committee will consist of eight (8) members appointed by the Oneida Business Committee. Unlike the Personnel Commission, the Personnel Selection Committee will not actively “score” job applicants during interviews. Instead, their role will be to observe and ensure that proper procedures are being followed in the hiring process.

**Chart 2. Comparison of Personnel Commission and Personnel Selection Committee.**

<b>Personnel Commission (Dissolved)</b>	<b>Personnel Selection Committee (New)</b>
Appointed by Business Committee	Appointed by Business Committee
Participated in screenings, interviews and job reassignments.	Participates in screenings and interviews.
Scored job applicants during interviews	Does not score job applicants during interviews – observes only.
Conducted investigations.	Cannot conduct investigations.
Original Hearing Body. Held hearings and issued decisions.	Not an original hearing body. Will not conduct hearings or issue decisions.
Role Under this law: represent the community at large in the selection of tribal employees	Role under this this law: to protect against issues of nepotism and enforce Oneida and Indian preference

- ii. **Oneida Judiciary Trial Court.** The General Tribal Council adopted the Judiciary Law on January 7, 2013, which created the Oneida Judiciary. In a Secretarial election held May 2, 2015, the Nation’s members voted to amend the Constitution to add Article V, which references the Judiciary. Since that time, several boards, committees and commissions have transferred their hearing authority to the Judiciary, including the Land Commission and Environmental Resource Board. The Judiciary Trial Court is made up of three judges elected by the General Tribal Council.

**B. Section III – Selection Policy.** This section of the law describes the Nation’s procedures regarding hiring, screening, interviewing, and selecting job applicants. Previously, the Personnel Commission actively participated in screening, job interviews, and the scoring of applicants. References to the Personnel Commission in this section have been replaced with the Personnel Selection Committee:

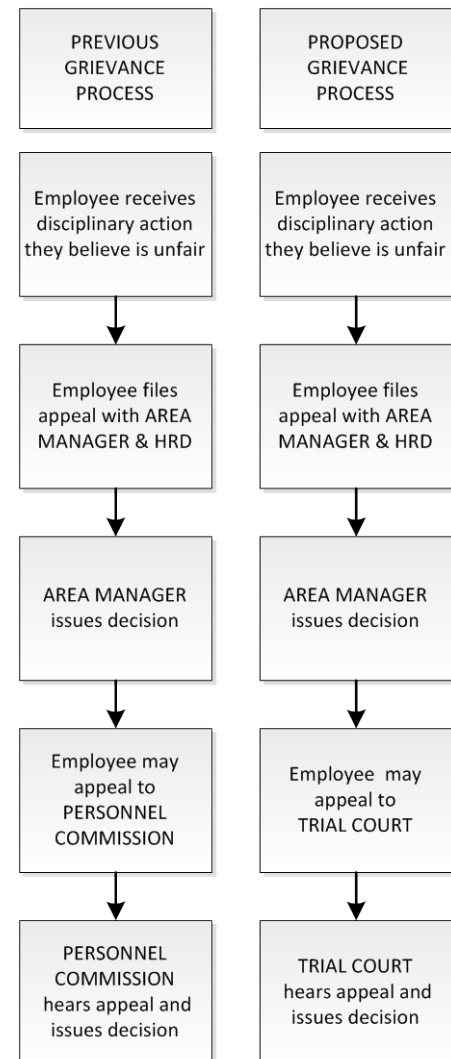
- i. **Training.** The Personnel Selection Committee must undergo training and periodic re-training in Equal Employment Opportunity (EEO) and Tribal laws, rules and regulations [see *Personnel Policies and Procedures – Section III(B)(1)*].
- ii. **Role of Personnel Selection Committee.** The section of this law describing the role of the Personnel Commission has been re-titled to describe the role of the Personnel Selection Committee. This role is to protect against issues of nepotism, enforce Oneida and Indian preference, and ensure fairness and equality is maintained during interviews. [see *Personnel Policies and Procedures – Section III(B)(2)(b)*].
- a. **Limited Role.** This change reflects the Personnel Selection Committee’s limited role in comparison to the former Personnel Commission. While the Personnel Commission actively participated in the selection of applicants during job interviews, the role of the

- Personnel Selection Committee is to observe interviews to ensure fairness and equality is maintained.
- iii. *Screening.* Screening Committees, which conduct screening of job applicants, will now include a member of the Personnel Selection Committee instead of a member of the Personnel Commission [see *Personnel Policies and Procedures – Section III(B)(2)(f)(1)*].
  - iv. *Interviews.* Interview Committees, which conduct interviews of job candidates, will now include a second member of the Personnel Selection Committee instead of a second member of the Personnel Commission. [see *Personnel Policies and Procedures – Section III(B)(2)(g)(1)*].
  - v. *Job Reassignments.* A job reassignment is a business decision that involves moving an employee from one regular status position to another. The purpose is to make efficient use of employees in the best interests of the business unit. Job reassignments cannot be used as a disciplinary action. All job assignments must be approved by the employee’s Area Manager. Previously, job reassignments also had to be reviewed by a “Personnel Evaluation Committee” consisting of three Personnel Commissioners. Instead, job reassignments will now be reviewed by the HRD Manager or designee. The purpose of this additional review is to verify that the employee meets the job requirements and submitted all required documentation.

**C. Section V – Employee Relations.** This section of the law describes the Nation’s procedures regarding disciplinary actions and employee grievances. Supervisors may **Chart 3. Grievance Process**

discipline employees for unacceptable work performance. If an employee believes a disciplinary action was unfair, they may appeal it to the Area Manager. If the employee is unhappy with the Area Manager’s decision, they can appeal again. Originally, these appeals went to Personnel Commission. Instead, employees will now appeal the Area Manager’s decision to the Oneida Judiciary Trial Court. All references to the Personnel Commission in this section have been replaced with the Oneida Judiciary Trial Court:

- i. *Appeal Process.* Employees who wish to appeal the area manager’s decision will now take their appeals to the Judiciary Trial Court instead of the Personnel Commission [See *Personnel Policies and Procedures - Section V(D)(6)(b)*].
- ii. *Timelines and Notification Requirements.* All timelines and requirements for notice or delivery of documents remain unchanged. However, all references to the Personnel Commission within these timelines have been replaced with the Judiciary Trial Court:
  - a. *Timeline for Appeal.* The timeline for filing appeals remains unchanged at ten (10) working days from date the employee receives the Area Manager’s decision. These appeals must now be filed with the Judiciary Trial Court instead of the Personnel Commission. [see *Personnel Policies and Procedures - Section V(D)(6)(b)*].



- 124 b. *Notifying HRD of Appeal.* The Judiciary Trial Court, not the Personnel Commission, must  
125 notify HRD that an appeal has been filed within one (1) business day [see *Personnel*  
126 *Policies and Procedures - Section V(D)(6)(b)*].
- 127 c. *Delivery of Case Documents.* All information regarding the case must be hand delivered to  
128 the Oneida Judiciary Trial Court, instead of the Personnel Commission.
- 129 d. *Notice of Hearing Date.* The Trial Court, rather than the Personnel Commission, will  
130 notify petitioners and respondents of their hearing date at least five (5) working days prior  
131 to the hearing.
- 132 e. *Delivery of Case Documents.* If a hearing date has been scheduled, all information  
133 regarding the case must be hand delivered to the Oneida Judiciary Trial Court at least two  
134 (2) working days before the appeal date.
- 135 iii. *Process for New Evidence and Decisions.* The process for introduction of new evidence and  
136 rendering decisions remains unchanged, except that references to the Personnel Commission are  
137 replaced with the Oneida Judiciary Trial Court:
- 138 a. *New Evidence.* If new evidence is introduced during the Trial Court process, then the  
139 hearing will be suspended and the case remanded to the Area Manager to reconsider his or  
140 her original decision based on the new evidence [see *Personnel Policies and Procedures*  
141 *Section V(D)(6)(b)(4)*].
- 142 b. *Basis of Decision.* The Trial Court, rather than the Personnel Commission, will base their  
143 decisions only on the information presented to them [see *Personnel Policies and*  
144 *Procedures Section V(D)(6)(b)(4)*].
- 145 c. *Decision.* The Trial court may uphold the disciplinary action or overturn the disciplinary  
146 action. If the disciplinary action is overturned, the Trial Court may reinstate the employee  
147 with or without back pay. Decisions of the Judiciary Trial Court may be appealed to the  
148 Court of Appeals [see *Personnel Policies and Procedures Section V(D)(6)(b)(7)*].
- 149 D. *Minor Drafting Revisions.* Additional minor revisions were made to reflect current drafting and  
150 formatting standards. For example, “Tribe” has been changed to “Nation.”  
151

## 152 **SECTION 6. EFFECT ON EXISTING LEGISLATION**

- 153 A. As a result of the dissolution of the Personnel Commission and creation of the Personnel Selection  
154 Committee, the following laws were also amended on an emergency basis to remove references to the  
155 Personnel Commission:
- 156 i. Oneida Employee Protection Policy [see *BC Resolution 04-15-18-G*].  
157 ii. Military Service Employee Protection Act [see *BC Resolution 04-25-18-D*].  
158 iii. Oneida Judiciary Rules of Civil Procedure [see *BC Resolution 04-15-18-F*].  
159

## 160 **SECTION 7. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR OBLIGATIONS**

- 161 A. *Trial Court Filing Fees.* The Personnel Commission did not charge a fee to file appeals related to  
162 this law. The Trial Court, however, charges a \$50 filing fee for general civil cases. Therefore,  
163 employees may now be required to pay filing fees in order to have their cases heard.
- 164 i. *Fee Waiver.* If individuals are unable to pay the filing fee, they may request a fee waiver from  
165 the court for the following reasons: Unemployed, Health/Medical, Indigent (poverty level), or  
166 other reasons.

**B. Pending Cases.** At the time the emergency amendments were adopted on 4/25/18, five cases were pending before the Personnel Commission. These cases, and any associated timelines, were placed on hold until emergency amendments to this and related laws were adopted. The Oneida Business Committee's resolution indicated that the Judiciary was notified and prepared to accept these responsibilities [see BC Resolution 04-11-18-A].

## SECTION 8. ENFORCEMENT AND ACCOUNTABILITY

- A.** The Personnel Selection Committee will provide enforcement and accountability in the hiring process by observing all employment prescreens and interviews to protect against nepotism and enforce Oneida and Indian preference.
- B.** The Oneida Judiciary will provide enforcement and accountability in the grievance process. Employees who receive a disciplinary action they believe to be unfair may challenge the action first to the Area Manager and HRD Manager, and then to the Judiciary Trial Court.

## SECTION 9. OTHER CONSIDERATIONS

*The LOC should be aware of the following impacts regarding the adoption of these amendments:*

**A. Permanent Adoption of Amendments to Personnel Policies and Procedures.** The Oneida Personnel Policies and Procedures is considered a GTC-adopted law, which can only be permanently amended by the General Tribal Council (GTC). While the OBC may adopt emergency amendments to this law, any permanent amendments should be brought to the GTC for adoption.

- i.* Below are examples of previous emergency amendments to the Personnel Policies and Procedures that were later presented to GTC for permanent adoption:

**Chart 4. Previous Emergency Amendments to Personnel Policies and Procedures**

Emergency Amendments by OBC:	Permanent Adoption by GTC:	Description of Amendments:
BC Resolution 09-10-03-A	GTC Resolution 02-28-04-A	Emergency amendments to address vagueness and ambiguity regarding the grievance process.
BC Resolution 04-14-10-B and BC Resolution 09-22-10-D	GTC Resolution 05-23-11-A	Emergency amendments to strengthen Indian Preference in Hiring
BC Resolution 09-08-10-C and BC Resolution 02-23-11-D	GTC Resolution 05-23-11-B	Emergency Amendments on Trade Back for Cash of Personal and Vacation Time

- ii.* Since the OBC and GTC are already considering revisions to Personnel Policies and Procedures through adoption of the Employment Law, LOC may want to include these amendments in future drafts and debate on that law.

**B. Impact on Draft Employment Law.** The Oneida Business Committee and General Tribal Council are currently considering adoption of an Employment Law. A draft of the Employment Law was most recently presented to GTC on 3/19/2017. An Employment Law update was also on the agenda for the Special GTC meeting on 6/18/18, but was deleted from the agenda.

- i. **Creation of Personnel Selection Committee.** The current draft of the Employment Law dissolves the Personnel Commission and transfers its hearing authority to the Trial Court and all non-hearing related responsibilities to HRD. The draft of the Employment Law and handbook should be updated to reflect the BC's action to dissolve the Personnel Commission and create the Personnel Selection Committee.
- ii. **Employment Law.** The proposed Employment Law repeals the Personnel Policies and Procedures and replaces it with a new Employee Handbook. Therefore, if the Employment Law is adopted before the emergency amendments to Personnel Policies and Procedures expire, then permanent adoption of these amendments will be unnecessary.
- iii. **Prior to the expiration of these emergency amendments, one of the following will occur:**

<b>GTC Action</b>	<b>Impact on Personnel Policies and Procedures</b>	<b>Outcome</b>
<b>Scenario 1:</b> GTC adopts these Personnel Policies and Procedures amendments.	Personnel Commission permanently removed from Personnel Policies and Procedures	GTC may consider Employment Law at a later date.
<b>Scenario 2:</b> GTC adopts Employment Law	Personnel Policies and Procedures replaced by new Employment Law, which removes Personnel Commission	Personnel Policies and Procedures amendments no longer needed.
<b>Scenario 3:</b> GTC fails to adopt Personnel Policies and Procedures or Employment Law prior to expiration of emergency amendments.	Emergency amendments expire. Outdated references to Personnel Commission return to the Personnel Policies and Procedures. Personnel Commission is not recreated by failure to adopt these amendments.	Personnel Policies and Procedures will be out of date.
<b>Scenario 4:</b> GTC rescinds the dissolution of the Personnel Commission and related emergency amendments.	References to Personnel Commission return to the Personnel Policies and Procedures.	Amendments to Personnel Policies and Procedures no longer needed.

- C. **Impact of GTC Petition Regarding Personnel Commission.** On May 14, 2018, the Petition: G. Powless – Oneida Personnel Commission Dissolution was submitted to the Business Committee Support Office. At the time this analysis was drafted, it is anticipated that GTC will consider this petition at a Special GTC Meeting on 8/27/18. The petition requests that GTC rescind the dissolution of the Personnel Commission [BC Resolution 04-11-18-A], the creation of the Personnel Selection Committee [BC Resolution 04-11-18-B], and the emergency amendments to this law [BC Resolution 04-25-18-D]. In the event that GTC rescinds these actions, the amendments to this law will become unnecessary.
- D. **Impact of Expiration of Emergency Amendments.** Should these emergency amendments expire before permanent adoption by GTC, the outdated references to the Personnel Commission will return

to the law. A similar situation has occurred previously, when the Oneida Business Committee removed a position that appeared in the Personnel Policies and Procedures:

*i. Example: Removal of General Manager.* When the Business Committee removed the General Manager position, the Human Resources Department issued an HRD Interpretation that the function of “General Manager,” as stated in the Oneida Personnel Policies and Procedures, is defined as the highest level in the chain of command under the Oneida Business Committee; or, Boards, Committees and Commissions that report directly to the General Tribal Council.”

*ii. Conclusion:* HRD may want to begin planning for the possibility that these emergency amendments will expire without the re-creation of the Personnel Commission and determine how to move forward until GTC either approves amendments to this law or rescinds the dissolution of the Personnel Commission.

**E. Additional Employment-Related Amendments.** The amendments to this law are currently limited to addressing the dissolution of the Personnel Commission. Meanwhile, the LOC continues to pursue the development and adoption of the Employment Law, which will include broad changes to the Nation’s employment policies. At the time this analysis was drafted, the LOC determined that additional employment-related requests and suggestions received by the LOC will be considered when updating the draft Employment Law.

*The following is provided for informational purposes:*

**F. Status of the Personnel Selection Committee.** The Oneida Business Committee adopted by-laws for the Personnel Selection Committee on May 23, 2018. At the time this analysis was drafted, members had not yet been appointed to this committee.

**G. Historical Caseload of Personnel Commission.** Based on a review of the Personnel Commission’s quarterly reports, the Commission’s caseload is provided for informational purposes: In Fiscal Year 2017, The Personnel Commission participated in 245 prescreens, 154 job interviews, reviewed 96 job reassignments and heard 20 grievance cases.

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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 ~~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 ~~Tribe~~Nation seeks to employ individuals who possess the skills, abilities and background to meet the employment needs of the ~~Tribe~~Nation.

As a sovereign Indian ~~Tribe~~Nation and a unique cultural group, the Oneida ~~Tribe~~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 ~~Tribe~~Nation. Further, the ~~Tribe~~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 ~~Tribe~~Nation. At a minimum, the ~~Tribe~~Nation has determined that some knowledge of Indian culture is a desirable employment characteristic.

