



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room-2nd Floor Norbert Hill Center

October 3, 2018 9:00 a.m.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

1. September 19, 2018 LOC Meeting Minutes (pg. 2)

III. Current Business

IV. New Submissions

1. Add identified Boards, Committees and Commissions bylaws to the Active Files List (pg. 4)

V. Additions

VI. Administrative Updates

1. Rescission of Dissolution of the OPC Resolution E-Poll Results (pg. 5)
2. Personnel Commission Bylaws E-Poll Results (pg. 18)
3. Active Files List Update Memo (pg. 34)
4. GTC Petition Process (pg. 36)

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2nd Floor Norbert Hill Center

September 19, 2018

9:00 a.m.

Present: David P. Jordan, Daniel Guzman King, Jennifer Webster

Excused:, Ernest Stevens III, Kirby Metoxen

Others Present: Kristen Hooker, Brandon Wisneski, Clorissa Santiago, Jennifer Falck, Evander Delgado, Leyne Orosco, Bonnie Pigman, Chad Wilson

I. Call to Order and Approval of the Agenda

David P. Jordan called the September 19, 2018 Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster to approve the agenda with the addition of Oneida Personnel Commission Bylaws; seconded by Daniel Guzman King. Motion carried unanimously.

II. Minutes to be Approved (:47 -1:06)

September 5, 2018 LOC Minutes

Motion by Daniel Guzman King to approve the September 5, 2018 Legislative Operating Committee meeting minutes and forward to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

III. Current Business

1. Comprehensive Policy Governing Boards Committee, and Commissions (1:09-6:15)

Motion by Jennifer Webster to approve the adoption packet for the amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions and forward to the Oneida Business Committee for consideration; seconded by Daniel Guzman King. Motion carried unanimously.

2. Children's Code (6:16-7:22)

Motion by Daniel Guzman King to accept the Children's Code Implementation Quarterly Update and forward to the Oneida Business Committee; seconded by Jennifer Webster. Motion carried unanimously.

IV. New Submissions

1. Domestic Animals Law (7:23-8:54)

Motion by Jennifer Webster to add the Domestic Animals law to the active files list and assign Jennifer Webster as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.



2. Oneida Food Service Code (8:55-10:17)

Motion by Jennifer Webster to add the Oneida Food Service Code to the active files list and assign Ernest Stevens III as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

V. Additions**1. Oneida Personnel Commission Bylaws (10:20-11:00)**

Motion by Jennifer Webster to add the Oneida Personnel Commission Bylaws to the active files list and assign David P. Jordan as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

VI. Administrative Items**1. Election Law E-poll results (11:03–11:22)**

Motion by Daniel Guzman King to enter the e-poll results into the record; seconded by Jennifer Webster. Motion carried unanimously.

2. Sanctions & Penalties E-poll results (11:23-11:39)

Motion by Daniel Guzman King to enter the e-poll results into the record; seconded by Jennifer Webster. Motion carried unanimously.

VII. Executive Session**VIII. Adjourn**

Motion by Daniel Guzman King to adjourn the September 19, 2018 Legislative Operating Committee meeting at 9:11 a.m.; seconded by Jennifer Webster. Motion carried unanimously.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
 Oneida-nsn.gov



AGENDA REQUEST FORM

- 1) Request Date: 9/27/18
- 2) Contact Person(s): Jennifer Falck, Director
 Dept: LRO
 Phone Number: 4312 Email: jfalck@oneidanation.org
- 3) Agenda Title: Add identified Boards, Committees and Commissions Bylaws to the Active Files List
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:

Add the following boards, committees and commission to the Active File List: Oneida Gaming Commission, Oneida Land Claims Commission, Oneida Nation Commission on Aging (ONCOA), Oneida Nation School Board, Anna John Resident Centered Care Community Board (AJRCC), Environmental Resource Board (ERB), Oneida Community Library Board, Oneida Nation Arts Board, Oneida Police Commission, Oneida Pow Wow Committee, Pardon and Screening Forgiveness Committee, Southeastern WI Oneida Tribal Services Advisory Board (SEOTS)

List any supporting materials included and submitted with the Agenda Request Form

- | | |
|----------|----------|
| 1) _____ | 3) _____ |
| 2) _____ | 4) _____ |

- 5) Please list any laws, policies or resolutions that might be affected:
Boards, Committees and Commissions Law
- 6) Please list all other departments or person(s) you have brought your concern to:

- 7) Do you consider this request urgent? ☒ Yes ☐ No

If yes, please indicate why:

The OBC has established a six (6) month deadline for all affected boards, committees to update their bylaws.

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:

J. A. Falck

Please send this form and all supporting materials to:

LOC@oneidanation.org

or

Legislative Operating Committee (LOC)

P.O. Box 365
 Oneida, WI 54155
 Phone 920-869-4376

September 20, 2018 Legislative Operating Committee E-Poll

Approval of the Resolution titled, "Rescission of the Dissolution of the Oneida Personnel Commission and Related Emergency Amendments in Accordance with General Tribal Council's August 27, 2018 Directive"



Good Afternoon Legislative Operating Committee,

This e-mail serves as the e-poll for the approval of the resolution titled, "Rescission of the Dissolution of the Oneida Personnel Commission and Related Emergency Amendments in Accordance with General Tribal Council's August 27, 2018 Directive."

Executive Summary

On August 29, 2018, the Oneida Business Committee approved a motion to adopt the transition steps outlined to implement the August 27, 2018, General Tribal Council action. The transition steps provided direction to the Legislative Operating Committee and the Legislative Reference Office, the Judiciary, the Treasurer and Finance Office, and the Oneida Business Committee on how to proceed with implementing General Tribal Council's directive.

The resolution titled, "Rescission of the Dissolution of the Oneida Personnel Commission and Related Emergency Amendments in Accordance with General Tribal Council's August 27, 2018 Directive" formally recognizes General Tribal Council's directive to rescind the actions of the Oneida Business Committee related to the dissolution of the Oneida Personnel Commission and the related emergency amendments, while demonstrating what has already occurred to implement this directive, and providing for what further actions shall occur to properly and effectively implement the directive from General Tribal Council.

It is necessary to conduct an e-poll to meet the agenda deadline for inclusion on the September 26, 2018, Oneida Business Committee meeting agenda.

Requested Action

Approve the resolution and forward to the Oneida Business Committee for consideration.

Deadline for Response

Friday, September 21, 2018, at 8:30 a.m.

All supporting documentation has been attached to this email for your convenience.

E-POLL RESULTS:

The e-poll was approved by David P. Jordan, Daniel Guzman, Jennifer Webster, and Kirby Metoxen. Ernest Stevens III did not provide a response.



Thu 9/20/2018 4:17 PM

David P. Jordan

Approve: E-POLL REQUEST: Approval of the Resolution titled, "Rescission of the Dissolution of the Oneida Personnel Commission and Related Emergen

To: LOC

The sender responded: Approve.



Thu 9/20/2018 4:57 PM

Daniel P. Guzman

Re: E-POLL REQUEST: Approval of the Resolution titled, "Rescission of the Dissolution of the Oneida Personnel Commission and Related Emergency Am

To: LOC



Approve



Thu 9/20/2018 4:59 PM

Jennifer A. Webster

Re: E-POLL REQUEST: Approval of the Resolution titled, "Rescission of the Dissolution of the Oneida Personnel Commission and Related Emergency Am

To: LOC



Approve



Sent from my Samsung Galaxy smartphone.



Thu 9/20/2018 5:06 PM

Kirby W. Metoxen

Re: E-POLL REQUEST: Approval of the Resolution titled, "Rescission of the Dissolution of the Oneida Personnel Commission and Related Emergency Am

To: LOC; Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Jennifer A. Webster

Cc: Leyne C. Orosco; Fawn J. Billie; Cathy L. Bachhuber; Jessica L. Wallenfang; Rosa J. Laster; Brandon M. Wisneski; Clorissa N. Santiago; Jennifer A. Falck; Kristen M. Hooker; Maureen S. Perkins



Support



Sent from my Samsung Galaxy smartphone.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # _____

Rescission of the Dissolution of the Oneida Personnel Commission and Related Emergency Amendments in Accordance with General Tribal Council's August 27, 2018 Directive

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Personnel Selection Committee was created by the General Tribal Council to monitor the hiring process to protect against issues of nepotism, and to enforce Oneida and Indian preference; and
- WHEREAS,** in an effort to provide for a tribal employment system that is operated in an orderly and fair manner, the Oneida Business Committee re-designated the Personnel Selection Committee as the Oneida Personnel Commission through resolution BC-04-13-90-A; and
- WHEREAS,** resolution BC-04-13-90-A delegated the Oneida Personnel Commission the responsibility to generate personnel policies to be presented and recommended to the Oneida Business Committee for the Oneida Business Committee to review, take formal action to approve, disapprove, change and/or amend said personnel policy recommendations; and
- WHEREAS,** through resolution BC-05-12-93-J, the Oneida Business Committee, in conjunction with the Nation's Human Resources Department and the Oneida Personnel Commission, revised the Nation's Personnel Policies and Procedures to allow the Oneida Personnel Commission to serve as a grievance hearing body for employment matters; and
- WHEREAS,** the Oneida Personnel Commission then served the Oneida Nation as a hearing body for employee grievances, with appeals of those hearings authorized to be made to the Oneida Appeals Commission after its creation in 1991 by the General Tribal Council; and
- WHEREAS,** the Oneida Business Committee, through resolution BC-03-06-01-B, temporarily rescinded authority delegated to the Oneida Personnel Commission contained within the Oneida Personnel Policies and Procedures as it pertained to the role of the Oneida Personnel Commission as representatives of the community at large, the commissioners' responsibility to serve on the Screening Committee, the Interview Committee, the Personnel Screening Committee, and as the Grievance Hearing Body; and
- WHEREAS,** resolution BC-03-06-01-B required that the hiring process of the Nation continue without interruption under the auspices of the Human Resources Department, and that the Oneida Appeal Commission be delegated the first level hearing body for employment related actions as referenced in the Oneida Personnel Policies and Procedures; and

Rescission of the Dissolution of the Oneida Personnel Commission and Related Emergency Amendments in Accordance
with General Tribal Council's August 27, 2018 Directive
Page 2 of 9

