



## Oneida Business Committee

Executive Session  
8:30 AM Tuesday, April 7, 2020  
Executive Conference Room, 2nd floor, Norbert Hill Center

Regular Meeting  
8:30 AM Wednesday, April 08, 2020  
BC Conference Room, 2nd floor, Norbert Hill Center

### Agenda

---

Meeting agenda is available here: [oneida-nsn.gov/government/business-committee/agendas-packets/](https://oneida-nsn.gov/government/business-committee/agendas-packets/). Materials for the "General Tribal Council" section of the agenda, if any, are available to enrolled members of the Oneida Nation; to obtain a copy, visit the BC Support Office, 2nd floor, Norbert Hill Center and present a valid Tribal I.D. or go to <https://goo.gl/uLp2jE>. Scheduled times are subject to change.

#### NOTICE

All regular, special, and emergency Business Committee meetings in the months of March, April and May will be closed to the public. This is preventative measure as a result of the COVID-19 pandemic. Audio recordings are made of all meetings of the Business Committee. Video recordings are made of regular meetings of the Business Committee. All recordings are available on the Nation's website at: <https://oneida-nsn.gov/government/business-committee/recordings/>. If you have comments regarding open session items, please submit them to [TribalSecretary@oneidanation.org](mailto:TribalSecretary@oneidanation.org) no later than close of business the day prior to a Business Committee meeting. Comments will be noticed to the Business Committee.

#### **I. CALL TO ORDER**

#### **II. OPENING**

#### **III. ADOPT THE AGENDA**

#### **IV. MINUTES**

- A. Approve the March 5, 2020, special Business Committee meeting minutes**  
Sponsor: Lisa Summers, Secretary
- B. Approve the March 11, 2020, regular Business Committee meeting minutes**  
Sponsor: Lisa Summers, Secretary
- C. Approve the March 17, 2020, emergency Business Committee meeting minutes**  
Sponsor: Lisa Summers, Secretary

**V. RESOLUTIONS**

- A. Adopt resolution entitled Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy**  
Sponsor: David P. Jordan, Councilman
- B. Adopt resolution entitled Placing Listed Boards, Committees and Commissions in Temporary Closure Status**  
Sponsor: Lisa Summers, Secretary
- C. Adopt five (5) resolutions regarding Financial Resources Protection**  
Sponsor: Trish King, Treasurer
  - 1. Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020**
  - 2. General Membership and Elder (age 62+) Per Capita Payment for Fiscal Year 2020 Halted in Light of Public Health Emergency and Impact on Finances**
  - 3. Deferring Payments to OLIPP and Elder Endowments**
  - 4. Halting General Tribal Council Meeting Stipend Payments for FY2020 and FY2021**
  - 5. Reducing the General Tribal Council Higher Education Scholarship Payments for FY2020 and FY2021**
- D. Adopt resolution entitled Amendments to the Vehicle Driver Certification and Fleet Management Law**  
Sponsor: David P. Jordan, Councilman
- E. Approve two (2) actions regarding the resolution entitled Amendments to the Indian Preference in Contracting Law**  
Sponsor: David P. Jordan, Councilman
- F. Adopt resolution entitled Indian Preference in Contracting Law Fine and Penalty Schedule**  
Sponsor: David P. Jordan, Councilman
- G. Adopt resolution entitled Declaring Oneida ESC Group LLC as the Nation's General Contractor**  
Sponsor: Lisa Summers, Secretary
- H. Enter the e-poll results into the record regarding BC resolution # 03-26-20-A Extension of March 12th Declaration of Public Health State of Emergency**  
Sponsor: Lisa Summers, Secretary

**VI. STANDING COMMITTEES****A. FINANCE COMMITTEE**

1. **Accept the March 2, 2020, regular Finance Committee meeting minutes**  
Sponsor: Trish King, Treasurer

**B. LEGISLATIVE OPERATING COMMITTEE**

1. **Accept the March 4, 2020, regular Legislative Operating Committee meeting minutes**  
Sponsor: David P. Jordan, Councilman
2. **Accept the March 18, 2020, regular Legislative Operating Committee meeting minutes**  
Sponsor: David P. Jordan, Councilman

**C. QUALITY OF LIFE COMMITTEE**

1. **Accept the January 23, 2020, regular Quality of Life Committee meeting minutes**  
Sponsor: Brandon Stevens, Vice-Chairman

**VII. UNFINISHED BUSINESS**

- A. **Table the update and progress report regarding the implementation procedures for BC resolution # 03-11-20-C**  
Sponsor: Lisa Summers, Secretary

*Excerpt from March 11, 2020: (1) Motion by Jennifer Webster to adopt resolution 03-11-20-C Interpretation of General Tribal Council January 20, 2020 Economic Development and Fiscal Strategy Motion and Setting Implementation Procedures, seconded by David P. Jordan. Motion carried; and (2) Motion by Lisa Summers to direct the General Manager to provide the Oneida Business Committee with an update within two (2) weeks on the Community and Economic Development Division Director's progress on the development of the required standard operating procedures and direct Finance to provide Oneida Business Committee a progress report within two (2) weeks on any changes that need to be done on their part of the process, seconded by Jennifer Webster. Motion carried.*

**VIII. NEW BUSINESS**

- A. **Approve two (2) actions regarding the 2020 Annual Meeting of the Stockholders of The Native American Bancorporation Co.**  
Sponsor: Trish King, Treasurer
- B. **Approve two (2) actions regarding the draft Continuing Resolution for FY-2021**  
Sponsor: Trish King, Treasurer
- C. **Enter the e-poll results into the record regarding the U.S. Health and Human Services Secretary's Tribal Advisory Committee nomination**  
Sponsor: Lisa Summers, Secretary

**IX. EXECUTIVE SESSION****A. UNFINISHED BUSINESS****1. Table the Joint Marketing Standard Operating Procedures regarding Tickets & Merchandise Distribution**

Sponsor: Lisa Summers, Secretary

*Excerpt from March 11, 2020: Motion by David P. Jordan to defer the Joint Marketing Standard Operating Procedures regarding Tickets & Merchandise Distribution to the April 8, 2020, regular Business Committee meeting agenda, seconded by Kirby Metoxen. Motion carried.*

*Excerpt from February 26, 2020: (1) Motion by Jennifer Webster to direct Joint Marketing to submit all their Standard Operating Procedures regarding Tickets & Merchandise Distribution to the March 11, 2020, regular Business Committee meeting agenda, seconded by Brandon Stevens. Motion carried; and (2) Motion by Jennifer Webster to direct Joint Marketing to ensure a Standard Operating Procedure is in place regarding how excess merchandise will be managed and bring back within thirty (30) days, seconded by Ernie Stevens III. Motion carried.*

*Excerpt from January 22, 2020: Motion by David P. Jordan to direct the Chairman's Office to complete the requested follow-up and bring back an update to the February 26, 2020, regular Business Committee meeting agenda, seconded by Kirby Metoxen. Motion carried.*

**2. Approve the updated reorganization proposal and Gantt chart for Oneida Retail Enterprise dated April 1, 2020**

Sponsor: Michele Doxtator, Area Manager/Retail Profits

*Excerpt from April 24, 2019: Motion by David P. Jordan to approve the reorganization proposal for Oneida Retail Enterprise, noting an implementation plan will be brought back when ready, seconded by Kirby Metoxen. Motion carried.*

**X. ADJOURN**

Posted on the Oneida Nation's official website, [www.oneida-nsn.gov](http://www.oneida-nsn.gov) pursuant to the Open Records and Open Meetings law (§ 107.14.)

The meeting packet of the open session materials for this meeting is available by going to the Oneida Nation's official website at: [oneida-nsn.gov/government/business-committee/agendas-packets/](http://oneida-nsn.gov/government/business-committee/agendas-packets/)

For information about this meeting, please call the Business Committee Support Office at (920) 869-4364 or (800) 236-2214

Approve the March 5, 2020, special Business Committee meeting minutes

---

## Business Committee Agenda Request

1. Meeting Date Requested: 04/06/20

2. General Information:

Session: ☒ Open

☐ Executive – must qualify under §107.4-1.

Justification: *Choose reason for Executive.*

3. Supporting Documents:

☐ Contract Document(s)

☐ Legal Review

☐ Resolution

☐ Correspondence

☒ Minutes

☐ Statement of Effect

☐ Fiscal Impact Statement

☐ Report

☐ Travel Documents

☐ Other: *Describe*

4. Budget Information:

☐ Budgeted

☐ Budgeted – Grant Funded

☐ Unbudgeted

☒ Not Applicable

☐ Other: *Describe*

5. Submission:

Authorized Sponsor: Lisa Summers, Secretary

Primary Requestor: \_\_\_\_\_

Additional Requestor: (Name, Title/Entity)

Additional Requestor: (Name, Title/Entity)

Submitted By: LLIGGINS

**DRAFT****Oneida Business Committee**

Special Meeting  
1:30 PM Thursday, March 05, 2020  
BC Conference Room, 2nd floor, Norbert Hill Center

**Minutes****SPECIAL MEETING**

**Present:** Chairman Tehassi Hill, Vice-Chairman Brandon Stevens, Treasurer Trish King, Secretary Lisa Summers, Council members: Daniel Guzman King, David P. Jordan, Kirby Metoxen, Jennifer Webster;

**Not Present:** Ernie Stevens III;

**Arrived at:** n/a

**Others present:** Jo Anne House, Lisa Liggins, Katrina Mungo;

**I. CALL TO ORDER**

*Meeting called to order by Chairman Tehassi Hill at 1:30 p.m.*

*For the record: Councilman Ernie Stevens III will be late.*

**II. OPENING (00:00:06)**

*Opening provided by Councilman Kirby Metoxen.*

**III. ADOPT THE AGENDA (00:00:31)**

Motion by Lisa Summers to adopt the agenda as presented, seconded by Kirby Metoxen. Motion carried:

Ayes:	Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Lisa Summers, Jennifer Webster
Not Present:	Ernie Stevens III

**IV. GENERAL TRIBAL COUNCIL****A. Accept the statement from the Community Development Planning Committee - Petitioner Nancy Dallas (00:01:04)**

Sponsor: Ernie Stevens III, Councilman

Motion by Daniel Guzman King to delete the statement from the Community Development Planning Committee - Petitioner Nancy Dallas, seconded by Kirby Metoxen. Motion carried:

Ayes:	Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Lisa Summers, Jennifer Webster
Not Present:	Ernie Stevens III

**DRAFT****B. Accept the statement from the Oneida Land Commission - Petitioner Nancy Dallas (00:04:57)**

Sponsor: Rae Skenandore, Chair/Oneida Land Commission

Motion by Lisa Summers to accept the statement from the Oneida Land Commission - Petitioner Nancy Dallas, seconded by Kirby Metoxen. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Lisa Summers, Jennifer Webster

Not Present: Ernie Stevens III

**C. Approve the notice and the packet for the April 6, 2020, tentatively scheduled special GTC meeting (00:06:30)**

Sponsor: Lisa Summers, Secretary

Motion by Lisa Summers to add the COVID-19 notice drafted by Chief Counsel in two (2) places [1) on the notice; and 2) on the cover of the packet], seconded by Kirby Metoxen. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Lisa Summers, Jennifer Webster

Not Present: Ernie Stevens III

Motion by Lisa Summers to approve the Debraska correspondence [page 13 of the packet] to go out as a separate mailing instead of being in the packet, seconded by David P. Jordan. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Lisa Summers, Jennifer Webster

Not Present: Ernie Stevens III

Motion by Lisa Summers to approve the notice and the packet for the April 6, 2020, tentatively scheduled special GTC meeting with five (5) noted changes [1) add notice on page 8; 2) add notice on page 9; 3) delete page 13; 4) insert the OBC Recommendation for Sustain Oneida after page 93; and 5) delete page 24], seconded by David P. Jordan. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Lisa Summers, Jennifer Webster

Not Present: Ernie Stevens III

**V. ADJOURN (00:13:09)**

Motion by Lisa Summers to adjourn at 1:43 p.m., seconded by David P. Jordan. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Lisa Summers, Jennifer Webster

Not Present: Ernie Stevens III

Minutes prepared by Lisa Liggins, Information Management Specialist  
Minutes approved as presented on \_\_\_\_\_.