Accordingly, the Oneida ~~Tribe~~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 ~~Tribe~~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 ~~Tribe~~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 ~~Tribe~~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 ~~Tribe~~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 ~~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.~~

- 238 | i. Protect against issues of nepotism;  
239 | ii. Enforce Oneida and Indian preference;  
240 | iii. Ensure fairness and equality is maintained during interviews.  
241 | c. Identification of Vacancies and Development of Job Descriptions <sup>(Work Standard, 11-16-11)</sup>  
242 | 1) Supervisors may inform the HRD Office of pending vacancies as soon as they are  
243 | identified.  
244 |  
245 |  
246 | 2) For existing positions, the HRD Manager (or designate), the supervisor and the Area  
247 | Manager (at his/her option) will review the job description to ensure compliance with:  
248 | a) The ~~Tribal~~ Nation's job structure;  
249 | b) The needs and requirements of the job.  
250 | 3) For new positions, the HRD Manager, the appropriate Area Manager, and the supervisor  
251 | shall develop the job description.  
252 | a) The new job description shall conform to the ~~Tribal~~ Nation's job structure.  
253 | b) The new job description will be reviewed by the General Manager.  
254 | <sup>(HR Interpretation, 12-8-16)</sup>  
255 | 4) All job descriptions shall contain the following information:  
256 | a) Job title, division/department, location, supervisor's title;  
257 | b) Posting date, application deadline, preferred starting date, date of job, description  
258 | review;  
259 | c) Pay level (grade, step, hourly rate);  
260 | d) A brief job summary;  
261 | e) Duties and responsibilities;  
262 | f) Qualifications;  
263 | g) Inquiry address;  
264 | h) Statement of compliance with EEO and Indian Preference policies.  
265 | d. Applications  
266 | 1) All inquiries for job vacancies will be responded to with a ~~Tribal Application~~ an Oneida  
267 | Nation Application Form which will consist of:  
268 | a) Job vacancy title;  
269 | b) Applicant biographical data;  
270 | c) A request for a resume (where applicable).  
271 | 2) The Application Form shall be accompanied by a Statement of Policy regarding Oneida  
272 | Preference and Indian Preference.  
273 | 3) Hand-delivered applications will be accepted at the HRD Office until 4:30 p.m. on the  
274 | deadline date; mailed applications must be postmarked on or before the deadline date.  
275 | 4) All applications will be acknowledged.  
276 | e. Advertising  
277 | 1) Position vacancies will be advertised as widely as possible including:  
278 | 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:

- 320 a) Construct an interview format consisting of:
- 321 i. A set of questions related to the screening criteria qualifications;
- 322 ii. An interview rating scale designed to objectively evaluate each candidate's
- 323 qualifications.
- 324 b) Interview candidates and evaluate each individually
- 325 2) The HRD Manager (or designee) will total the evaluation rating scale to rank order of the
- 326 candidates.
- 327
- 328
- 329 h. Selection [\(Interpretation - Disqualification of Applicant 10-24-2013\)](#)
- 330 1) The supervisor shall select one of the top two (2) candidates as ranked through the
- 331 rating scale. [\(HR Interpretation - 10-17-12\)](#)
- 332 a) The supervisor may conduct an additional personal interview with the top two (2)
- 333 candidates.
- 334 b) The selection decision shall be governed by the Oneida Preference and Indian
- 335 Preference Policy. [\(HR Interpretation - 6-6-11\)](#)
- 336 c) The HRD Office will notify the selected candidate and offer the candidate the job
- 337 within five (5) working days of the selection decision by the supervisor.
- 338 i. Should the supervisor's first choice refuse the offer, the HRD Office will offer
- 339 the job to the second ranked candidate.
- 340 2) Should both of the top two ranked candidates refuse the job offer, the supervisor may:
- 341 a) Repeat the process outlined in B.2.h.1. above; or
- 342 b) Re-post the position.
- 343 3) The HRD Office will notify those candidates interviewed but not selected of the
- 344 decision to hire the best-qualified candidate.
- 345 4) All newly hired employees will be listed in the HR newsletter.
- 346 | C. TRANSFERS AND PROMOTIONS POLICY - The Oneida ~~Tribal~~[TribeNation](#) encourages transfers and
- 347 promotions within and among units in order to make the best possible use of human resources to
- 348 | meet ~~Tribal~~[the Nation's](#) goals and objectives. Supervisors and employees are encouraged to work
- 349 together to create an environment in which employees constantly strive to improve their skills and
- 350 abilities and managers constantly seek to provide challenging and rewarding work experiences.
- 351 1. Procedure
- 352 a. Internal Posting and Bidding
- 353 1) Open positions as determined by a supervisor and his/her Area Manager will be posted
- 354 internally for five (5) working days. This internal posting will be concurrent with the
- 355 external (public) posting of positions.
- 356 | a) Positions will be posted in prominent locations in each ~~Tribal~~[building of the Nation.](#)
- 357 2) Tribal employees may bid for transfers by notifying their immediate supervisor and
- 358 submitting an Application Form to the HRD Office.
- 359 a) The HRD Manager will inform all affected Area Managers of each transfer bid.
- 360 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~~Tribal~~Nation's~~Nation's 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~~Tribal~~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~~Tribal~~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~~Tribal~~Nation's~~Nation's Probation Policy shall apply).

b. Applicant Pool Process

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

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

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

b) Advertising through the ~~Tribal~~Tribal~~Nation's~~Nation's 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 Human Resources Department Manager, or designee ~~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**

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

- 526 should inform their supervisor as early as possible. Employees may use personal time for  
527 such requests if eligible; otherwise the time off will be treated as unpaid leave.
- 528 5. Vacation/Personal Days
- 529 | a. Every ~~Tribal~~ employee of the Nation, except temporary employees, shall be allowed  
530 personal and vacation days with pay to the extent that personal days and vacation are  
531 accumulated. Temporary employees shall be allowed personal and vacation days in  
532 accordance with Section II.C.4. [\(GTC Resolution – 7-02-12-A\)](#)
- 533 b. The amount of personal and vacations days shall be determined by continuous service for  
534 the ~~Tribe~~Nation. A "lay-off" from ~~tribal~~ employment of the Nation shall not be considered in  
535 interruption in continuous service where the lay-off is in accordance with the ~~Tribe's~~Nation's  
536 Layoff Policy, nor shall a preapproved leave of absence. [\(Accruals Interpretation, 3-6-12\)](#)
- 537 c. Except as provided for in section g, the accrual of personal days shall be as follows:  
538 [\(BC Resolution, 4-13-11F\)](#)
- 539 1) 0-3 years of service - 6 days per year;  
540 2) 4-7 years of service - 8 days per year;  
541 3) 8-14 years of service - 10 days per year;  
542 4) 15+ years of service - 12 days per year;
- 543 d. Except as provided for in section g, the accrual of vacation days shall be as follows:  
544 1) 0-3 years of service - 12 days per year  
545 2) 4-7 years of service - 15 days per year;  
546 3) 8-15 years of service - 20 days per year;  
547 4) 15+ years of service - 25 days per year.
- 548 e. Part-time employees accrue personal and vacation days for time actually worked at a ratio  
549 of a full-time employee.
- 550 f. Service is defined as working for Programs/Enterprises which are contracted by the  
551 | ~~Tribe~~Nation of specifically sponsored by the ~~Tribe~~Nation.
- 552 g. Vacation and personal days shall be capped at 280 hrs. [\(BC Resolution, 11-10-10D\)](#) An employee  
553 shall cease to accrue vacation and personal hours when he or she has reached 280 total  
554 hours. Supervisors shall notify their employees when said employees have accumulated 200  
555 total hours of vacation and personal time.
- 556 1) An employee may trade back accumulated vacation and personal hours in accordance  
557 with Section IV.A.5.n. below. [\(GTC Resolution – 5-23-11-B\)](#)
- 558 | h. Upon termination from ~~Tribal~~ employment with the Nation, employees will be paid for any  
559 unused personal and/or vacation days.
- 560 | 1) Employees who have used the ~~Tribally~~Nation's sponsored loan program will be  
561 required to honor the terms of the loan agreement.
- 562 i. Personal Days can be used for any reason so long as the request is approved by the  
563 employee's supervisor at least twenty-four (24) hours in advance (unless the absence is due  
564 to illness or unforeseen circumstances).
- 565 1) In the case of illness or unforeseen circumstance, the supervisor shall be notified no  
566 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 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 [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.

- 649 i. Failure to provide written notice will be interpreted to mean that the employee  
650 does not intend to return following the leave. The position will be posted and filled  
651 through the selection process. (HR Interpretation 11-21-11)
- 652 4. Maternity Leave
- 653 a. Maternity leave will be granted for a period of six (6) weeks without pay.
- 654 1) An employee may elect to cover any portion of this time by using accumulated sick days.
- 655 2) Any maternity-related absences for longer than six (6) weeks must be taken as a medical  
656 leave of absence.
- 657 5. Military Leave
- 658 | a. In addition to the following provisions, the ~~Tribe's~~Nation's Military Service Protection Act  
659 shall govern Military Leave.
- 660
- 661
- 662 b. A Military Leave of Absence is afforded employees entering active duty without  
663 accumulation of holiday, vacation or personal time during the period of leave. Any  
664 accumulated benefits prior to leave will be maintained for the employee.
- 665 c. Time off for inactive duty training, examinations to determine fitness for duty and funeral  
666 honors duty shall be afforded to employees without the accumulation or loss of holiday,  
667 | vacation or personal time. An employee will receive pay from the ~~Tribe~~Nation for any hours  
668 work that the employee was required to miss due to reservist training.
- 669 1) Any pay received for performing any of the above duties shall be deducted from the  
670 employee's pay. (GTC Resolution - 1-26-08A)
- 671 6. Jury Duty
- 672 | a. During a period of jury duty, an employee will receive pay from the ~~Tribe~~Nation for any  
673 hours of work missed due to jury duty.
- 674 1) Jury duty pay will be deducted from the employee's paycheck when determining the  
675 amount of pay
- 676 2) No overtime will be allowed in determining employee pay while serving on jury duty.
- 677 7. Educational Leave (BC Action, 5-4-90)
- 678 a. A leave of absence for education purposes will not exceed one (1) year.
- 679 8. Parent Policy Leave (BC Action, 3-2-94A)
- 680 a. Employees who are parents, guardians, or those individuals specifically referred to as  
681 "immediate family" as defined in Section IV, page 6 of these Personnel Policies and  
682 Procedures which includes husband, wife, mother, father, brother, sister, son, daughter,  
683 mother-in-law, father-in-law, grandparent and grandchild may request to participate in their  
684 child(ren)'s educationally sanctioned events not to exceed four (4) hours per employee per  
685 month
- 686 1) These four (4) hours shall not accumulate.
- 687 b. Approval to utilize the four (4) hours must be obtained from the supervisor.
- 688 1) An employee shall request his/her supervisor to utilize this leave with a minimum of  
689 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 ~~Tribe~~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 ~~Tribe~~Nation reflects the unique culture and character of the Oneida Nation. The ~~Tribe~~Nation recognizes that this may present special problems and difficulties for a new employee. The ~~Tribe~~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. ~~Tribal~~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 ~~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~~TribeNation'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 ~~Tribal~~Tribethe 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 ~~Tribe~~TribeNation through funds budgeted in programs or through the Higher Education program.
    - a. Reimbursement for books, tuition and fees is contingent upon the employee receiving at least a C (2.0 on a 4.0 point scale).
    - b. Employees who receive less than the required grade point will be required to reimburse the program for whatever costs were incurred.

#### D. COMPLAINTS, DISCIPLINARY ACTIONS, AND GRIEVANCES

Disciplinary procedures provide a systematic process for handling problem employees.

(Work Standard – 5-6-13) Disciplinary procedures serve to correct unacceptable behavior and to protect the ~~Tribe~~TribeNation. 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 ~~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)



- 854 c) Making false or malicious statements concerning other employees, supervisors or  
855 program heads. (W/S/T)
- 856 d) Use of alcohol or illegal controlled substances during work hours. (S/T)  
857 (GTC Resolution – 01-05-09A)
- 858 e) Reporting for work under the influence of alcohol or illegal controlled substances.  
859 (S/T) (GTC Resolution – 01-05-09A)
- 860 f) Failure to immediately report any work-related injuries to the immediate supervisor.  
861 (W/S)
- 862 g) Direct involvement in political campaigning during scheduled work hours. Violations  
863 include:
- 864 i. Use of ~~Tribal~~ employment title of the Nation in ~~Tribal~~the Nation's campaign  
865 activities. (W/S/T)
- 866 1. Political materials include: leaflets, brochures, etc. which solicit support for  
867 candidates for office.
- 868 2. Resolutions or petitions which propose that a political action be initiated.
- 869
- 870 3. Leaflets, newsletters, or other written materials the purpose of which is to  
871 espouse political views or opinions.
- 872 h) The acceptance of gifts or gratuities for personal gain in the course of official duties.  
873 (Customers are allowed to tip Bingo workers, Oneida Tobacco Enterprise workers,  
874 and Museum Workers.) (W/S/T)
- 875 i) Inappropriate dress or personal hygiene which adversely affects the proper  
876 performance of duties or constitutes a health or safety hazard. (W/S)
- 877 j) Failure to exercise proper judgment. (W/S/T)
- 878 k) Failure to be courteous in dealing with fellow employees or the general public.  
879 (W/S/T)
- 880 l) Any of the following acts by employees: Arson, bribery, perjury, obstruction or  
881 interference with an investigation authorized by the Oneida ~~Tribe~~Nation. (S/T)  
882 (BC Action – 12-2-88)
- 883 m) The use, possession, selling or purchasing of, or attempt to sell or purchase alcohol,  
884 and/or controlled substances on or about ~~Tribal~~ premises of the Nation. (S/T)  
885 (BC Action – 12-2-88)
- 886 n) Any violation of duly adopted ~~Tribal~~ ordinances of the Nation. (W/S/T) (BC Action – 12-2-88)
- 887 5) Sexual Harassment Policy
- 888 It is the Oneida ~~Tribe's~~Nation's Policy that all employees have a right to work in an  
889 environment free of discrimination which includes freedom from harassment, more  
890 specifically sexual harassment. The Oneida ~~Tribe~~Nation considers sexual harassment, in  
891 whatever form, in the workplace to be a serious violation of an individual's dignity and  
892 personal rights. In all matters, where complaint of sexual harassment is lodged against  
893 an employee, the Oneida ~~Tribe~~Nation has a duty and obligation to conduct a thorough  
894 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 [Policylaw](#) 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 [Policylaw](#).

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. The Personnel Commission~~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 ~~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~~ 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.
- 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 ~~Personnel Commission~~ 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 ~~Personnel Commission~~ Judiciary – Trial Court may be appealed s to the Nation's Court of Appeals pursuant to the Nation's Rules of Appellate Procedure ~~shall be final~~. The ~~Personnel Commission~~ 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 [TribeNation](#) 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 [TribeNation](#) 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'sNation'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 Tribal 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 Tribal 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.



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## **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.

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)

# **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.
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- 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.
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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 and after a review of each affected job by the Human Resources Department Manager,  
399 or designee .
- 400 c. Interim Job Reassignments (Work Standard 7-11-13)  
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.



- 485 f. Exempt employees are not eligible for overtime.  
486 1) The HRD Office will maintain a list of exempt employees.
- 487 4. Holidays ([Work Standard, 4-15-11](#))
- 488 a. Tribal holidays consist of the following:
- 489 1) One-half day Christmas Eve  
490 2) Christmas Day  
491 3) New Year's Day  
492 4) Memorial Day  
493 5) Veteran's Day  
494 6) Independence Day  
495 7) Labor day  
496 8) Thanksgiving Day  
497 9) Indian Day (day after Thanksgiving)  
498 10) One-half day Good Friday  
499 11) Code Talker's Day (Oneida Day, Friday prior to Memorial Day)  
500 ([BC Resolution – 12-11-13A](#))
- 501 b. To be eligible for a paid holiday, employees must work the preceding and following  
502 scheduled work days (except for employees who are on a prescheduled work leave or an  
503 approved extended sick leave.) Employees who are granted a sick day directly prior to a  
504 holiday must certify that they were capable of working the holiday in order to qualify for a  
505 paid holiday.
- 506 c. All regular employees will be given holiday pay for the maximum pay of eight (8) hours per  
507 day.
- 508 d. Holidays falling on a Saturday will be observed the preceding Friday; holidays falling on a  
509 Sunday will be observed on the following Monday. ([2017 Holiday Observance Calendar](#)) ([2016 Holiday Observance](#)  
510 [Calendar](#))
- 511 e. The Oneida Nation acknowledges its responsibility to make a reasonable accommodation to  
512 employees who wish time off to observe religious holidays. Requests for such time off will  
513 be granted where possible, based on the scheduling and staffing needs of affected  
514 departments. Employees wishing to take time off work for religious observances should  
515 inform their supervisor as early as possible. Employees may use personal time for such  
516 requests if eligible; otherwise the time off will be treated as unpaid leave.
- 517 5. Vacation/Personal Days
- 518 a. Every employee of the Nation, except temporary employees, shall be allowed personal and  
519 vacation days with pay to the extent that personal days and vacation are accumulated.  
520 Temporary employees shall be allowed personal and vacation days in accordance with  
521 Section II.C.4. ([GTC Resolution – 7-02-12-A](#))
- 522 b. The amount of personal and vacations days shall be determined by continuous service for  
523 the Nation. A "lay-off" from employment of the Nation shall not be considered in  
524 interruption in continuous service where the lay-off is in accordance with the Nation's Layoff  
525 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.

- 649  
650  
651 b. A Military Leave of Absence is afforded employees entering active duty without  
652 accumulation of holiday, vacation or personal time during the period of leave. Any  
653 accumulated benefits prior to leave will be maintained for the employee.  
654 c. Time off for inactive duty training, examinations to determine fitness for duty and funeral  
655 honors duty shall be afforded to employees without the accumulation or loss of holiday,  
656 vacation or personal time. An employee will receive pay from the Nation for any hours work  
657 that the employee was required to miss due to reservist training.  
658 1) Any pay received for performing any of the above duties shall be deducted from the  
659 employee's pay. (GTC Resolution - 1-26-08A)  
660  
661 6. Jury Duty  
662 a. During a period of jury duty, an employee will receive pay from the Nation for any hours of  
663 work missed due to jury duty.  
664 1) Jury duty pay will be deducted from the employee's paycheck when determining the  
665 amount of pay  
666 2) No overtime will be allowed in determining employee pay while serving on jury duty.  
667 7. Educational Leave (BC Action, 5-4-90)  
668 a. A leave of absence for education purposes will not exceed one (1) year.  
669 8. Parent Policy Leave (BC Action, 3-2-94A)  
670 a. Employees who are parents, guardians, or those individuals specifically referred to as  
671 "immediate family" as defined in Section IV, page 6 of these Personnel Policies and  
672 Procedures which includes husband, wife, mother, father, brother, sister, son, daughter,  
673 mother-in-law, father-in-law, grandparent and grandchild may request to participate in their  
674 child(ren)'s educationally sanctioned events not to exceed four (4) hours per employee per  
675 month  
676 1) These four (4) hours shall not accumulate.  
677 b. Approval to utilize the four (4) hours must be obtained from the supervisor.  
678 1) An employee shall request his/her supervisor to utilize this leave with a minimum of  
679 twenty-four (24) hours' notice.  
680 2) The Supervisor may request verification of  
681 i. Guardianship of the child(ren) and/or  
682 ii. The attendance of the employee at their child(ren)'s educationally sanctioned -  
683 event.  
684 c. The burden shall be on the supervisor to show that a denial of the Parent Policy Leave which  
685 is based upon interference with the business of the Nation.  
686 d. This leave shall not be paid as overtime. The supervisor may have the option to use flex time  
687 to cover this time off to attend their child(ren)'s educationally sanctioned events.  
688 e. All employees, except Emergency/Temporary, Youth Workers, Student Interns, and Seasonal  
689 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

- 854 candidates for office.
- 855 2. Resolutions or petitions which propose that a political action be initiated.
- 856
- 857 3. Leaflets, newsletters, or other written materials the purpose of which is to
- 858 espouse political views or opinions.
- 859 h) The acceptance of gifts or gratuities for personal gain in the course of official duties.
- 860 (Customers are allowed to tip Bingo workers, Oneida Tobacco Enterprise workers,
- 861 and Museum Workers.) (W/S/T)
- 862 i) Inappropriate dress or personal hygiene which adversely affects the proper
- 863 performance of duties or constitutes a health or safety hazard. (W/S)
- 864 j) Failure to exercise proper judgment. (W/S/T)
- 865 k) Failure to be courteous in dealing with fellow employees or the general public.
- 866 (W/S/T)
- 867 l) Any of the following acts by employees: Arson, bribery, perjury, obstruction or
- 868 interference with an investigation authorized by the Oneida Nation. (S/T)
- 869 [\(BC Action – 12-2-88\)](#)
- 870 m) The use, possession, selling or purchasing of, or attempt to sell or purchase alcohol,
- 871 and/or controlled substances on or about premises of the Nation. (S/T)
- 872 [\(BC Action – 12-2-88\)](#)
- 873 n) Any violation of duly adopted ordinances of the Nation. (W/S/T) [\(BC Action – 12-2-88\)](#)
- 874 5) Sexual Harassment Policy
- 875 It is the Oneida Nation's Policy that all employees have a right to work in an
- 876 environment free of discrimination which includes freedom from harassment, more
- 877 specifically sexual harassment. The Oneida Nation considers sexual harassment, in
- 878 whatever form, in the workplace to be a serious violation of an individual's dignity and
- 879 personal rights. In all matters, where complaint of sexual harassment is lodged against
- 880 an employee, the Oneida Nation has a duty and obligation to conduct a thorough
- 881 investigation using discretion, good judgment and the principles and practice of strict
- 882 confidentiality. If sexual harassment has been committed, the progressive disciplinary
- 883 process is as follows (W/S/T).
- 884
- 885 Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors,
- 886 and other verbal or physical conduct of a sexual nature when (1) submission to such
- 887 conduct is made either explicitly or implicitly a term or condition of an individual's
- 888 employment, (2) submissions to or rejection of such conduct by an individual is used as
- 889 the basis for employment decisions affecting such individuals, or (3) such conduct has
- 890 the purpose or effect of substantially interfering with an individual's work performance
- 891 or creating an intimidating, hostile, or offensive work environment.
- 892 a) Sexual Harassment (W/S/T)
- 893 i. Procedure
- 894 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 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.