- 53 **WHEREAS,** although the Oneida Personnel Commission served the Nation as a hearing body for
54 employee grievances since the early 1990s, except for the period when the Oneida
55 Personnel Commissions' authority was temporarily rescinded, the Nation has been
56 moving towards consolidating all hearing responsibilities to the Oneida Nation Judiciary;
57 and
58
- 59 **WHEREAS,** the Oneida General Tribal Council adopted the Judiciary law as the next step in
60 formalizing the hearing authority of the Oneida Nation in an independent judicial body;
61 and
62
- 63 **WHEREAS,** the membership approved amendments to the Constitution which adopted Article V,
64 Judiciary, which established "a judiciary to exercise the judicial authority of the Oneida
65 Nation"; and
66
- 67 **WHEREAS,** the Oneida General Tribal Council adopted resolution GTC-03-19-17-A which designated
68 the Oneida Judiciary as the judiciary authorized pursuant to Article V of the Constitution;
69 and
70
- 71 **WHEREAS,** the Oneida Business Committee has presented reports, and the General Tribal Council
72 has accepted such reports, regarding the consolidation of administrative hearing and
73 judicial hearing responsibilities in the Judiciary for the purpose of increasing consistency
74 in hearing processes, efficiency, and reducing overall costs to the Nation; and
75
- 76 **WHEREAS,** the Oneida Business Committee notified the Judiciary of its intention to consolidate all
77 judicial functions and the Judiciary identified that it is prepared to accept such
78 responsibilities; and
79
- 80 **WHEREAS,** the Oneida Business Committee has adopted amendments to laws that transferred the
81 hearing authority of the Environmental Resources Board and the Land Commission to the
82 Judiciary; and
83
- 84 **WHEREAS,** the Oneida Business Committee determined it was appropriate to begin consolidating
85 employment related grievance hearings into the Judiciary as the number of current cases
86 in the Oneida Personnel Commission was low and the costs of maintaining judicial
87 hearing authorities continues to increase; and
88
- 89 **WHEREAS,** the Oneida Business Committee dissolved the Oneida Personnel Commission on April
90 11, 2018, through resolution BC-04-11-18-A in an effort to consolidate employment
91 related grievance hearings into the Judiciary; and
92
- 93 **WHEREAS,** resolution BC-04-11-18-A required the Legislative Operating Committee to develop and
94 present emergency legislative amendments to fully address the impact of this resolution
95 by the April 25, 2018, Oneida Business Committee meeting for consideration of adoption;
96 and
97
- 98 **WHEREAS,** resolution BC-04-11-18-A required that all personnel matters pending, scheduled, and for
99 which timelines were running were hereby tolled until the emergency amendments could
100 be brought forward by the Legislative Operating Committee regarding laws impacted by
101 the dissolution of the Oneida Personnel Commission, with the tolling of time interpreted
102 and applied in the best interests of the employee; and
103
- 104 **WHEREAS,** although the Oneida Personnel Commission was dissolved, the Oneida Business
105 Committee recognized the valuable service the Personnel Selection Committee provided
106 in its original form before being expanded to include hearing authority; and
107

Rescission of the Dissolution of the Oneida Personnel Commission and Related Emergency Amendments in Accordance
with General Tribal Council's August 27, 2018 Directive
Page 3 of 9

- 108 **WHEREAS,** the Oneida Business Committee determined that the valuable service the Personnel
109 Selection Committee provided remained necessary in the hiring process, and therefore
110 recreating the Personnel Selection Committee was in the best interest of the Oneida
111 Nation; and
112
- 113 **WHEREAS,** the Oneida Business Committee recreated the Personnel Selection Committee on April
114 11, 2018, through resolution BC-04-11-18-B; and
115
- 116 **WHEREAS,** resolution BC-04-11-18-B provided that bylaws for the Personnel Selection Committee be
117 placed on the May 23, 2018 Oneida Business Committee meeting agenda, and that the
118 Human Resources Department consider not scheduling screening or interviews until the
119 Personnel Selection Committee is created and members are appointed, provided that,
120 the Human Resources Department may schedule screening and interviewing where it
121 would be unreasonable to delay or further delay that action; and
122
- 123 **WHEREAS,** the Oneida Business Committee approved the Personnel Selection Committee bylaws on
124 May 23, 2018; and
125
- 126 **WHEREAS,** the Oneida Business Committee adopted emergency amendments to the Military Service
127 Employee Protection Policy, the Oneida Personnel Policies and Procedures, the Oneida
128 Judiciary Rules of Civil Procedures, and the Employee Protection Policy on April 25,
129 2018, through resolutions BC-04-25-18-D, BC-04-25-18-E, BC-04-25-18-F, and BC-04-
130 25-18-G; and
131
- 132 **WHEREAS,** the emergency amendments to the above mentioned laws replaced any reference to the
133 Oneida Personnel Commission which referred to actions affecting employees involving
134 adverse employment actions for which a hearing is authorized with a reference to the
135 Judiciary – Trial Court, thereby transferring the hearing authority to the Judiciary – Trial
136 Court; and
137
- 138 **WHEREAS,** the emergency amendments to the above mentioned laws replaced any reference to the
139 Oneida Personnel Commission which referred to actions involving hiring, including
140 screening and interviews, with a reference to the Personnel Selection Committee; and
141
- 142 **WHEREAS,** the Oneida Business Committee determined emergency adoption of the amendments to
143 the Military Service Employee Protection Policy, the Oneida Personnel Policies and
144 Procedures, the Oneida Judiciary Rules of Civil Procedures, and the Employee
145 Protection Policy were necessary for the preservation of the public health, safety, or
146 general welfare of the reservation population as required by the Legislative Procedures
147 Act in order to ensure that the general welfare and due process rights of employees of
148 the Nation were preserved in absence of the Oneida Personnel Commission; and
149
- 150 **WHEREAS,** the Oneida Business Committee adopted a plan for the process of transitioning cases
151 from the Oneida Personnel Commission to the Judiciary – Trial Court through resolution
152 BC-04-25-18-H;
153
- 154 **WHEREAS,** resolution BC-04-25-18-H required that the Judiciary Trial Court utilize prior decisions of
155 the Oneida Personnel Commission as precedent in its hearing and decision-making
156 process, and that hearing procedures shall follow those set forth in the Oneida Judiciary
157 Rules of Civil Procedure, provided that, in circumstances where the Oneida Personnel
158 Policies and Procedures conflict with the Oneida Judiciary Rules of Civil Procedure, the
159 deadlines in the Oneida Personnel Policies and Procedures shall govern; and
160
- 161 **WHEREAS,** resolution BC-04-25-18-H set forth a process to be used to transfer matters to the
162 Judiciary from the Oneida Personnel Commission including:

1. All active cases for which at least one hearing had been held was transferred to the Judiciary Trial Court effective immediately.
 - a. The employee had, by close of business on May 11, 2018, to file a notice with the Judiciary Trial Court stating either they wish to maintain the current hearing body or have their case assigned to a judicial officer of the Trial Court and the Trial Court shall begin the hearing from the beginning, or at the request of the employee, continue the existing hearing with the judicial officer replacing the hearing body.
 - b. In all circumstances, the Judiciary was required to receive active case files and hearing records for active cases and begin management of the case.
2. All cases which had been accepted, but no hearing had yet been conducted or no hearing officers selected, had been transferred to the Judiciary Trial Court and a judicial officer of the Trial Court was assigned.
3. All cases which had been concluded and for which no appeal time remains, were transferred to the Records Management Department which worked with the Judiciary to assist in managing those records.
4. All matters filed, but for which no determination has been made regarding acceptance was immediately forwarded to the Judiciary Trial Court.
5. The Oneida Personnel Commission administration was required to deliver a complete record of all decisions of the Oneida Personnel Commission to the Judiciary and a copy to Records Management Department; and

WHEREAS, on May 14, 2018, the Petition: G. Powless – Oneida Personnel Commission Dissolution was submitted to the Business Committee Support Office by Gina Powless and was verified by the Trust Enrollment Department; and

WHEREAS, the petition requested General Tribal Council “to address the actions of the Oneida Business Committee’s (OBC) Dissolving the Oneida Personnel Commission (OPC) by BC Resolution #04-11-18-A, BC Resolution #04-11-18-B. The OBC has intentionally violated their authority, they do not have the right to make a decision to dissolve the OPC which was created and approved by General Tribal Council (GTC). The only body that can dissolve the OPC is GTC. The OBC has abused their power and directly violated the Oneida Constitution, their Oath of Office, Oneida’s Code of Ethics, the Oneida Blue Book, to name a few. The OBC has deliberately undermined the authority of GTC. The OBC has cited in their BC resolutions that there is an emergency, yet have not cited any real emergency. The GTC hereby rescinds the action of the OBC, by rescinding BC Resolutions: 04-11-18-A, 04-11-18-B, 04-25-18-D, 04-25-18-E, 04-25-18-E, 04-25-18-F, 04-25-18-G, 04-25-18-H, placing the OPC back into the grievance and hiring practice, per the Oneida Blue Book, until GTC determines otherwise. Further, GTC takes corrective measures pertaining to the OBC, by suspending the OBC Members without pay that approved the mentioned Resolutions for a period of 90 days”; and

WHEREAS, the Oneida Business Committee accepted the verified Petition: G. Powless – Oneida Personnel Commission Dissolution on May 23, 2018, and directed that the petition be sent to the Law, Finance, Legislative Reference, and Direct Report Offices' for legal, financial, legislative, and administrative analyses to be completed, and that a General Tribal Council Meeting be scheduled for this matter on August 27, 2018; and

WHEREAS, the Petition: G. Powless – Oneida Personnel Commission Dissolution was presented to the General Tribal Council on August 27, 2018; and

WHEREAS, the General Tribal Council adopted a motion to “rescind the actions of the Oneida Business Committee related to the dissolution of the Oneida Personnel Commission, and to rescind the amendments related to the Blue Book from April 11, 2018 to today”; and

WHEREAS, the Oneida Business Committee held an emergency Oneida Business Committee Meeting on August 29, 2018, for the purpose of identifying the next steps to implement the August 27, 2018, GTC motion in an effort to implement the directives in a clear and timely transition protecting employee's due process; and

WHEREAS, at the August 29, 2018, emergency Oneida Business Committee meeting the Oneida Business Committee adopted the transition steps outlined to implement the August 27, 2018, General Tribal Council action with two (2) noted additions: 1) under the "Judiciary" section, include a task for communication regarding the Indirect Contempt Order; and 2) under the "Business Committee" section, include a task to address the concerns regarding training; and

WHEREAS, the transition steps provided direction to the Legislative Operating Committee and the Legislative Reference Office, the Judiciary, the Treasurer and Finance Office, and the Oneida Business Committee on how to proceed with implementing General Tribal Council's directive; and

WHEREAS, in recognition of the rescission of the dissolution of the Oneida Personnel Commission, on September 12, 2018, the Oneida Business Committee adopted a motion to terminate the appointments of the remaining members of the Oneida Personnel Commission: Carol Smith, Erik Krawczyk. Gary Smith, Gerald Decorah, Jason Martinez, Jennifer Hill, Patricia Powless, Pearl Webster, Sharon Alvarez, Stacey M. Nieto, Tina M Moore, and Yvonne Jourdan; and

WHEREAS, the Oneida Business Committee terminated the appointment of all Oneida Personnel Commission members under the authority granted by the Comprehensive Policy Governing Boards, Committees, and Commissions, and based the decision to terminate the appointments on the documentation submitted by members of the Oneida Personnel Commission, the decisions of the Judiciary, and the Oneida Business Committee's findings before and after the dissolution of the Oneida Personnel Commission; and

WHEREAS, on September 12, 2018, the Oneida Business Committee adopted a motion which directed the Legislative Operating Committee to present the bylaws for the Oneida Personnel Commission at the next regular Oneida Business Committee meeting with updated qualifications to address the issue of understanding hearing authorities and responsibilities; and

WHEREAS, the Oneida Business Committee adopted a further motion to defer posting the vacancies for the Oneida Personnel Commission until the updated bylaws are presented and approved by the Oneida Business Committee.