\_\_\_\_\_  
Lisa Summers, Secretary  
ONEIDA BUSINESS COMMITTEE

Approve the March 11, 2020, regular Business Committee meeting minutes

---

## Business Committee Agenda Request

1. Meeting Date Requested: 04/08/20

2. General Information:

Session: ☒ Open

☐ Executive – must qualify under §107.4-1.

Justification: *Choose reason for Executive.*

3. Supporting Documents:

☐ Contract Document(s)

☐ Legal Review

☐ Resolution

☐ Correspondence

☒ Minutes

☐ Statement of Effect

☐ Fiscal Impact Statement

☐ Report

☐ Travel Documents

☐ Other: *Describe*

4. Budget Information:

☐ Budgeted

☐ Budgeted – Grant Funded

☐ Unbudgeted

☒ Not Applicable

☐ Other: *Describe*

5. Submission:

Authorized Sponsor: Lisa Summers, Secretary

Primary Requestor: \_\_\_\_\_

Additional Requestor: (Name, Title/Entity)

Additional Requestor: (Name, Title/Entity)

Submitted By: LLIGGINS



**DRAFT****Oneida Business Committee**

**Executive Session**  
**8:30 AM Tuesday, March 10, 2020**  
**Executive Conference Room, 2nd floor, Norbert Hill Center**

**Regular Meeting**  
**8:30 AM Wednesday, March 11, 2020**  
**BC Conference Room, 2nd floor, Norbert Hill Center**

**Minutes****EXECUTIVE SESSION**

**Present:** Chairman Tehassi Hill, Treasurer Trish King, Secretary Lisa Summers, Council members: Daniel Guzman King, David P. Jordan, Kirby Metoxen, Jennifer Webster;

**Not Present:** Councilman Ernie Stevens III;

**Arrived at:** Vice-Chairman Brandon Stevens at 8:37 a.m.;

**Others present:** Jo Anne House, Ralinda Ninham-Lamberies, Debbie Thundercloud, Lisa Liggins, Geraldine Danforth, Michelle Myers, Ravinder Vir, Debbie Danforth;

**REGULAR MEETING**

**Present:** Chairman Tehassi Hill, Vice-Chairman Brandon Stevens, Treasurer Trish King, Secretary Lisa Summers, Council members: Daniel Guzman King, David P. Jordan, Kirby Metoxen, Ernie Stevens III, Jennifer Webster;

**Not Present:** n/a

**Arrived at:** n/a

**Others present:** Jo Anne House, Larry Barton, Debbie Thundercloud, Lisa Liggins, Katrina Mungo, Bonnie Pigman, Clorissa Santiago, Celestine Jeffreys, Keith Doxtator, Eric McLester;

**I. CALL TO ORDER**

*Meeting called to order by Chairman Tehassi Hill at 8:30 a.m.*

**II. OPENING (00:00:12)**

*Opening provided by Councilman Kirby Metoxen.*

**III. ADOPT THE AGENDA (00:00:40)**

Motion by David P. Jordan to adopt the agenda with two (2) changes [1) delete item XII.C.2. Approve the updated reorganization proposal and Gantt chart for Oneida Retail Enterprise; and 2) add item XII.D.3. Approve one (1) new enrollment], seconded by Jennifer Webster. Motion carried:

**Ayes:** Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Jennifer Webster

**Abstained:** Lisa Summers

# DRAFT

## IV. MINUTES

### A. Approve the February 26, 2020, regular Business Committee meeting minutes (00:01:34)

Sponsor: Lisa Summers, Secretary

Motion by David P. Jordan to approve the February 26, 2020, regular Business Committee meeting minutes, seconded by Lisa Summers. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Abstained: Kirby Metoxen

## V. RESOLUTIONS

### A. Adopt resolution entitled Authorizing the use of Self-Governance Carryover Funds to Purchase A Walk-Through Metal Detector for the Judiciary (00:01:57)

Sponsor: Jennifer Webster, Councilwoman

Motion by Lisa Summers to adopt resolution 03-11-20-A Authorizing the use of Self-Governance Carryover Funds to Purchase A Walk-Through Metal Detector for the Judiciary, seconded by Kirby Metoxen. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

### B. Adopt resolution entitled Boards, Committees, and Commissions Law emergency amendments (00:04:01)

Sponsor: David P. Jordan, Councilman

Motion by Lisa Summers to adopt resolution 03-11-20-B Boards, Committees, and Commissions Law emergency amendments, seconded by Brandon Stevens. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

**DRAFT****C. Approve two (2) actions regarding the resolution entitled Interpretation of General Tribal Council January 20, 2020 Economic Development and Fiscal Strategy Motion and Setting Implementation Procedures (00:06:55)**

Sponsor: David P. Jordan, Councilman

Motion by Jennifer Webster to adopt resolution 03-11-20-C Interpretation of General Tribal Council January 20, 2020 Economic Development and Fiscal Strategy Motion and Setting Implementation Procedures, seconded by David P. Jordan. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Jennifer Webster

Abstained: Lisa Summers

Motion by Lisa Summers to direct the General Manager to provide the Oneida Business Committee with an update within two (2) weeks on the Community and Economic Development Division Director's progress on the development of the required standard operating procedures and direct Finance to provide Oneida Business Committee a progress report within two (2) weeks on any changes that need to be done on their part of the process, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

**VI. APPOINTMENTS****A. Determine next steps regarding one (1) vacancy - Oneida Personnel Commission (00:09:38)**

Sponsor: Lisa Summers, Secretary

Motion by Jennifer Webster to appoint Twylite Moore to the Oneida Personnel Commission with a term ending March 31, 2025, seconded by Brandon Stevens. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Brandon Stevens,  
Ernie Stevens III, Jennifer Webster

Opposed: Kirby Metoxen

Abstained: Lisa Summers

*For the record: Councilman Kirby Metoxen stated I opposed because Daniel Thomas just got done serving about a year's time and has invested in a lot of training on the Personnel Commission and now is...they're going to have to start over with another person.*

**B. Determine next steps regarding five (5) Pro Tem vacancies - Oneida Personnel Commission (00:12:09)**

Sponsor: Lisa Summers, Secretary

Motion by Kirby Metoxen to appoint George Skenandore as Pro Tem on the Oneida Personnel Commission with a term ending March 31, 2025, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Jennifer Webster

Opposed: Lisa Summers

Motion by Jennifer Webster to re-post the four (4) remaining vacancies in accordance with § 105.5-5., seconded by David P. Jordan. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

# DRAFT

## VII. STANDING COMMITTEES

### A. LEGISLATIVE OPERATING COMMITTEE

1. **Accept the February 19, 2020, regular Legislative Operating Committee meeting minutes (00:15:10)**

Sponsor: David P. Jordan, Councilman

Motion by Jennifer Webster to accept the February 19, 2020, regular Legislative Operating Committee meeting minutes, seconded by Trish King. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

2. **Accept the memorandum regarding the issues identified in the 2020 special election final report as information (00:15:38)**

Sponsor: David P. Jordan, Councilman

Motion by Lisa Summers to accept the memorandum regarding the issues identified in the 2020 special election final report as information, seconded by Trish King. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

## VIII. TRAVEL REPORTS

- A. **Approve the travel report - Councilman Kirby Metoxen - Chicago Travel & Adventure Show - Rosemont, IL - February 7-10, 2020 (00:20:49)**

Sponsor: Kirby Metoxen, Councilman

Motion by Jennifer Webster to approve the travel report from Councilman Kirby Metoxen for the Chicago Travel & Adventure Show in Rosemont, IL - February 7-10, 2020, seconded by David P. Jordan.

Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Brandon Stevens,  
Ernie Stevens III, Lisa Summers, Jennifer Webster

Abstained: Kirby Metoxen

# DRAFT

**B. Approve the travel report and determine next steps regarding action items - Secretary Lisa Summers - Tribal Caucus and GLITC Emergency Management Summit - Lac du Flambeau, WI - February 25-27, 2020 (00:21:46)**

Sponsor: Lisa Summers, Secretary

Motion by David P. Jordan to approve the travel report from Secretary Lisa Summers for the Tribal Caucus and GLITC Emergency Management Summit in Lac du Flambeau, WI - February 25-27, 2020, seconded by Kirby Metoxen. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Motion by Jennifer Webster to approve the four (4) action items listed in the travel report [1). Assign one (1) to two (2) more OBC members to participate in April 2020 Tribal Caucus meeting; 2) Assign one (1) to two (2) OBC Members to work with Intergovernmental Affairs & Communications and a sub-committee of the Tribal Caucus on the development of a PL-280 Retrocession Process for tribes; 3) Oneida will host the next Tribal Caucus and need to request Intergovernmental Affairs & Communications to assist with making appropriate arrangements; and 4) Assign the Chairman and Vice-Chairman to work with Emergency Management and the Law Office on the completion of the inter-tribal mutual aide agreement, noting the draft agreement has already been submitted to the Law Office for review], seconded by Lisa Summers. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Abstained: Trish King

## IX. TRAVEL REQUESTS

**A. Approve the travel request - Secretary Lisa Summers - M3 Meeting - Halifax, NS - May 19-23, 2020 (00:26:27)**

Sponsor: Lisa Summers, Secretary

Motion by David P. Jordan to approve the travel request for Secretary Lisa Summers to attend the M3 Meeting in Halifax, NS - May 19-23, 2020, seconded by Brandon Stevens. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Opposed: Trish King

## X. NEW BUSINESS

**A. Approve the Oneida Trust Enrollment Committee/Oneida Business Committee Memorandum of Agreement (00:29:50)**

Sponsor: Debbie Danforth, Chair/Oneida Trust Enrollment Committee

Motion by Brandon Stevens to approve the Oneida Trust Enrollment Committee/Oneida Business Committee Memorandum of Agreement, seconded by Lisa Summers. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

# DRAFT

**B. Approve the amendment - Brown County Public Works Department project agreement - file # 2020-0203 (00:31:16)**

Sponsor: Debbie Thundercloud, General Manager

Motion by David P. Jordan to approve the amendment to the Brown County Public Works Department project agreement - file # 2020-0203, seconded by Lisa Summers. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

## XI. GENERAL TRIBAL COUNCIL

**A. Acknowledge receipt of the 2020 annual report from the Oneida Nation Arts Board (00:32:02)**

Sponsor: Lisa Summers, Secretary

Motion by Lisa Summers to acknowledge receipt of the 2020 annual report from the Oneida Nation Arts Board, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

## XII. EXECUTIVE SESSION

### A. REPORTS

**1. Accept the Chief Counsel report (00:32:51)**

Sponsor: Jo Anne House, Chief Counsel

Motion by Brandon Stevens to accept the Chief Counsel report, seconded by Lisa Summers. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Motion by Lisa Summers to approve the limited waivers of sovereign immunity associated with the Volkswagen Environmental Mitigation Trust for Indian Tribe Beneficiaries, authorize the Chairman to sign, and move the documents to open session, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Motion by Jennifer Webster to approve the limited waiver of sovereign immunity for the SportRadar Solutions LLC [Mutual Non-Disclosure Agreement], seconded by Kirby Metoxen. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Lisa Summers, Jennifer Webster

Abstained: Ernie Stevens III

**DRAFT****2. Accept the General Manager report (00:34:00)**

Sponsor: Debbie Thundercloud, General Manager

Motion by Lisa Summers to accept the General Manager report, seconded by Kirby Metoxen. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Motion by Lisa Summers to cancel the March 16, 2020, reconvened annual General Tribal Council meeting and cancel the April 6, 2020, special General Tribal Council meeting noting these meetings will rescheduled to a later date, seconded by Ernie Stevens III. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Motion by Jennifer Webster to approve the correspondence regarding canceled March 16, 2020, reconvened annual General Tribal Council meeting and the canceled April 6, 2020, special General Tribal Council meeting and move the correspondence to open session, seconded by Lisa Summers. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Motion by Jennifer Webster to direct the Secretary and Direct Reports to the Business Committee to develop and send out organization-wide correspondence regarding travel restrictions by March 13, 2020, seconded by Lisa Summers. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