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1057 **SECTION VI – SAFETY AND HEALTH**  
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1059 A. POLICY

1060 The personal safety and health of each employee, customer and client of the Oneida Nation is of  
1061 primary importance. The prevention of injuries and illnesses is of such importance that it will take  
1062 precedence over operating productivity whenever necessary.  
1063

1064 The Oneida Nation will maintain a safety and health program conforming to the best practices available.  
1065 To be successful, this program will work to develop the proper attitudes toward on-the-job injury and  
1066 illness prevention on the part of supervisors and employees. This program will strive to develop a high  
1067 level of cooperation in all safety and health matters between supervisors and employees and among  
1068 employees.  
1069

1070 The objective of this program is a safe and healthy environment that will reduce the number of job-  
1071 related injuries and illnesses to an absolute minimum. The Nation's goal is zero  
1072 accidents and illnesses.  
1073

1074 B. PROCEDURES

1075 The Tribal Safety Committee will adopt and enforce through the Personnel Department  
1076 procedures related to the education of the Nation's work force in matters of safety and health.  
1077 These procedures will include all education and prevention activities, assessments and  
1078 evaluations, and reporting.  
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## **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. [\(Archived 29, October 2010\)](#) [\(BC Action, 10-14-09B\)](#)



**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: August 8, 2018
- 2) Contact Person(s): Krystal John or Michelle Hill  
 Dept: Comprehensive Housing Division  
 Phone Number: 920-869-2227 Email: kjohn4@oneidanation.org
- 3) Agenda Title: Leasing Law Rule #1 - Residential Leasing Certification Request
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
The permanent Residential Leasing rule has completed the  
Administrative Rulemaking process and ready to be considered for  
adoption.

List any supporting materials included and submitted with the Agenda Request Form

- |                                |          |
|--------------------------------|----------|
| 1) <u>Certification Packet</u> | 3) _____ |
| 2) _____                       | 4) _____ |

- 5) Please list any laws, policies or resolutions that might be affected:  
Leasing Law
- 6) Please list all other departments or person(s) you have brought your concern to:  
N/A
- 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:

Krystal L. John

Digitally signed by Krystal L. John  
 DN: cn=Krystal L. John, o=Oneida Law Office, ou, email=kjohn4@oneidanation.org, c=US  
 Date: 2018.08.08 11:04:31 -05'00'

*Please send this form and all supporting materials to:*

**LOC@oneidanation.org**  
*or*  
**Legislative Operating Committee (LOC)**  
 P.O. Box 365  
 Oneida, WI 54155  
 Phone 920-869-4376



TO: Legislative Operating Committee (LOC)  
FROM: Clorissa N. Santiago, Legislative Reference Office, Staff Attorney  
DATE: August 15, 2018  
RE: Certification of Leasing Law Rule No. 1 – Residential Leasing

---

The Legislative Reference Office has reviewed the certification packet provided by the Comprehensive Housing Division (CHD) and the Oneida Land Commission for the Leasing Law Rule No. 1 – Residential Leasing (“the Rule”).

The Rule would become effective on August 22, 2018, if adopted by the Oneida Business Committee.

### **Administrative Record**

The certification packet contains all documentation required by the Administrative Rulemaking law for a complete administrative record.

The certification packet contains:

- A memorandum containing the Rule’s procedural timeline;
- Final draft of the Rule;
- Memorandum from CHD Division Director, Dana McLester, approving the Rule on May 22, 2018;
- Minutes from the May 30, 2018, Oneida Land Commission Meeting where the Rule was approved;
- Summary Report containing the statement of effect and financial analysis; and
- Public Meeting Notice as it appeared in the May 3, 2018 Kalihwisaks;
- Draft of the Rule that was presented at the public meeting;
- Public meeting sign in sheet;
- Public meeting transcript;
- Public comment response memorandum; and
- Redline draft of the Rule demonstrating changes made after the public meeting.

### **Procedural Requirements**

The certification packet illustrates that the promulgation of the Rule complies with the procedural requirements contained in the Administrative Rulemaking law.

In accordance with the Administrative Rulemaking law:

- A public meeting notice for the Rule was published in the Kalihwisaks on May 3, 2018;
- A public meeting for the Rule was held on May 17, 2018;
- The public comment period was held open until May 24, 2018;
- Public comments were considered and responded to in a memorandum; and

- The Rule was approved by the CHD on May 22, 2018, and approved by the Oneida Land Commission on May 30, 2018.

**Rulemaking Authority**

The Rule did not exceed the rulemaking authority granted under the law for which the Rule is being promulgated.

**Conclusion**

**Promulgation of the Leasing Law Rule No. 1 – Residential Leasing complies with all requirements of the Administrative Rulemaking law.**



## MEMORANDUM

**TO:** Legislative Operating Committee

**FROM:** Krystal L. John, Staff Attorney

**DATE:** August 8, 2018

**SUBJECT:** Request for Certification of Procedural Compliance  
Leasing Law Rule #1 – Residential Leasing

---

The Comprehensive Housing Division (CHD) and the Oneida Land Commission are exercising their joint rulemaking authority to further clarify residential leasing requirements pursuant to the Leasing law. This rule is the permanent rule proposed to be adopted to replace the emergency rule.

In addition to the notices required under the Administrative Rulemaking law, the CHD also sent the public meeting packet to all current residential lease holders. We received numerous oral comments – mostly seeking clarification – and no written comments. CHD has also sent the public meeting transcript and comment review memo to all those in attendance at the meeting. The chart below provides a timeline outlining compliance with the Administrative Rulemaking process.

Rulemaking Timeline	
Required Action	Date Completed
Public Meeting notice for the rule is posted in the Kalihwisaks (see page 33) and on the Oneida Register	May 3, 2018
Public Meeting held	May 17, 2018
Public Comment Period closed	May 24, 2018

The following attachments are included for your review:

1. Leasing Law Rule No. 1 – Residential Leasing
2. CHD Director Approval
3. Oneida Land Commission Minutes approving the Leasing Law
4. Summary Report
5. Financial Analysis
6. Statement of Effect
7. Copy of Public Meeting Published in the Kalihwisaks – Page 35 of the May 3, 2018 issue
8. Public Meeting Packet
9. Sign in sheet from the May 17, 2018 Public Meeting
10. Public meeting transcription from the May 17, 2018 Public Meeting
11. Public Meeting Comment Review Memo
12. Leasing Law Rule No. 1 – Residential Leasing – redline to public meeting draft

Following certification and Oneida Business Committee adoption, this rule shall become effective immediately.



# **Leasing Law Rule No. 1 – Residential Leasing**



## Title 6. Property and Land – Chapter 602 LEASING LAW

### Rule # 1 – Residential Leasing

- 1.1. Purpose and Policy
- 1.2. Adoption and Authority
- 1.3. Definitions
- 1.4. Residential Lease Eligibility, Cost, Duration, and Application
- 1.5. Application Review and Residential Lease Approval
- 1.6. Residential Lease by Guardian
- 1.7. Residential Lease Transfer
- 1.8. Residential Sublease
- 1.9. Residential Lease Termination
- 1.10 Compensation for Improvements Upon Residential Lease Termination
- 1.11 Residential Leasing Actions

#### 1.1. Purpose and Policy

1.1-1. *Purpose.* The purpose of the Residential Leasing rule is to expand upon the information provided in the Leasing Law regarding eligibility, administration, inheritability, and enforcement related to residential leases.

1.1-2. *Policy.* The policy behind the Residential Leasing program is to provide Tribal member's with access to Tribal land for the purpose of homeownership through policies that build strong, safe, and healthy Oneida neighborhoods and provide a consistent and fair process by which residential lease applications will be reviewed and residential leases awarded.

#### 1.2. Adoption and Authority

1.2-1. This rule was jointly adopted by the Comprehensive Housing Division and the Oneida Land Commission in accordance with the Administrative Rulemaking law.

1.2-2. This rule may be amended or repealed by the joint approval of the Comprehensive Housing Division and Land Commission pursuant to the procedures set out in the Administrative Rulemaking law.

1.2-3. Should a provision of this rule or the application of this rule to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this rule which are considered to have legal force without the invalid portions.

1.2-4. In the event of a conflict between a provision of this rule and a provision of another rule, internal policy, procedure, or other regulation; the provisions of this rule controls.

1.2-5. This rule supersedes all prior rules, regulations, internal policies or other requirements relating to the Leasing Law.

#### 1.3. Definitions

1.3-1. This section governs the definitions of words and phrases used within this rule. All words not defined herein are to be used in their ordinary and everyday sense.

- (a) "CHD" means the Nation's Comprehensive Housing Division.
- (b) "Department" means the CHD's Residential Leasing Department.
- (c) "Descendant" means the son or daughter of an enrolled Tribal member.
- (d) "Fee Land" means land held in fee status by the Nation.<sup>1</sup>

<sup>1</sup> Although the Real Property law indicates that leases for tribal fee land will follow the procedures set forth in the Leasing Law, CHD shall not record residential leases for fee land with the Land Title Records Office as that office only accepts recordings pertaining to trust land.

(e) “Guardian” means a person who has been appointed by a court of competent jurisdiction to be legally responsible for someone who is unable to manage their own affairs, particularly for minors and/or persons declared legally incompetent.

(f) “Improvement” means buildings, other structures, and associated infrastructure attached to land.

(g) “Lessee” means the party to an executed and effective residential lease.

(h) “Nation” means the Oneida Nation.

(h) “Premises” means the real property subject to a residential lease.

(i) “Residential Lease” means the legal document issued by the Nation pursuant to the Leasing Law and this rule which establishes a lessee’s right to occupy Tribal land for residential purposes.

(j) “Tribal land” means fee land and/or trust land.

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

(l) “Trust land” means the surface estate of land or any interest therein held by the United States in trust for the Nation; land held by the Nation subject to federal restrictions against alienation or encumbrance; land reserved for federal purposes; and/or land held by the United States in trust for the Nation under Section 17 of the Indian Reorganization Act, 25 U.S.C §477, et. seq.

(m) “Ward” means a person under the care and control of a guardian appointed by a court of competent jurisdiction, usually due the person’s status as a minor or a declaration of legal incompetence.

#### **1.4. Residential Lease Eligibility, Cost, Duration, and Application**

1.4-1. *Eligibility.* In order for an applicant to be eligible to enter a residential lease, the applicant must satisfy all of the following:

(a) Be a Tribal member. Non-Tribal members may be a party to a residential lease under the following circumstances:

(1) The non-tribal member is married to a Tribal member party to the residential lease;

(2) The non-tribal member spouse is awarded the residential lease through a legal separation or divorce judgment;

(3) The Oneida Land Commission has approved the CHD to enter a residential lease with a non-Tribal member party;

(4) The non-Tribal member is a descendant that inherited the residential leasehold interest; or

(5) as otherwise specified in this rule.

(b) Have a maximum of two (2) residential leases provided that a second residential lease is only permitted in circumstances where any required residential subleasing meets the requirements provided in this rule.

(c) Either:

(1) Be in good standing with any mortgage/encumbrance upon the improvements which would be subject to the residential lease; or

(2) Demonstrate financial ability to secure improvements upon the premises.

1.4-2. *Residential Lease Cost and Duration.* Unless approved otherwise by the Oneida Land Commission, the initial residential lease term shall be for a period of fifty (50) years with one (1) twenty-five (25) year extension available for a maximum term of seventy-five (75) years.

(a) Tribal members and non-Tribal members who qualify under sections 1.4-1(a)(1), (2),

(4), or (5) of this rule shall pay a non-refundable residential lease cost prior to execution of the lease of three dollars (\$3.00) per year plus an administrative fee of twenty-five dollars (\$25.00).

(b) Where the lessee is a non-Tribal member that enters into a residential lease pursuant to section 1.4-1(a)(3) of this rule, the cost of the residential lease is as follows:

(1) *Fair Market Value.* Non-Tribal members shall pay a one-time twenty-five dollar (\$25.00) administrative fee plus an annual rate which is the lessor of one thousand five hundred dollars (\$1,500.00) and fair market value of the premises. Payment for residential lease costs may be paid up front or broken down into monthly or quarterly payments.

(A) For the purposes of this section, fair market value is determined by dividing the current appraised value of the premises (excluding any improvements) by fifty (50), which represents the standard residential lease term of fifty (50) years.

(B) Once the annual fair market value is set, it shall be locked in for the term of the residential lease.

(C) Where an updated appraisal is required to calculate the current fair market value, lessee shall pay CHD's cost of appraisal, provided that CHD shall select the appraisal provider.

1.4-3. *Application.* In order to apply for a residential lease, applicants shall submit to the Department a residential lease application, which CHD shall make available in hard copy format at CHD and on its website. When submitting the application, applicants shall submit a copy of their Tribal or state identification card as applicable and, if married, a certified copy of the marriage certificate.

## **1.5. Application Review and Residential Lease Approval**

1.5-1. *Application Review.* Upon receipt of a residential lease application, the Department shall:

(a) Initiate the National Environmental Protection Act (NEPA) and cultural reviews required by the Leasing Law with the Environment, Health, Safety and Land Division and the Cultural Heritage Department respectively;

(b) Pull the legal description for the proposed residential lease premises from the title report, if available, and if not, from the warranty deed, including any potential amendments thereto, with the assistance of the Environment, Health, Safety and Land Division as may be needed;

(c) Pull the legal description for the proposed residential lease premises from the survey map;

(d) Confirm the proposed residential lease premises' legal description in the title report/warranty deed and the legal description in the survey match one another. In the event the legal descriptions do not match, the Department shall use the legal description from the most recent document;

(e) Confirm that the minimum terms and conditions required by the Leasing Law are included in the proposed residential lease; and

(f) If any exceptions have been granted by the Oneida Land Commission, confirm such exceptions with a copy of the Oneida Land Commission minutes.

1.5-2. *Residential Lease Approval.* The CHD shall create a checklist for residential lease review. Upon the Department's completion of the checklist, the Department shall forward the residential lease application, residential lease, and associated review documents to the

Department's Area Manager for review and approval.

(a) Should the Area Manager approve the satisfaction of the checklist and the residential lease, the Area Manager shall forward the residential lease application, residential lease, and associated review documents to the CHD Director for signature of the residential lease on behalf of the Nation.

(b) Upon signature on behalf of the Nation, the Department shall schedule a meeting with the lessee to review the residential lease terms and to facilitate signature of the lessee, provided that the residential lease may not be signed until the cost of the residential lease has been paid with receipt documented in the residential lease file.

(c) The CHD shall provide the Oneida Land Commission with a quarterly report listing approved residential leases.

## **1.6. Residential Lease by Guardian**

1.6-1. CHD shall permit a guardian to enter a residential lease on behalf of a ward who has either not yet reached the age of majority or who has been deemed incompetent provided that:

(a) The ward must meet the eligibility requirements contained in section 1.4-1 of this rule;

(b) The guardian must provide the Department with a copy of the order appointing them as guardian issued by a court of competent jurisdiction;

(c) The residential lease must require the guardian to provide any updates regarding the scope and status of the guardianship; and

(d) The residential lease must either stay in the name of the ward or transfer to the ward in the event the guardianship is terminated.

## **1.7. Residential Lease Transfer**

1.7-1. *Residential Lease Transfer Outside of Death.* Transfer of a residential lease outside of death may only occur either if all parties involved in the transfer approve of said transfer in writing or if an order from a court of competent jurisdiction requires transfer of the residential lease to an eligible party as defined by this rule.

(a) *Mortgaged Premises.* If the premises is mortgaged, all mortgage parties on the residential lease must remain on the residential lease. Mortgage parties may be removed from the residential lease only if action is taken to remove a party or the parties from the mortgage.

(b) *Residential Lease Transfer Process.* In order to initiate a residential lease transfer, the requesting party must submit a transfer application, which CHD shall make available in-person at CHD and electronically on its website, and pay the twenty-five dollar (\$25.00) transfer fee.

1.7-2. *Residential Lease Transfer Upon Death of Lessee.* Where the lessee dies before the end of the residential lease, the residential lease may be transferred either in reliance on an executed residential lease successor designation form or upon an order from either the Nation's probate hearing body or court of competent jurisdiction assigning the leasehold interest to an eligible heir.

(a) *Eligible Successors.* Unless approved otherwise by the Oneida Land Commission, when assigning a leasehold interest, whether through a successor designation form or a will/probate, in order to be eligible, the successor must meet the requirements of section 1.4-1 of this rule. If the successor has not yet reached the age of majority at the time the lessee becomes deceased, the successor will be required to enter a residential lease by

guardian until he/she reaches eighteen (18) years of age.