Recognition of General Tribal Council's August 27, 2018 Directive

NOW THEREFORE BE IT RESOLVED, that this resolution formally recognizes for the record General Tribal Council's directive to rescind the actions of the Oneida Business Committee related to the dissolution of the Oneida Personnel Commission, and to rescind the related emergency amendments.

Rescission of the Dissolution of the Oneida Personnel Commission

NOW THEREFORE BE IT FURTHER RESOLVED, to recognize General Tribal Council's directive to rescind the dissolution of the Oneida Personnel Commission, resolution BC-04-11-18-A, which dissolved the Oneida Personnel Commission, is hereby formally repealed and the Oneida Personnel Commission is formally reinstated.

NOW THEREFORE BE IT FURTHER RESOLVED, that resolution BC-04-25-18-H, which sets forth a process to be used to transfer matters to the Judiciary from the Oneida Personnel Commission, is hereby repealed.

NOW THEREFORE BE IT FURTHER RESOLVED, the Oneida Business Committee requests the Human Resources Department consider not scheduling screening or interviews until a minimum number of members of the Oneida Personnel Commission can be appointed and sworn into office. Provided that, the Human Resources Department may schedule screening and interviewing where it would be unreasonable to delay or further delay that action and shall ensure that employment laws of the Oneida Nation are enforced in the selection process.

NOW THEREFORE BE IT FURTHER RESOLVED, once a minimum number of members of the Oneida Personnel Commission are appointed and sworn into office, the Human Resources Department shall provide administrative assistance to the Oneida Personnel Commission in regard to the hiring and selection of employees, which shall include, but is not limited to, scheduling pre-screens and interviews, and coordinating Oneida Personnel Commission members to conduct hiring and selection activities.

NOW THEREFORE BE IT FURTHER RESOLVED, in recognition of the time necessary to appoint members to the Oneida Personnel Commission and allow members to obtain the necessary required training, the Judiciary – Trial Court shall continue to hear employee grievance matters until the Oneida Personnel Commission is prepared to begin exercising hearing authority.

NOW THEREFORE BE IT FURTHER RESOLVED, the Judiciary – Trial Court shall develop and provide training and/or ensure training is provided to members of the Oneida Personnel Commission on hearing processes and procedures.

NOW THEREFORE BE IT FURTHER RESOLVED, the Oneida Personnel Commission shall be prepared to exercise hearing authority over employee grievance matters when the Oneida Personnel Commission informs the Oneida Business Committee that the minimum number of Oneida Personnel Commission members have been appointed and have obtained all required trainings.

NOW THEREFORE BE IT FURTHER RESOLVED, the Nation's Human Resources Department shall draft an interpretation of Section V.D. of the Oneida Personnel Policies and Procedures which clarifies that in regard to employee grievance matters the term "Oneida Personnel Commission" shall be interpreted to mean the "Judiciary – Trial Court" until such time that the Oneida Personnel Commission informs the Oneida Business Committee that they are prepared to begin exercising hearing authority.

NOW THEREFORE BE IT FURTHER RESOLVED, once the Oneida Personnel Commission informs the Oneida Business Committee that they are prepared to begin exercising hearing authority, the following transition process shall be used to transfer matters from the Judiciary – Trial Court back to the Oneida Personnel Commission including:

1. All active cases for which at least one hearing has been held are transferred to the Oneida Personnel Commission effective immediately.
 - a. The employee shall have ten (10) business days to file a notice with the Judiciary - Trial Court stating either they wish to maintain his or her case at the Judiciary - Trial Court or have their case assigned to the Oneida Personnel Commission and the Oneida Personnel Commission shall begin the hearing from the beginning, or at the request of the employee, continue the existing hearing with the Oneida Personnel Commission replacing the Judiciary - Trial Court.
 - b. In all circumstances, the Oneida Personnel Commission shall receive active case files and hearing records for active cases and begin management of the case.
2. All cases which have been accepted, but no hearing has yet been conducted, shall be transferred to the Oneida Personnel Commission.

3. All cases which have been concluded and for which no appeal time remains, shall be transferred to the Records Management Department which will work with the Oneida Personnel Commission to assist in managing those records.
4. All matters filed, but for which no determination has been made regarding acceptance shall be immediately forwarded to the Oneida Personnel Commission.
5. The Judiciary's administration shall deliver a complete record of all decisions of the Judiciary – Trial Court to the Oneida Personnel Commission and a copy to Records Management Department.

NOW THEREFORE BE IT FURTHER RESOLVED, once the Oneida Personnel Commission begins exercising hearing authority, the Judiciary – Trial Court shall provide administrative support to the Oneida Personnel Commission in regard to employee grievance hearings, including, but not limited to, accepting filings, scheduling hearings, coordinating Oneida Personnel Commission members to serve as the hearing body, and providing a hearing room.

NOW THEREFORE BE IT FURTHER RESOLVED, the Oneida Personnel Commission shall use the following employment grievance process in conjunction with the Oneida Personnel Policies and Procedures:

1. *Filing of a Complaint.*
 - a. Employee shall fill out a complaint for Personnel/Employment Action form and shall file the complaint with Judiciary – Trial Court on the behalf of the Oneida Personnel Commission.
 - b. Judiciary – Trial Court Clerk shall review complaint form for completion.
 - c. Judiciary – Trial Court Clerk shall send the Notice of Filing notification to the Human Resources Department, Equal Employment Opportunity Department, Immediate Supervisor, and Area Manager.
2. *Collection of Information.*
 - a. The Human Resources Department shall send all information the Area Manager used in making the decision to the Judiciary – Trial Court Clerk.
 - b. The Immediate Supervisor/Area Manager shall immediately notify the Employee Advocacy Department.
3. *Review of the Complaint.*
 - a. The Judiciary – Trial Court Clerk shall provide the information obtained to the Oneida Personnel Commission members selected to serve as the hearing body for the complaint, and the Oneida Personnel Commissioners shall review all the information submitted by the Petitioner and the Human Resources Department to determine if one or both conditions exist:
 - i. The decision of the Area Manager is clearly against the weight of the evidence; and/or
 - ii. Procedural irregularities were exhibited during the appeal process that were harmful to one of the parties to the grievance.
 - b. If Oneida Personnel Commission members selected to serve as the hearing body for the complaint finds one or both conditions exist, the Judiciary – Trial Clerk shall schedule a hearing and send notice to the parties.
 - c. If the Oneida Personnel Commission members finds that neither conditions exist, the Oneida Personnel Commission will issue a decision without a hearing.
4. *Hearing Procedure.*
 - a. If hearing is scheduled, The Judiciary – Trial Court Clerk shall send the hearing notice no later than five (5) business days prior to the hearing to all parties.
 - b. The order of presentation for the hearing shall be:
 - i. Plaintiff's opening statement;
 - ii. Defendant's opening statement;
 - iii. The Plaintiff's case;
 - iv. The Defendant's case;
 - v. Plaintiff's closing statement

vi. Defendant's closing statement

- c. If new evidence which was previously unavailable is introduced at any point during the hearing process, the Oneida Personnel Commission hearing shall be suspended, and the case will be remanded to the Area Manager for reconsideration.
- d. The Area Manager shall reconsider the decision in light of the new evidence and issue a decision within (3) working days. If the decision is overturned, the case would not come back for a hearing. If decision is affirmed, then the case will come back to the Oneida Personnel Commission to complete the hearing. This will only happen one time.

Dissolution of the Personnel Selection Committee

NOW THEREFORE BE IT FURTHER RESOLVED, that resolution BC-04-11-18-B, which created the Personnel Selection Committee, is hereby repealed and the Personnel Selection Committee is hereby dissolved effective immediately.

NOW THEREFORE BE IT FURTHER RESOLVED, within five (5) business days of the adoption of this resolution the Oneida Business Committee shall provide the Personnel Selection Committee written notice of this dissolution.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Personnel Selection Committee shall have up to two (2) weeks from the date of the dissolution to close out any open business and forward all materials and records to the Business Committee Support Office for proper storage and disposal.

Rescission of the Emergency Amendments

NOW THEREFORE BE IT FURTHER RESOLVED, in recognition of General Tribal Council's directive to rescind the emergency amendments related to the dissolution of the Oneida Personnel Commission, resolution BC-04-25-18-D, which adopted emergency amendments to the Military Service Employee Protection Policy, is hereby repealed.

NOW THEREFORE BE IT FURTHER RESOLVED, the Military Service Employee Protection Policy adopted prior to the emergency amendments, through resolution BC-10-24-07-E, is hereby reinstated and effective immediately.

NOW THEREFORE BE IT FURTHER RESOLVED, in recognition of General Tribal Council's directive to rescind the emergency amendments related to the dissolution of the Oneida Personnel Commission, resolution BC-04-25-18-E, which adopted emergency amendments to the Oneida Personnel Policies and Procedures, is hereby repealed.

NOW THEREFORE BE IT FURTHER RESOLVED, the Oneida Personnel Policies and Procedures adopted prior to the emergency amendments, is hereby reinstated and effective immediately.

NOW THEREFORE BE IT FURTHER RESOLVED, in recognition of General Tribal Council's directive to rescind the emergency amendments related to the dissolution of the Oneida Personnel Commission, resolution BC-04-25-18-F, which adopted emergency amendments to the Oneida Judiciary Rules of Civil Procedure, is hereby repealed.

NOW THEREFORE BE IT FURTHER RESOLVED, the Oneida Judiciary Rules of Civil Procedure adopted prior to the emergency amendments, through resolution BC-04-24-14-A, is hereby reinstated and effective immediately.

NOW THEREFORE BE IT FURTHER RESOLVED, in recognition of General Tribal Council's directive to rescind the emergency amendments related to the dissolution of the Oneida Personnel Commission, resolution BC-04-25-18-G, which adopted emergency amendments to the Employee Protection Policy, is hereby repealed.

435
436 **NOW THEREFORE BE IT FURTHER RESOLVED**, the Employee Protection Policy adopted prior to the
437 emergency amendments, through resolution BC-02-25-15-C, is hereby reinstated and effective
438 immediately.
439

440 **NOW THEREFORE BE IT FURTHER RESOLVED**, the Legislative Reference Office shall update the
441 Oneida Register to reflect the proper versions of the Military Service Employee Protection Policy, the
442 Oneida Judiciary Rules of Civil Procedures, and the Employee Protection Policy.
443

444 **NOW THEREFORE BE IT FURTHER RESOLVED**, the Human Resources Department shall update all
445 sources to reflect the proper version of the Oneida Personnel Policies and Procedures.
446

447 *Future Consolidation of Hearing Authority to the Judiciary*
448

449 **NOW THEREFORE BE IT FINALLY RESOLVED**, the Oneida Business Committee recognizes the
450 importance of continuing to pursue the consolidation of all hearing authority to the Judiciary in the future,
451 in order to properly recognize and implement the Judiciary's purpose of administering the judicial
452 authorities and responsibilities of the Nation.



Statement of Effect

*Rescission of the Dissolution of the Oneida Personnel Commission and Related Emergency Amendments
in Accordance with General Tribal Council's August 27, 2018 Directive*

Summary

The resolution formally recognizes General Tribal Council's directive to rescind the actions of the Oneida Business Committee related to the dissolution of the Oneida Personnel Commission and the related emergency amendments, while demonstrating what has already occurred to implement this directive, and providing for what further actions shall occur to properly and effectively implement the directive from General Tribal Council.