**B. AUDIT COMMITTEE****1. Accept the January 16, 2020, regular Audit Committee meeting minutes (00:35:39)**

Sponsor: David P. Jordan, Councilman

Motion by Kirby Metoxen to accept the January 16, 2020, regular Audit Committee meeting minutes, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

**2. Accept the January 30, 2020, emergency Audit Committee meeting minutes (00:35:54)**

Sponsor: David P. Jordan, Councilman

Motion by Kirby Metoxen to accept the January 30, 2020, emergency Audit Committee meeting minutes, seconded by Lisa Summers. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster



**DRAFT****3. Accept the Food Distribution performance assurance audit and lift the confidentiality requirement (00:36:12)**

Sponsor: David P. Jordan, Councilman

Motion by Lisa Summers to accept the Food Distribution performance assurance audit and lift the confidentiality requirement, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

**4. Accept the Medical Records performance assurance audit and lift the confidentiality requirement (00:36:28)**

Sponsor: David P. Jordan, Councilman

Motion by David P. Jordan to accept the Medical Records performance assurance audit and lift the confidentiality requirement, seconded by Brandon Stevens. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

**5. Accept the Oneida Pow-wow Committee performance assurance audit and lift the confidentiality requirement (00:36:44)**

Sponsor: David P. Jordan, Councilman

Motion by Lisa Summers to accept the Oneida Pow-wow Committee performance assurance audit and lift the confidentiality requirement, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

**6. Accept the Information Technology FY-2018 compliance audit and lift the confidentiality requirement (00:37:00)**

Sponsor: David P. Jordan, Councilman

Motion by Kirby Metoxen to accept the Information Technology FY-2018 compliance audit and lift the confidentiality requirement, seconded by David P. Jordan. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

**7. Accept the Four Card Poker rules of play compliance audit and lift the confidentiality requirement (00:37:18)**

Sponsor: David P. Jordan, Councilman

Motion by David P. Jordan to accept the Four Card Poker rules of play compliance audit and lift the confidentiality requirement, seconded by Lisa Summers. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster



**DRAFT****8. Accept the Ultimate Texas Hold'em rules of play compliance audit and lift the confidentiality requirement (00:37:37)**

Sponsor: David P. Jordan, Councilman

Motion by Jennifer Webster to accept the Ultimate Texas Hold'em rules of play compliance audit and lift the confidentiality requirement, seconded by Lisa Summers. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

**C. UNFINISHED BUSINESS****1. Defer the Joint Marketing Standard Operating Procedures regarding Tickets & Merchandise Distribution to the April 8, 2020, regular Business Committee meeting agenda (00:38:00)**

Sponsor: Michele Doxtator, Area Manager/Retail Profits

Motion by David P. Jordan to defer the Joint Marketing Standard Operating Procedures regarding Tickets & Merchandise Distribution to the April 8, 2020, regular Business Committee meeting agenda, seconded by Kirby Metoxen. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

**2. ~~Approve the updated reorganization proposal and Gantt chart for Oneida Retail Enterprise~~**~~Sponsor: Michele Doxtator, Area Manager/Retail Profits~~

*Item deleted at the adoption of the agenda.*

**D. NEW BUSINESS****1. Review applications for one (1) vacancy - Oneida Personnel Commission (00:38:30)**

Sponsor: Lisa Summers, Secretary

Motion by David P. Jordan to accept the discussion regarding the applications for the Oneida Personnel Commission vacancy as information, seconded by Brandon Stevens. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Jennifer Webster

Abstained: Lisa Summers

**2. Review applications for five (5) Pro Tem vacancies - Oneida Personnel Commission (00:38:57)**

Sponsor: Lisa Summers, Secretary

Motion by Jennifer Webster to accept the discussion regarding applications for the Oneida Personnel Commission Pro Tem vacancies as information, seconded by Brandon Stevens. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Jennifer Webster

Abstained: Ernie Stevens III, Lisa Summers

**DRAFT****3. Approve one (1) new enrollment (00:39:20)**

Sponsor: Debbie Danforth, Chair/Oneida Trust Enrollment Committee

Motion by Jennifer Webster to approve one (1) new enrollment, seconded by Brandon Stevens. Motion carried:

Ayes: Daniel Guzman King, Trish King, Kirby Metoxen, Brandon Stevens,  
Ernie Stevens III, Jennifer Webster

Abstained: David P. Jordan, Lisa Summers

**XIII. ADJOURN (00:40:20)**

Motion by Daniel Guzman King to adjourn at 9:11 a.m., seconded by Kirby Metoxen. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Minutes prepared by Lisa Liggins, Information Management Specialist  
Minutes approved as presented on \_\_\_\_\_.

\_\_\_\_\_  
Lisa Summers, Secretary  
ONEIDA BUSINESS COMMITTEE

Approve the March 17, 2020, emergency Business Committee meeting minutes

---

## Business Committee Agenda Request

1. Meeting Date Requested: 04/08/20

2. General Information:

Session: ☒ Open

☐ Executive – must qualify under §107.4-1.

Justification: *Choose reason for Executive.*

3. Supporting Documents:

☐ Contract Document(s)

☐ Legal Review

☐ Resolution

☐ Correspondence

☒ Minutes

☐ Statement of Effect

☐ Fiscal Impact Statement

☐ Report

☐ Travel Documents

☐ Other: *Describe*

4. Budget Information:

☐ Budgeted

☐ Budgeted – Grant Funded

☐ Unbudgeted

☒ Not Applicable

☐ Other: *Describe*

5. Submission:

Authorized Sponsor: Lisa Summers, Secretary

Primary Requestor: \_\_\_\_\_

Additional Requestor: (Name, Title/Entity)

Additional Requestor: (Name, Title/Entity)

Submitted By: LLIGGINS

**DRAFT****Oneida Business Committee**

**Emergency Meeting**  
**9:00 AM Tuesday, March 17, 2020**  
**BC Conference Room, 2nd floor, Norbert Hill Center**

**Minutes****EMERGENCY MEETING**

**Present:** Chairman Tehassi Hill, Vice-Chairman Brandon Stevens, Treasurer Trish King, Secretary Lisa Summers, Council members: Daniel Guzman King, David P. Jordan, Kirby Metoxen, Ernie Stevens III, Jennifer Webster;

**Not Present:** ;

**Arrived at:** ;

**Others present:** ;

**I. CALL TO ORDER**

*Meeting called to order by Chairman Tehassi Hill at 9:04 a.m.*

**II. OPENING**

*Opening provided by Chairman Tehassi Hill.*

**III. ADOPT THE AGENDA**

Motion by Lisa Summers to adopt the agenda with one (1) noted change [add item IV.A.5. Adopt resolution entitled Emergency Amendments to the Emergency Management and Homeland Security Law Adding Section Identifying COVID-19 Core Decision-Making Team and Delegating Authority], seconded by David P. Jordan. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

**IV. NEW BUSINESS****A. Actions related to the Nation's COVID-19 outbreak response****1. Adopt resolution in accordance with the Budget Contingency Plan**

Sponsor: Trish King, Treasurer

Motion by Lisa Summers to adopt resolution 03-17-20-A Adoption of Tier IV Budget Contingency Plan for the Remainder of Fiscal Year 2020 As A Result of Potential COVID-19 Pandemic Financial Impacts, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

**DRAFT****2. Adopt resolution entitled Adoption of Emergency Amendments to the Election Law to Implement Alternative Processes to Address COVID-19 Pandemic Impacts on the Oneida Nation 2020 General Election**

Sponsor: David P. Jordan, Councilman

Motion by Jennifer Webster to adopt resolution 03-17-20-B Adoption of Emergency Amendments to the Election Law to Implement Alternative Processes to Address COVID-19 Pandemic Impacts on the Oneida Nation 2020 General Election, with two (2) noted changes to Draft 1 for Consideration [1) change the date referenced in line 167 from April 3 to April 24; and 2) strike lines 536-547 regarding Referendums], seconded by Kirby Metoxen. Motion carried:

Ayes: Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Opposed: Daniel Guzman King, Trish King

Abstained: David P. Jordan

**3. Adopt resolution entitled Adoption of Emergency Amendments to the Boards, Committees, and Commissions Law to Address COVID-19 Pandemic Impacts on Boards, Committees, and Commissions of the Nation**

Sponsor: David P. Jordan, Councilman

Motion by Kirby Metoxen to adopt resolution 03-17-20-C Adoption of Emergency Amendments to the Boards, Committees, and Commissions Law to Address COVID-19 Pandemic Impacts on Boards, Committees, and Commissions of the Nation, seconded by Lisa Summers. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

**4. Adopt resolution entitled Amending Resolution BC-05-08-19-B Boards, Committees, and Commissions Law Stipends**

Sponsor: David P. Jordan, Councilman

Motion by David P. Jordan to adopt resolution 03-17-20-D Amending Resolution BC-05-08-19-B Boards, Committees, and Commissions Law Stipends with two (2) noted changes [1) insert appropriate resolution number at line 14 and line 49; and 2) at line 129, add "and for the duration of the public health emergency"], seconded by Lisa Summers. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

**5. Adopt resolution entitled Emergency Amendments to the Emergency Management and Homeland Security Law Adding Section Identifying COVID-19 Core Decision-Making Team and Delegating Authority**

Sponsor: David P. Jordan, Councilman

Motion by Lisa Summers to adopt resolution 03-17-20-E Emergency Amendments to the Emergency Management and Homeland Security Law Adding Section Identifying COVID-19 Core Decision-Making Team and Delegating Authority, seconded by Brandon Stevens. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

***DRAFT***

**V. ADJOURN**

Motion by David P. Jordan to adjourn at 9:58 a.m., seconded by Lisa Summers. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,  
Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

***DRAFT***

Minutes prepared by Lisa Liggins, Information Management Specialist  
Minutes approved as presented on \_\_\_\_\_.

---

Lisa Summers, Secretary  
ONEIDA BUSINESS COMMITTEE

**Oneida Business Committee Agenda Request**

Adopt resolution entitled Emergency Amendments to the General Tribal Council Meeting Stipend Payment

**1. Meeting Date Requested:** 4 / 8 / 20**2. General Information:**Session: ☒ Open ☐ Executive - See instructions for the applicable laws, then choose one:Agenda Header: ☐ Accept as Information only☒ Action - please describe:**3. Supporting Materials**☐ Report ☒ Resolution ☐ Contract☒ Other:1. 3. 2. 4. ☐ Business Committee signature required**4. Budget Information**☐ Budgeted - Tribal Contribution ☐ Budgeted - Grant Funded ☐ Unbudgeted**5. Submission**Authorized Sponsor / Liaison: Primary Requestor/Submitter: Jennifer Falck, LRO Director  
Your Name, Title / Dept. or Tribal MemberAdditional Requestor: Kristen Hooker, LRO Staff Attorney  
Name, Title / Dept.Additional Requestor: \_\_\_\_\_  
Name, Title / Dept.



Oneida Nation  
Oneida Business Committee  
Legislative Operating Committee  
PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



TO: Oneida Business Committee  
FROM: David P. Jordan, LOC Chairperson  
DATE: April 8, 2020  
RE: General Tribal Council Meeting Stipend Payment Policy Emergency Amendments

---

Please find the following attached backup documentation for your consideration of the General Tribal Council Meeting Stipend Payment Policy Emergency Amendments:

1. Resolution: Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy
2. Statement of Effect: Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy
3. General Tribal Council Meeting Stipend Payment Policy Emergency Amendments Legislative Analysis
4. General Tribal Council Meeting Stipend Payment Policy (Redline)
5. General Tribal Council Meeting Stipend Payment Policy (Clean)

### Overview

Emergency amendments to the General Tribal Council Meeting Stipend Payment Policy are being sought to create an exception to the mandatory payment of General Tribal Council (GTC) meeting stipends when deemed necessary to protect and safeguard the resources and general welfare of the Nation. The emergency amendments to the General Tribal Council Meeting Stipend Payment Policy will:

- Provide the Oneida Business Committee with authority to decide, through adoption of a resolution, to halt the payment of General Tribal Council meeting stipends to all eligible members for a period of time the Oneida Business Committee deems necessary to protect and safeguard the resources and general welfare of the Nation. [1 O.C. 111.4-3(c)].