(1) *Successor Designation Form.* CHD shall make successor designation forms available in-person at CHD and electronically on its website. Executing a successor designation form demonstrates intent of the lessee to remove the residential leasehold interest from the estate's probate assets in order to shorten and simplify the transfer process to an eligible successor upon the death of a lessee. Successor designation forms are only available to lessees where the premises is not subject to a mortgage. If a mortgage is entered after executing a successor designation form and the mortgage is not satisfied at the time the lessee dies, the successor designation form shall be invalid.

(A) The successor designation form shall provide an opportunity for the lessee to name up to a maximum of a three (3) successors.

(B) Upon death of a lessee with a successor designation form on file, the Department shall contact the named successors in the order designated by the lessee and shall inform them of their option to accept the leasehold interest, either for the purpose of personal occupancy or for sale of the residence.

(2) *Probate.* Lessees may also chose to transfer a residential leasehold interest upon their death by having it go through the probate process. The probate process will be used to assign a leasehold interest where there is no valid successor designation form on file or where a successor designation form is on file but a will has been executed after the successor designation form was executed which includes the residential leasehold interest. Where the premises is on trust land, the estate must use the Nation's probate process, whereas a premises on fee land may either be handled through the Nation's or the State of Wisconsin's probate process.

(3) *No Eligible Successors.* Where there are no eligible successors to the residential leasehold interest, the CHD shall terminate the residential lease and shall issue payment to the lessee's estate for any improvements upon the premises in accordance with section 1.10 of this rule. The leasehold interest shall then revert to CHD.

(b) *Married Persons.* When a Tribal member spouse predeceases the term of the residential lease:

(1) If both married parties are parties to the residential lease, the remaining lessee shall continue in effect undisturbed; or

(2) If only the deceased Tribal member was a party to the residential lease and the residential lease was not amended to include the spouse, the CHD, absent a valid marital property agreement stating otherwise, will consider the residential lease marital property and the spouse may sign on to the residential lease.

## **1.8. Residential Sublease**

1.8-1. *Eligibility.* In order to enter a residential sublease agreement, the party assuming the premises through the sublease must meet the eligibility requirements contained in section 1.4-1 of this rule.

1.8-2. *Approval of CHD and Lender Required.* Approval of CHD and, if the premises is subject to a mortgage also the lender, is required prior to entering any sublease agreement.

1.8-3. *Sublessee to Consent to Terms of Residential Lease.* In order to enter a sublease

agreement, the sublessee shall consent to the terms of the residential lease provided that the parties to the sublease agreement may negotiate payment provisions differing from payment terms included in the residential lease.

1.8-4. *Original Lessee Remains Responsible.* In terms of residential lease enforcement and compliance with the residential lease, the original lessee shall at all times remain responsible for ensuring compliance with the terms of the residential lease and any and all enforcement actions taken by CHD and/or the Nation shall be taken against the original lessee. Any dispute as to who is responsible for the non-compliance constitutes a private dispute between the sublease parties and shall exclude CHD and the Nation as a party to the dispute.

## **1.9. Residential Lease Termination**

1.9-2. *Termination.* Any termination of a residential lease is subject to requirements of the Eviction and Termination law and shall require CHD to compensate the lessee for any improvements located upon the premises upon said termination in accordance with section 1.10 of this rule.

## **1.10. Compensation for Improvements Upon Residential Lease Termination**

1.10-1. Any time CHD terminates a residential lease which has improvements fixed to the premises, the Nation shall provide the lessee/lessee's estate with compensation for said improvements upon termination.

(a) *Determining Compensation Amount.* The amount of compensation required for any improvements fixed to the premises shall be calculated using a current appraisal of the improvements only and deducting the following from the appraisal value:

- (1) The cost to satisfy any mortgage/encumbrance upon the premises and/or improvements;
- (2) The cost of the appraisal and home inspection, provided that CHD shall select the service providers;
- (3) The cost to bring the improvements to a minimal health and safety standard in accordance with the determination of the Zoning Department and/or the home inspection; and
- (4) Any debts and/or other administrative costs owed to the Nation by the lessee.

## **1.11 Residential Leasing Actions**

1.11-1. The Oneida Judiciary is granted jurisdiction to hear complaints filed regarding actions taken pursuant to this rule.

1.11-2. No administrative hearing body, including a board, committee or commission, is authorized to hear a complaint regarding actions taken pursuant to this rule.

1.11-3. In regards to taking actions authorized under this rule, complaints filed with the Oneida Judiciary shall name the CHD's Residential Leasing Department.

*End.*

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Original effective date:



# **Comprehensive Housing Division and Oneida Land Commission Approvals**



## MEMORANDUM

**TO:** Rae Skenandore, Land Commission Chair  
**FROM:** Dana McLester, CHD Division Director   
**DATE:** May 22, 2018  
**RE:** Residential Leasing Rule#1

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The Comprehensive Housing Division has had an opportunity to review the comments provided by the Public Hearing held on May 17<sup>th</sup>, 2018 and written comment period. Based on the comments presented no changes have been made. Please see the attached Residential Leasing Rule#1 certification packet for approval as part of the rule making process.

Please contact me with any questions you may have regarding the rules.



**ONEIDA LAND COMMISSION MEETING MINUTES**  
**Land Management Conference Room**  
**May 30, 2018 5:00 p.m.**

- I. Called to Order** by Chairperson Rae Skenandore at 5:02 pm.  
**Present:** Chairperson Rae Skenandore, Vice Chairperson Racquel Hill, Secretary Julie Barton, Commissioners: Rebecca Webster and Mike Mousseau  
**Excused:** Jennifer Hill and Lloyd Powless  
**Others:** Sheila Huntington, Carla Clark, Lisa Rauschenbach, Scott Denny, Sue Doxtator, Louis Cottrell, Leanne Doxtater, Krystal John, Michelle Hill
- II. Adoption of Agenda - Motion** by Racquel Hill to approve the agenda with the following additions:  
 X.c.iii. – 02201802RES  
 X.c.iv – 05201801RES  
 X.e.i. – 05201801A  
 X.e.ii. – 05201802A  
 seconded by Rebecca Webster. Motion carried
- III. Reading of Minutes**
- a. 2018 03 05 Land Commission Meeting**  
*Motion* by Racquel Hill to approve; seconded by Michael Mousseau. Motion carried.
  - b. 2018 03 12 Land Commission Meeting**  
*Motion* by Racquel Hill to approve; seconded by Michael Mousseau. Motion carried.
  - c. 2018 03 20 Land Commission Meeting**  
*Motion* by Racquel Hill to approve; seconded by Michael Mousseau. Motion carried
  - d. 2018 03 22 Land Commission Meeting**  
*Motion* by Racquel Hill to approve; seconded by Michael Mousseau. Motion carried
- IV. Tabled Business – None**
- V. Old Business**
- a. Quarterly Report**  
 Chair provided the report submitted for January – March 2018.  
*Motion* by Racquel Hill to accept as FYI; seconded by Julie Barton. Motion carried.
- VI. New Business**
- a. GTC Semi Annual Report**  
 Chair provided the 2018 semi-annual report. The stipend portion wasn't filled in correctly. Should have number of meetings not the total amount of stipends paid.

**Motion** by Michael Mousseau for retro approval with change to the number amounts of meetings; seconded by Julie Barton. Motion carried.

**b. Carol Metoxen Probate**

**Motion** by Racquel Hill to approve contingent upon legal review; seconded by Michael Mousseau. Motion carried

**c. Agriculture Leasing Rule**

**Motion** by Racquel Hill to first defer these back to Land Management and Community and Economic Development to work both on the Agriculture and Commercial leasing Rules and for Land to work with individual tribal farmers and to set a special meeting date for June 18<sup>th</sup> at 5:00 p.m. and to include TAP as first item on the agenda seconded by Julie. Motion carried.

**d. Commercial Leasing Rule**

**Motion** by Racquel Hill to first defer these back to Land Management and Community and Economic Development to work both on the Agriculture and Commercial leasing Rules and for Land Management staff to work with individual Tribal farmers and to set a special meeting date for June 18<sup>th</sup> at 5:00 p.m. and to include TAP as first item on the agenda seconded by Julie. Motion carried.

**e. Conflict of Interest Forms**

Request received by BC Secretary for all individuals on any board, committee, or commission to complete and submit for each one serving on. This was FYI and no action needed.

**f. Advertising Rule**

**Motion** by Rebecca Webster to approve the SOP for advertising homes for sale by owner; seconded by Michael Mousseau. Motion carried.

**g. Rule #1 General Rental Program**

**Motion** by Rebecca Webster to request Comprehensive Housing Department to modify section 1.4-3 to allow for potential tenants to have an agreement with utility providers for amounts over \$200.00 provided the utility provider agrees to continue to provide service and in section 1.4-2 those amounts will be included in the debt to income ratio and to approve the public meeting date of June 21<sup>th</sup>; seconded by Racquel Hill. Motion carried.

**h. Rule #1 Mortgage Programs, Guidelines**

**Motion** by Racquel Hill to modify Debt to Income Ratio section to require Land Management to bring the Debt to Income Ratio at a minimum every three years for Land Commission consideration and to be modified by resolution only and to change the circumstances related to medical for the different process to any unforeseen circumstances; seconded by Rebecca Webster. Motion carried

**i. Rule #1 Residential Leasing**

***Motion*** by Racquel Hill to forward to the Legislative Operating Committee (LOC) for certification; seconded by Julie Barton. Motion carried

**VII. Reports - None**

**a. Planning – None**

**b. Zoning**

**i. Update – Verbal**

Need hearing date for the Green Valley subdivision.

***Motion*** by Rebecca Webster to schedule a public meeting at 4:30 p.m. for June 25, 2018; seconded by Julie Barton. Motion carried.

***Subsequent motion*** by Racquel Hill to direct Land Management staff to present a list rotating list of Commissioners for Public Meetings/Hearings and notify the hearing officers for the 25<sup>th</sup>; seconded by Mike Mousseau. Motion carried.

**c. Residential Leasing – None**

**d. CDPC Minutes – None**

**VIII. Other Business – None**

**IX. Additions – None**

***Motion*** by Racquel Hill to go into Executive Session at 6:46 p.m.; seconded by Michael Mousseau. Motion carried.

***Motion*** by Racquel Hill to come out of Executive Session at 7:42 p.m.; seconded by Michael Mousseau. Motion carried.

**X. Executive Session**

**a. Acquisition budget**

**i. Acquisition Ending April 2018**

***Motion*** by Racquel Hill to accept as FYI; seconded by Mike Mousseau. Motion carried unanimously.

**b. HIP**

**i. 05201803H**

***Motion*** by Racquel Hill to approve 05201803H Residential Lease assignment of the lease contingent all HIP rules and parameters having been met along with a commitment letter from the bank and resolution 06-05-18-A; seconded by Julie Barton. Motion carried.

**ii. 02201804H Final Report**

***Motion*** by Racquel Hill to approve the final report and to have land management staff to contact accounting on way to record that is more suitable for the Land Commission; seconded by Michael Mousseau. Motion carried.

**c. Acquisitions**

# **Summary Report, Financial Analysis & Statement of Effect**

### Summary Report for Residential Leasing

Original effective date: N/A

Amendment effective date: N/A

**Name of rule:** Residential Leasing

**Name of law being interpreted:** Leasing Law

**Rule number:** 1

**Other laws or rules that may be affected:** N/A

**Brief summary of the proposed rule:** The purpose of this rule is to expand upon the information provided in the Leasing Law regarding eligibility, administration, inheritability, and enforcement related to residential leases.

**Statement of Effect:** Obtained after requesting from the Legislative Reference Office.

**Financial Analysis:** See Attached.



### Financial Analysis for Residential Leasing Rule (Comprehensive Housing Division)

Type of Cost	Description/Comment	Dollar Amount
Start Up Costs	Would be absorbed within the current budget.	\$0
Personnel	N/A	\$0
Office	N/A	\$0
Documentation Costs	N/A	\$0
Estimate of time necessary for an individual or agency to comply with the rule after implementation	One week.	\$0
Other, please explain	N/A	\$0
Total Cost (Annual)		\$0



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



## **Statement of Effect**

### *Leasing Law Rule No.1 – Residential Leasing*

#### **Summary**

Leasing Law Rule No. 1 – Residential Leasing expands upon the information provided in the Leasing Law regarding eligibility, administration, inheritability, and enforcement related to residential leases.

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

*Date: April 20, 2018*

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

The Leasing law (“the Law”) was adopted by the Oneida Business Committee by resolution BC-05-13-15-C, amended by resolution BC-10-26-16-C, and is set to become effective thirty (30) calendar days after approval by the Secretary of the Interior. The Law was approved by the Secretary of Interior and published on the Federal Register on April 19, 2018.

The Law was adopted for the purpose of setting forth the Nation’s authority to issue, review, approve and enforce leases, in addition to meeting the requirements of the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (HEARTH Act) by establishing a process under which the Nation will be able to approve leases on tribal land without additional approval of the Secretary of the Interior. [6 O.C. 602.1-1].

The Law delegates administrative rulemaking authority to Land Management and the Oneida Land Commission as authorized by the Administrative Rulemaking law.

The Law defines Land Management as the Division of Land Management or other entity responsible for entering into leases of tribal land. [6 O.C. 602.3-1(i)]. In regards to residential leases, the Comprehensive Housing Divisions has been the entity delegated the responsibility for entering into leases of tribal land.

The Law requires parties interested in obtaining a residential lease document to submit an application to Land Management pursuant to the rules which Land Management and the Oneida Land Commission shall jointly develop. [6 O.C. 602.5-1]. Land Management is delegated the responsibility to develop, while the Oneida Land Commission is delegated the responsibility to approve, the format and requirements set out in the lease document applications for different types of leases, as well as additional procedures and processes to be followed when offering and awarding lease documents. [6 O.C. 602.5-1(a)].

The Law also allows for Land Management and the Oneida Land Commission to jointly develop rules requiring administrative fees for costs associated with issuing a lease document, or conducting any other administrative transaction. [6 O.C. 602.10-5].

# **Public Meeting Notice & Public Meeting Packet**



ge 31/April 11, 2018 OBC

**ESS**

*OT Partnership Agreement*  
1267

P. Jordan, Councilman

Summers to approve the  
ship Agreement – file #  
nded by Ernie Stevens III.  
unanimously.

*ed waiver of sovereign im-*  
*sNexis Time Matters annu-*  
*re agreement – file # 2018-*

re House, Chief Counsel  
y Metoxen to approve a  
of sovereign immunity for  
Time Matters annual main-  
nt – file # 2018-0323, sec-  
Summers. Motion carried

*ation(s) for one (1) vacan-*  
*lection Board – remainder*  
*3 August 31, 2019*

Summers, Secretary

Summers to defer this item  
ion for discussion, second-  
evens III. Motion carried

el Guzman King to accept  
garding the applications for  
– Oneida Election Board –  
n ending August 31, 2019,

## asin biologist hopes to study ls in Green Bay

Vis. (AP) ~  
is phospho-  
chlorinated  
contributing  
n of fresh-  
ulations in  
y of Green  
er Fox Riv-

es, like ze-  
a mussels,  
ing against  
nd driving  
is, Wiscon-  
reported.

ies of fresh-  
Wisconsin,  
ndangered,  
pecial con-  
Weinzinger  
n biologist  
sin Depart-  
Resources.

“Freshwater mussels are  
considered the most im-  
periled animal group in the  
world, over 70 percent of  
them are in decline,” he  
said.

Weinzinger is hoping to  
secure a grant from the de-  
partment's Office of Great  
Waters to conduct a survey  
on the types and numbers of  
mussels in Green Bay and  
the Lower Fox River. Biolo-  
gists are lacking knowledge  
about what mussels are in  
the water, he said.

“We want to find out what  
kind of habitats (the mus-  
sels) are currently occupy-  
ing,” Weinzinger said.

The department is cur-  
rently studying mussels in  
the Wolf River and the Wis-

as information, seconded by Ernie Stevens  
III. Motion carried one abstention:

Ayes: Daniel Guzman King, Trish King,  
Kirby Metoxen, Ernie Stevens III

Abstained: Lisa Summers

4. *Review Oneida Airport Hotel Corpora-*  
*tion loan request*

**Sponsor:** Trish King, Treasurer

Motion by Ernie Stevens III to defer this  
item to executive session for discussion,  
seconded by Kirby Metoxen. Motion car-  
ried unanimously.

Motion by Lisa Summers to adopt resolu-  
tion 04-11-18-C Capital Contribution to the  
Oneida Airport Hotel Corporation of \$1.7  
Million, seconded by Ernie Stevens III.  
Motion carried unanimously.

**XVI. ADJOURN**

Motion by Ernie Stevens III to adjourn at  
5:18 p.m., seconded by Trish King. Motion  
carried unanimously.

*Minutes prepared by Lisa Liggins, Informa-*  
*tion Management Specialist*

*Minutes approved as presented on April 25,*  
*2018.*

**Lisa Summers, Secretary**

**ONEIDA BUSINESS COMMITTEE**

**NOTICE OF****PUBLIC MEETING**

**TO BE HELD**

**May 17, 2018 at 1:30 p.m.**

**IN THE**

**Business Committee Conference Room**

In accordance with the Administrative Rulemaking Law, the  
sive Housing Division and Oneida Land Commission are h  
Public Meeting to gather feedback from the community regar  
lowing rule(s).

**TOPIC: Residential Leasing**

This is a proposal to adopt a rule to expand upon the infor  
vided in the Leasing Law regarding eligibility, administrat  
ability, and enforcement related to residential leases.

To obtain copies of the Public Meeting documents for this  
please visit [www.oneida-nsn.gov/Register/PublicM](http://www.oneida-nsn.gov/Register/PublicM)

## PUBLIC COMMENT PERIOD OPEN UNTIL May 24, 2018

During the Public Comment Period, all interested  
submit written comments and/or a transcript of any testi  
comments made during the Public Meeting. These may be  
the Comprehensive Housing Division by U.S. mail, interco  
mail or fax.

**Comprehensive Housing Division**

**PO Box 68**

**Oneida, WI 54155**

**Email: [Comprehensive\\_Housing\\_Division@oneidana](mailto:Comprehensive_Housing_Division@oneidana)**

**Telephone: (920) 869-2227**

NOTICE OF  
**PUBLIC MEETING**

TO BE HELD

**May 17, 2018 at 1:30 p.m.**

IN THE

**Business Committee Conference Room**

In accordance with the Administrative Rulemaking Law, the Comprehensive Housing Division and Oneida Land Commission are hosting this Public Meeting to gather feedback from the community regarding the following rule(s).

