

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/PublicMeetings 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



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.

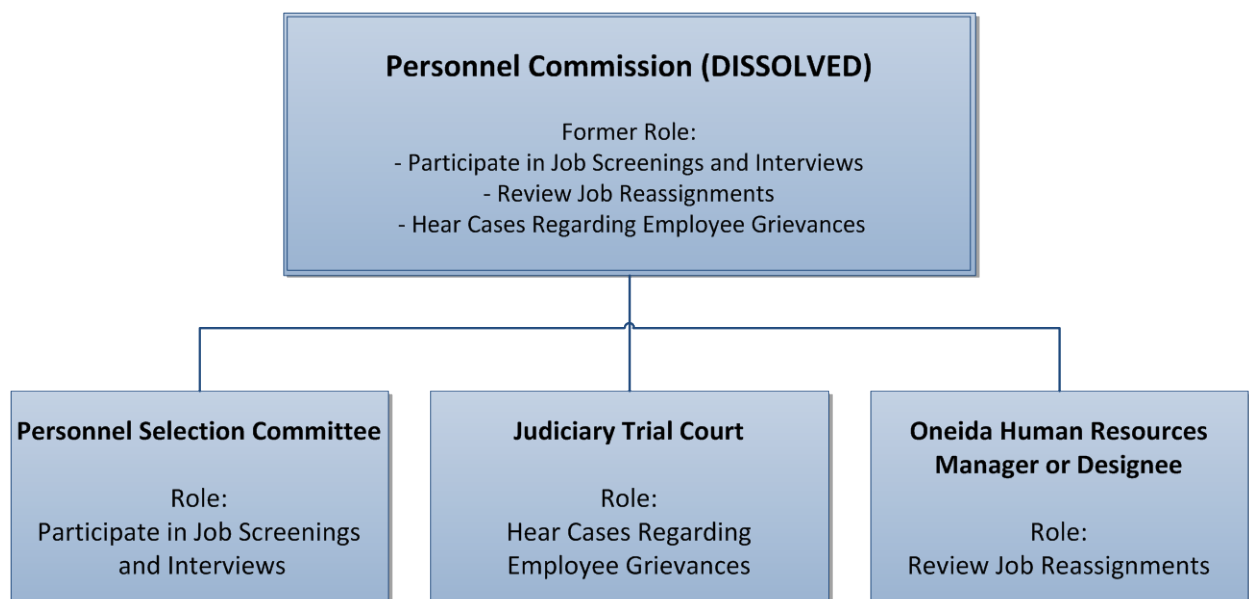
SECTION 4. PROCESS

- 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.

Personnel Commission (Dissolved)	Personnel Selection Committee (New)
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:

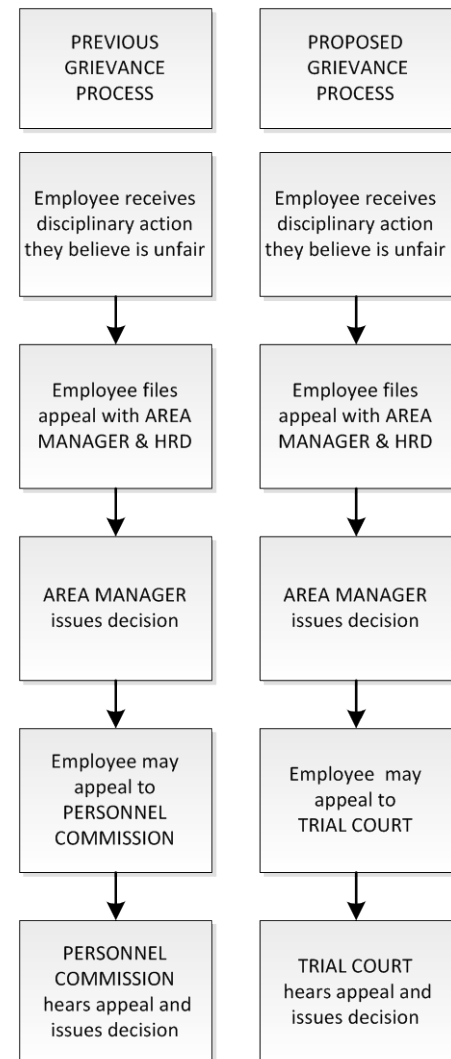
- i. **Training.** The Personnel Selection Committee must undergo training and periodic re-training in Equal Employment Opportunity (EEO) and Tribal laws, rules and regulations [see *Personnel Policies and Procedures – Section III(B)(1)*].
- ii. **Role of Personnel Selection Committee.** The section 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.”