The world is currently facing a pandemic of COVID-19 after an outbreak began in Wuhan, China and quickly spread to many other countries throughout the world, including the United States. This pandemic has resulted in many countries experiencing the effects of illness and health issues related to COVID-19, as well as vast economic impacts. State governors, including the State of Wisconsin, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders.

On March 12, 2020, in accordance with the Emergency Management and Homeland Security law, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19. [3 O.C. 302.8-1]. This declaration of a public health state of emergency set into place the necessary authority should action need to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses.



Since the declaration of a public health emergency, the Oneida Business Committee has taken action to protect the health and welfare of the members, employees and the community, including instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closure of the Nation's gaming operations, and insuring that employees will continued to be paid during the public health emergency as long as the Nation's resources will allow.

The declaration of a public health emergency by the Nation and the potential financial impacts of the COVID-19 pandemic met the Budget Management and Control law's requirement that the Nation be under extreme financial distress for the budget contingency plan to be implemented. The Oneida Business Committee adopted resolution BC-03-17-20-A which declared that Tier IV budget contingency measures are implemented which required a four percent (4%) reduction in overall expenditures and budgets. On April 8, 2020, the Oneida Business Committee will consider the adoption of a resolution to declare that Tier V budget contingency measures be implemented.

The Oneida Business Committee can temporarily enact legislation when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act. [1 O.C. 109.9-5]. A fiscal impact statement and public meeting are not required for emergency legislation. [1 O.C. 109.9-5(a)].

The emergency amendments to the General Tribal Council Meeting Stipend Payment Policy are necessary for the preservation of the general welfare of the Reservation population. The emergency amendments would allow for the Oneida Business Committee to discontinue the payment of GTC meeting stipends in an effort to protect the general welfare of the Reservation population by maintaining essential governmental services and employment when no revenues are generated through gaming operations and during the period of time it takes after gaming operations start back up for the Nation to recover from the financial distress caused by the COVID-19 pandemic.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of these amendments would be contrary to public interest. The process and requirements of the Legislative Procedures Act cannot be completed in time to allow the Nation the ability to adequately preserve funding for necessary governmental services and activities as a result of the COVID-19 pandemic.

The emergency amendments to the General Tribal Council Meeting Stipend Payment Policy will become effective immediately upon adoption by the Oneida Business Committee and will remain effective for six (6) months, with the possibility to extend for an additional six (6) months, or until the emergency amendments expire or are permanently adopted. [1 O.C. 109.9-5(b)].

**Requested Action**

Approve the Resolution: Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy.

# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## BC Resolution #

### Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy

- 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 federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses; and
- WHEREAS,** state governors, including the State of Wisconsin, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders; and
- WHEREAS,** on March 12, 2020, Chairman Hill declared a public health state of emergency, and the Oneida Business Committee took actions to take steps to protect the health and welfare of the members, employees and the community, including instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closure of the Nation's gaming operations, and insuring that employees will continued to be paid during the public health emergency as long as the Nation's resources will allow; and
- WHEREAS,** the Oneida Business Committee adopted resolution BC-03-17-20-A which declared that Tier IV budget contingency measures are implemented which required a four percent (4%) reduction in overall expenditures and budgets; and
- WHEREAS,** the Oneida Business Committee adopted resolution BC-04-\_\_-20-\_\_, which declared that Tier V budget contingency measures be implemented and directed expenditure reductions regarding non-essential government functions and instituted lay-offs regarding non-critical personnel; and
- WHEREAS,** the Treasurer has implemented a COVID-19 Finance Team ("Finance Team") to monitor the financial status of the Nation and make recommendations regarding expenditure restrictions for the remainder of FY2020, budgeting for FY2021, development of directions for a continuing resolution for FY2021, and other actions necessary to ensure governmental services can continue to be provided to those most in need and at risk regarding COVID-19 and the health impacts of the virus; and
- WHEREAS,** the Finance Team has determined the following rules shall apply to all decisions being made regarding the finances of the Nation and how those limited resources shall be allocated:

1. All decisions are employee/member/community empathetic/compassionate balanced against cash flow; and
2. All decisions shall protect investments; and utilize only available cash; and

**WHEREAS,** the Finance Team has identified that the Nation can, if funding is carefully managed, meet the needs of the operations in providing services for a thirty (30) day period beginning from the closure date of the gaming operations; and

**WHEREAS,** the Finance Team, working closely with Intergovernmental Affairs and Communications, is kept up-to-date regarding federal emergency funding opportunities which will assist the Nation in managing the public health crisis and has identified that the Nation has a potential gap of thirty (30) to sixty (60) days where federal financial assistance will be authorized and delivered; and

**WHEREAS,** the Finance Team, working closely with the Grants Office, has identified that granting agencies will be providing approvals to delay or amend existing grants considering the current public health crisis which will assist the Nation in managing expenses during the financial constraints; and

**WHEREAS,** the Oneida Nation has had in place the General Tribal Council Meeting Stipend Payment Policy that makes payment of stipends mandatory to attendees of a General Tribal Council meeting who meet the eligibility requirements, without exception, even if said payments would be detrimental to the resources and general welfare of the Nation; and

**WHEREAS,** the proposed emergency amendments allow for GTC meeting stipend payments to be discontinued when the Oneida Business Committee determines, through adoption of a resolution, that it is a necessary measure to protect and safeguard the resources and general welfare of the Nation; and

**WHEREAS,** adopting emergency amendments to the General Tribal Council Meeting Stipend Payment Policy is necessary to give the Oneida Business Committee the authority to halt payments of GTC meeting stipends as necessary to maintain essential governmental services and employment during a time when no revenues are generated through gaming operations; and

**WHEREAS,** the Chief Financial Officer, Treasurer, and Finance Team, are recommending the Oneida Business Committee adopt a resolution regarding emergency amendments to the General Tribal Council Meeting Stipend Payment Policy to include an exception to the mandatory payment of GTC meeting stipends when necessary to protect and safeguard the resources and general welfare of the Nation; and

**WHEREAS,** the Oneida Business Committee, after being informed regarding the current financial status and near-term future financial resources, has determined that implementation of the emergency amendments is needed to preserve funding for necessary governmental services and activities; and

**WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact legislation on an emergency basis, to be in effect for a period of six (6) months, renewable for an additional six (6) months; and

**WHEREAS,** emergency adoption of legislation is allowed when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act; and

103 **NOW THEREFORE BE IT RESOLVED**, that the Oneida Business Committee hereby adopts the  
104 emergency amendments to the General Tribal Council Meeting Stipend Payment Policy effective  
105 immediately.  
106



**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



## **Statement of Effect**

### *Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy*

#### **Summary**

This resolution adopts emergency amendments to the General Tribal Council Meeting Stipend Payment Policy which provide an exception to the mandatory payment of stipends to eligible attendees of a General Tribal Council (“GTC”) meeting when the Oneida Business Committee determines, through adoption of a resolution, that the halting of stipend payments is necessary to protect and safeguard the resources and general welfare of the Oneida Nation.

*Submitted by: Kristen M. Hooker, Staff Attorney, Legislative Reference Office*

*Date: April 1, 2020*

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

This resolution adopts emergency amendments to the General Tribal Council Meeting Stipend Payment Policy (“Law”). The purpose of the Law is to govern the payment of stipends for attendance at meetings of the GTC. [1 O.C. 111.1-1]. The emergency amendments to the Law will:

- Provide the Oneida Business Committee with authority to adopt a resolution that halts the payment of General Tribal Council meeting stipends to all eligible members of Nation when the Oneida Business Committee determines it is necessary to protect and safeguard the resources and general welfare of the Nation. [1 O.C. 111.4-3(c)].

The Legislative Procedures Act (“LPA”) allows the Oneida Business Committee to take emergency action where it is necessary for the immediate preservation of the public health, safety or general welfare of the Reservation population and when enactment or amendment of legislation is required sooner than would be possible under the LPA. [1 O.C. 109.9-5].

The resolution provides various information on the COVID-19 pandemic that the world is now facing. This pandemic has resulted in many countries experiencing the effects of illness and health issues related to COVID-19, as well as vast economic impacts.

On March 12, 2020, in accordance with the Emergency Management and Homeland Security law, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19. [3 O.C. 302.8-1]. On March 17, 2020, the Oneida Business Committee adopted resolution BC-03-17-20-A declaring that Tier IV budget contingency measures be implemented which required a four percent (4%) reduction in overall expenditures and budgets. On April 8, 2020, the Oneida Business Committee will consider the adoption of a resolution to declare that Tier V budget contingency measures be implemented.

The resolution provides that the emergency amendments to this Law are necessary for the preservation of the general welfare of the Reservation population. The emergency amendments provide an exception to the otherwise mandatory payment of GTC meeting stipends when the

Oneida Business Committee determines that the halting of said payments would protect and safeguard the resources and general welfare of the Oneida Nation.

Additionally, the resolution provides that observance of the requirements under the LPA for adoption of this amendment would be contrary to public interest. The process and requirements of the LPA cannot be completed in time to allow the Nation the ability to adequately preserve funding for necessary governmental services and activities as a result of the COVID-19 pandemic.

The emergency amendments to the General Tribal Council Meeting Stipend Payment Policy will become effective immediately upon adoption by the Oneida Business Committee and will remain effective for six (6) months, with the possibility to extend for an additional six (6) months, or until the emergency amendments expire or are permanently adopted. [1 O.C. 109.9-5(b)].

### ***Conclusion***

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



## EMERGENCY AMENDMENTS TO GENERAL TRIBAL COUNCIL MEETING STIPEND PAYMENT POLICY LEGISLATIVE ANALYSIS

### SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Proposed Amendments</b>	To provide the Oneida Business Committee with the authority to adopt a resolution that halts the payment of General Tribal Council meeting stipends to all eligible members of Nation when necessary to protect and safeguard the resources and general welfare of the Nation.
<b>Purpose</b>	To govern the payment of stipends for attendance at General Tribal Council meetings. <i>[1 O.C. 111.1-1]</i> .
<b>Affected Entities</b>	Members of the General Tribal Council.
<b>Public Meeting</b>	A public meeting is not required for emergency legislation <i>[1 O.C. 109.8-1(b) and 109.9-5(a)]</i> .
<b>Fiscal Impact</b>	A fiscal impact statement is not required for emergency legislation <i>[1 O.C. 109.9-5(a)]</i> .
<b>Expiration of Emergency Amendments</b>	Emergency amendments expire six (6) months after adoption and may be renewed for one additional six (6) month period. <i>[1 O.C. 109.9-5(b)]</i> .

### SECTION 2. LEGISLATIVE DEVELOPMENT

**A. Background.** The General Tribal Council Meeting Stipend Payment Policy (“Law”) sets forth the standards for determining the stipend eligibility of members of the Oneida Nation who attend General Tribal Council meetings, as well as the process for paying such members their meeting stipends. *[1 O.C. 111.1-2]*.

**B. COVID-19 Pandemic.** The world is currently facing a pandemic of the coronavirus disease 2019 (COVID-19). The COVID-19 outbreak originated in Wuhan, China and has spread to many other countries throughout the world, including the United States. The World Health Organization has identified that the spread of COVID-19 is now a pandemic resulting in many countries experiencing the effects of illness and health issues related to COVID-19 and economic impacts.

▪ *Declarations of Emergency.*

- Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” on March 12, 2020, regarding COVID-19 which sets into place the necessary authority should action need to be taken, and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. Through the adoption of resolution BC-03-26-20-A, the Nation extended the Public Health State of Emergency to May 12, 2020.