**TOPIC: Residential Leasing**

This is a proposal to adopt a rule to expand upon the information provided in the Leasing Law regarding eligibility, administration, inheritability, and enforcement related to residential leases.

To obtain copies of the Public Meeting documents for this proposal, please visit [www.oneida-nsn.gov/Register/PublicMeetings](http://www.oneida-nsn.gov/Register/PublicMeetings).

**PUBLIC COMMENT PERIOD  
OPEN UNTIL May 24, 2018.**

During the Public Comment Period, all interested persons may submit written comments and/or a transcript of any testimony/spoken comments made during the Public Meeting. These may be submitted to the Comprehensive Housing Division by U.S. mail, interoffice mail, e-mail or fax.

**Comprehensive Housing Division**

**PO Box 68**

**Oneida, WI 54155**

**Email: [Comprehensive\\_Housing\\_Division@oneidanation.org](mailto:Comprehensive_Housing_Division@oneidanation.org)**

**Telephone: (920) 869-2227**



## Title 6. Property and Land – Chapter 602

### LEASING LAW

#### Rule # 1 – Residential Leasing

- 1.1. Purpose and Policy
- 1.2. Adoption and Authority
- 1.3. Definitions
- 1.4. Residential Lease Eligibility, Cost, Duration, and Application
- 1.5. Application Review and Residential Lease Approval
- 1.6. Residential Lease by Guardian
- 1.7. Residential Lease Transfer
- 1.8. Residential Sublease
- 1.9. Residential Lease Termination
- 1.10 Compensation for Improvements Upon Residential Lease Termination
- 1.11 Residential Leasing Actions

#### 1.1. Purpose and Policy

1.1-1. *Purpose.* The purpose of the Residential Leasing rule is to expand upon the information provided in the Leasing Law regarding eligibility, administration, inheritability, and enforcement related to residential leases.

1.1-2. *Policy.* The policy behind the Residential Leasing program is to provide Tribal member's with access to Tribal land for the purpose of homeownership through policies that build strong, safe, and healthy Oneida neighborhoods and provide a consistent and fair process by which residential lease applications will be reviewed and residential leases awarded.

#### 1.2. Adoption and Authority

1.2-1. This rule was jointly adopted by the Comprehensive Housing Division and the Oneida Land Commission in accordance with the Administrative Rulemaking law.

1.2-2. This rule may be amended or repealed by the joint approval of the Comprehensive Housing Division and Land Commission pursuant to the procedures set out in the Administrative Rulemaking law.

1.2-3. Should a provision of this rule or the application of this rule to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this rule which are considered to have legal force without the invalid portions.

1.2-4. In the event of a conflict between a provision of this rule and a provision of another rule, internal policy, procedure, or other regulation; the provisions of this rule controls.

1.2-5. This rule supersedes all prior rules, regulations, internal policies or other requirements relating to the Leasing Law.

#### 1.3. Definitions

1.3-1. This section governs the definitions of words and phrases used within this rule. All words not defined herein are to be used in their ordinary and everyday sense.

- (a) "CHD" means the Nation's Comprehensive Housing Division.
- (b) "Department" means the CHD's Residential Leasing Department.
- (c) "Descendant" means the son or daughter of an enrolled Tribal member.
- (d) "Fee Land" means land held in fee status by the Nation.<sup>1</sup>

<sup>1</sup> Although the Real Property law indicates that leases for tribal fee land will follow the procedures set forth in the Leasing Law, CHD shall not record residential leases for fee land with the Land Title Records Office as that office only accepts recordings pertaining to trust land.



(e) “Guardian” means a person who has been appointed by a court of competent jurisdiction to be legally responsible for someone who is unable to manage their own affairs, particularly for minors and/or persons declared legally incompetent.

(f) “Improvement” means buildings, other structures, and associated infrastructure attached to land.

(g) “Lessee” means the party to an executed and effective residential lease.

(h) “Nation” means the Oneida Nation.

(i) “Premises” means the real property subject to a residential lease.

(i) “Residential Lease” means the legal document issued by the Nation pursuant to the Leasing Law and this rule which establishes a lessee’s right to occupy Tribal land for residential purposes.

(j) “Tribal land” means fee land and/or trust land.

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

(l) “Trust land” means the surface estate of land or any interest therein held by the United States in trust for the Nation; land held by the Nation subject to federal restrictions against alienation or encumbrance; land reserved for federal purposes; and/or land held by the United States in trust for the Nation under Section 17 of the Indian Reorganization Act, 25 U.S.C §477, et. seq.

(m) “Ward” means a person under the care and control of a guardian appointed by a court of competent jurisdiction, usually due the person’s status as a minor or a declaration of legal incompetence.

#### **1.4. Residential Lease Eligibility, Cost, Duration, and Application**

1.4-1. *Eligibility.* In order for an applicant to be eligible to enter a residential lease, the applicant must satisfy all of the following:

(a) Be a Tribal member. Non-Tribal members may be a party to a residential lease under the following circumstances:

(1) The non-tribal member is married to a Tribal member party to the residential lease;

(2) The non-tribal member spouse is awarded the residential lease through a legal separation or divorce judgment;

(3) The Oneida Land Commission has approved the CHD to enter a residential lease with a non-Tribal member party;

(4) The non-Tribal member is a descendant or other individual that inherited the residential leasehold interest; or

(5) as otherwise specified in this rule.

(b) Have a maximum of two (2) residential leases provided that a second residential lease is only permitted in circumstances where any required residential subleasing meets the requirements provided in this rule.

(c) Either:

(1) Be in good standing with any mortgage/encumbrance upon the improvements which would be subject to the residential lease; or

(2) Demonstrate financial ability to secure improvements upon the premises.

1.4-2. *Residential Lease Cost and Duration.* Unless approved otherwise by the Oneida Land Commission, the initial residential lease term shall be for a period of fifty (50) years with one (1) twenty-five (25) year extension available for a maximum term of seventy-five (75) years.

(a) Tribal members and non-Tribal members who qualify under sections 1.4-1(a)(1), (2),



(4), or (5) of this rule shall pay a non-refundable residential lease cost prior to execution of the lease of three dollars (\$3.00) per year plus an administrative fee of twenty-five dollars (\$25.00).

(b) Where the lessee is a non-Tribal member that enters into a residential lease pursuant to section 1.4-1(a)(3) of this rule, the cost of the residential lease is as follows:

(1) *Fair Market Value.* Non-Tribal members shall pay a one-time twenty-five dollar (\$25.00) administrative fee plus an annual rate which is the lessor of one thousand five hundred dollars (\$1,500.00) and fair market value of the premises. Payment for residential lease costs may be paid up front or broken down into monthly or quarterly payments.

(A) For the purposes of this section, fair market value is determined by dividing the current appraised value of the premises (excluding any improvements) by fifty (50), which represents the standard residential lease term of fifty (50) years.

(B) Once the annual fair market value is set, it shall be locked in for the term of the residential lease.

(C) Where an updated appraisal is required to calculate the current fair market value, lessee shall pay CHD's cost of appraisal, provided that CHD shall select the appraisal provider.

1.4-3. *Application.* In order to apply for a residential lease, applicants shall submit to the Department a residential lease application, which CHD shall make available in hard copy format at CHD and on its website. When submitting the application, applicants shall submit a copy of their Tribal or state identification card as applicable and, if married, a certified copy of the marriage certificate.

## **1.5. Application Review and Residential Lease Approval**

1.5-1. *Application Review.* Upon receipt of a residential lease application, the Department shall:

(a) Initiate the National Environmental Protection Act (NEPA) and cultural reviews required by the Leasing Law with the Environment, Health, Safety and Land Division and the Cultural Heritage Department respectively;

(b) Pull the legal description for the proposed residential lease premises from the title report, if available, and if not, from the warranty deed, including any potential amendments thereto, with the assistance of the Environment, Health, Safety and Land Division as may be needed;

(c) Pull the legal description for the proposed residential lease premises from the survey map;

(d) Confirm the proposed residential lease premises' legal description in the title report/warranty deed and the legal description in the survey match one another. In the event the legal descriptions do not match, the Department shall use the legal description from the most recent document;

(e) Confirm that the minimum terms and conditions required by the Leasing Law are included in the proposed residential lease; and

(f) If any exceptions have been granted by the Oneida Land Commission, confirm such exceptions with a copy of the Oneida Land Commission minutes.

1.5-2. *Residential Lease Approval.* The CHD shall create a checklist for residential lease review. Upon the Department's completion of the checklist, the Department shall forward the residential lease application, residential lease, and associated review documents to the

Department's Area Manager for review and approval.

(a) Should the Area Manager approve the satisfaction of the checklist and the residential lease, the Area Manager shall forward the residential lease application, residential lease, and associated review documents to the CHD Director for signature of the residential lease on behalf of the Nation.

(b) Upon signature on behalf of the Nation, the Department shall schedule a meeting with the lessee to review the residential lease terms and to facilitate signature of the lessee, provided that the residential lease may not be signed until the cost of the residential lease has been paid with receipt documented in the residential lease file.

(c) The CHD shall provide the Oneida Land Commission with a quarterly report listing approved residential leases.

#### **1.6. Residential Lease by Guardian**

1.6-1. CHD shall permit a guardian to enter a residential lease on behalf of a ward who has either not yet reached the age of majority or who has been deemed incompetent provided that:

(a) The ward must meet the eligibility requirements contained in section 1.4-1 of this rule;

(b) The guardian must provide the Department with a copy of the order appointing them as guardian issued by a court of competent jurisdiction;

(c) The residential lease must require the guardian to provide any updates regarding the scope and status of the guardianship; and

(d) The residential lease must either stay in the name of the ward or transfer to the ward in the event the guardianship is terminated.

#### **1.7. Residential Lease Transfer**

1.7-1. *Residential Lease Transfer Outside of Death.* Transfer of a residential lease outside of death may only occur either if all parties involved in the transfer approve of said transfer in writing or if an order from a court of competent jurisdiction requires transfer of the residential lease to an eligible party as defined by this rule.

(a) *Mortgaged Premises.* If the premises is mortgaged, all mortgage parties on the residential lease must remain on the residential lease. Mortgage parties may be removed from the residential lease only if action is taken to remove a party or the parties from the mortgage.

(b) *Residential Lease Transfer Process.* In order to initiate a residential lease transfer, the requesting party must submit a transfer application, which CHD shall make available in-person at CHD and electronically on its website, and pay the twenty-five dollar (\$25.00) transfer fee.

1.7-2. *Residential Lease Transfer Upon Death of Lessee.* Where the lessee dies before the end of the residential lease, the residential lease may be transferred either in reliance on an executed residential lease successor designation form or upon an order from either the Nation's probate hearing body or court of competent jurisdiction assigning the leasehold interest to an eligible heir.

(a) *Eligible Successors.* Unless approved otherwise by the Oneida Land Commission, when assigning a leasehold interest, whether through a successor designation form or a will/probate, in order to be eligible, the successor must meet the requirements of section 1.4-1 of this rule. If the successor has not yet reached the age of majority at the time the lessee becomes deceased, the successor will be required to enter a residential lease by

guardian until he/she reaches eighteen (18) years of age.

(1) *Successor Designation Form.* CHD shall make successor designation forms available in-person at CHD and electronically on its website. Executing a successor designation form demonstrates intent of the lessee to remove the residential leasehold interest from the estate's probate assets in order to shorten and simplify the transfer process to an eligible successor upon the death of a lessee. Successor designation forms are only available to lessees where the premises is not subject to a mortgage. If a mortgage is entered after executing a successor designation form and the mortgage is not satisfied at the time the lessee dies, the successor designation form shall be invalid.

(A) The successor designation form shall provide an opportunity for the lessee to name up to a maximum of a three (3) successors.

(B) Upon death of a lessee with a successor designation form on file, the Department shall contact the named successors in the order designated by the lessee and shall inform them of their option to accept the leasehold interest, either for the purpose of personal occupancy or for sale of the residence.

(2) *Probate.* Lessees may also chose to transfer a residential leasehold interest upon their death by having it go through the probate process. The probate process will be used to assign a leasehold interest where there is no valid successor designation form on file or where a successor designation form is on file but a will has been executed after the successor designation form was executed which includes the residential leasehold interest. Where the premises is on trust land, the estate must use the Nation's probate process, whereas a premises on fee land may either be handled through the Nation's or the State of Wisconsin's probate process.

(3) *No Eligible Successors.* Where there are no eligible successors to the residential leasehold interest, the CHD shall terminate the residential lease and shall issue payment to the lessee's estate for any improvements upon the premises in accordance with section 1.10 of this rule. The leasehold interest shall then revert to CHD.

(b) *Married Persons.* When a Tribal member spouse predeceases the term of the residential lease:

(1) If both married parties are parties to the residential lease, the remaining lessee shall continue in effect undisturbed; or

(2) If only the deceased Tribal member was a party to the residential lease and the residential lease was not amended to include the spouse, the CHD, absent a valid marital property agreement stating otherwise, will consider the residential lease marital property and the spouse may sign on to the residential lease.

## **1.8. Residential Sublease**

1.8-1. *Eligibility.* In order to enter a residential sublease agreement, the party assuming the premises through the sublease must meet the eligibility requirements contained in section 1.4-1 of this rule.

1.8-2. *Approval of CHD and Lender Required.* Approval of CHD and, if the premises is subject to a mortgage also the lender, is required prior to entering any sublease agreement.

1.8-3. *Sublessee to Consent to Terms of Residential Lease.* In order to enter a sublease

agreement, the sublessee shall consent to the terms of the residential lease provided that the parties to the sublease agreement may negotiate payment provisions differing from payment terms included in the residential lease.

1.8-4. *Original Lessee Remains Responsible.* In terms of residential lease enforcement and compliance with the residential lease, the original lessee shall at all times remain responsible for ensuring compliance with the terms of the residential lease and any and all enforcement actions taken by CHD and/or the Nation shall be taken against the original lessee. Any dispute as to who is responsible for the non-compliance constitutes a private dispute between the sublease parties and shall exclude CHD and the Nation as a party to the dispute.

#### **1.9. Residential Lease Termination**

1.9-2. *Termination.* Any termination of a residential lease is subject to requirements of the Eviction and Termination law and shall require CHD to compensate the lessee for any improvements located upon the premises upon said termination in accordance with section 1.10 of this rule.

#### **1.10. Compensation for Improvements Upon Residential Lease Termination**

1.10-1. Any time CHD terminates a residential lease which has improvements fixed to the premises, the Nation shall provide the lessee/lessee's estate with compensation for said improvements upon termination.

(a) *Determining Compensation Amount.* The amount of compensation required for any improvements fixed to the premises shall be calculated using a current appraisal of the improvements only and deducting the following from the appraisal value:

- (1) The cost to satisfy any mortgage/encumbrance upon the premises and/or improvements;
- (2) The cost of the appraisal and home inspection, provided that CHD shall select the service providers;
- (3) The cost to bring the improvements to a minimal health and safety standard in accordance with the determination of the Zoning Department and/or the home inspection; and
- (4) Any debts and/or other administrative costs owed to the Nation by the lessee.

#### **1.11 Residential Leasing Actions**

1.11-1. The Oneida Judiciary is granted jurisdiction to hear complaints filed regarding actions taken pursuant to this rule.

1.11-2. No administrative hearing body, including a board, committee or commission, is authorized to hear a complaint regarding actions taken pursuant to this rule.

1.11-3. In regards to taking actions authorized under this rule, complaints filed with the Oneida Judiciary shall name the CHD's Residential Leasing Department.

*End.*

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Original effective date: *Effective Date of Leasing Law*

## Summary Report for Residential Leasing

Original effective date: N/A

Amendment effective date: N/A

**Name of rule:** Residential Leasing

**Name of law being interpreted:** Leasing Law

**Rule number:** 1

**Other laws or rules that may be affected:** N/A

**Brief summary of the proposed rule:** The purpose of this rule is to expand upon the information provided in the Leasing Law regarding eligibility, administration, inheritability, and enforcement related to residential leases.

**Statement of Effect:** Obtained after requesting from the Legislative Reference Office.

**Financial Analysis:** See Attached.



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



## **Statement of Effect**

### *Leasing Law Rule No.1 – Residential Leasing*

#### **Summary**

Leasing Law Rule No. 1 – Residential Leasing expands upon the information provided in the Leasing Law regarding eligibility, administration, inheritability, and enforcement related to residential leases.

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

*Date: April 20, 2018*

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

The Leasing law (“the Law”) was adopted by the Oneida Business Committee by resolution BC-05-13-15-C, amended by resolution BC-10-26-16-C, and is set to become effective thirty (30) calendar days after approval by the Secretary of the Interior. The Law was approved by the Secretary of Interior and published on the Federal Register on April 19, 2018.

The Law was adopted for the purpose of setting forth the Nation’s authority to issue, review, approve and enforce leases, in addition to meeting the requirements of the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (HEARTH Act) by establishing a process under which the Nation will be able to approve leases on tribal land without additional approval of the Secretary of the Interior. [6 O.C. 602.1-1].

The Law delegates administrative rulemaking authority to Land Management and the Oneida Land Commission as authorized by the Administrative Rulemaking law.

The Law defines Land Management as the Division of Land Management or other entity responsible for entering into leases of tribal land. [6 O.C. 602.3-1(i)]. In regards to residential leases, the Comprehensive Housing Divisions has been the entity delegated the responsibility for entering into leases of tribal land.

The Law requires parties interested in obtaining a residential lease document to submit an application to Land Management pursuant to the rules which Land Management and the Oneida Land Commission shall jointly develop. [6 O.C. 602.5-1]. Land Management is delegated the responsibility to develop, while the Oneida Land Commission is delegated the responsibility to approve, the format and requirements set out in the lease document applications for different types of leases, as well as additional procedures and processes to be followed when offering and awarding lease documents. [6 O.C. 602.5-1(a)].

The Law also allows for Land Management and the Oneida Land Commission to jointly develop rules requiring administrative fees for costs associated with issuing a lease document, or conducting any other administrative transaction. [6 O.C. 602.10-5].

In regards to enforcement, Land Management is delegated all powers necessary and proper to enforce the lease terms, the Law and any rules developed pursuant to the Law, including, but not limited to, the power to enter the premises, assess penalties, assess late payments and cancel leases. [6 O.C. 602.11-1].