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

Date: September 20, 2018

Analysis by the Legislative Reference Office

On August 27, 2018, the General Tribal Council adopted a motion to “*rescind the actions of the Oneida Business Committee related to the dissolution of the Oneida Personnel Commission, and to rescind the amendments related to the Blue Book from April 11, 2018 to today.*” This action was taken by the General Tribal Council under authority expressed in Article IV, Section 1(h) of the Constitution and Bylaws of the Oneida Nation, which allows the General Tribal Council to review any action taken by virtue of power that was delegated to a board or official of the Nation.

This resolution formally recognizes General Tribal Council's directive to rescind the actions of the Oneida Business Committee related to the dissolution of the Oneida Personnel Commission, and to rescind the related emergency amendments.

This resolution takes action to implement General Tribal Council's directive by:

- Repealing resolution BC-04-11-18-A, which dissolved the Oneida Personnel Commission, to formally reinstate the Oneida Personnel Commission;
- Repealing resolution BC-04-25-18-H, which sets forth a process to be used to transfer matters to the Judiciary from the Oneida Personnel Commission;
- Requesting the Human Resources Department consider not scheduling screening or interviews until a minimum number of members of the Oneida Personnel Commission can be appointed and sworn into office. Provided that, the Human Resources Department may schedule screening and interviewing where it would be unreasonable to delay or further delay that action and shall ensure that employment laws of the Oneida Nation are enforced in the selection process;
- Directing the Human Resources Department to provide administrative assistance to the Oneida Personnel Commission in regard to the hiring and selection of employees;
- Directing the Judiciary – Trial Court to continue hearing employee grievance matters until the Oneida Personnel Commission is prepared to begin exercising hearing authority;
- Directing the Judiciary – Trial Court to develop and provide training and/or ensure training is provided to members of the Oneida Personnel Commission on hearing processes and procedures;
- Directing the Human Resources Department to draft an interpretation of Section V.D. of the Oneida Personnel Policies and Procedures which clarifies that in regard to employee grievance matters the term “Oneida Personnel Commission” shall be interpreted to mean the “Judiciary – Trial Court”

until such time that the Oneida Personnel Commission informs the Oneida Business Committee that they are prepared to begin exercising hearing authority;

- Setting forth a transition process to transfer matters from the Judiciary – Trial Court back to the Oneida Personnel Commission when the Oneida Personnel Commission informs the Oneida Business Committee that they are prepared to begin exercising hearing authority;
- Directing the Judiciary – Trial Court to provide administrative support to the Oneida Personnel Commission in regard to employee grievance hearings;
- Providing an employment grievance process to be used in conjunction with the Oneida Personnel Policies and Procedures;
- Dissolving the Personnel Selection Committee; and
- Recognizing the rescission of the emergency amendments by repealing the resolutions that adopted emergency amendments to Military Service Employee Protection Policy, the Oneida Personnel Policies and Procedures, the Oneida Judiciary Rules of Civil Procedures, and the Employee Protection Policy.

Dissolution of the Personnel Selection Committee

The Comprehensive Policy Governing Boards, Committees and Commissions (“the Law”), provides standards and procedures related to the management of boards, committees, and commissions of the Nation. [1 O.C. 105.1-1]. All boards, committees, and commissions of the Nation are required to be dissolved in accordance with this Law. [1 O.C. 105.10-1]. Any board, committee, or commission of the nation shall only be dissolved by motion of the Oneida General Tribal Council or the Oneida Business Committee. [1 O.C. 105.10-3]. The adoption of this resolution by the Oneida Business Committee will meet that requirement.

When a board, committee or commission of the Nation is dissolved, any and all materials generated by the board, committee, or commission is required to be forwarded to the Tribal Secretary’s Office for proper storage and disposal within two weeks of dissolution. [1 O.C. 105.9-4 and 105.10-3]. The Chairperson and Secretary of the dissolved board, committee, or commission are ultimately responsible for closing out open business of the board, committee or commission and forwarding the materials. [1 O.C. 105.10-4].

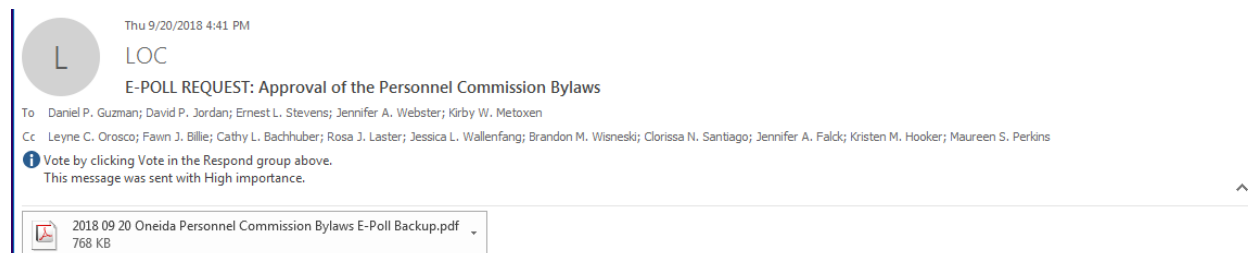
This resolution does require the Personnel Selection Committee close out any open business and forward all materials and records to the Business Committee Support Office for proper storage and disposal within two (2) weeks from the date of the dissolution. Additionally, this resolution requires that within five (5) business days of the adoption of this resolution the Oneida Business Committee shall provide the Personnel Selection Committee written notice of this dissolution.

Conclusion

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

September 20, 2018 Legislative Operating Committee E-Poll

Approval of the Oneida Personnel Commission Bylaws



Good Afternoon Legislative Operating Committee,

This e-mail serves as the e-poll for the approval of the Oneida Personnel Commission bylaws.

Executive Summary

On September 12, 2018, the Oneida Business Committee approved a motion to direct the Legislative Operating Committee to present the bylaws for the Oneida Personnel Commission at the next regular Oneida Business Committee meeting with updated qualifications to address the issue of understanding hearing authorities and responsibilities. The next regular Oneida Business Committee meeting was scheduled for September 26, 2018.

On September 19, 2018, the Legislative Operating Committee made a motion to add the Oneida Personnel Commission bylaws to the Active Files List. Additionally, on September 19, 2018, the Legislative Operating Committee held a work meeting to discuss potential amendments to the Oneida Personnel Commission bylaws. Bylaws for the Oneida Personnel Commission have now been drafted, and a legislative analysis of the drafted bylaws completed.

It is necessary to conduct an e-poll to meet the September 26, 2018, Oneida Business Committee meeting deadline.

Requested Action

Accept the Oneida Personnel Commission bylaws and forward to the Oneida Business Committee.


Deadline for Response

Friday, September 21, 2018, at 8:30 a.m.

All supporting documentation has been attached to this email for your convenience.

E-POLL RESULTS:

The e-poll was approved by Daniel Guzman, Jennifer Webster, and Kirby Metoxen. David P. Jordan and Ernest Stevens III did not provide a response.




Thu 9/20/2018 4:56 PM

Daniel P. Guzman

Re: E-POLL REQUEST: Approval of the Personnel Commission Bylaws

To: LOC

Approve



Thu 9/20/2018 5:00 PM

Jennifer A. Webster

Re: E-POLL REQUEST: Approval of the Personnel Commission Bylaws

To: LOC

Approve

Sent from my Samsung Galaxy smartphone.



Thu 9/20/2018 5:08 PM

Kirby W. Metoxen

Re: E-POLL REQUEST: Approval of the Personnel Commission Bylaws

To: LOC; Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Jennifer A. Webster

Cc: Leyne C. Orosco; Fawn J. Billie; Rosa J. Laster; Jessica L. Wallenfang; Cathy L. Bachhuber; Brandon M. Wisneski; Clorissa N. Santiago; Jennifer A. Falk; Kristen M. Hooker; Maureen S. Perkins

[Suggested Meetings](#) [+ Get more add-ins](#)

Support

Sent from my Samsung Galaxy smartphone.



Legislative Operating Committee
September 20, 2018

Personnel Commission By-laws Amendments

Submission Date: 9/6/17	Public Meeting: n/a
LOC Sponsor: David P. Jordan	Emergency Enacted: n/a Expires: n/a

Summary: *Last term the Personnel Commission had requested changes to the entity's By-laws that would outline more specifically the qualifications for appointed commissioners. The Personnel Commission was dissolved by the Oneida Business Committee on April 11, 2018 and on August 27, 2018 the General Tribal Council rescinded the dissolution. The Personnel Commission By-laws are being amended in accordance with the Boards, Committees and Commissions law.*

9/6/17 LOC: Motion by Jennifer Webster to add Personnel Commission By-laws Amendments to the active files list with Kirby Metoxen as the sponsor; seconded by Ernie Stevens III. Motion carried unanimously.

9/6/17: *Work Meeting.* Present: Jenny Webster, Clorissa Santiago, Candice Skenandore, David P. Jordan, Maureen Perkins, Ernest Stevens III, and Tani Thurner. LOC is currently waiting for a fiscal impact statement from the Finance Office. When that is received the LOC may approve an adoption packet and forward to the BC for consideration.

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

5/2/18LOC: Motion by Jennifer Webster to remove the Oneida Personnel Commission Bylaw amendments from the active files list; Seconded by Kirby Metoxen. Motion carried unanimously.

Note: The Personnel Commission was dissolved on April 11, 2018. See Resolution 04-11-18-A.

8/27/18 GTC: The General Tribal Council adopted a motion to “rescind the actions of the Oneida Business Committee related to the dissolution of the Oneida Personnel Commission, and to rescind the amendments to the Blue Book from April 11, 2018 to today.”

9/12/18 OBC: Motion by Trish King to direct the Legislative Operating Committee to present the By-laws for the Oneida Personnel Commission at the next regular Oneida Business Committee meeting with updated qualifications to address the issue of understanding hearing authorities and responsibilities; Seconded by Brandon Stevens. Motion carried unanimously.

9/19/18 LOC: Motion by Jennifer Webster to add the Oneida Personnel Commission By-laws to the active files list with David P. Jordan as the sponsor; Seconded by Daniel Guzman King. Motion carried unanimously.

Next Steps:

- Accept the Personnel Commission Bylaws.
- Forward the Personnel Commission Bylaws to the OBC for consideration.



Personnel Commission Bylaw Amendments Legislative Analysis

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: OBC Directive	SPONSOR: David P. Jordan	DRAFTER: Kristen M. Hooker	ANALYST: Maureen Perkins
Intent of the Bylaws	The bylaws provide a framework for the operation and management of the commission to govern the standard procedures regarding the way the Commission conducts its affairs, including: the appointment of persons to the Personnel Commission, the membership qualifications, duties and responsibilities of both members and officers, terms and filling vacancies of members, selection of officers, establishment of expectations of members, maintenance of official records, stipends, termination process, required training, and how the bylaws are amended.		
Intent of the Amendments	The current amendments were requested by the OBC in a regularly scheduled OBC meeting. The amendments comply with the requirements established by the amendments contained in the current draft Boards, Committees and Commissions law that states that all bylaws are required to be amended to comply with the draft required amendments and that more information is not prohibited.		
Purpose	Create standardized processes related to how the board will function.		
Affected Legislation	Personnel Policies and Procedures Boards, Committees and Commissions law Open Records and Open Meetings Law Budget Management and Control law		
Enforcement/Due Process	An appointed member of an entity serves at the discretion of the Oneida Business Committee. Upon the recommendation of a member of the Oneida Business Committee or the entity, a member of an appointed entity may have his or her appointment terminated by the Oneida Business Committee. (a) A two-thirds majority vote of the Oneida Business Committee shall be required in order to terminate the appointment of an individual. (b) The Oneida Business Committee's decision to terminate an appointment is final and not subject to appeal [see O.C. 105-7-4].		
Public Meeting	Public meetings are not required for bylaws.		