- Since the public health emergency was declared, the Oneida Business Committee has taken action to protect the health and welfare of the members, employees and the community, including instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closure of the Nation’s gaming operations, and insuring that employees will continued to be paid during the public health emergency as long as the Nation’s resources will allow.



- 24                   ▪ The Oneida Business Committee adopted resolution BC-03-17-20-A which  
25                   declared that Tier IV budget contingency measures be implemented in accordance  
26                   with the Budget Management and Control law. Tier IV budget contingency  
27                   measures included a four percent (4%) reduction in overall expenditures and  
28                   budgets.
- 29                   ▪ On April 8, 2020, the Oneida Business Committee will consider the adoption of a  
30                   resolution which would declare that Tier V budget contingency measures be  
31                   implemented and direct expenditure reductions regarding non-essential  
32                   government functions and institute lay-offs regarding non-critical personnel.
- 33           ▪ Governor Evers declared a public health emergency for the State of Wisconsin on March  
34           12, 2020, based on COVID-19 cases in Wisconsin.
- 35                   ▪ The State of Wisconsin has now closed public schools, limited public gatherings,  
36                   and closed restaurants and bars except for take-out orders or delivery.
- 37           ▪ President Trump declared a national emergency for the United States over the COVID-19  
38           outbreak on March 13, 2020.
- 39   ▪ *Center of Disease Control Precautions.* The Center of Disease Control has identified that March,  
40   April, and May should be the time when the potential for the highest increases in the number of  
41   confirmed cases would occur, and issued the following precautions to avoid further spread of  
42   COVID-19:
  - 43           ▪ Clean your hands often.
    - 44                   ▪ Wash your hands often with soap and water for at least twenty (20) seconds
    - 45                   especially after you have been in a public place, or after blowing your nose,
    - 46                   coughing, or sneezing.
    - 47                   ▪ If soap and water are not readily available, use a hand sanitizer that contains at
    - 48                   least sixty percent (60%) alcohol. Cover all surfaces of your hands and rub them
    - 49                   together until they feel dry.
    - 50                   ▪ Avoid touching your eyes, nose, and mouth with unwashed hands.
  - 51           ▪ Avoid close contact.
    - 52                   ▪ Avoid close contact with people who are sick
    - 53                   ▪ Put distance between yourself and other people if COVID-19 is spreading in your
    - 54                   community. This is especially important for people who are at higher risk of
    - 55                   getting very sick.
- 56   C. In response to the COVID-19 pandemic, emergency amendments to the General Tribal Council  
57   Meeting Payment Policy are being sought to allow the Oneida Business Committee to make an  
58   exception to the requirement that all eligible attendees at a meeting of the General Tribal Council  
59   receive a stipend for their attendance when it is necessary to protect and safeguard the resources and  
60   general welfare of the Oneida Nation.

### 62   **SECTION 3. CONSULTATION AND OUTREACH**

- 63   A. Representatives from the following departments or entities participated in the development of this Law  
64   and legislative analysis:
  - 65           ▪ Oneida Law Office.

### 67   **SECTION 4. PROCESS**



- 68 A. These amendments are being considered on an emergency basis. The Oneida Business Committee may  
69 temporarily enact an emergency law “where legislation is necessary for the immediate preservation of  
70 public health, safety, or general welfare of the Reservation population and enactment or amendment of  
71 legislation is required sooner than would be possible under this law.” [1 O.C. 109.9-5].  
72 ■ Emergency amendments are being pursued for the immediate preservation of the general welfare  
73 of the Reservation population against the public health crisis that is the COVID-19 pandemic and  
74 its resulting effects. Chairman Tehassi Hill declared a public health state of emergency for the  
75 Nation on March 12, 2020. Adopting emergency amendments to the General Tribal Council  
76 Meeting Stipend Payment Policy to authorize the halting of meeting stipend payments is necessary  
77 to maintain essential governmental services and employment when no revenues are generated  
78 through gaming operations and during the time it takes after gaming operations start back up for  
79 the Nation to recover from the financial damage caused by the COVID-19 pandemic.  
80 ■ Observance of the requirements under the Legislative Procedures Act for the adoption of these  
81 amendments would be contrary to public interest. The process and requirements of the Legislative  
82 Procedures Act cannot be completed in time to allow the Nation the ability to adequately preserve  
83 funding for necessary governmental services and activities as a result of the COVID-19 pandemic.  
84 B. The emergency amendments will expire six (6) months after adoption, with one (1) opportunity for a  
85 six (6) month extension of the emergency amendments. [1 O.C. 109.9-5(b)].  
86 C. The Legislative Procedures Act does not require a public meeting or fiscal impact statement when  
87 considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact  
88 statement will eventually be required when considering permanent adoption of these amendments.  
89 D. Now, emergency amendments are being pursued to address situations where the payment of meeting  
90 stipends would be contrary to the welfare of the Nation.  
91

## 92 SECTION 5. CONTENTS OF THE LEGISLATION

- 93 A. **Exception to Mandatory Payment of GTC Meeting Stipends.** The proposed emergency amendments  
94 provide that the Oneida Business Committee may decide through adoption of a resolution to halt the  
95 payment of General Tribal Council meeting stipends to all eligible members for a period of time deemed  
96 necessary by the Oneida Business Committee to protect and safeguard the resources and general welfare  
97 of the Nation. [1 O.C. 111.4-3(c)]. Previously, payment of the stipend was mandatory so long as those  
98 who attended the General Tribal Council meeting met the eligibility requirements, without exception,  
99 even if the payment would be detrimental to the resources and general welfare of the Nation.  
100 ■ **Effect.** The proposed emergency amendments allow for GTC meeting stipend payments to be  
101 discontinued when the Oneida Business Committee determines, through adoption of a resolution,  
102 that it is a necessary measure to protect and safeguard the resources and general welfare of the  
103 Nation. Due to the COVID-19 pandemic and the resulting closures of the Nation’s gaming  
104 operations, it has been determined that it is necessary to maintain essential governmental services  
105 and activities during a time when no revenues are generated through gaming operations. These  
106 emergency amendments are being sought to allow for the Nation’s essential services and activities  
107 to continue by halting the payment of GTC meeting stipends for a period of time deemed necessary  
108 by the Oneida Business Committee for said continuance.  
109  
110  
111

**SECTION 6. EXISTING LEGISLATION**

**A. Related Legislation.** The following laws of the Nation are related to the emergency amendments to this Law:

- *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal Council on January 7, 2013, for the purpose of providing a standard process for the adoption of laws of the Nation which includes taking into account comments from members of the Nation and input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].
  - The Legislative Procedures Act provides a process for the adoption of emergency legislation when the legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population and the enactment or amendment of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].
    - The Legislative Operating Committee is responsible for first reviewing the emergency legislation and for forwarding the legislation to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].
    - The proposed emergency legislation is required to have a legislative analysis completed and attached prior to being sent to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].
      - A legislative analysis is a plain language analysis describing the important features of the legislation being considered and factual information to enable the Legislative Operating Committee to make informed decisions regarding legislation. A legislative analysis includes a statement of the legislation's terms and substance; intent of the legislation; a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations. [1 O.C. 109.3-1(g)].
    - Emergency legislation does not require a fiscal impact statement to be completed or a public comment period to be held. [1 O.C. 109.9-5(a)].
    - Upon the determination that an emergency exists the Oneida Business Committee can adopt emergency legislation. The emergency legislation becomes effective immediately upon its approval by the Oneida Business Committee. [1 O.C. 109.9-5(b)].
    - Emergency legislation remains in effect for a period of up to six (6) months, with an opportunity for a one-time emergency law extension of up to six (6) months. [1 O.C. 109.9-5(b)].
  - Adoption of these proposed emergency amendments would conform with the requirements of the Legislative Procedures Act.
- *Emergency Management and Homeland Security law.* The Emergency Management and Homeland Security law provides for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster; and provides for the direction of emergency management, response, and recovery on the Reservation; as well as coordination with other agencies, victims, businesses, and organizations; and establishes the use of the National Incident Management System; and designates authority and responsibilities for public health preparedness. [3 O.C. 302.1-1].

- 156       ▪ The Emergency Management and Homeland Security law provides that the Oneida Business  
157       Committee shall be responsible for proclaiming or ratifying the existence of an emergency.  
158       [3 O.C. 302.8-1]. A public health emergency is defined as the occurrence or imminent threat  
159       of an illness or health condition which:
  - 160           (1) is a quarantinable disease, or is believed to be caused by bioterrorism or a biological  
161           agent; and
  - 162           (2) poses a high probability of any of the following:
    - 163               (A) a large number of deaths or serious or long-term disability among humans; or
    - 164               (B) widespread exposure to a biological, chemical, or radiological agent that
    - 165               creates a significant risk of substantial future harm to a large number of people.
  - 166           [3 O.C. 302.3-1(o)].
- 167       ▪ Chairman Tehassi Hill's March 12, 2020, "Declaration of Public Health State of  
168       Emergency" conform with the requirements of the Emergency Management and Homeland  
169       Security law.

## 171 **SECTION 7. OTHER CONSIDERATIONS**

- 172 **A. *Deadline for Permanent Adoption of Amendments.*** The emergency amendments will expire six (6)  
173 months after adoption, with one (1) opportunity for an extension of an additional six (6) month period.
- 174       ▪ *Conclusion:* The Legislative Operating Committee will need to consider the development and  
175       adoption of permanent amendments to this Law within the next six (6) to twelve (12) months.  
176       Permanent adoption would require approval by the Oneida General Tribal Council.
- 177 **B. *Fiscal Impact.*** A fiscal impact statement is not required for emergency legislation.
- 178       ▪ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except  
179       emergency legislation [1 O.C. 109.6-1].

180

## Title 1. Government and Finances – Chapter 111

### GENERAL TRIBAL COUNCIL MEETING STIPEND PAYMENT POLICY

111.1. Purpose and Policy

111.2. Adoption, Amendment, Repeal

111.3. Definitions

111.4. Stipends

111.5. General Tribal Council Meetings

111.6. Appeals

#### 111.1. Purpose and Policy

111.1-1. The purpose of this ~~policy~~law is to govern the payment of stipends for attendance at General Tribal Council meetings.

111.1-2. It is the policy of the Oneida ~~Tribe of Indians of Wisconsin~~Nation to pay eligible General Tribal Council members a stipend for attending a General Tribal Council meeting at which a quorum is established and maintained and where official Tribal business is conducted.<sup>1</sup>

#### 111.2. Adoption, Amendment, ~~Repeal~~Conflicts

111.2-1. This ~~policy~~law was adopted by the Oneida Business Committee by ~~Resolution~~resolution BC-12-10-08-K-~~and~~, amended by resolution BC-02-13-13-E-~~and emergency amended by resolution~~ BC- - - -.

111.2-2. This ~~policy~~law may be amended ~~pursuant to Tribal law or repealed~~ by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

111.2-3. Should a provision of this ~~policy~~law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this ~~policy~~law which are considered to have legal force without the invalid portions.

111.2-4. In the event of a conflict between a provision of this ~~policy~~law and a provision of another law, ~~ordinance, policy, regulation, rule, resolution or motion~~, the provisions of this ~~policy~~law shall control. ~~Provided that, nothing in this policy is intended to repeal or modify any existing law, ordinance, policy, regulation, rule, resolution or motion.~~

111.2-5. This ~~policy~~law is adopted under authority of the Constitution of the Oneida ~~Tribe of Indians of Wisconsin~~Nation.

#### 111.3. Definitions

111.3-1. This section shall govern the definitions of words and phrases as used within this law.- All words not defined herein shall be used in their ordinary and everyday sense.

(a) “General Tribal Council” means the governing body of the Oneida ~~Tribe of Indians of Wisconsin~~Nation, which is composed of the qualified voters of the ~~Tribe~~Oneida Nation, as determined by the Constitution of the Oneida ~~Tribe of Indians of Wisconsin~~Nation.

(b) “~~Tribe~~” or “~~Tribal~~Nation” means the Oneida ~~Tribe of Indians of Wisconsin~~Nation.