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*].

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:**

GTC Action	Impact on Personnel Policies and Procedures	Outcome
Scenario 1: 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.
Scenario 2: 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.
Scenario 3: 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.
Scenario 4: 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

- 117 procedures to put the incumbent on payroll.
- 118
- 119 d. The selected candidate will sign a statement accepting conditions of temporary
- 120 employment, and length of employment where applicable.
- 121 e. Temporary employees will be paid within the Grade in which the job is classified and salary
- 122 will be negotiated within the first three (3) steps of respective grade.
- 123 1) Any negotiated salary beyond step three will require written justification and approval
- 124 form the respective General Manager. (H.R. Interpretation, 12-8-16)
- 125 | f. Temporary employees are welcome to apply for any regular position within the [TribeNation](#)
- 126 that becomes available during the term of their employment.
- 127 g. Temporary employees that are terminated due to documented cause will have the right to
- 128 the appeal process as outlined in the Personnel Policies and Procedures.
- 129 h. All temporary employees are subject to lay-off based upon department job needs and
- 130 budgets. (HR Interpretation – 11-25-13)
- 131 i. Supervisors are required to do proficient planning within their respective span of control; as
- 132 such they must also enforce separation dates and will be monitored by HRD for compliance.
- 133 j. Supervisors must select the most appropriate category of classification for the job.
- 134 1) Moving from one classification to another is prohibited.
- 135 4. Benefits
- 136 a. The following employee classifications will be eligible for benefits as defined in the section
- 137 of the Personnel Policies and Procedures as medical, dental, vacation and personal accrual,
- 138 holiday pay, premium pay.
- 139 1) Limited Term
- 140 2) Seasonal
- 141 b. The following employee classifications will be eligible for benefits as defined in this section
- 142 of the Personnel Policies and Procedures as Mandatory Benefits and Holiday pay.
- 143 1) Emergency/Temporary
- 144 2) Substitute/Relief
- 145 3) Seasonal Worker (only during their first season)
- 146 c. The following employee classifications will be eligible for benefits as defined in this section
- 147 of the Personnel Policies and Procedures as Mandatory Benefits.
- 148 1) Youth Worker
- 149 2) Student/Intern
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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 TribesNations.

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

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

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

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

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

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

B. HIRING PROCEDURE

1 Statement of Policy

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

2. Hiring Procedures

a. HRD Office Responsibilities

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

b. Personnel ~~Commission~~ Selection Committee Role

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

- 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 ^(Work Standard, 11-16-11)
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 | ^(HR Interpretation, 12-8-16)
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~~Tribe~~Nation's~~Nation Job Structure will be paid at the grade level corresponding to the new position;

c) An employee must have completed one year of service to the ~~Tribe~~Tribe~~Nation~~Nation before being eligible for a promotion or transfer (requests for transfers for documented medical conditions will be handled on a case by case basis and only when in the best interests of both the employee and the ~~Tribe~~Tribe~~Nation~~Nation);

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

b. Applicant Pool Process

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

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

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

b) Advertising through the ~~Tribal~~Tribe~~Nation's~~Nation'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~~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 ~~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 ~~Tribal~~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)
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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.

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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).
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- 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.

- 1018 6) The decision of the Judiciary – Trial Court shall be based solely on the information
1019 presented to them before the appeal hearing, the record of the prior proceedings and
1020 any new evidence (if introduced appropriately through the provisions of 6.b.4.a. above).
1021 7) The decision of the Judiciary – Trial Court may be appealed to the Nation’s Court of
1022 Appeals pursuant to the Nation’s Rules of Appellate Procedure. The Judiciary – Trial
1023 Court may:
1024 a) Uphold the disciplinary action; or
1025 b) Overturn the disciplinary action and:
1026 i. Reinstatement the employee (petitioner) with full back pay for any lost time;
1027 ii. Reinstatement the employee (petitioner) without back pay.
1028 8) The petitioner and respondent have a right to a speedy hearing and decision; therefore,
1029 notification of the final decision will be made within five (5) working days following the
1030 hearing.
1031 a) Notification of the final decision will include:
1032 i. The final decision;
1033 ii. The reason(s) for the final decision; and
1034 iii. The action to be taken as a result of the final decision.
1035 9) The HRD Office shall:
1036 a) Keep all records of the hearing;
1037 b) Provide copies of administrative advocacy rules, procedural rules, and time line
1038 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.
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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.
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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. [\(Archived 29, October 2010\)](#) [\(BC Action, 10-14-09B\)](#)