SECTION 2. BACKGROUND

- A. For a thorough history of the Personnel Commission please refer to the resolution entitled Rescission of the Dissolution of the Personnel Commission and Related Emergency Amendments in Accordance with General Tribal Council's August 27, 2018 Directive.
- B. The bylaws comply with current draft changes to the requirements of all bylaws established by the draft amendments to the Boards, Committees and Commissions law [see 105.10-1].

SECTION 3. CONTENT OF THE BYLAWS

ARTICLE I. AUTHORITY

- 1) Name. The Personnel Commission. This meets the requirements of the draft BCC law.
- 2) Establishment. Resolution BC-04-13-90A is listed. This meets the requirements of the draft BCC law.

- 6 3) Authority. The authority section of the draft bylaws contains the authority delegated to the OPC
7 through the GTC and as established by the laws and policies of the Nation. This meets the requirements
8 of the draft BCC law.
- 9 4) Office. The P.O. Box of the Personnel Commission is listed. This meets the requirements of the draft
10 BCC law.
- 11 5) Membership. The number of appointed members and the length of the appointment, the process used
12 to appoint and the process to fill vacancies *[see draft BCC law, 105.6]* and the qualifications of
13 membership is listed. A process for resignation is included in the draft bylaws. This meets the
14 requirements of the draft BCC law. Additional duties and responsibilities are listed *[see Article I-5(e)]*.

15 a. CHANGES IN THE DRAFT AMENDMENTS FROM CURRENT BYLAWS

- 16 • The number of members was reduced from (12-15) down to (5-12) members *[see*
17 *Article 5-1(a)]*.
- 18 • A provision was added prohibiting members from being employed by the Nation
19 *[see Article 5-1(a)]*.
- 20 • A replacement member is now appointed to fulfill the unexpired term *[see Article*
21 *5-1(a)]*. Previous appointments filling a vacancy served a full term.
- 22 • A minimum age requirement of twenty-one (21) years of age was established by
23 the amendments *[see Article 1-5(d)(2)]*.
- 24 • A requirement of having hiring experience, an Associate's Degree, or equivalent
25 experience or education was established by the amendments *[see Article I-5(d)(6)]*.
- 26 • Additional duties and responsibilities new to these bylaws include:
- 27 1. Both formal and informal communications to any entity on behalf of the
28 OPC must come from a member of the OPC through OPC directive.
29 Specific policy governing all communications of the OPC may be set forth
30 in an OPC Communications SOP to provide procedural guidance,
31 consistent herewith, on determining when, how, and by which OPC
32 member(s) communications are made;
- 33 2. Uphold all laws and policies of the Nation, including but not limited to the
34 Boards, Committees and Commissions law; and
- 35 3. Exclusively use the official Oneida e-mail address provided by the Nation
36 upon appointment to the OPC to conduct business, electronically, on
37 behalf of the OPC. *[see Article I-5(e)]*.
- 38 6) Termination. Termination occurs according to the draft BCC law at the full discretion of the OBC.
39 Additional requirements related to terminated members is established. This meets the requirements of
40 the draft BCC law.

41 a. CHANGES IN THE DRAFT AMENDMENTS FROM CURRENT BYLAWS

- 42 • Additional requirements were added related to terminated members. Members
43 who are terminated will not be able to apply for re-appointment to the Commission
44 for at least five (5) years following the termination *[see Article I-6(a)]*.
- 45 7) Trainings. All required training is listed in this section. This complies with the requirements of the
46 draft BCC law.

47 a. CHANGES IN THE DRAFT AMENDMENTS FROM CURRENT BYLAWS

- 48 • The previous version of the bylaws did not list required training and referred
49 instead to an OPC Training Plan *[see Article I-7(a)]*.

50
51 **ARTICLE II. OFFICERS**

- 52 1) Chairperson, Vice-Chairperson and Secretary. The establishment of the chairperson, vice-chairperson
53 and secretary are listed. This meets the requirements of the draft BCC law.
- 54 2) Responsibilities of the Chairperson. The duties and limitations of the chairperson are listed. This
55 fulfills the requirements of the draft BCC law.

- 3) Responsibilities of the Vice-Chairperson. The duties and limitations of the vice-chairperson are listed. This fulfills the requirements of the draft BCC law.
- 4) Responsibilities of Additional Officers. The duties and limitations of the secretary are listed. This fulfills the requirements of the draft BCC law.
- 5) Selection of Officers. A description of the process used to select officers was included in the bylaws. This fulfills the requirements of the draft BCC law.
- 6) Budgetary Sign-Off Authority and Travel. A description of the budgetary sign-off authority and travel is included. This fulfills the requirements of the draft BCC law.
- 7) Personnel. A description that the Commission are not authorized to hire personnel was included in the bylaws. This fulfills the requirements of the draft BCC law.
- a. CHANGES IN THE DRAFT AMENDMENTS FROM CURRENT BYLAWS
- The treasurer position was removed and treasurer duties were assigned to the secretary position.
 - Additional duties were assigned to the chairperson to include submittal of annual and semi-annual reports to GTC and submission of quarterly reports to the OBC [see Article II-2-2].
 - Additional duties were assigned to the secretary to work with the chairperson to notice regular and emergency meetings, act as a custodian of the records, attend to or ensure proper attendance to all correspondence and present to the OPC all official communications received by the OPC. The Business Committee Support Staff is assigned to assist the Secretary with budgetary duties as established by the Budget Management and Control law [see Article II-4(g)].
 - The budgetary and sign off authority section is new to these bylaws based on requirements in the amended BCC law. Attendance at the Budget Kick-Off Meeting is a new requirement and attendance at this will not receive a stipend [see Article II-7].
 - The Commission are no longer authorized to hire personnel [see Article II-8].

ARTICLE III. MEETINGS

- 1) Regular Meetings. The bylaws identify that the OPC will establish when and where regular meetings will occur as well as notice requirements. This fulfills the requirements of the draft BCC law.
- 2) Emergency Meetings. The bylaws identify criteria for establishing an emergency meeting. The OPC will determine notice requirements. This fulfills the requirements of the draft BCC law.
- 3) Joint Meetings. The frequency of joint meetings has been established. The notice requirements will be determined by the OPC. This fulfills the requirements of the draft BCC law.
- 4) Quorum. Detail related to the establishment of a quorum was included. This fulfills the requirements of the draft BCC law.
- 5) Order of Business. An order of business for the agenda was included. This fulfills the requirements of the draft BCC law.
- 6) Voting. Details related to voting requirements was included. This fulfills the requirements of the draft BCC law.
- a. CHANGES IN THE DRAFT AMENDMENTS FROM CURRENT BYLAWS
- i. The requirement to establish a schedule of meetings for the upcoming year was removed in these amendments.
 - ii. Special meetings were removed, and joint meetings were added to the bylaws in accordance with the draft BCC law [see 105.10-3(c)].
 - iii. The requirement of a chair or vice-chair to establish a quorum was established by these amendments [see Article III-4]. Previously the commission was able to elect

- a chairperson Pro Tem to preside over the meeting in the case that the chair or vice chair were not available.
- iv. A roll call was added to the order of business and approval of the agenda, correspondence, and other sections were removed *[see Article III-5]*.
- v. Legislative sessions were removed from the current draft bylaws.
- vi. The use of e-polls was added to the bylaws *[see Article III-6(b)]*. The requirements for e-polls is included in the draft BCC law *[see 105.11]*.

ARTICLE IV. EXPECTATIONS

- 1) Behavior of Members. Behavioral expectations and enforcement of these requirements were included. This fulfills the requirements of the draft BCC law.
- 2) Prohibition of Violence. Prohibition of violence during a meeting or while serving in an official capacity was established. This fulfills the requirements of the draft BCC law.
- 3) Drug and Alcohol Use. Prohibition of the use of drugs or alcohol while acting in official capacity was included. This fulfills the requirements of the draft BCC law.
- 4) Social Media. Requirements and standards related to the use social media related to OPC business or activities were included. This fulfills the requirements of the draft BCC law.
- 5) Conflict of Interest. Submission of a conflict of interest form upon oath of office and annually was included. This fulfills the requirements of the draft BCC law.
 - i. CHANGES IN THE DRAFT AMENDMENTS FROM CURRENT BYLAWS
 - This entire section is a new requirement added to these bylaws based on the requirements established in the draft BCC law.

ARTICLE V. STIPENDS AND COMPENSATION

- 1) Stipends. A comprehensive list of stipends was included in the bylaws. Requirements related to receiving stipends defaults to the draft BBC law. This fulfills the requirements of the draft BCC law.
- 2) Compensation. Establishment that OPC members are not eligible for any other type of compensation is included. This fulfills the requirements of the draft BCC law.

ARTICLE VI. RECORDS AND REPORTING

- 1) Agenda Items. Consistent format requirements for agendas are identified. This fulfills the requirements of the draft BCC law.
- 2) Minutes. Consistent formatting requirements and submittal deadline is identified. This fulfills the requirements of the draft BCC law.
- 3) Attachments. Identification of how records of attachments are kept is identified. This fulfills the requirements of the draft BCC law.
- 4) Oneida Business Committee Liaison. Regular communication liaison communication requirement is established. The frequency and method of communication will be mutually established by the OPC and the OBC Liaison. This fulfills the requirements of the draft BCC law.
- 5) Audio Recordings. The requirements of audio recordings is established. This fulfills the requirements of the draft BCC law.

ARTICLE VII. AMENDMENTS

- 1) Amendments of Bylaws. The process required for the amendment of the bylaws is established. This fulfills the requirements of the draft BCC law.

SECTION III. AFFECTED LEGISLATION

A) Personnel Policies and Procedures

- a. Oneida Personnel Commission members are required to have, and undergo periodic re-training in, Equal Employment Opportunity, Tribal laws, rules and regulations *[see PPP, (B)Hiring Procedure, (1) Statement of Policy (d)]*.
- b. The Oneida Personnel Commission is tasked with representing the Oneida Community-at-large in the selection of tribal employees. They are directed to seek out the best-matched applicants for each position and to consider only job-related factors (such as education, experience, past performance, skills and abilities, and compatibility with the position and potential co-workers) when selecting candidates *[see PPP, (B)Hiring Procedure, (2) Hiring Procedures, (b) Personnel Commission Role]*.
- c. Oneida Personal Commission is part of the Screening Committee that also includes the hiring supervisor, HRD Manager or designee, and the Area Manager at their discretion. Responsibilities include verification that applications are complete, analysis of job descriptions to establish screening criteria, screening verified applicants, and recommending a list of applicants to be interviewed *[see PPP, (B)Hiring Procedure, (2) Hiring Procedures, (f) Screening Applicants]*.
- d. Two members of the Oneida Personnel Commission will sit on the Interview Committee which is responsible to construct interview format consisting of questions related to the screening criteria qualifications and an interview rating scale designed to objectively evaluate each candidate's qualifications, interview candidates and evaluate individually *[see PPP, (B)Hiring Procedure, (2) Hiring Procedures, (g) Candidate Interviews]*.
- e. The Oneida Personnel Commission is designated with hearing body authority related to personnel grievances which only occur after the process detailed in the PPP are exhausted and if the decision of the Area Manager is against the weight of the evidence presented or if there were procedural irregularities that were exhibited during the appeal process that may have been harmful to one or more of the parties *[see PPP, (D) Complaints, Disciplinary Actions, and Grievances, (6) Grievance, (b) Appeal to Oneida Personnel Commission]*.