The Leasing Law Rule No. 1 – Residential Leases (“the Rule”) expands upon the information provided in the Leasing Law regarding eligibility, administration, inheritability, and enforcement related to residential leases for the purpose of providing Tribal member’s with access to Tribal land for the purpose of homeownership through policies that build strong, safe, and healthy Oneida neighborhoods and provide a consistent and fair process by which residential lease applications will be reviewed and residential leases awarded. [see Rule section 1.1-1 and 1.1-1].

The Rule was jointly adopted by the Comprehensive Housing Division and the Oneida Land Commission. The Rule provides for the following:

- Residential lease eligibility, cost, duration and application [see Rule 1.4];
- Application review and residential lease approval [see Rule 1.5];
- Residential lease by guardian [see Rule 1.6];
- Residential lease transfer [see Rule 1.7];
- Residential sublease [see Rule 1.8];
- Residential lease termination [see Rule 1.9];
- Compensation for improvements upon residential lease termination [see Rule 1.10]; and
- Residential leasing actions [see Rule 1.11].

The provisions of the Rule do not exceed the rulemaking authority granted under the law, as required by the Administrative Rulemaking law. [1 O.C. 106.4-1].

### ***Conclusion***

There are no legal bars to adopting the Leasing Law Rule No. 1 – Residential Leases.



**Financial Analysis for Residential Leasing Rule (Comprehensive Housing Division)**

<b>Type of Cost</b>	<b>Description/Comment</b>	<b>Dollar Amount</b>
Start Up Costs	Would be absorbed within the current budget.	\$0
Personnel	N/A	\$0
Office	N/A	\$0
Documentation Costs	N/A	\$0
Estimate of time necessary for an individual or agency to comply with the rule after implementation	One week.	\$0
Other, please explain	N/A	\$0
Total Cost (Annual)		\$0

# **Public Meeting Sign-In Sheet & Transcript**

# COMPREHENSIVE HOUSING DIVISION

## RESIDENTIAL LEASING RULE PUBLIC MEETING

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

May 17, 2018 1:30 p.m.



### Residential Leasing Rule PUBLIC MEETING SIGN IN SHEET

	Name: (Print clearly)	Email Address / Phone #	Department/Roll #	Oral Testimony (Y) or (N)
1.	<del>DARRLEH</del> Barbara Freeman	barb.freeman@icloud.com 920-965-9384		
2.	Brian Jasmer	2069 Candleway 920-309-6572		
3.	Douglas, I. Skerandore	920-676-2608		
4.	Marcia Danforth	920-370-5522		
5.	Sara Skerandore	920-333-2221		
6.	Dustin Skerandore	920-333-2221		
7.	Lynn M. Meador	920-499-9332		
8.	Brenda L. Vanden Langenberg	W. 1520 Town Rd 920-833-6028		
9.	Edward J. DeLoe	530-8180 920-530-8180		
10.	Rae Skerandore		Finance	N
11.	Madelyn Genskow	920-599-1234	949	Y
12.	Sheena Danforth	920-321-2817	ICW/10269	

Rafael Smith

## Comprehensive Housing Division



**Comprehensive Housing Division Public Meeting**  
**Rule #1 – Residential Leasing Rule – Public Meeting Transcript**  
Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
May 17, 2018 1:30pm

**Present on behalf of CHD:** Lisa Rauschenbach, Area Manager Finance and Administration; Krystal John, Attorney

**Lisa Rauschenbach:** Good afternoon, my name is Lisa Rauschenbach, I am, um, the Area Manager over Finance and Residential at the Comprehensive Housing Division. I am opening up the public meeting for the Residential Leasing Law. Rules. Sorry. Um, in accordance with the Administrative Rulemaking Law, the Comprehensive Housing Division and the Oneida Land Commission are hosting this public meeting to gather feedback from the community regarding the following rules.

Residential Leasing-this a proposal to adopt a rule to expand upon the information provided in the leasing law regarding eligibility, administration, inheritability, and enforcement related to residential leases.

**Krystal John:** All information related to obtaining the rules available on the Oneida Register. The public comment period is open today for um verbal comments here, and open for written comments until May 24, 2018. During the public comment period any interested parties may submit written comments and or a transcript of any testimony or spoken comments made during the public meeting. They may be submitted to the Comprehensive Housing Division at the address provided on the public meeting notice. Um But this public meeting is going to do is going to accept comments. We aren't here to answer questions or provide discussion but we will respond to each and every comment and questions through written notice to the parties who make the comments. So if you have questions or comments again then this is your opportunity to ask them to provide the comments and you will receive a written response from the Comprehensive Housing Division. So if you would like to line up at the microphone um if you would like to make a comment it will be recorded so that we are able to respond to you.

**Robert Smith:** Yeah in the a letter that we got from um Michelle it said that this was going to be, that this was a draft. Is that right?

**Krystal John:** Yes.

**Robert Smith:** And in the document we got it said that this Rule was jointly adopted by the Comprehensive Housing Authority. So is this rule already made or are we commenting on a draft?

**Krystal John:** the rule has been adopted by on an emergency basis by the Business Committee so that there are is a rule available to govern with the law. But before it becomes adopted on a permanent basis we're required to follow the process of the Administrative Rulemaking Law. Which means we have to open it up to comment. The reason why it's stated in there is because when the law is adopted those

are the adopting parties so it is a draft. And there is no permanent rule in place until after the public meeting's been concluded and the Business Committee adopts it in a permanent basis.

**Robert Smith:** And that's on the 25<sup>th</sup>?

**Krystal John:** No, the comment closes on the 24<sup>th</sup>. And it's not scheduled yet because prior to taking it to the Business Committee, we would have to respond to any of the comments we receive here today and decide whether or not we want to make any changes to the rule based on any feedback received. So that process is open-ended as to when the rule is required to come back. It would first have to go to the Legislative Operating Committee to say that the process of the Administrative Rulemaking Law was followed, and then to the Business Committee for adoption.

**Robert Smith:** Ok under definition 1.3(d) it says fee land. Means land is held in fee status by the Nation. Is that taxable or what is the tax status on that?

**Krystal John:** All fee land is taxable.

**Robert Smith:** It is taxable?

**Krystal John:** Yes.

**Robert Smith:** And the tribe is paying the tax on it?

**Krystal John:** It depends. But if that's your question that you want to submit then you can leave it for the microphone, leave it on the record and we will respond, like I said in writing, because its depends on a case by case basis.

**Robert Smith:** Well when this law goes into effect, those of us that are already on fee land are we grandfathered in? I mean are there going to be fees for, I think they mentioned \$3 a year or \$25 and change?

**Krystal John:** Ok so, I'm going to try and get away from answering each questions because that's were going to respond in written comments but to lay the ground work but I will um respond to that. Any of you that have a residential lease, the terms of your lease are already locked in because that's a signed document between you and the tribe. So to the extent that this would change any terms of your lease would require you to sign a new document, an amended document. So without that amendment these would only apply to only new residential leases. Not to leases that the tribe has already signed with people.

**Robert Smith:** Ok, I'm a little bit confused about a non-Indian. A just who does that a include. If you're non-Oneida and you're not on the roll...

**Krystal John:** If that's your question then we will respond to all questions in writing. So I think we answered some general questions but the rest of the questions are will be responded to in writing.

**Robert Smith:** Well I mean um something that might not happen is if an Oneida married an Oneida from New York or Canada would they be considered a non-Indian?

**Krystal John:** Again we will respond to all of the questions in writing, but right now I would just turn your attention to the definition to tribal members on line 61.

**Robert Smith:** Ok so you said for a non-Indian, they would have to pay a fee of \$1500 a year? Or to some calculation of as to what the land is worth I mean the property?

**Krystal John:** That is what appears in the rule currently, yes.

**Robert Smith:** When would that start, at the time of the lease?

**Krystal John :** It depends on the circumstances that arise that give rise to that, so that why we're not here answering questions today, we are here accepting questions and we'll respond in writing to all of your questions so that we're able to explain all situations that might give rise to the need to pay that fee. Whether it be the time you are entering a residential lease, whether circumstances change in the parties to the residential lease are all non-tribal and all of the varying ways that you may reach that circumstance. So again we are here today to take questions and feedback and we will respond to all of your questions and feedback in writing before the rule becomes effective.

**Robert Smith:** Okay, my question is then, what is the rational, what is the line of thinking for charging non-Indians \$1500?

**Krystal John:** Okay, thank you for your question we'll respond in writing. Do you have any other questions?

**Robert Smith:** Yeah but, it doesn't seem like I'm getting anywhere. If you had um, if you wanted to give up a lease, and that would be Oneida tribe by the improvements on the land?

**Krystal John:** We'll accept the questions and again we will have to respond in writing. If you want to stay after the meeting, we can have a discourse but purpose of this meeting is to collect feedback and take questions. So, while we're on record, going to receive questions and feedback. If you want to stay after we can have an open discussion about what's in here but you will also get all your responses in writing. So in order to satisfy the requirements of the Administrative Rulemaking Law, we're here to accept your comments and feedback. And then like I said after well we can have a discussion and we can stay with you afterwards but the purpose right now while we're on the record is the accept your comments and your questions.

**Robert Smith:** It was my understanding that you could only have one lease at a time. And yet this rule says that it would be possible under certain circumstance to have two leases.

**Krystal John:** It does say that.

**Robert Smith:** And a that would be if you are subleasing one of the properties and then you can apply for another lease?

**Krystal John:** Yes, it says that in the rule.

**Robert Smith:** That's all.

**Krystal John :** Thank you. Again we'd be happy if you want to stay after we can have a little more fluid discussion with you. I don't want you to be discouraged from asking your questions I just want to be clear that while we're on the record that we are accepting comments and feedback and we can have a more fluid discussion. Any other, does anyone else want to leave a comment or question for the record? You can come right up to the microphone.

**Ed Delgado:** Um comment. Ah, this last we almost lost a tribal member. I want to tell you about that tribal member and why I feel it is relevant here. I first met this tribal member picketing the Fort Howard dump over there on Airport Drive all by himself ten, fifteen years ago. I thought, wow he's pretty courageous. This is a man who lives in a small house, very small. Has a wood burning stove, ah he's not poor, but he wants to live that way because that's the way he feels that he should live. I looked at that as the person who respects his environment. Pretty much like he was doing at Fort Howard. He's a single man, kids are grown, that's all he needs. Doesn't want large, to leave a large footprint on on our earth. He's also a man who drives an electric car. Ah again, respecting our mother earth. Um, everything he's done is I've seen has been about him being an Oneida Indian. Proud of it and practicing it. Um, this Hearth Act allows for tribes to have more sovereignty. I would hope that as we utilize this that if we live by it. We live a little bit more according to how this Oneida man lives, respecting our earth, living with it, and treating it well. Um, because we don't do that. Ah, we don't treat our earth that well. And I hope that we do. I also thought that the idea of having two residential leases, I would question that big time. Unless there's a real good reason and that's one of the reasons why I wanted to speak or did speak. What is the reason? We know very little about this. I got a phone call two hours ago saying you should go up there. Ah, something to do with tribal membership, how we use the land, ah, had to do with taxes too. That the Hearth Act maybe an encouragement for the tribes to start charging our tribal members taxes on their land. Um, maybe it's outrageous, maybe ah, it's a good question because nobody is telling us. We know little, very little about this issue. And I think people of importance, people with authority, people with knowledge on this subject, should inform the membership more about what it's about before we start writing laws about it. Thank you very much.

**Krystal John:** Thank you. Would anyone else like to leave a comment or ask a question or provide feedback? If you could just state your name for the record also.

**Dustin Skenandore:** Hello, my name is Dustin Skenandore. Um I just have a few questions um surrounding 1.4-1, 2 um not really anything concerning about 1.4-3. Um, my question is, and it's just a point of clarification, um, starting at line 95 through line 98 it says um non-tribal members who qualify under sections 1.4a 1, 2, 4 or 5. Um they only have to pay the administrative fee of \$25. Um, looking at point (b)(1) concerning the \$1500, my understanding is that it only applies to non-enrolled or non-tribal



members. Um, who fall under section 1-4(a)(3) Um, I just want to make sure that's correct so spouses of tribal members who were awarded of the residential lease through legal separation or divorce judgment are not subject to the \$1500 annual fee? Um, and also what circumstances would a non-tribal member be subject to that? And that's all.

**Krystal John :** Okay, thank you. Does anyone else have any comments or feedback? Questions? You can come right up to the microphone. Please state your name for the record.

**Sarah Skenandore:** This is Sarah Skenandore. I know it's really confusing to read this language and tell kinda what do I owe, what's going on, what's going to be the cost? To me as an individual that's what a lot of people are interested in. So my comment is, if you get a couple scenarios out there and say if you had an enrolled tribal member in the Oneida Nation of Wisconsin who married to an enrolled tribal member from New York what would they pay if they were on a residential lease? So I think if you had a bunch of scenarios like that, instead of under this circumstance, this law means, this is what you would pay, I bet that would be super helpful. So that's the only comment that I have. And I have had that young gentleman translate the thing to me so. Okay, thank you.

**Krystal John:** Thank you.

**Rae Skenandore:** Looking. I'm sorry Rae Skenandore. Um, I'm looking for some clarifications of language, and again you could answer this at your discretion, it's um, line 85 through 87 which is 1.4-1(b) Have a maximum of two (2) residential leases provided that a second residential lease is only permitted in the circumstances where any required residential subleasing meets the requirements in this rule. This section is very confusing. I can't understand if I have one lease than I can have a sublease or I can actually have two residential leases at the same time? And I thought maybe some of this was due to the HIP Program where people had to move out and not have a lease and move into a new home but I don't know if this satisfies that issue? It's it's just really confusing language and I I don't understand it. So if that can be clarified. Um, when you review the responses I'd appreciate it.

**Krystal John:** Thank you. Can you please state your name for the record.

**Douglas Skenandore:** My name is, my name is Douglas Skenandore. My number is 5024. Um, I guess I have a few comments. Um, as far as a charging monies and stuff, in my particular case, a my great, great grandfather, Joshua Skenandore, he came over here from upstate New York. And he received an assignment. And a I have the a about 2 acres of the original assignment. And that that that land was you know assigned, you know, with no fees, and you know this, and as it went through the generations, I guess it went from Joshua to Eli Skenandore. From Eli Skenandore to a Walter Skenandore. From Walter Skenandore to James Skenandore. And from James Skenandore to Douglas Skenandore, that's me. And so a I had heard somebody saying that they was going to change the inheritance of that. And I I would not like to see that changed at all. Because ah when you have your inheritance that's how, you know, how it generally goes is it stays in the family. And the other um thing it does is to promotes to, you know to marry within the Oneida Nation. Because a bottom line is that if you not enroll tribal members and you cannot, you know, inherit that. And that's how it should be. But ah, but as far as

charging, you know a tax, a lot of our elders, you know, have hard enough time, you know, making just it day by day, with social security and stuff. So to add on a ah tax or a fee, that would be a, that would be out of the question. Unless perhaps they gave them, gave them a a a what do they call that, you know, when you a, an exemption. So um, so that would be a good idea, you know if they feel they have to tax our people or charge a lease, lease lands. Um, make sure that, you know, that they can afford it. And if they cannot afford it, then there should be an exemption, you know, for them. And a, the assignments and stuff I guess is no more assignments so it's the lease stuff. But a, I would like to see them a a lease out the the land being leased out does it go by a case by case basis or do they have a set amount of acreage? I suppose you can't answer that neither huh?

**Krystal John:** Like I said, if you stay afterwards we'll provide some answers. We'll verbally talk about the questions that were asked here today but I want to let you know that they'll all also be provided in writing.

**Douglas Skenandore:** Okay, thank you.

**Krystal John:** Were there any other questions, comments, or feedback? Please move to the microphone and state you name for the record.

**Madelyn Gensko:** Madelyn, Madelyn Gensko. You know, it doesn't, is it really, I don't know if they can hear me back there. Seems like the volume isn't up, can you turn the volume up so people can hear what you say? I I I don't even hear myself. How about you guys back there can you hear me? Okay, okay. You know I'm really concerned about this, especially when it's combined in the paper about that Hearth, that what is it, Hearth Act? On a page 8, um, and this Hearth Act, it talks about um, like um, this guy, he's the um, Assistant Duty Assistant Secretary for the Bureau of Indian Affairs. And um, he's affecting our leasing codes and it says um, a you know, this will strengthen our ability to exercise jurisdiction and control to remote, no, to promote responsible economic and social development on the Oneida Nation lands. And it says it was passed in April. Okay, and but it does, now it's in National Register. Um, in there on the fourth column down by the bottom, it says um, Oneida Nation trust lands or, it's a big or, are restricted land by implementing leasing regulations that specifically meet our needs and we can do this in a more efficient and expeditious manner. We no longer have to wait for years to have the BIA approval, okay. One thing I'm worried about with this new leasing thing, right now you're talking about residential, okay. But I know that um, Loretta Metoxen's daughter, the judge, Denise Beans. She did a, um what do you call it, a one of those a things they put when they vote. Um, it's a like a you can vote if you like that. And she talked about charging a seat tax on all the airplanes that come into Austin Straubel. To me if they start that they are going to start a war. And we are going to lose. We will be the losers. Because we, we might be powerful but we aren't as powerful as they are. And all of Green Bay and all of the Fox Valley. We are not as powerful as they are, and we will lose if we start that battle. I don't know what that woman is doing on our our court making decisions on our people. Um, and as we, you know, I I'm really concerned because I have heard rumors that there's a plan, to eventually tax our people for for the homes that they live in. And I know people think that you can't do that but I know um when you got this Hearth Act, you can do anything you want. And I know that a, for

example, um I bought, I purchased a cemetery to for four graves at the Oneida Methodist cemetery. And all of a sudden, that the a group over there, they made a rule that even if you are a member, you, I would have to pay more. Like hundreds of dollar more than, and I already bought it. But I can I can't do a darn thing about it because I have no control. That church has control. I even called state officials. I have no control. Even though I already paid for it. They have control. And that's what I'm concerned about our tribe. If this Hearth Act means that um, even though people have signed agreements, that you can come up with new agreements and throw everything out. And to me that that's, this Hearth Act, gives that potential, okay. And I think that there are people who really are opposed to casino gambling. They want to shut the casino down, charge our people to taxes to pay for a for for whatever it goes on in this reservation. And I um, I I'm really concerned about that. And I know there's a long-term scheme going on here, I know that. I talk to enough people to know that. And um, so I I um, I'm wondering if this is going to be recorded. Can we purchase the recording of what is said here?

**Krystal John:** The transcripts will be available in the public meeting packet.

**Madelyn Gensko:** Your transcript. But that's what you say I said. Can we purchase a recording?

**Krystal John:** You would need to make the request to Open Record's open meeting law. You would have to request that from the Comprehensive Housing Division.