#### 111.4. Stipends

111.4-1. ~~Any Tribal~~Except as provided in section 111.4-3(c) of this law, any member of the Nation who meets the requirements of section 111.4-2 shall receive a stipend in an amount determined by General Tribal Council for attending a General Tribal Council meeting, if a quorum is established.

(a) If a quorum has not been established within fifteen (15) minutes after the published

<sup>1</sup>August 11, 2007 GTC Directive: “Motion by Madelyn Genskow that a stipend of \$100 be paid to any General Tribal Council member who attends a GTC meeting and is eligible to vote and stays until the end of the meeting effective in calendar year 2008 and for all time, seconded by Nancy Skenandore.”

Draft 1 for OBC Emergency Consideration (Redline to Current)  
2020 04 08

- 39 starting time, the meeting shall not be held and no stipend shall be paid.
- 40 111.4-2. In order to receive a stipend for attending a General Tribal Council meeting, a person shall:
- 41 (a) be a qualified voter, in accordance with the ~~Oneida~~-Constitution of the Oneida Nation;
- 42 (b) except as provided under (1), register no later than fifteen (15) minutes after the published
- 43 starting time of the meeting by checking in at a registration table, filling out any required
- 44 forms, and providing a valid Tribal or state issued picture identification;
- 45 (1) A person who is physically in line to register for a General Tribal Council meeting
- 46 within fifteen (15) minutes after the published starting time of the meeting, may
- 47 receive a stipend for attending a General Tribal Council meeting if he or she registers
- 48 and meets the other requirements under this section.
- 49 (c) be present for the entire meeting, from the time the meeting is called to order until the
- 50 meeting is adjourned; and
- 51 (1) For purposes of this ~~policy~~law, a ~~Tribal~~-member of the Nation who leaves the
- 52 meeting area and any related bathroom facilities, as identified by the ~~Tribal Secretary's~~
- 53 Office of the Nation's Secretary, is not considered present for the entire meeting.
- 54 (d) check out and provide a valid Tribal or state issued picture identification card after the
- 55 meeting ends.
- 56 (1) ~~For the~~ purposes of this ~~policy~~law, a meeting ends when the meeting is adjourned,
- 57 the meeting is recessed to a later date, or a quorum is lost.
- 58 111.4-3. *Payment.* ~~The~~ stipend payment shall be made by an acceptable distribution process
- 59 approved by the Accounting Department. Any fees associated with reissuing a payment shall be
- 60 deducted from a reissued payment.
- 61 (a) The Accounting Department shall distribute stipend payments no later than fifteen (15)
- 62 business days after a General Tribal Council meeting is held.
- 63 (b) If a ~~Tribal~~-member of the Nation does not receive a stipend payment after meeting the
- 64 requirements of section 111.4-2, he or she may contact the Enrollment Department to verify
- 65 his or her eligibility to receive the stipend payment.
- 66 (c) Exception. The Oneida Business Committee may decide through adoption of a resolution
- 67 to halt the payment of General Tribal Council meeting stipends to all eligible members for a
- 68 period of time deemed necessary by the Oneida Business Committee to protect and safeguard
- 69 the resources and general welfare of the Nation.

## 71 111.5. General Tribal Council Meetings

### 72 111.5-1. *Enrollment Department.*

- 73 (a) The Enrollment Department shall be responsible for the following at each General Tribal
- 74 Council meeting:
- 75 (1) Conducting check in/out of ~~Tribal~~-members of the Nation and verifying voter
- 76 eligibility.
- 77 (2) Verifying mailing address of each ~~Tribal~~-member of the Nation.
- 78 (3) Providing eligible ~~Tribal~~-members of the Nation with a hand stamp, bracelet or
- 79 other identifier that can be displayed upon request to prove they are eligible to attend
- 80 the meeting and/or vote during the meeting.
- 81 (b) ~~Enrollment Department officials shall be responsible for verifying the information~~
- 82 ~~provided by~~ ~~Tribal~~-members of the Nation while checking in and out.- A Tribal or state issued

Draft 1 for OBC Emergency Consideration (Redline to Current)  
2020 04 08

picture identification card shall be required to verify the identity of the person registering.

(c) The Enrollment Department shall send the relevant information regarding ~~Tribal~~ members of the Nation who are eligible to receive a stipend to the Accounting Department as soon as possible after the meeting.

111.5-2. If the facility where the meeting is held does not seat at least ~~twenty-two thousand~~ five hundred (2,500) people, the Oneida Business Committee shall have the Security Department or other applicable individuals limit meeting attendees to those ~~Tribal~~ members of the Nation who are eligible to vote.

#### 111.6. Appeals

111.6-1. Any ~~Tribal~~ member of the Nation denied a stipend payment may file an appeal with the Enrollment Department within forty-five (45) days after the meeting for which the meeting stipend was denied. The review shall be conducted by the Enrollment Director or his/her designee. -A determination as to whether the ~~Tribal~~ member was eligible for the stipend shall be made within five (5) business days of receipt of the appeal.

(a) The determination shall be sent by registered mail (return receipt requested) or delivered in person to the ~~Tribal~~ member.

(b) In the event a stipend payment is denied, the determination shall include a statement notifying the ~~Tribal~~ member that he or she has fourteen (14) calendar days to file an appeal with the Oneida Trust/Enrollment Committee.

(c) In the event a stipend payment is granted, the determination shall include a statement notifying the ~~Tribal~~ member that the Enrollment Department will forward his or her relevant information to the Accounting Department to process the payment.

111.6-2. Any ~~Tribal~~ member of the Nation denied a stipend payment after an appeal to the Enrollment Director may appeal the Director's determination to the Oneida Trust/Enrollment Committee. -The appeal shall be filed within fourteen (14) calendar days of receipt of the determination. - An appeal shall be filed with the Oneida Trust/Enrollment Committee in care of the Enrollment Department. The Enrollment Department shall forward the appeal to the Oneida Trust/Enrollment Committee no later than the next business day.

111.6-3. A quorum of the Oneida Trust/Enrollment Committee shall conduct a hearing of the appeal and issue a determination within forty-five (45) days of the receipt of the ~~Tribal member's~~ member's request for review.

(a) The Oneida Trust/Enrollment Committee determination shall be sent by registered mail (return receipt requested) or delivered in person to the ~~Tribal~~ member.

111.6-4. *Payments after an Appeal.*

(a) Within five (5) business days after the Enrollment Director or the Oneida Trust/Enrollment Committee determines that a stipend should have been granted, the Enrollment Department shall notify the Accounting Department of the determination, the name of the ~~Tribal~~ member and any additional relevant information needed by the Accounting Department to make the payment.

(b) The Accounting Department shall distribute a stipend payment to the ~~Tribal~~ member within fifteen (15) business days from the notification.

111.6-5. The determination of the Oneida Trust/Enrollment Committee shall be final.

Draft 1 for OBC Emergency Consideration (Redline to Current)  
2020 04 08

127    *End.*

---

GTC Directive – 8/11/07  
Emergency Adoption – BC-12-07-07-A  
Emergency Extension – BC-05-28-08-C  
Permanent Adoption – BC-12-10-08-K  
GTC Directive – GTC-11-21-11-A  
Emergency Adoption – BC-05-09-12-A  
Emergency Extension – BC-10-14-12-B  
Adopted – BC-02-13-13-E  
Emergency Amended – BC- - - -



**Title 1. Government and Finances – Chapter 111**  
**GENERAL TRIBAL COUNCIL MEETING STIPEND PAYMENT POLICY**

111.1. Purpose and Policy

111.2. Adoption, Amendment, Repeal

111.3. Definitions

111.4. Stipends

111.5. General Tribal Council Meetings

111.6. Appeals

**111.1. Purpose and Policy**

111.1-1. The purpose of this law is to govern the payment of stipends for attendance at General Tribal Council meetings.

111.1-2. It is the policy of the Oneida Nation to pay eligible General Tribal Council members a stipend for attending a General Tribal Council meeting at which a quorum is established and maintained and where official Tribal business is conducted.<sup>1</sup>

**111.2. Adoption, Amendment, Conflicts**

111.2-1. This law was adopted by the Oneida Business Committee by resolution BC-12-10-08-K, amended by resolution BC-02-13-13-E and emergency amended by resolution BC-\_\_-\_\_-\_\_.

111.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

111.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

111.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

111.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**111.3. Definitions**

111.3-1. This section shall govern the definitions of words and phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “General Tribal Council” means the governing body of the Oneida Nation, which is composed of the qualified voters of the Oneida Nation, as determined by the Constitution of the Oneida Nation.

(b) “Nation” means the Oneida Nation.

**111.4. Stipends**

111.4-1. Except as provided in section 111.4-3(c) of this law, any member of the Nation who meets the requirements of section 111.4-2 shall receive a stipend in an amount determined by General Tribal Council for attending a General Tribal Council meeting, if a quorum is established.

(a) If a quorum has not been established within fifteen (15) minutes after the published starting time, the meeting shall not be held and no stipend shall be paid.

111.4-2. In order to receive a stipend for attending a General Tribal Council meeting, a person shall:

(a) be a qualified voter, in accordance with the Constitution of the Oneida Nation;

(b) except as provided under (1), register no later than fifteen (15) minutes after the published

<sup>1</sup>August 11, 2007 GTC Directive: “Motion by Madelyn Genskow that a stipend of \$100 be paid to any General Tribal Council member who attends a GTC meeting and is eligible to vote and stays until the end of the meeting effective in calendar year 2008 and for all time, seconded by Nancy Skenandore.”



Draft 1 for OBC Emergency Consideration  
2020 04 08

- 39 starting time of the meeting by checking in at a registration table, filling out any required  
40 forms, and providing a valid Tribal or state issued picture identification;  
41 (1) A person who is physically in line to register for a General Tribal Council meeting  
42 within fifteen (15) minutes after the published starting time of the meeting, may  
43 receive a stipend for attending a General Tribal Council meeting if he or she registers  
44 and meets the other requirements under this section.  
45 (c) be present for the entire meeting, from the time the meeting is called to order until the  
46 meeting is adjourned; and  
47 (1) For purposes of this law, a member of the Nation who leaves the meeting area and  
48 any related bathroom facilities, as identified by the Office of the Nation's Secretary,  
49 is not considered present for the entire meeting.  
50 (d) check out and provide a valid Tribal or state issued picture identification card after the  
51 meeting ends.  
52 (1) For purposes of this law, a meeting ends when the meeting is adjourned, the  
53 meeting is recessed to a later date, or a quorum is lost.  
54 111.4-3. *Payment.* The stipend payment shall be made by an acceptable distribution process approved  
55 by the Accounting Department. Any fees associated with reissuing a payment shall be deducted from  
56 a reissued payment.  
57 (a) The Accounting Department shall distribute stipend payments no later than fifteen (15)  
58 business days after a General Tribal Council meeting is held.  
59 (b) If a member of the Nation does not receive a stipend payment after meeting the  
60 requirements of section 111.4-2, he or she may contact the Enrollment Department to verify  
61 his or her eligibility to receive the stipend payment.  
62 (c) *Exception.* The Oneida Business Committee may decide through adoption of a resolution  
63 to halt the payment of General Tribal Council meeting stipends to all eligible members for a  
64 period of time deemed necessary by the Oneida Business Committee to protect and safeguard  
65 the resources and general welfare of the Nation.  
66

67 **111.5. General Tribal Council Meetings**

68 111.5-1. *Enrollment Department.*

- 69 (a) The Enrollment Department shall be responsible for the following at each General Tribal  
70 Council meeting:  
71 (1) Conducting check in/out of members of the Nation and verifying voter eligibility.  
72 (2) Verifying mailing address of each member of the Nation.  
73 (3) Providing eligible members of the Nation with a hand stamp, bracelet or other  
74 identifier that can be displayed upon request to prove they are eligible to attend the  
75 meeting and/or vote during the meeting.  
76 (b) Enrollment Department officials shall be responsible for verifying the information  
77 provided by members of the Nation while checking in and out. A Tribal or state issued picture  
78 identification card shall be required to verify the identity of the person registering.  
79 (c) The Enrollment Department shall send the relevant information regarding members of the  
80 Nation who are eligible to receive a stipend to the Accounting Department as soon as possible  
81 after the meeting.  
82 111.5-2. If the facility where the meeting is held does not seat at least two thousand five hundred

Draft 1 for OBC Emergency Consideration  
2020 04 08

(2,500) people, the Oneida Business Committee shall have the Security Department or other applicable individuals limit meeting attendees to those members of the Nation who are eligible to vote.