B. Boards, Committees and Commissions law [see O.C. Chapter 105]

- a. This law sets out all requirements related to all Boards, Committees and Commissions of the Nation. The Personnel Commission is an appointed entity that serves at the discretion of the Oneida Business Committee. The requirements for entity bylaws are contained in this law. The OPC bylaws comply with the amended version of the Boards, Committees and Commissions law adopted by the Oneida Business Committee on September 26, 2018 *[see O.C. Chapter 105, Boards, Committees and Commissions]*.

C. Open Records and Open Meetings Law [see O.C. Chapter 107]

- a. Portions of the Personnel Commission meetings would be considered closed meeting sessions due to the exception in this law related to personnel matters being confidential *[see 107.17, O.C. Chapter 107, Open Records and Open Meetings Law]*.

D. Budget Management and Control law [see O.C. Chapter 121]

- a. The Oneida Personnel Commission is considered a fund unit of the Nation under this law. The Secretary of the OPC will work with the Business Committee Support Office staff to complete the requirements of the Commission related to the Budget Management and Control law. The OPC Commission Members will be required to attend budget meetings as directed by the OBC and will not receive compensation for this meeting attendance.

ONEIDA PERSONNEL COMMISSION BY-LAWS

Article I. Authority

- 1-1. *Name.* The name of this entity shall be the Oneida Personnel Commission, and may be referred to as the OPC.
- 1-2. *Establishment.* The OPC was created by the General Tribal Council as the Personnel Selection Committee and renamed the Personnel Commission by the Oneida Business Committee through resolution BC 04-13-90-A. The Oneida Business Committee dissolved the Personnel Commission on April 11, 2018 through resolution BC-04-11-18-A. On August 27, 2018, the General Tribal Council rescinded the dissolution of the Personnel Commission and the OPC was recreated by the Oneida Business Committee through resolution BC -__-__-__-__.
- 1-3. *Authority.* The OPC was created by the General Tribal Council to protect against issues of nepotism, enforce Oneida and Indian preference, and carry out authorities delegated by the laws of Nation.
- (a) The OPC does not have authority to:
- (1) enter into contracts; or
- (2) create policy or legislative rules.
- 1-4. *Office.* The official mailing address of the OPC shall be:
Oneida Personnel Commission
P.O. Box 365
Oneida, WI 54155
- 1-5. *Membership.*
- (a) *Number of Members.* The OPC shall be made up of no less than five (5) members and no more than twelve (12) members.
- (1) Each member shall hold office until his or her term expires, until his or her resignation, or until his or her appointment is terminated in accordance with the Boards, Committees and Commissions law.
- (b) *Appointment.* Each member shall be appointed in accordance with the Boards, Committees and Commissions law to serve a five (5) year term. The first term shall be staggered with three (3) members receiving a two (2) year term; three (3) members receiving a three (3) year term; three (3) members receiving a four (4) year term and three (3) members receiving a five (5) year term. Each appointment after the initial staggered terms shall receive a five (5) year term.
- (c) *Vacancies.*
- (1) *Filling of Vacancies.* Vacancies shall be filled in accordance with the Boards, Committees and Commissions law.
- (2) *Resignation.* A member may resign at any time verbally at a meeting or by delivering written notice to the Oneida Business

Committee Support Office and the OPC Chairperson or his/her designee.

(A) *Effective Date of Resignation.* A resignation is effective upon acceptance by motion of a member's verbal resignation or upon delivery of the written notices.

(3) *Terms of Replacement Member.* A replacement member shall hold office through the unexpired portion of the term of the member whom he or she has replaced.

(A) A replacement member is defined as a member who fills a vacancy caused by resignation, removal or termination.

(d) *Qualifications.* OPC members shall meet the following qualifications:

(1) Be an enrolled member of the Oneida Nation;

(2) Be at least twenty-one (21) years of age;

(3) Shall not be an employee of the Nation;

(4) Be available for meetings, training, interviews, prescreening, reassignments, grievance hearings and other duties as needed. Three (3) unexcused absences to attend to such duties may be reported to the Oneida Business Committee, if deemed appropriate by the OPC, for termination;

(5) Be free of any and all direct conflicts of interest or appearances of conflict as defined under various laws and policies of the Nation, including but not limited to the oath of office, the Oneida Rules of Civil Procedure, the Oneida Personnel Policies and Procedures and other laws/policies regarding employment, the Code of Ethics, and the Boards, Committees and Commissions law; and

(6) Have hiring experience, an Associate's Degree, or equivalent experience or education.

(e) *Duties and Responsibilities:* OPC members shall abide by the following:

(1) Both formal and informal communications to any entity on behalf of the OPC must come from a member of the OPC through OPC directive. Specific policy governing all communications of the OPC may be set forth in an OPC Communications SOP to provide procedural guidance, consistent herewith, on determining when, how, and by which OPC member(s) communications are made;

(2) Uphold all laws and policies of the Nation, including but not limited to the Boards, Committees and Commissions law; and

(3) Exclusively use the official Oneida e-mail address provided by the Nation upon appointment to the OPC to conduct business, electronically, on behalf of the OPC.

1-6. *Termination.*

An OPC member's appointment may be terminated in accordance with the Boards, Committees and Commissions law.

(a) Any member whose appointment is terminated by the Oneida Business Committee shall not be eligible for re-appointment to the OPC for a minimum of five (5) years following his or her termination.

1-7. *Trainings.*

- (a) OPC members must complete the following training prior to participating in any interviews and/or grievance hearings on behalf of the OPC.
 - (1) EEO training;
 - (2) Training on Tribal laws, rules and regulations;
 - (3) Supervisor training as required by the Human Resources Department;
 - (4) Training from the Judiciary on grievance hearings/grievance process; and
 - (5) Any other internal training deemed appropriate by the Oneida Business Committee.
- (b) OPC members will undergo periodic re-training in EEO and Tribal laws, rules and regulations.
- (c) Completion of all training shall be confirmed by receipt of a certificate or some other written documentation and kept on file with the OPC.

Article II. Officers

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

2-2. *Responsibilities of the Chairperson.* The duties, responsibilities and limitations of the Chairperson are as follows:

- (a) Shall preside over all meetings of the OPC;
- (b) Shall be an member of all subcommittees of the OPC, may call emergency meetings, and keep the OPC informed as to the business of the OPC;
- (c) Shall, with the assistance of the Secretary, submit annual and semi-annual reports to the General Tribal Council as required by the Boards, Committees and Commissions law;
- (d) Shall, with the assistance of the Secretary, submit quarterly reports to the Oneida Business Committee as required by the Boards, Committees and Commissions law; and
- (e) Shall, with the assistance of the Secretary, forward notice of meeting location, agenda and materials in the manner prescribed herein.

2-3. *Responsibilities of the Vice-Chairperson.* The duties, responsibilities and limitations of the Vice-Chairperson are as follows:

- (a) In the absence of the Chairperson, shall conduct meetings of the OPC and appoint a temporary Vice-Chairperson for those meetings; and
- (b) Shall work with the Chairperson in all matters that concern the OPC.

2-4. *Responsibilities of the Secretary.* The duties, responsibilities and limitations of the Secretary are as follows:

- (a) Shall keep accurate minutes and/or assure that accurate minutes are kept of all OPC meetings as required by the Boards, Committees and Commissions

law and as further prescribed herein;

- (b) Along with the Chairperson, shall provide notice of regular, joint and emergency meetings, as well as agendas and materials, in the manner prescribed herein;
- (c) Shall act as custodian of the records;
- (d) Shall attend to, or ensure proper attendance to, all correspondence and present to the OPC all official communications received by the OPC;
- (e) Shall, along with the Chairperson, submit annual and semi-annual reports to the General Tribal Council, as well as quarterly reports to the Oneida Business Committee as required by the Boards, Committees and Commissions law; and
- (g) Shall work with the Business Committee Support Office to administer the budget.

2-5. *Standing and Special Committees.* Standing and special committees may be created when deemed necessary by the OPC. In accordance with the Boards, Committees and Commissions law, OPC members who attend any meetings of a standing or special committee shall not be eligible to receive a stipend for their attendance.

2-6. *Selection of Officers.* Officers of the OPC shall be appointed by the OPC for two (2) year terms. Officers may hold only one (1) officer position.

- (a) Each officer shall hold his or her office until:
 - (1) the member resigns; or
 - (2) the member has his or her appointment terminated in the manner set forth in the Boards, Committees and Commissions law.
- (b) A vacancy of any officer position shall be filled by the OPC for the unexpired term at the next regular or emergency meeting.

2-7. *Budgetary Sign-Off Authority and Travel.*

- (a) Two (2) of the three (3) OPC Officers must sign-off on budgetary requests.
- (b) The OPC shall follow the Nation's policies and procedures regarding purchasing, travel and sign-off authority.
- (c) The OPC shall approve a member's request to travel on behalf of the OPC by a majority vote at a regular or emergency OPC meeting.
- (d) The OPC must review its budget on a monthly basis and have one or more members in attendance at the Budget Kick-Off Meeting.

2-8. *No Authorized Personnel.* With support from the Business Committee Support Office, the Judiciary shall assist the OPC with administrative duties relating to the grievance process/grievance hearings and the Human Resources Department shall assist the OPC with administrative duties relating to employee selection/hiring.

Article III. Meetings

- 3-1. *Regular Meetings.* Regular meetings shall occur on a monthly-basis. The regular meeting time, place and agenda shall be determined by the OPC at a regular meeting. If no alternative designation is made by the OPC, the regular meeting shall be the last Tuesday of every month. Notice of meeting location, agenda and materials shall be forwarded by the Chairperson with the assistance of the Secretary. Meetings shall run in accordance with Robert's Rules of Order or another method approved by the Oneida Business Committee. Meetings shall comply with the Nation's Open Records and Open Meetings law.
- 3-2. *Emergency Meetings.* Emergency meetings shall only be called when time sensitive issues require immediate action. Emergency meetings of the OPC may be called by the Chairperson or upon written request of any two (2) members. Notice of the meeting location, agenda and materials shall be forwarded by the Chairperson with the assistance of the Secretary.
- (a) Within seventy-two (72) hours after an emergency meeting, the entity shall provide the Nation's Secretary with notice of the meeting, the reason for the emergency meeting, and an explanation of why the matter could not wait for a regular meeting.
- 3-3. *Joint Meetings.* Joint meetings with the Oneida Business Committee shall be held in March and September of each year. Notice of the meeting location, agenda and materials shall be forwarded by the Chairperson with the assistance of the Secretary.
- 3-4. *Quorum.* A majority of the OPC members shall constitute a quorum for the transaction of business, which shall include the Chairperson or Vice-Chairperson.
- 3-5. *Order of Business.* The regular meetings of the OPC shall follow the order of business as set out herein:
- (a) Call to Order
 - (b) Roll Call
 - (c) Approving of Previous Meeting Minutes
 - (d) Reports
 - (e) Old Business
 - (f) New Business
 - (g) Adjournment
- 3-6. *Voting.* Voting shall be in accordance with the simple majority vote of the OPC members present at a duly called meeting.
- (a) The Chairperson shall vote only in case of a tie.
 - (b) The OPC is permitted to e-poll; provided, it does so in accordance with the procedures set forth in the Boards, Committees and Commissions law.