**Madelyn Gensko:** Say that again more slowly.

**Krystal John:** I said you would need to make that request in accordance with the Open Records and Open Meetings Law. And you can make that request to the Comprehensive Housing Division.

**Madelyn Gensko:** I go to the Comprehensive Housing Division?

**Krystal John:** Correct. Because they are the custodian of these records.

**Madelyn Gensko:** Okay. Now that's another thing. I heard a a rep, I got a rep-, complaint yesterday from an Oneida who lives over the a at the elderly complex, okay. And um, like the the dryer wasn't working.

**Krystal John:** Madelyn, that would be a residential rental, this is for Residential Leasing Rules. Can you please narrow your comments to leases.

**Madelyn Gensko:** I know, I know. But the thing of it is you guys put that all under that one one label. I don't think the general tribal council really gave you permission, a the Business Committee commission permission to do that. They're doing all kinds of stuff that they don't have the right to do. Any why is it all of sudden you are spring all of this stuff on us. We didn't even have time to review it. Why is that?

**Krystal John:** Madelyn, the public meeting met the requirements for the public meeting notice adopted by the Administrative Rulemaking Law. It's been posted on their register and every person that has a residential lease was forwarded a copy of the rule and the public meeting notice, which goes above and beyond the requirements of that rule.

**Madelyn Gensko:** So, Douglas Skenandore did you get a copy of that?

**Douglas Skenandore:** Yes I did.

**Madelyn Gensko:** Okay, well I'm wondering, the rest of these people do you guys all live on tribal land? Any of you live on tribal land? And you all got a copy of it? Okay. Did you understand it? Do you feel you did? Some, okay. Okay. Okay. Okay you you're going to get a copy in writing of what everything that everyone said.

**Krystal John:** Yes. Yes.

**Madelyn Gensko:** So whatever I said is going to go in the Kalihwisaks or where is it going to go?

**Krystal John:** It will be submitted as part of the Administrative Record for the rulemaking. It will be included in the Legislative Operating Committee packet and as long as well as the Business Committee packet get when the rule gets adopted.

**Madelyn Gensko:** Where? Who can get that?

**Krystal John:** Anyone who is available to have the Business Committee packet will be able to receive that.

**Madelyn Gensko:** So you gotta go to the Business Committee meeting to get it?

**Krystal John:** Or you can request it from the Comprehensive Housing Division.

**Madelyn Gensko:** Okay. Where are they located?

**Krystal John:** They are located on Commissioner Street.

**Lisa Rauschenbach:** 2913 Commissioner.

**Madelyn Gensko:** Commissioner, that is?

**Krystal John:** The former Oneida Housing Authority building.

**Madelyn Gensko:** Okay. When will that be available?

**Krystal John:** There's no set date. We need to collect all of the comments. And it depends on how many comments we receive. And then we'll formulate all of the answers in writing and we will review anything that was feedback and not a question and determine whether or not, based on the feedback amendments will be made to the rule. So there is not a set timeline.

**Madelyn Gensko:** Well, I know that, you know, even when this has been brought up in GTC. I heard some comment that, you know, they were just going to do that for people who had businesses on the reservation but that's just for starters. I believe that your intention is to have all, anybody who lives on the reservation, pay taxes to the Oneida government. That is the plan. It's it's what I believe it to be.

But it's just like that frog that slowly gets cooked in water and it doesn't realize that it's too late to jump out of the pot before it's too far cooked.

**Krystal John:** Thank you. Does anyone else have any comments, questions or feedback? Seeing nobody else that would like to give comments, questions, or feedback, I'm going to stop the recording and we can start having a more fluid discussion.

###

# **Public Meeting Comment Response Memo**

## Comprehensive Housing Division



### Comprehensive Housing Division Public Comment Response Memorandum Rule #1 – Residential Leasing Rule

#### QUESTION 1: Is the rule we are commenting on still a draft?

**Robert Smith:** Yeah in the a letter that we got from um Michelle it said that this was going to be, that this was a draft. Is that right?

**Robert Smith:** And in the document we got it said that this Rule was jointly adopted by the Comprehensive Housing Authority. So is this rule already made or are we commenting on a draft? [When will the final draft be approved?]

**Response:** The rule has been adopted by on an emergency basis by the Business Committee so that there a rule was available to govern when the law became effective on May 19, 2018. Before the rule is able to be adopted on a permanent basis, the Comprehensive Housing Division (CHD) is required to follow the process of the Administrative Rulemaking Law, which includes opening the rule up for public comment and responding to the comments received. The reason why it's stated in the rule that "[t]his rule was jointly adopted by the Comprehensive Housing Division and the Oneida Land Commission in accordance with the Administrative Rulemaking law," is because that is required language in the rule template prepared by the Legislative Reference Office and if required to be filled out with the authorized parties to make the rule.

The comment period for this rule closes on May 24, 2018. A permanent rule cannot become effective until:

- (a) all comments have been responded to;
- (b) the CHD and Oneida Land Commission (OLC) approve the rule for adoption with any revisions that may be included;
- (c) the Legislative Operating Committee (LOC) confirms that the rule process has complied with the procedural requirements of the Administrative Rulemaking law and is within the scope of delegated rulemaking authority; and
- (d) the Oneida Business Committee (OBC) approves the rule.

Because it is unknown how long it may take to respond to comments based on the volume received and/or to get onto the agendas of the OLC, LOC and OBC, there is no set effective date yet for the final rule, but it will be noticed when approved by the OBC.

#### QUESTION 2: Is fee land taxable and who pays the taxes?

**Robert Smith:** Ok under definition 1.3(d) it says fee land. Means land is held in fee status by the Nation. Is that taxable or what is the tax status on that? And the tribe is paying the tax on it?



**Response:** All fee land is taxable. When there is a residential lease on fee land, the lease splits the tax responsibility between the Nation and the lessee with the Nation paying the taxes attributable to the value of the land and the lessee paying the taxes attributable to the value of improvements (i.e. your house).

### **QUESTION 3: Does the Nation plan to start charging Lessee's taxes on their land/homes?**

**Ed Delgado:** I got a phone call two hours ago saying you should go up there. Ah, something to do with tribal membership, how we use the land, ah, had to do with taxes too. That the Hearth Act maybe an encouragement for the tribes to start charging our tribal members taxes on their land. Um, maybe it's outrageous, maybe ah, it's a good question because nobody is telling us. We know little, very little about this issue. And I think people of importance, people with authority, people with knowledge on this subject, should inform the membership more about what it's about before we start writing laws about it. Thank you very much.

**Madalyn Genskow:** ...one thing I'm worried about with this new leasing thing, right now you're talking about residential, okay. But I know that um, Loretta Metoxen's daughter, the judge, Denise Beans. She did a, um what do you call it, a one of those a things they put when they vote. Um, it's a like a you can vote if you like that. And she talked about charging a seat tax on all the airplanes that come into Austin Straubel. To me if they start that they are going to start a war. And we are going to lose. We will be the losers. Because we, we might be powerful but we aren't as powerful as they are. And all of Green Bay and all of the Fox Valley. We are not as powerful as they are, and we will lose if we start that battle. I don't know what that woman is doing on our our court making decisions on our people. Um, and as we, you know, I I'm really concerned because I have heard rumors that there's a plan, to eventually tax our people for for the homes that they live in. And I know people think that you can't do that but I know um when you got this Hearth Act, you can do anything you want ... And I think that there are people who really are opposed to casino gambling. They want to shut the casino down, charge our people to taxes to pay for a for for whatever it goes on in this reservation. And I um, I I'm really concerned about that. And I know there's a long-term scheme going on here, I know that. I talk to enough people to know that. ... Well, I know that, you know, even when this has been brought up in GTC. I heard some comment that, you know, they were just going to do that for people who had businesses on the reservation but that's just for starters. I I believe that your intention is to have all, anybody who lives on the reservation, pay taxes to the Oneida government. That is the plan. It's it's what I believe it to be. But it's just like that frog that slowly gets cooked in water and it doesn't realize that it's too late to jump out of the pot before it's too far cooked.

**Doug Skenandore:** ... But ah, but as far as charging, you know a tax, a lot of our elders, you know, have hard enough time, you know, making just it day by day, with social security and stuff. So to add on a ah tax or a fee, that would be a, that would be out of the question. Unless perhaps they gave them, gave them a a a what do they call that, you know, when you a, an exemption. So um, so that would be a good idea, you know if they feel they have to tax our people or charge a lease, lease lands. Um, make sure that, you know, that they can afford it. And if they cannot afford it, then there should be an exemption, you know, for them. And a, the assignments and stuff I guess is no more assignments so it's

the lease stuff. But a, I would like to see them a a lease out the the land being leased out does it go by a case by case basis or do they have a set amount of acreage? I suppose you can't answer that neither huh?

**Response:** Nothing in this rule or the leasing law includes a tax imposed by the Nation and there is no plan for the Nation to begin imposing a tax on leased land or improvements upon leased land.

#### **QUESTION 4: Will fees change for existing lease holders?**

**Robert Smith:** Well when this law goes into effect, those of us that are already on fee land are we grandfathered in? I mean are there going to be fees for, I think they mentioned \$3 a year or \$25 and change?

**Madalyn Genskow:** And I know that a, for example, um I bought, I purchased a cemetery to for four graves at the Oneida Methodist cemetery. And all of a sudden, that the a group over there, they made a rule that even if you are a member, you, I would have to pay more. Like hundreds of dollar more than, and I already bought it. But I can I can't do a darn thing about it because I have no control. That church has control. I even called state officials. I have no control. Even though I already paid for it. They have control. And that's what I'm concerned about our tribe. If this Hearth Act means that um, even though people have signed agreements, that you can come up with new agreements and throw everything out. And to me that that's, this Hearth Act, gives that potential, okay.

**Response:** The new fees in the rule only apply to new leases. In accordance with the HEARTH ACT, the Leasing law and corresponding rules are not able to retroactively modify the terms and/or conditions of leases entered prior to the effective date of the Leasing law.

#### **QUESTION 5: Tribal members and non-Indians**

**Robert Smith:** Ok, I'm a little bit confused about a non-Indian. And just who does that a include. If you're non-Oneida and you're not on the roll...Well I mean um something that might not happen is if an Oneida married an Oneida from New York or Canada would they be considered a non-Indian?

**Response:** There are two categories of lessees under the rule. There are tribal members and all others. Tribal members are defined as members of the Oneida Nation (of Wisconsin only) and do not include Oneidas from New York or Canada.

#### **QUESTION 6: Fees for non-Indians**

**Robert Smith:** ... for a non-Indian, they would have to pay a fee of \$1500 a year? Or to some calculation of as to what the land is worth I mean the property? When would that start, at the time of the lease? Okay, my question is then, what is the rational, what is the line of thinking for charging non-Indians \$1500?

**Dustin Skenandore:** Hello, my name is Dustin Skenandore. Um I just have a few questions um surrounding 1.4-1, 2 um not really anything concerning about 1.4-3. Um, my question is, and it's just a

point of clarification, um, starting at line 95 through line 98 it says um non-tribal members who qualify under sections 1.4a 1, 2, 4 or 5. Um they only have to pay the administrative fee of \$25. Um, looking at point (b)(1) concerning the \$1500, my understanding is that it only applies to non-enrolled or non-tribal members. Um, who fall under section 1-4(a)(3) Um, I just want to make sure that's correct so spouses of tribal members who were awarded of the residential lease through legal separation or divorce judgment are not subject to the \$1500 annual fee? Um, and also what circumstances would a non-tribal member be subject to that? And that's all.

**Sara Skenandore:** This is Sarah Skenandore. I know it's really confusing to read this language and tell kinda what do I owe, what's going on, what's going to be the cost? To me as an individual that's what a lot of people are interested in. So my comment is, if you get a couple scenarios out there and say if you had an enrolled tribal member in the Oneida Nation of Wisconsin who married to an enrolled tribal member from New York what would they pay if they were on a residential lease? So I think if you had a bunch of scenarios like that, instead of under this circumstance, this law means, this is what you would pay, I bet that would be super helpful. So that's the only comment that I have. And I have had that young gentleman translate the thing to me so. Okay, thank you.

**Response:** In circumstances where a non-Indian is part of the community and on the lease through marriage or a descendant through inheritance, the standard fee structure will apply. The increased fee of the lesser of \$1,500 a year or market value only applies when Land Commission directly approves a lease to a non-member who would otherwise be ineligible. The rationale for the increased fee is that we strive to reserve the Nation's land for the use and betterment of Oneida families. When a lease is entered with a non-Indian that is not connected to our community, the Nation should be compensated for the full value of the lease, which, in turn, allows us to use those revenues to continue providing opportunities for Oneida families.

The table below summarizes various circumstances that may arise and the fee that applies.

	Standard rate of \$3 per year.	Increased rate = Lesser of \$1500 & market value
Tribal member married to a non-member and tribal member dies.	X	
Tribal member dies and passes the lease on to a descendant.	X	
Land Commission wants to make a strategic purchase and the non-Indian owner will only sell if they can continue to reside on the property.		X
Tribal member parent enters lease with descendant child and tribal member dies.	X	
Tribal member divorces non-member and through divorce the non-member is awarded the residence.	X	
Non-member remains in lease after death/divorce of Tribal member and remarries to another non-member.	X	

### **QUESTION 7: Does the Nation buy back improvements when a lessee cancels a lease?**

**Robert Smith:** If you had um, if you wanted to give up a lease, and that would be Oneida tribe by the improvements on the land?

**Response:** A tribal member wishing to cancel their residential lease may offer the improvements to the Nation, but nothing in the rules or the lease requires the Nation to purchase said improvements.

### **QUESTION 8: When can you have two leases?**

**Robert Smith:** It was my understanding that you could only have one lease at a time. And yet this rule says that it would be possible under certain circumstance to have two leases. And a that would be if you are subleasing one of the properties and then you can apply for another lease?

**Rae Skenandore:** Looking. I'm sorry Rae Skenandore. Um, I'm looking for some clarifications of language, and again you could answer this at your discretion, it's um, line 85 through 87 which is 1.4-1(b) Have a maximum of two (2) residential leases provided that a second residential lease is only permitted in the circumstances where any required residential subleasing meets the requirements in this rule. This section is very confusing. I can't understand if I have one lease than I can have a sublease or I can actually have two residential leases at the same time? And I thought maybe some of this was due to the HIP Program where people had to move out and not have a lease and move into a new home but I don't know if this satisfies that issue? It's it's just really confusing language and I I don't understand it. So if that can be clarified. Um, when you review the responses I'd appreciate it.

**Ed Delgado:** ...I also thought that the idea of having two residential leases, I would question that big time. Unless there's a real good reason and that's one of the reasons why I wanted to speak or did speak. What is the reason? We know very little about this...

**Response:** Under the rule you can have two leases at any time – provided that you would have to be eligible to enter each lease. While the Homeownership through Independent Purchase Program (HIPP) was a consideration, we also considered instances where a Tribal member already owns a home and inherits a property from a family member. The only limitation included is that if the Tribal member chooses to sublease one of the properties, any such subleasing must conform to the minimum requirements of the rule.

### **QUESTION 8: Inheritance**

**Douglas Skenandore:** My name is, my name is Douglas Skenandore. My number is 5024. Um, I guess I have a few comments. Um, as far as a charging monies and stuff, in my particular case, a my great, great grandfather, Joshua Skenandore, he came over here from upstate New York. And he received an assignment. And a I have the a about 2 acres of the original assignment. And that that that land was you know assigned, you know, with no fees, and you know this, and as it went through the generations, I guess it went from Joshua to Eli Skenandore. From Eli Skenandore to a Walter Skenandore. From Walter Skenandore to James Skenandore. And from James Skenandore to Douglas Skenandore, that's

me. And so a I had heard somebody saying that they was going to change the inheritance of that. And I I would not like to see that changed at all. Because ah when you have your inheritance that's how, you know, how it generally goes is it stays in the family. And the other um thing it does is to promotes to, you know to marry within the Oneida Nation. Because a bottom line is that if you not enroll tribal members and you cannot, you know, inherit that. And that's how it should be.

**Response:** This rule does not have the capacity to modify the inheritance of properties that have already been conveyed through inheritance. This rule would make it an option for future lessees and/or lessees who wish to amend their leases to incorporate into an amended lease the new rules provisions allowing a lessee to pass their leasehold interest on to a descendant, where this rule defines descendant as the "son or daughter of an enrolled Tribal member." Section 1.3-1(c).

### **QUESTION 9: Transcripts and recording of public hearing**

**Madelyn Gensko:** And um, so I I um, I'm wondering if this is going to be recorded. Can we purchase the recording of what is said here?

**Response:** The transcripts will be available in the packet presented for LOC certification and OBC approval and with the Comprehensive Housing Division. If you would like the recording and not just the transcript, you would need to make that request through the Open Records Open Meetings law. You can make that request to the Comprehensive Housing Division, as they are the custodian of the records.

### **QUESTION 10: Public meeting process**

#### ***Public Meeting Notice***

**Madelyn Genskow:** ... Any why is it all of sudden you are spring all of this stuff on us. We didn't even have time to review it. Why is that?

**Response:** The public meeting met the requirements for the public meeting notice adopted by the Administrative Rulemaking Law. It's been posted on the register and in the Kalihwisaks and every person that has a residential lease was provided a copy of the rule and the public meeting notice, which goes above and beyond the requirements of the Administrative Rulemaking law.

#### ***Public Meeting Responses***

**Madelyn Genskow:** Okay, well I'm wondering, the rest of these people do you guys all live on tribal land? Any of you live on tribal land? And you all got a copy of it? Okay. Did you understand it? Do you feel you did? Some, okay. Okay. Okay. Okay you you're going to get a copy in writing of what everything that everyone said.... So whatever I said is going to go in the Kalihwisaks or where is it going to go? Where? Who can get that? ... When will that be available?

**Response:** All of the comments provided are documented in the transcript and responded to in this public comment response memo. The CHD has committed to issuing these responses to all those in attendance at the public meeting and all those who submitted written comments. In addition, the public comment response memo will be submitted as part of the Administrative Record when

certification is requested of the LOC and adoption is requested of the OBC. Anyone with access to the LOC and/or OBC agendas and packets will have access to this public comment response memo.

### **QUESTION 11: Maximum acreage**

**Douglas Skenandore:** And a, the assignments and stuff I guess is no more assignments so it's the lease stuff. But a, I would like to see them a a lease out the the land being leased out does it go by a case by case basis or do they have a set amount of acreage? I suppose you can't answer that neither huh?

**Response:** Neither the Leasing law or these rules currently identify a maximum acreage requirement for residential leases – provided that there is a maximum acreage provided in the HIPPP rule.