**111.6. Appeals**

111.6-1. Any member of the Nation denied a stipend payment may file an appeal with the Enrollment Department within forty-five (45) days after the meeting for which the meeting stipend was denied. The review shall be conducted by the Enrollment Director or his/her designee. A determination as to whether the member was eligible for the stipend shall be made within five (5) business days of receipt of the appeal.

(a) The determination shall be sent by registered mail (return receipt requested) or delivered in person to the member.

(b) In the event a stipend payment is denied, the determination shall include a statement notifying the member that he or she has fourteen (14) calendar days to file an appeal with the Oneida Trust/Enrollment Committee.

(c) In the event a stipend payment is granted, the determination shall include a statement notifying the member that the Enrollment Department will forward his or her relevant information to the Accounting Department to process the payment.

111.6-2. Any member of the Nation denied a stipend payment after an appeal to the Enrollment Director may appeal the Director's determination to the Oneida Trust/Enrollment Committee. The appeal shall be filed within fourteen (14) calendar days of receipt of the determination. An appeal shall be filed with the Oneida Trust/Enrollment Committee in care of the Enrollment Department. The Enrollment Department shall forward the appeal to the Oneida Trust/Enrollment Committee no later than the next business day.

111.6-3. A quorum of the Oneida Trust/Enrollment Committee shall conduct a hearing of the appeal and issue a determination within forty-five (45) days of the receipt of the member's request for review.

(a) The Oneida Trust/Enrollment Committee determination shall be sent by registered mail (return receipt requested) or delivered in person to the member.

**111.6-4. *Payments after an Appeal.***

(a) Within five (5) business days after the Enrollment Director or the Oneida Trust/Enrollment Committee determines that a stipend should have been granted, the Enrollment Department shall notify the Accounting Department of the determination, the name of the member and any additional relevant information needed by the Accounting Department to make the payment.

(b) The Accounting Department shall distribute a stipend payment to the member within fifteen (15) business days from the notification.

111.6-5. The determination of the Oneida Trust/Enrollment Committee shall be final.

*End.*

---

GTC Directive – 8/11/07  
Emergency Adoption – BC-12-07-07-A  
Emergency Extension – BC-05-28-08-C  
Permanent Adoption – BC-12-10-08-K  
GTC Directive – GTC-11-21-11-A  
Emergency Adoption – BC-05-09-12-A

Draft 1 for OBC Emergency Consideration  
2020 04 08

Emergency Extension – BC-10-14-12-B  
Adopted – BC-02-13-13-E  
Emergency Amended – BC-\_\_-\_\_-\_\_-\_\_

**Oneida Business Committee Agenda Request**

Adopt resolution entitled Placing Listed Boards, Committees and Commissions in Temporary Closure Sta

**1. Meeting Date Requested:**    \_\_ / \_\_ / \_\_**2. General Information:**Session:    ☒ Open    ☐ Executive - See instructions for the applicable laws, then choose one:Agenda Header: ☐ Accept as Information only☒ Action - please describe:**3. Supporting Materials**☐ Report    ☒ Resolution    ☐ Contract☐ Other:1. 3. 2. 4. ☐ Business Committee signature required**4. Budget Information**☒ Budgeted - Tribal Contribution    ☐ Budgeted - Grant Funded    ☐ Unbudgeted**5. Submission**Authorized Sponsor / Liaison: 

Primary Requestor/Submitter:

---

Your Name, Title / Dept. or Tribal Member

Additional Requestor:

---

Name, Title / Dept.

Additional Requestor:

---

Name, Title / Dept.

## Oneida Business Committee Agenda Request

### 6. Cover Memo:

Describe the purpose, background/history, and action requested:

The attached resolution is presented to formalize the declaration adopted by the COVID-19 Core Decision Making Team on March 19, 2020 - Suspension of All Non-Emergent Expenses & Stipends and Activities by Certain Boards, Committees and Commissions.

The actions taken in this resolution are effective during the public health emergency. However, the need to maintain these directives in the near future, when finances remain limited, should be addressed via a resolution.

I am requesting the Oneida Business Committee adopt the attached resolution. After submission of the resolution, I realized that a change was needed to clarify its application. As a result, I am requesting consideration of the following amendment. Deleting "during the Public Health Emergency" at the end of each Resolve and replacing with the language, "for the remainder of Fiscal Year 2020 and during any continuing resolution for Fiscal Year 2021."

Requested Action: Motion to adopt resolution titled "Placing Listed Boards, Committees and Commissions in Temporary Closure Status" as amended.

1) Save a copy of this form for your records.

2) Print this form as a \*.pdf OR print and scan this form in as \*.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** \*.pdf file to: [BC\\_Agenda\\_Requests@oneidanation.org](mailto:BC_Agenda_Requests@oneidanation.org)



**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



## **Statement of Effect**

### *Placing Boards, Committees and Commissions Under Temporary Closure Status*

#### **Summary**

This resolution places the following of the Nation's boards, committees and commissions under a temporary closure status during the Public Health Emergency caused by COVID-19:

1. Oneida Community Library Board;
2. Oneida Environmental Resources Board;
3. Oneida Nation Arts Board;
4. Oneida Nation Veterans Affairs Committee;
5. Oneida Personnel Commission;
6. Oneida Pow Wow Committee;
7. Pardon and Forgiveness Screening Committee;
8. Southeast Wisconsin Oneida Tribal Social Services Advisory Board;
9. Oneida Land Claims Commission; and
10. Oneida Nation Commission on Aging.

This resolution further discontinues the posting of vacancies and defers all Oaths of Office until after the Public Health Emergency.

*Submitted by: Kristen M. Hooker, Staff Attorney, Legislative Reference Office*

*Date: March 31, 2020*

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

The Boards, Committees, and Commissions law ("BCC Law") was adopted by the Oneida Business Committee for the purpose of governing boards, committees, and commissions of the Nation (collectively "entities"). [1 O.C. 105.1-1]. The BCC Law sets forth such processes as the appointing and electing of persons to entities, and vests the Oneida Business Committee and the Oneida General Tribal Council with the authority to, among other actions, create entities, dissolve entities, fill vacancies on entities and administer the oath necessary for members to begin acting on an entities' behalf. [1 O.C. 105.4, 105.6, 105.9 & 105.17].

The Budget Management and Control law ("Law") was adopted by the Oneida Business Committee to set forth directives and guidance regarding short-term and long-term financial planning through budgeting and contingency planning. [Resolution BC-02-08-17-C].

With respect to contingency planning, the Law directs the Oneida Business Committee to work with the Chief Financial Officer, executive managers, and managers to create a budget contingency plan ("Plan") which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation. [1 O.C. 121.4-3]. As part of the Plan, the Oneida Business Committee may require stabilization funds, reductions of expenditures, furloughs and other cost

saving tools provided that such tools comply with the Nation's laws, specifically its employment laws, rules and policies. [10.C. 121.4-3(a)].

The Oneida Business Committee approved the Nation's Plan in 2017 through adoption of resolution BC-09-13-17-A. The Oneida Business Committee is responsible for the Plan's implementation; provided, it first determines that the Nation is under extreme financial distress. [1 O.C. 121.4-3]. The Law defines extreme financial distress to include, but not be limited to, natural or human-made disasters, United States Government shut-downs, Tribal shutdown and economic downturns. [1 O.C. 121.4-3]. And, the Plan specifies that a human-made disaster includes a pandemic.

The federal government has proclaimed a public health emergency due to the COVID-19 pandemic, attributing it to large numbers of individuals becoming ill, high mortality rates and impacts to the stock market, as well as businesses. State governors, including the State of Wisconsin, have also declared public health emergencies due to the pandemic and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders.

On March 12, 2020, Chairman Tehassi Hill signed a "*Declaration of Public Health State of Emergency*" pursuant to the Emergency Management and Homeland Security law, which triggered the authority necessary to take action as a result of the pandemic and allows the Nation to seek reimbursement for emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. Based thereon, the Oneida Business Committee has acted to protect the health and welfare of the members, employees and community by instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closing the Nation's gaming operations, and insuring that employees continued to be paid during the public health emergency as long as the Nation's resources will allow.

The declaration also met the "extreme financial distress" standard necessary under the Law to implement the Nation's budget contingency plan. Accordingly, the Oneida Business Committee adopted resolution BC-03-17-20-A thereby activating the Plan's Tier IV budget contingency measures which provide for a four percent (4%) impact on the Nation's gaming budget.

The Treasurer has since implemented a COVID-19 Finance Team ("Finance Team") to monitor the financial status of the Nation and make recommendations regarding expenditure restrictions for the remainder of FY2020, budgeting for FY2021, development of directions for a continuing resolution for FY2021, and other actions necessary to ensure governmental services can continue to be provided to those most in need and at risk regarding COVID-19 and the health impacts of the virus. The Finance Team has identified that the Nation can, if funding is carefully managed, meet the needs of the operations in providing governmental services for a thirty (30) day period beginning from the closure date of operations.

The boards, committees and commissions of the Nation listed in this resolution provide functions and services on behalf of the Oneida Nation as identified in their by-laws and in accordance with the Boards, Committees and Commissions Law and other Tribal law. The Oneida Business Committee has reviewed this list of entities and agrees that continuing to operate will generate

expenses that would affect the overall financial status of the Nation. Thus, the Oneida Business Committee has determined that, in order to preserve funding for the Nation's necessary governmental services and activities, the entities listed in this resolution should be placed on temporary closure. In addition, it has determined that the posting of vacant positions shall be discontinued and the administering of all Oaths of Office deferred until after the Public Health Emergency.

### ***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

## BC Resolution #

### Placing Listed Boards, Committees and Commissions in Temporary Closure Status

- 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 federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses; and
- WHEREAS,** state governors, including the State of Wisconsin, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders; and
- WHEREAS,** on March 12, 2020 the Chairman declared a public health state of emergency, the Oneida Business Committee took actions to take steps to protect the health and welfare of the members, employees and the community, including instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closure of the Nation's gaming operations, and insuring that employees will continued to be paid during the public health emergency as long as the Nation's resources will allow; and
- WHEREAS,** the Oneida Business Committee adopted resolution # BC-03-17-2020-A which declared that Tier IV budget contingency measures are implemented which required a 4% impact on gaming's budget; and
- WHEREAS,** the Oneida Business Committee adopted resolution # BC-04-\_\_-2020-\_\_, which declared that Tier V budget contingency measures are implemented and directed expenditure reductions regarding non-essential government functions and instituted lay-offs regarding non-critical personnel; and
- WHEREAS,** the Treasurer has implemented a COVID-19 Finance Team (*Finance Team*) to monitor the financial status of the Nation and make recommendations regarding expenditure restrictions for the remainder of FY2020, budgeting for FY2021, development of directions for a continuing resolution for FY2021, and other actions necessary to ensure governmental services can continue to be provided to those most in need and at risk regarding COVID-19 and the health impacts of the virus; and
- WHEREAS,** the Finance Team has determined the following rules shall apply to all decisions being made regarding the finances of the Nation and how those limited resources shall be allocated:

1. All decisions are employee/member/community empathetic/compassionate balanced against cash flow; and
2. All decisions shall protect investments; and utilize only available cash; and

**WHEREAS,** the Finance Team has identified that the Nation can, if funding is carefully managed, meet the needs of the operations in providing services for a 30-day period beginning from the closure date of the gaming operations; and

**WHEREAS,** the Finance Team, working closely with Intergovernmental Affairs and Communications, is kept up-to-date regarding federal emergency funding opportunities which will assist the Nation in managing the public health crises and has identified that the Nation has a potential gap of 30 to 60 days where federal financial assistance will be authorized and delivered; and

**WHEREAS,** the Finance Team, working closely with the Grants Office, has identified that granting agencies will be providing approvals to delay or amend existing grants considering the current public health crises which will assist the Nation in managing expenses during the financial constraints; and

**WHEREAS,** boards, committees and commissions of the Nation listed in this resolution provide functions and services on behalf of the Oneida Nation as identified in their by-laws and in accordance with the Boards, Committees and Commissions Law and other Tribal law; and

**WHEREAS,** the Oneida Business Committee has reviewed the list of boards, committees and commissions and agrees that continuing to operate, generating expenses affecting the overall financial status of the Nation and has determined that these entities should be placed on temporary closure to preserve funding for necessary governmental services and activities;

*Temporary Closure of Boards, Committees and Commissions*

**NOW THEREFORE BE IT RESOLVED,** that the Oneida Business Committee directs that the following boards, committees and commissions are placed on temporary closure during the Public Health Emergency.