Article IV. Expectations

- 4-1. *Behavior of Members.* Members are expected to treat each other in accordance with the Nation's core values of The Good Mind as expressed by Onʌyoteʔa'ka, which includes:
- (a) Kahletsyalúsla. The heart felt encouragement of the best in each of us.
 - (b) Kanolukhwásla. Compassion, caring, identity, and joy of being.
 - (c) Kaʔnikuhli·yó. The openness of the good spirit and mind.
 - (d) Kaʔtshatstásla. The strength of belief and vision as a People.
 - (e) Kalihwi·yó. The use of the good words about ourselves, our Nation, and our future.
 - (f) Twahwahtsílaway. All of us are family.
 - (g) Yukwatsístay. Our fire, our spirit within each one of us.
- Failure to treat each other with respect shall be cause for termination from the OPC. Appointed members of the OPC serve at the discretion of the Oneida Business Committee. Upon the recommendation of a member of the Oneida Business Committee or the OPC, a member of the OPC may have his or her appointment terminated by the Oneida Business Committee.
- 4-2. *Prohibition of Violence.* Intentionally violent acts committed by a member of the OPC that inflicts, attempts to inflict, or threatens to inflict emotional or bodily harm on another person, or damage to property during a meeting or when acting in an official capacity are strictly prohibited and grounds for immediate termination of appointment on the OPC and/or the imposition of sanctions and/or penalties according to laws and policies of the Nation.
- 4-3. *Drug and Alcohol Use.* Use of alcohol and prohibited drugs by a member of the OPC when acting in his or her official capacity is strictly prohibited. Prohibited drugs are defined as marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substance included in Schedules I through V, as defined by Section 812 of Title 21 of the United States Code. This also includes prescription medication or over-the-counter medicine used in an unauthorized or unlawful manner.
- 4-4. *Social Media.* OPC members shall abide by the Nation's Social Media Policy. OPC members shall further refrain from posting, attaching or writing anything relating to OPC business or activities on any social media outlet except for notices of meetings and notices of meeting cancellations.
- 4-5. *Conflict of Interest.* OPC members shall abide by all laws of the Nation governing conflicts of interest. Members must submit a Conflict of Interest Disclosure form upon Oath of Office and annually.

Article V. Stipends and Compensation

- 5-1. *Stipends.* OPC members are eligible for the following stipends as set forth in the Boards, Committees and Commissions law and resolution BC-__-__-__-__

titled Boards, Committee and Commissions Law Stipends:

- (a) One (1) monthly meeting stipend.
- (b) One (1) stipend per day for participating in interviews and/or job description pre-screens conducted by the Human Resources Department.
- (c) Stipends for holding grievance hearings.
- (d) Stipends for Judiciary hearings.
 - (i) A member of the OPC may receive a stipend for attending an Oneida Judiciary hearing if that member is specifically subpoenaed.
- (e) Required training offered by the Nation as established by the Oneida Business Committee.
- (f) A member shall receive a stipend for his or her attendance at a duly called joint meeting as defined under the Boards, Committees, and Commissions law.

5-2. *Compensation.* OPC members are not eligible for any other type of compensation.

Article VI. Records and Reporting

6-1. *Agenda Items.* Agendas shall be maintained in a consistent format as identified in Article III, Section 3-5 of these By-laws.

6-2. *Minutes.* All minutes shall be typed in a consistent format and shall be submitted to the Oneida Business Committee Support Office within thirty (30) days after approval by the OPC.

6-3. *Attachments.* Handouts, attachments, memoranda, etc. shall be attached to the corresponding minutes and the agenda, minutes and attachments shall be kept electronically by the Oneida Business Committee Support Office.

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

6-5. *Audio Recordings.* The OPC shall audio record meetings and submit the recordings to the Oneida Business Committee Support Office within two (2) business days for purposes of maintaining the audio records.

- (a) Audio recordings of executive session portions of a meeting is not required.

Article VII. Amendments

7-1. *Amendments to By-laws.* Any amendments to these By-laws shall conform to the requirements of the Boards, Committees and Commissions law and any other policy of the Nation. Amendments to these By-laws shall be approved by the Oneida Business Committee prior to implementation.



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



TO: Oneida Business Committee Officers:
Tehassi Hill, Oneida Business Committee Chairman
Brandon Stevens, Oneida Business Committee Vice-Chairman
Lisa Summers, Oneida Business Committee Secretary
Patricia King, Oneida Business Committee Treasurer
FROM: David P. Jordan, Legislative Operating Committee Chairman
DATE: October 3, 2018
RE: Removal and Re-designation on the Active Files List: Military Service Employee Protection Policy, Oneida Personnel Policies and Procedures, Employee Protection Policy, Oneida Judiciary Rules of Civil Procedure

On September 26, 2018, the Oneida Business Committee took action through resolution BC-09-26-18-F to formally recognize General Tribal Council's August 27, 2018, directive to "rescind the actions of the Oneida Business Committee related to the dissolution of the Oneida Personnel Commission, and to rescind the amendments related to the Blue Book from April 11, 2018 to today."

In recognition of the directive to rescind the emergency amendments, resolution BC-09-26-18-F repeals the following resolutions and states that the legislation adopted prior to the emergency amendments is reinstated and effective immediately:

- BC-04-25-18-D, which adopted emergency amendments to the Military Service Employee Protection Policy;
- resolution BC-04-25-18-E, which adopted emergency amendments to the Oneida Personnel Policies and Procedures;
- resolution BC-04-25-18-F, which adopted emergency amendments to the Oneida Judiciary Rules of Civil Procedure; and
- resolution BC-04-25-18-G, which adopted emergency amendments to the Employee Protection Policy.

In response to the Oneida Business Committee's actions, the Legislative Operating Committee has taken the following actions:

- Removed the Military Service Employee Protection Policy from the Active Files List;
- Removed the Oneida Personnel Policies and Procedures from the Active Files List;
- Removed the emergency designation from the Employee Protection Policy amendments, but kept this legislative item on the Active Files List; and
- Removed the emergency designation from the Oneida Judiciary Rules of Civil Procedure amendments, but kept this legislative item on the Active Files List.

The Legislative Operating Committee determined the Oneida Judiciary Rules of Civil Procedure and Employee Protection Policy shall remain on the Active Files List due to the fact that both legislative items were already on the Active Files List for other amendments prior to being re-

designated as emergency amendments to address the dissolution of the Oneida Personnel Commission. Therefore, the emergency designation has been removed from these two (2) items, and the Legislative Operating Committee intends to pursue other amendments.

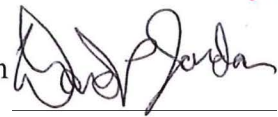
Requested Action

Accept as information.



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



TO: Tehassi Hill, Oneida Business Committee Chairman
FROM: David P. Jordan, Legislative Operating Committee Chairman 
DATE: October 3, 2018
RE: Inclusion of Petition Process Resolutions on a General Tribal Council Meeting Agenda

The Legislative Operating Committee has developed two (2) resolutions for the General Tribal Council to consider for adoption.

The resolution titled, "*Setting the Petition Process for the General Tribal Council*" sets forth a process for the submission of a petition to call a special General Tribal Council meeting by fifty (50) qualified voters of the Nation as permitted by Article III, Section 6 of the Oneida Nation Constitution.

The resolution titled, "*Amending the 120-Day Petition Timeline Adopted by the General Tribal Council*" supersedes the July 17, 2017 General Tribal Council action which set a one hundred and twenty (120) day timeline for petitions to be presented to General Tribal Council, and instead requires that petitions be presented to the General Tribal Council within one hundred and eighty (180) days of receipt by the Oneida Business Committee Support Office, and that no petition contains more than one subject.

The Legislative Operating Committee requests that the resolutions, and accompanying statements of effect, be placed on an upcoming General Tribal Council meeting agenda for consideration by the General Tribal Council.

Requested Action

Place the resolutions titled, "*Amending the 120-Day Petition Timeline Adopted by the General Tribal Council*" and "*Setting the Petition Process for the General Tribal Council*," on an agenda for a General Tribal Council meeting.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

GTC Resolution # _____

Setting the Petition Process for the General Tribal Council

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Constitution of the Oneida Nation, in Article III, Section 6, sets forth the process by which members may petition to bring a subject before the General Tribal Council: "The chairman or fifty (50) qualified voters may, by written notice, call special meetings of the General Tribal Council."; and
- WHEREAS,** since adoption of the Constitution and as amended from time to time, members have exercised their right to present subjects to the General Tribal Council consistent with the laws and processes adopted by the General Tribal Council and as applicable, adopted by the Oneida Business Committee; and
- WHEREAS,** the General Tribal Council has evolved from 1936 to this day recognizing several constraints on its ability to call meetings to order with a quorum, in a timely manner, or location of meetings, for example:
- Adoption of resolution GTC-02-20-1949 delegated authority transact business to the Executive Committee because it was "often difficult to assemble sufficient tribal members together at anyone meeting for the purpose of constituting a quorum and transacting such tribal business," [*Whereas # 4*];
 - Adoption of amendments to the Constitution in the 1960s to formally create the Oneida Business Committee which expanded the Executive Committee;
 - Adoption of resolution GTC-02-25-1982 which directed that the Oneida Business Committee take up actions regarding legislative matters to guide the Nation;
 - Adoption of the Ten-Day Notice Policy in 1991 which required notice and information presented to the General Tribal Council to make informed decisions;
 - Adoption of a motion restricting the General Tribal Council meeting space to members age 21 [now age 18 because of constitutional amendments] and over until a larger meeting space can be identified;
 - Adoption of a motion restricting General Tribal Council meetings to be held within the Oneida Reservation in 2012; and
- WHEREAS,** the budget, employment, programs, services and activities of the Oneida Nation have increased and become more complicated for which the General Tribal Council has identified that information from the organization regarding its legislative, legal and financial impacts are imperative in making an informed decision; and
- WHEREAS,** there have been general processes used by the Tribal Secretary to provide the necessary information to the General Tribal Council which should be reduced to basic directives adopted by the General Tribal Council; and

NOW THEREFORE BE IT RESOLVED, that the General Tribal Council sets forth the following definitions regarding petitions:

- a) Petition means a form created by the Business Committee Support Office which contains spaces for printed names, enrollment numbers, dates of birth and signatures of members who are qualified voters and either a statement requesting the General Tribal Council to take up an issue included the petition or consider an attached resolution, and the name and contact information in the form of an e-mail address and phone number for the Petitioner.
- b) Petitioner means the individual member who is circulating a petition and who will be speaking to the matters in the petition.
- c) Tentative General Tribal Council Meeting Date means the date tentatively identified by the Oneida Business Committee and tentative placement of the petition on the draft agenda.
- d) General Tribal Council Meeting Date is the date of the meeting provided in the meeting notice material which has been mailed to members.
- e) Production schedule means the deadlines necessary to meet the notice requirements set forth in the Ten Day Notice Policy.