### **GENERAL COMMENTS:**

**Ed Delgado:** Um comment. Ah, this last we almost lost a tribal member. I want to tell you about that tribal member and why I feel it is relevant here. I first met this tribal member picketing the Fort Howard dump over there on Airport Drive all by himself ten, fifteen years ago. I thought, wow he's pretty courageous. This is a man who lives in a small house, very small. Has a wood burning stove, ah he's not poor, but he wants to live that way because that's the way he feels that he should live. I looked at that as the person who respects his environment. Pretty much like he was doing at Fort Howard. He's a single man, kids are grown, that's all he needs. Doesn't want large, to leave a large footprint on on our earth. He's also a man who drives an electric car. Ah again, respecting our mother earth. Um, everything he's done is I've seen has been about him being an Oneida Indian. Proud of it and practicing it. Um, this Hearth Act allows for tribes to have more sovereignty. I would hope that as we utilize this that if we live by it. We live a little bit more according to how this Oneida man lives, respecting our earth, living with it, and treating it well. Um, because we don't do that. Ah, we don't treat our earth that well. And I hope that we do.

**Madelyn Gensko:** Madelyn, Madelyn Gensko. You know, it doesn't, is it really, I don't know if they can hear me back there. Seems like the volume isn't up, can you turn the volume up so people can hear what you say? I I I don't even hear myself. How about you guys back there can you hear me? Okay, okay. You know I'm really concerned about this, especially when it's combined in the paper about that Hearth, that what is it, Hearth Act? On a page 8, um, and this Hearth Act, it talks about um, like um, this guy, he's the um, Assistant Deputy Assistant Secretary for the Bureau of Indian Affairs. And um, he's affecting our leasing codes and it says um, a you know, this will strengthen our ability to exercise jurisdiction and control to remote, no, to promote responsible economic and social development on the Oneida Nation lands. And it says it was passed in April. Okay, and but it does, now it's in National Register. Um, in there on the fourth column down by the bottom, it says um, Oneida Nation trust lands or, it's a big or, are restricted land by implementing leasing regulations that specifically meet our needs and we can do this in a more efficient and expeditious manner. We no longer have to wait for years to have the BIA approval, okay.

**Madelyn Gensko:** Okay. Now that's another thing. I heard a a rep, I got a rep-, complaint yesterday from an Oneida who lives over the a at the elderly complex, okay. And um, like the the dryer wasn't working.

**Madelyn Gensko:** I know, I know. But the thing of it is you guys put that all under that one one label. I don't think the general tribal council really gave you permission, a the Business Committee commission permission to do that. They're doing all kinds of stuff that they don't have the right to do.

**Response:** The general comments did not request clarification or present questions. There are no recommended revisions or additional responses based on these comments.



**Leasing Law Rule No. 1 –  
Residential Leasing  
Redline to Public Meeting Draft**



## Title 6. Property and Land – Chapter 602 LEASING LAW

### Rule # 1 – Residential Leasing

- 1.1. Purpose and Policy
- 1.2. Adoption and Authority
- 1.3. Definitions
- 1.4. Residential Lease Eligibility, Cost, Duration, and Application
- 1.5. Application Review and Residential Lease Approval
- 1.6. Residential Lease by Guardian
- 1.7. Residential Lease Transfer
- 1.8. Residential Sublease
- 1.9. Residential Lease Termination
- 1.10 Compensation for Improvements Upon Residential Lease Termination
- 1.11 Residential Leasing Actions

#### 1.1. Purpose and Policy

1.1-1. *Purpose.* The purpose of the Residential Leasing rule is to expand upon the information provided in the Leasing Law regarding eligibility, administration, inheritability, and enforcement related to residential leases.

1.1-2. *Policy.* The policy behind the Residential Leasing program is to provide Tribal member's with access to Tribal land for the purpose of homeownership through policies that build strong, safe, and healthy Oneida neighborhoods and provide a consistent and fair process by which residential lease applications will be reviewed and residential leases awarded.

#### 1.2. Adoption and Authority

1.2-1. This rule was jointly adopted by the Comprehensive Housing Division and the Oneida Land Commission in accordance with the Administrative Rulemaking law.

1.2-2. This rule may be amended or repealed by the joint approval of the Comprehensive Housing Division and Land Commission pursuant to the procedures set out in the Administrative Rulemaking law.

1.2-3. Should a provision of this rule or the application of this rule to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this rule which are considered to have legal force without the invalid portions.

1.2-4. In the event of a conflict between a provision of this rule and a provision of another rule, internal policy, procedure, or other regulation; the provisions of this rule controls.

1.2-5. This rule supersedes all prior rules, regulations, internal policies or other requirements relating to the Leasing Law.

#### 1.3. Definitions

1.3-1. This section governs the definitions of words and phrases used within this rule. All words not defined herein are to be used in their ordinary and everyday sense.

- (a) "CHD" means the Nation's Comprehensive Housing Division.
- (b) "Department" means the CHD's Residential Leasing Department.
- (c) "Descendant" means the son or daughter of an enrolled Tribal member.
- (d) "Fee Land" means land held in fee status by the Nation.<sup>1</sup>

<sup>1</sup> Although the Real Property law indicates that leases for tribal fee land will follow the procedures set forth in the Leasing Law, CHD shall not record residential leases for fee land with the Land Title Records Office as that office only accepts recordings pertaining to trust land.

(e) "Guardian" means a person who has been appointed by a court of competent jurisdiction to be legally responsible for someone who is unable to manage their own affairs, particularly for minors and/or persons declared legally incompetent.

(f) "Improvement" means buildings, other structures, and associated infrastructure attached to land.

(g) "Lessee" means the party to an executed and effective residential lease.

(h) "Nation" means the Oneida Nation.

(h) "Premises" means the real property subject to a residential lease.

(i) "Residential Lease" means the legal document issued by the Nation pursuant to the Leasing Law and this rule which establishes a lessee's right to occupy Tribal land for residential purposes.

(j) "Tribal land" means fee land and/or trust land.

(k) "Tribal Member" means an individual who is an enrolled member of the Nation.

(l) "Trust land" means the surface estate of land or any interest therein held by the United States in trust for the Nation; land held by the Nation subject to federal restrictions against alienation or encumbrance; land reserved for federal purposes; and/or land held by the United States in trust for the Nation under Section 17 of the Indian Reorganization Act, 25 U.S.C §477, et. seq.

(m) "Ward" means a person under the care and control of a guardian appointed by a court of competent jurisdiction, usually due the person's status as a minor or a declaration of legal incompetence.

#### 1.4. Residential Lease Eligibility, Cost, Duration, and Application

1.4-1. *Eligibility.* In order for an applicant to be eligible to enter a residential lease, the applicant must satisfy all of the following:

(a) Be a Tribal member. Non-Tribal members may be a party to a residential lease under the following circumstances:

(1) The non-tribal member is married to a Tribal member party to the residential lease;

(2) The non-tribal member spouse is awarded the residential lease through a legal separation or divorce judgment;

(3) The Oneida Land Commission has approved the CHD to enter a residential lease with a non-Tribal member party;

(4) The non-Tribal member is a descendant ~~or other individual~~ that inherited the residential leasehold interest; or

(5) as otherwise specified in this rule.

(b) Have a maximum of two (2) residential leases provided that a second residential lease is only permitted in circumstances where any required residential subleasing meets the requirements provided in this rule.

(c) Either:

(1) Be in good standing with any mortgage/encumbrance upon the improvements which would be subject to the residential lease; or

(2) Demonstrate financial ability to secure improvements upon the premises.

1.4-2. *Residential Lease Cost and Duration.* Unless approved otherwise by the Oneida Land Commission, the initial residential lease term shall be for a period of fifty (50) years with one (1) twenty-five (25) year extension available for a maximum term of seventy-five (75) years.

(a) Tribal members and non-Tribal members who qualify under sections 1.4-1(a)(1), (2),



(4), or (5) of this rule shall pay a non-refundable residential lease cost prior to execution of the lease of three dollars (\$3.00) per year plus an administrative fee of twenty-five dollars (\$25.00).

(b) Where the lessee is a non-Tribal member that enters into a residential lease pursuant to section 1.4-1(a)(3) of this rule, the cost of the residential lease is as follows:

(1) *Fair Market Value.* Non-Tribal members shall pay a one-time twenty-five dollar (\$25.00) administrative fee plus an annual rate which is the lessor of one thousand five hundred dollars (\$1,500.00) and fair market value of the premises. Payment for residential lease costs may be paid up front or broken down into monthly or quarterly payments.

(A) For the purposes of this section, fair market value is determined by dividing the current appraised value of the premises (excluding any improvements) by fifty (50), which represents the standard residential lease term of fifty (50) years.

(B) Once the annual fair market value is set, it shall be locked in for the term of the residential lease.

(C) Where an updated appraisal is required to calculate the current fair market value, lessee shall pay CHD's cost of appraisal, provided that CHD shall select the appraisal provider.

1.4-3. *Application.* In order to apply for a residential lease, applicants shall submit to the Department a residential lease application, which CHD shall make available in hard copy format at CHD and on its website. When submitting the application, applicants shall submit a copy of their Tribal or state identification card as applicable and, if married, a certified copy of the marriage certificate.

## 1.5. **Application Review and Residential Lease Approval**

1.5-1. *Application Review.* Upon receipt of a residential lease application, the Department shall:

(a) Initiate the National Environmental Protection Act (NEPA) and cultural reviews required by the Leasing Law with the Environment, Health, Safety and Land Division and the Cultural Heritage Department respectively;

(b) Pull the legal description for the proposed residential lease premises from the title report, if available, and if not, from the warranty deed, including any potential amendments thereto, with the assistance of the Environment, Health, Safety and Land Division as may be needed;

(c) Pull the legal description for the proposed residential lease premises from the survey map;

(d) Confirm the proposed residential lease premises' legal description in the title report/warranty deed and the legal description in the survey match one another. In the event the legal descriptions do not match, the Department shall use the legal description from the most recent document;

(e) Confirm that the minimum terms and conditions required by the Leasing Law are included in the proposed residential lease; and

(f) If any exceptions have been granted by the Oneida Land Commission, confirm such exceptions with a copy of the Oneida Land Commission minutes.

1.5-2. *Residential Lease Approval.* The CHD shall create a checklist for residential lease review. Upon the Department's completion of the checklist, the Department shall forward the residential lease application, residential lease, and associated review documents to the

Department's Area Manager for review and approval.

(a) Should the Area Manager approve the satisfaction of the checklist and the residential lease, the Area Manager shall forward the residential lease application, residential lease, and associated review documents to the CHD Director for signature of the residential lease on behalf of the Nation.

(b) Upon signature on behalf of the Nation, the Department shall schedule a meeting with the lessee to review the residential lease terms and to facilitate signature of the lessee, provided that the residential lease may not be signed until the cost of the residential lease has been paid with receipt documented in the residential lease file.

(c) The CHD shall provide the Oneida Land Commission with a quarterly report listing approved residential leases.

#### **1.6. Residential Lease by Guardian**

1.6-1. CHD shall permit a guardian to enter a residential lease on behalf of a ward who has either not yet reached the age of majority or who has been deemed incompetent provided that:

(a) The ward must meet the eligibility requirements contained in section 1.4-1 of this rule;

(b) The guardian must provide the Department with a copy of the order appointing them as guardian issued by a court of competent jurisdiction;

(c) The residential lease must require the guardian to provide any updates regarding the scope and status of the guardianship; and

(d) The residential lease must either stay in the name of the ward or transfer to the ward in the event the guardianship is terminated.

#### **1.7. Residential Lease Transfer**

1.7-1. *Residential Lease Transfer Outside of Death.* Transfer of a residential lease outside of death may only occur either if all parties involved in the transfer approve of said transfer in writing or if an order from a court of competent jurisdiction requires transfer of the residential lease to an eligible party as defined by this rule.

(a) *Mortgaged Premises.* If the premises is mortgaged, all mortgage parties on the residential lease must remain on the residential lease. Mortgage parties may be removed from the residential lease only if action is taken to remove a party or the parties from the mortgage.

(b) *Residential Lease Transfer Process.* In order to initiate a residential lease transfer, the requesting party must submit a transfer application, which CHD shall make available in-person at CHD and electronically on its website, and pay the twenty-five dollar (\$25.00) transfer fee.

1.7-2. *Residential Lease Transfer Upon Death of Lessee.* Where the lessee dies before the end of the residential lease, the residential lease may be transferred either in reliance on an executed residential lease successor designation form or upon an order from either the Nation's probate hearing body or court of competent jurisdiction assigning the leasehold interest to an eligible heir.

(a) *Eligible Successors.* Unless approved otherwise by the Oneida Land Commission, when assigning a leasehold interest, whether through a successor designation form or a will/probate, in order to be eligible, the successor must meet the requirements of section 1.4-1 of this rule. If the successor has not yet reached the age of majority at the time the lessee becomes deceased, the successor will be required to enter a residential lease by



guardian until he/she reaches eighteen (18) years of age.

(1) *Successor Designation Form.* CHD shall make successor designation forms available in-person at CHD and electronically on its website. Executing a successor designation form demonstrates intent of the lessee to remove the residential leasehold interest from the estate's probate assets in order to shorten and simplify the transfer process to an eligible successor upon the death of a lessee. Successor designation forms are only available to lessees where the premises is not subject to a mortgage. If a mortgage is entered after executing a successor designation form and the mortgage is not satisfied at the time the lessee dies, the successor designation form shall be invalid.

(A) The successor designation form shall provide an opportunity for the lessee to name up to a maximum of a three (3) successors.

(B) Upon death of a lessee with a successor designation form on file, the Department shall contact the named successors in the order designated by the lessee and shall inform them of their option to accept the leasehold interest, either for the purpose of personal occupancy or for sale of the residence.

(2) *Probate.* Lessees may also chose to transfer a residential leasehold interest upon their death by having it go through the probate process. The probate process will be used to assign a leasehold interest where there is no valid successor designation form on file or where a successor designation form is on file but a will has been executed after the successor designation form was executed which includes the residential leasehold interest. Where the premises is on trust land, the estate must use the Nation's probate process, whereas a premises on fee land may either be handled through the Nation's or the State of Wisconsin's probate process.

(3) *No Eligible Successors.* Where there are no eligible successors to the residential leasehold interest, the CHD shall terminate the residential lease and shall issue payment to the lessee's estate for any improvements upon the premises in accordance with section 1.10 of this rule. The leasehold interest shall then revert to CHD.

(b) *Married Persons.* When a Tribal member spouse predeceases the term of the residential lease:

(1) If both married parties are parties to the residential lease, the remaining lessee shall continue in effect undisturbed; or

(2) If only the deceased Tribal member was a party to the residential lease and the residential lease was not amended to include the spouse, the CHD, absent a valid marital property agreement stating otherwise, will consider the residential lease marital property and the spouse may sign on to the residential lease.

## **1.8. Residential Sublease**

1.8-1. *Eligibility.* In order to enter a residential sublease agreement, the party assuming the premises through the sublease must meet the eligibility requirements contained in section 1.4-1 of this rule.

1.8-2. *Approval of CHD and Lender Required.* Approval of CHD and, if the premises is subject to a mortgage also the lender, is required prior to entering any sublease agreement.

1.8-3. *Sublessee to Consent to Terms of Residential Lease.* In order to enter a sublease

agreement, the sublessee shall consent to the terms of the residential lease provided that the parties to the sublease agreement may negotiate payment provisions differing from payment terms included in the residential lease.

1.8-4. *Original Lessee Remains Responsible.* In terms of residential lease enforcement and compliance with the residential lease, the original lessee shall at all times remain responsible for ensuring compliance with the terms of the residential lease and any and all enforcement actions taken by CHD and/or the Nation shall be taken against the original lessee. Any dispute as to who is responsible for the non-compliance constitutes a private dispute between the sublease parties and shall exclude CHD and the Nation as a party to the dispute.

## **1.9. Residential Lease Termination**

1.9-2. *Termination.* Any termination of a residential lease is subject to requirements of the Eviction and Termination law and shall require CHD to compensate the lessee for any improvements located upon the premises upon said termination in accordance with section 1.10 of this rule.

## **1.10. Compensation for Improvements Upon Residential Lease Termination**

1.10-1. Any time CHD terminates a residential lease which has improvements fixed to the premises, the Nation shall provide the lessee/lessee's estate with compensation for said improvements upon termination.

(a) *Determining Compensation Amount.* The amount of compensation required for any improvements fixed to the premises shall be calculated using a current appraisal of the improvements only and deducting the following from the appraisal value:

- (1) The cost to satisfy any mortgage/encumbrance upon the premises and/or improvements;
- (2) The cost of the appraisal and home inspection, provided that CHD shall select the service providers;
- (3) The cost to bring the improvements to a minimal health and safety standard in accordance with the determination of the Zoning Department and/or the home inspection; and
- (4) Any debts and/or other administrative costs owed to the Nation by the lessee.

## **1.11 Residential Leasing Actions**

1.11-1. The Oneida Judiciary is granted jurisdiction to hear complaints filed regarding actions taken pursuant to this rule.

1.11-2. No administrative hearing body, including a board, committee or commission, is authorized to hear a complaint regarding actions taken pursuant to this rule.

1.11-3. In regards to taking actions authorized under this rule, complaints filed with the Oneida Judiciary shall name the CHD's Residential Leasing Department.

*End.*

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Original effective date: 05-09-2018

# August 2018

August 2018						
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	Jul 29	30	31	Aug 1	2	3	4
Jul 29 - Aug 4				9:00am 3:00pm LOC (BC_Conf_Room) - LOC			
	5	6	7	8	9	10	11
Aug 5 - 11		1:30pm 4:00pm LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago					
	12	13	14	15	16	17	18
Aug 12 - 18		1:30pm 4:00pm LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago		9:00am 3:00pm LOC (BC_Conf_Room) - LOC	12:15pm 2:15pm PUBLIC MEETING: Military Service Employee Protection Act Amendm		
	19	20	21	22	23	24	25
Aug 19 - 25		1:30pm 4:00pm LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	3:00pm 4:30pm LOC Prep (BC_Exec_Conf_Room) - LOC				
	26	27	28	29	30	31	Sep 1
Aug 26 - Sep 1		6:00pm 10:00pm GTC (Radisson)	8:30am 11:00am LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago				



# September 2018

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Aug 26 - Sep 1							
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Sep 2 - 8				9:00am 3:00pm LOC (BC_Conf_Room) - LOC			
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Sep 9 - 15		1:30pm 4:00pm LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago					
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Sep 30 - Oct 6							