BE IT FURTHER RESOLVED, that a petition, in accordance with the Ten Day Notice Policy shall be accompanied by the following materials when presented to the General Tribal Council.

- a) Petition, or facsimile thereof, with the enrollment numbers, birth date, and signatures redacted.
- b) Petitioner Statement, which is a statement in support of the petition submitted either with the petition or by the deadline date set by the Tribal Secretary and approved by the Oneida Business Committee in the production schedule after selection of the Tentative General Tribal Council meeting date.
- c) Statement of Effect, which is the legislative review of the petition and its impact on laws of the Oneida Nation.
- d) Legal Opinion, which is the legal review of the petition and its impact on the organization, taking into consideration the impact identified in the Statement of Effect.
- e) Financial Analysis, which is the financial review of the petition and its impact on the finances of the Oneida Nation, taking into consideration the impact identified in the Statement of Effect and Legal Opinion.
- f) Oneida Business Committee Recommendation, which is the recommendation about how the petition should be addressed based on the Petitioner's Statement, Statement of Effect, Legal Opinion, Financial Analysis and other information available to the Oneida Business Committee.
- g) Presentations, which is the presentation of the Petitioner and the Oneida Business Committee or its designated representative, that will be given at the General Tribal Council meeting.

BE IT FURTHER RESOLVED, the Oneida Business Committee is directed to approve a Production Schedule based on a Tentative General Tribal Council meeting date presented by the Tribal Secretary and selected by the Oneida Business Committee. The Tentative meeting date is finalized when the petition, its supporting information and the agenda is mailed to the membership in accordance with the Ten Day Notice Policy.

BE IT FINALLY RESOLVED, the Business Committee Support Office shall notify the Petitioner, after the adoption of the production schedule, of the deadline date to submit a Petitioner's Statement and any presentation that may be given. The Petitioner shall be notified at the e-mail address provided and by the phone number provided. No other form of notice is required.



Statement of Effect

Setting the Petition Process for the General Tribal Council

Summary

The resolution sets forth a process for the submission of a petition to call a special General Tribal Council meeting by fifty (50) qualified voters of the Nation as permitted by Article III, Section 6 of the Oneida Nation Constitution.

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

Date: September 11, 2018

Analysis by the Legislative Reference Office

Article III, Section 6 of the Oneida Nation's Constitution provides that the chairman or fifty (50) qualified voters may, by written notice, call special meetings of the General Tribal Council. [Constitution Article III, Section 6].

This resolution sets forth a process for how petitions for a special General Tribal Council meeting shall be handled, including:

- Definitions for various terms regarding petitions;
- Requirements for what materials shall be included with the petition when presented to the General Tribal Council;
- A directive to the Oneida Business Committee to approve a Production Schedule based on a Tentative General Tribal Council meeting date presented by the Nation's Secretary and selected by the Oneida Business Committee;
- Statement that the tentative meeting date is finalized when the petition, its supporting information, and the agenda is mailed to the membership in accordance with the Ten Day Notice Policy; and
- Requirement that the Business Committee Support Office shall notify the Petitioner by e-mail address and phone number, after the adoption of the production schedule, of the deadline date to submit a Petitioner's Statement and any presentation that may be given.

The resolution requires that the provisions of the Ten Day Notice Policy be followed. The General Tribal Council adopted the Ten Day Notice Policy for the purpose of providing notice to General Tribal Council of regular or special business to be conducted or action taken at a General Tribal Council meeting. [1 O.C. 110.1-1]. The Ten Day Notice Policy requires that any resolution or motion at a General Tribal Council meeting pertaining to due process, or action that would have a direct impact on budgets of operation of the Nation, be subject to a ten (10) day notice requirement.

Conclusion

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

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

GTC Resolution # _____

Amending the 120-Day Petition Timeline Adopted by the General Tribal Council

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the General Tribal Council enacted the Ten Day Notice Policy on March 4, 1991, as amended, which required prior notice of the agenda items and information related to items in order assist in creating informed discussion and improved decision-making by the General Tribal Council on matters that affect the Oneida Nation which were becoming more complex and technical; and
- WHEREAS,** the General Tribal Council adopted the Legislative Procedures Act through resolution GTC-01-07-13-A, which superseded the Administrative Procedures Act adopted on 1991, to require notice and comment regarding laws proposed for adoption by the Oneida Business Committee or General Tribal Council to ensure that public policy and public opinion are properly addressed and issues arising out of the proposed law are addressed; and
- WHEREAS,** the General Tribal Council has directed reports from the Oneida Business Committee regarding travel on June 30, 1990 (pg. 2), from the Treasurer regarding the finances most recently in 2008, and from the organization regarding activities most recently in 2018 requesting additional information in the organizational reports so the member can be informed on the activities of the Oneida Nation and to provide input on those activities; and
- WHEREAS,** the Oneida Business Committee has requested the organization to review petitions and the request(s) in the petitions and submit impact statements within forty-five (45) days of receipt of the petition at an Oneida Business Committee meeting; and
- WHEREAS,** the Oneida Business Committee has required a legislative, legal and financial opinions regarding petitions to provide the necessary information to the General Tribal Council and updates regarding the status of those opinions in sixty (60) and ninety (90) days; and
- WHEREAS,** the legislative impact statement reviews the laws of the Oneida Nation; the legal opinion reviews organizational impact statements, state or federal laws, policy positions and the legislative Statement of Effect; and the financial opinion relied upon the legislative and legal opinions to formulate that opinion; and
- WHEREAS,** the Oneida Business Committee schedules General Tribal Council meetings based on multiple factors:
- Availability of all conference rooms at the Radisson Inn & Conference Center which is the only facility on the Reservation which can host General Tribal Council meetings;
 - Conflicts with Oneida Casino promotional activities to avoid conflicts with available resources such as parking and personnel;

- Conflicts with external activities in the area or nationally which affect ability or desire to attend meetings;
- Number of items on the agenda and the reasonableness of completing the agenda during a meeting; and

WHEREAS, the General Tribal Council adopted a motion which required petitions submitted under Article III, Section 6 of the Constitution to be brought before General Tribal Council within one hundred and twenty (120) days of submission on July 17, 2017; and

WHEREAS, the Oneida Business Committee has modified the process requesting review and responses by the organization to comply with the action of the General Tribal Council which immediately notices the organization division directors and direct reports giving a thirty (30) day time-period in which to provide review and impacts to assist in developing the legislative, legal, and financial opinions; and

WHEREAS, petitions submitted since the adoption of the one hundred and twenty (120) day timeline have been limited to single subjects which has allowed the legislative, legal and financial opinions to be completed within the timeframe; and

WHEREAS, while the opinions have been submitted within the one hundred and twenty (120) day timeline, the compressed timelines prohibit the building of information from the legislative to the legal to the financial opinion to provide the best and complete information to the General Tribal Council on the impact of a petition, which has resulted in some legal and financial opinions identifying that insufficient time was available to complete a review of the impact of the petition; and

WHEREAS, petitions are brought forward by members to raise issues and concerns that the Oneida Nation is requested to address which can be done through the Oneida Business Committee or the General Tribal Council provided the appropriate information is presented to inform that decision; and

WHEREAS, the Oneida Business Committee understands and agrees with the General Tribal Council's desire to have timely presentation of petitions and acknowledges that this conflicts with the demand to have information to make an informed decision;

NOW THEREFORE BE IT RESOLVED, that the General Tribal Council hereby adopts the following rule regarding petitions superseding the July 17, 2017 action setting a one hundred and twenty (120) day timeline:

1. Petitions shall be presented to the General Tribal Council within one hundred and eighty (180) days of receipt by the Oneida Business Committee Support Office.
2. No petition can contain more than one subject.



Statement of Effect

Amending the 120-Day Petition Timeline Adopted by the General Tribal Council

Summary

The resolution supersedes the July 17, 2017 General Tribal Council action which set a one hundred and twenty (120) day timeline for petitions to be presented to General Tribal Council, and instead requires that petitions be presented to the General Tribal Council within one hundred and eighty (180) days of receipt by the Oneida Business Committee Support Office, and that no petition contains more than one subject.

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

Date: September 11, 2018

Analysis by the Legislative Reference Office

Article III, Section 6 of the Oneida Nation's Constitution sets forth the process by which members of the Nation may petition to bring a subject before the General Tribal Council for consideration. [*Constitution Article III, Section 6*]. The Constitution provides that the chairman or fifty (50) qualified voters may, by written notice, call special meetings of the General Tribal Council. [*Constitution Article III, Section 6*].

On July 17, 2017, the General Tribal Council adopted a motion which required petitions submitted under Article III, Section 6 of the Constitution to be processed and brought to the General Tribal Council within one hundred and twenty (120) days of submission.

The General Tribal Council adopted the Ten Day Notice Policy for the purpose of providing notice to the General Tribal Council of regular or special business to be conducted or for any action taken at a General Tribal Council meeting. [*1 O.C. 110.1-1*].

This resolution adopts a rule regarding petitions which supersedes the July 17, 2017, action setting a one hundred and twenty (120) day timeframe, and instead requires that petitions be presented to the General Tribal Council within one hundred and eighty (180) days of receipt by the Oneida Business Committee Support Office, and that no petition can contain more than one subject matter.

The Ten Day Notice Policy requires that any action to overrule a previous action of General Tribal Council shall require a two-thirds (2/3) majority vote. [*1 O.C. 110.3-1(a)(3)*]. Therefore, adoption of this resolution will require a two-thirds majority vote.

Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws, as long as this resolution is adopted by a two-thirds (2/3) majority vote.

October 2018

October 2018						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

November 2018						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Sep 30	Oct 1	2	3 9:00am LOC Meeting (BC_Conf_Room) - LOC	4 12:15pm PUBLIC MEETING: Sanctions and Penalties Law 12:15pm Sanctions and Penalties Public	5	6
7	8	9	10	11	12	13
14	15	16 3:00pm LOC Prep (BC_Exec_Conf_Room) - LOC	17 9:00am LOC Meeting (BC_Conf_Room) - LOC	18	19	20
21	22	23	24	25 9:00am FW: LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	26	27
28	29	30	31 9:00am LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	Nov 1	2	3

November 2018

November 2018						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

December 2018						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Oct 28	29	30	31	Nov 1	2	3
4	5	6	7 9:00am LOC Meeting (BC_Conf_Room) - LOC	8 12:15pm PUBLIC MEETING: Election Law Amendments (BC_Conf_Room;) - Clorissa N. Santiago	9	10
11	12	13	14	15	16 9:00am LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	17
18	19	20 3:00pm LOC Prep (BC_Exec_Conf_Room) - LOC	21 9:00am LOC Meeting (BC_Conf_Room) - LOC	22	23	24
25 6:00pm GTC (Radisson)	26	27	28	29	30 9:00am LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	Dec 1