1. Oneida Community Library Board;
2. Oneida Environmental Resources Board;
3. Oneida Nation Arts Board;
4. Oneida Nation Veterans Affairs Committee;
5. Oneida Personnel Commission;
6. Oneida Pow Wow Committee;
7. Pardon and Forgiveness Screening Committee;
8. Southeast Wisconsin Oneida Tribal Social Services Advisory Board;
9. Oneida Land Claims Commission; and
10. Oneida Nation Commission on Aging.

*Posting of Vacancies*

**NOW THEREFORE BE IT FURTHER RESOLVED,** that posting of vacancies shall be discontinued during the Public Health Emergency.

*Oath of Office*

**NOW THEREFORE BE IT FINALLY RESOLVED,** that all Oaths of Office shall be deferred until after the Public Health Emergency.



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



***COVID-19 Core Decision Making Team Declaration***  
***Suspension of all Non-Emergent Expenses & Stipends and Activity by Certain***  
***Boards, Committees and Commissions***  
***March 19, 2020***

The world is currently facing a pandemic of the coronavirus disease 2019 (COVID-19). The COVID-19 outbreak originated in Wuhan, China and has spread to many other countries throughout the world, including the United States. The World Health Organization has identified that the spread of COVID-19 is now a pandemic resulting in many countries experiencing the effects of illness and health issues related to COVID-19 and economic impacts.

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which set into place the necessary authority should action need to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses.

On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Emergency Management and Homeland Security law to create and delegate authority to a COVID-19 Core Decision Making Team (COVID-19 Team). [3 O.C. 302.10]. When a public health emergency has been declared, the COVID-19 Team has the authority to declare exceptions to the Nation’s laws, policies, procedures, regulations, or standard operating procedures during the emergency period which will be of immediate impact for the purposes of protecting the health safety, and general welfare of the Nation’s community, members, and employees. [3 O.C. 302.10-2].

The Boards, Committees and Commission Law identifies in section “105.13. Stipends, Reimbursement and Compensation” how Boards, Committees and Commissions will be compensated for their work. Specifically, the law states in section “105.13-2. The Oneida Business Committee shall set stipend amounts by resolution. The Oneida Business Committee shall periodically review the amounts provided for stipends and, based on the availability of funds, shall adjust those amounts accordingly by amending the resolution. Stipends are paid in the form of cash or cash equivalent, which may include, but is not limited to, gift cards.” Lastly, the law states all by-laws shall include Article V titles Stipends and Compensation.

Boards, Committees and Commissions activities can also create contact and spread of COVID-19 through meetings and gatherings. There has been a change in spread of the virus from person-to-person to community spread identified by the CDC and Public Health Officials. Community spread means that there are instances of positive tests for COVID-19 where no contact with an infected person has occurred. It is now necessary to discontinue meetings of Boards, Committees and Commissions.

*Stipends.* The Nation is immediately acting to preserve cash flow to provide funds for regular wages to employees throughout the emergency declaration period. The COVID-19 Team hereby declares a



suspension of all budget expenditures, and stipends shall cease for the following Boards, Committees and Commissions:

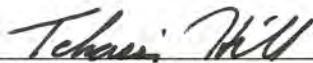
1. Oneida Community Library Board;
2. Oneida Environmental Resources Board;
3. Oneida Nation Arts Board;
4. Oneida Nation Veterans Affairs Committee;
5. Oneida Personnel Commission;
6. Oneida Pow Wow Committee;
7. Pardon and Forgiveness Screening Committee;
8. Southeast Wisconsin Oneida Tribal Social Services Advisory Board;
9. Finance Committee, Public Member;
10. Audit Committee, Public Member;
11. Oneida Land Claims Commission; and
12. Oneida Nation Commission on Aging.

*Meetings.* All meetings for the following Boards, Committees and Commissions shall be discontinued effective 4:30 p.m. on March 19, 2020.

1. Oneida Community Library Board;
2. Oneida Environmental Resources Board;
3. Oneida Nation Arts Board;
4. Oneida Nation Veterans Affairs Committee;
5. Oneida Personnel Commission;
6. Oneida Pow Wow Committee;
7. Pardon and Forgiveness Screening Committee;
8. Southeast Wisconsin Oneida Tribal Social Services Advisory Board;
9. Oneida Land Claims Commission; and
10. Oneida Nation Commission on Aging.

For Boards, Committees and Commissions not specifically identified in this order, it is recommended that meetings be discontinued effective 4:30 p.m. on March 19, 2020. Where meetings must be held, remote meeting processes is required. .

This declaration shall be made effective immediately and shall remain in effect for the duration of the Nation's public health emergency.

  
\_\_\_\_\_  
Oneida Nation Chairman

**Oneida Business Committee Agenda Request**

Adopt five (5) resolutions regarding Financial Resources Protection

**1. Meeting Date Requested:**    \_\_ / \_\_ / \_\_**2. General Information:**Session:    ☒ Open    ☐ Executive - See instructions for the applicable laws, then choose one:Agenda Header: ☐ Accept as Information only☒ Action - please describe:**3. Supporting Materials**☐ Report    ☒ Resolution    ☐ Contract☒ Other:1. 3. 2. 4. ☐ Business Committee signature required**4. Budget Information**☒ Budgeted - Tribal Contribution    ☐ Budgeted - Grant Funded    ☐ Unbudgeted**5. Submission**

Authorized Sponsor / Liaison:

Primary Requestor/Submitter:

---

Your Name, Title / Dept. or Tribal Member

Additional Requestor:

---

Name, Title / Dept.

Additional Requestor:

---

Name, Title / Dept.

## Oneida Business Committee Agenda Request

### 6. Cover Memo:

Describe the purpose, background/history, and action requested:

The Oneida Business Committee issued a public health emergency declaration as a result of the spread of the novel coronavirus (COVID-19) and its deadly impact around the world, within the United States, growing impact within the State of Wisconsin, and closer impact within the Oneida Reservation.

Closure of the gaming operations was ordered in order to prohibit the spread of the virus through gaming patrons and among gaming employees as a result of travel to and from highly impacted areas. This has resulted in a complete loss if the primary revenue source of funding government operations. To ensure that employees are able to continue to support their families, we took unprecedented action to support payroll, even for employees who were not reporting to work, for the initial public health emergency declaration.

Our initial determination identified that this would be a short closure and result in less than 13% revenue reduction after re-opening of the gaming operations. It has become clear that it is more realistic that our gaming operations will be closed for most of April, and possibly longer, depending on whether the spread of the virus is contained. On March 12th, when the public health emergency was declared, there were 3 positive cases in Wisconsin. On March 24th, that had increased to 457 positive test results, 5 people had died, and Brown and Outagamie Counties had 5 reported cases resulting from community spread (meaning no direct contact with an individual who had contracted the virus had occurred).

I have been working with a team to identify financial impacts - Larry Barton, Chief Financial Officer, RaLinda Ninham-Lambries, Assistant Chief Financial Officer, Jo Anne House, Chief Counsel, and Debbie Thundercloud, General Manager - and identifying solutions to managing the available cash resources of the Nation to keep essential governmental functions operating and providing much needed services to the community.

Based on our review of the finances and impact of the public health emergency, I am recommending consideration of five resolutions specifically aimed at protecting and maintaining cash resources.

See attached memo further explaining each resolution and the reason for recommending adoption.

#### Requested Action:

1. Motion to adopt resolution "Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020"
2. Motion to adopt resolution "General Membership and Elder (age 62+) Per Capita Payment for Fiscal Year 2020 Halted in Light of Public Health Emergency and Impact on Finances"
3. Motion to adopt resolution "Deferring Payments to OLIPP and Elder Endowments"
4. Motion to adopt resolution "Halting General Tribal Council Meeting Stipend Payments for FY2020 and FY2021"
5. Motion to adopt resolution "Reducing the General Tribal Council Higher Education Scholarship Payments for FY2020 and FY2021"

1) Save a copy of this form for your records.

2) Print this form as a \*.pdf OR print and scan this form in as \*.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** \*.pdf file to: BC\_Agenda\_Requests@oneidanation.org



Oneida Nation  
Oneida Business Committee  
Office of Treasurer  
PO Box 365 • Oneida, WI 54155-0365  
[oneida-nsn.gov](http://oneida-nsn.gov)



## MEMORANDUM

**TO:** Oneida Business Committee

**FROM:** Patricia King, Treasurer

**DATE:** March 25, 2020

**SUBJECT:** Recommendation to Adopt Financial Resources Protection Resolutions

---

I have called together a team of individuals to assess the financial impact on the Oneida Nation as a result of the COVID-19 pandemic and more closely affecting the Nation, closure of our gaming operations. That team consists of the following individuals - Larry Barton, Chief Financial Officer, RaLinda Ninham-Lambries, Assistant Chief Financial Officer, Jo Anne House, Chief Counsel, and Debbie Thundercloud, General Manager. We have brought in others as needed when more technical information was needed.

In short, the Nation has limited cash resources available to keep operations open and providing services. Our analysis identifies that for every week gaming operations remains closed we have an additional 13% reduction in future gaming revenues.

We have been working closely with Intergovernmental Affairs and Communications, specifically Candice Skenandore, Self-Governance, to monitor federal government actions and potential emergency funding resources for states and tribal governments. These actions may provide supplemental funding or modify existing federal/state programs regarding employment and businesses that can help the Nation manage financial resources.

The Nation has funds available in cash accounts and in investments. At this time, liquidating any investment will result in a significant loss. The financial market is significantly down, and we would likely be selling any investments we have at less than the value we paid for them. My team has developed a policy decision matrix for any decisions that we have made and recommendations to the Oneida Business Committee.

1. All decisions are employee/member/community empathetic/compassionate balanced against cash flow; and
2. All decisions shall protect investments; and utilize only available cash.

Because of this, we have been very careful in how the expenditures are incurred and recommendations we are making to manage cash flow of the Nation. The attached resolutions are strategic requests that affect budgeted actions and programs.

Page 2

***Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020***

The Nation needs to immediately reduce expenses. Since adoption of Tier IV Budget Contingency the organization has taken significant steps, but more will be needed. This declaration will likely result in lay offs of employees and closure of services. The resolution directs reductions to essential services and essential employee levels, restriction on all travel, closure or cancellation of CapEx, CIP and Technology Set-Asides, and restrictions on Building Maintenance and Repairs line.

**Impact:** This recommendation does not add to available cash resources, it stops an expenditure that would further impact available funding.

***General Membership and Elder (age 62+) Per Capita Payment for Fiscal Year 2020 Halted in Light of Public Health Emergency and Impact on Finances***

The Nation accrues revenues to make these payments in September of each fiscal year. The closure of the gaming operations halted our ability to accrue the funds needed to make these payments. The estimated cost of the General Membership per capita is \$22 million, and the Elder Per Capita (age 62+) is \$16 million. The Nation does not have \$38 million to make these payments.

**Impact:** This recommendation does not add to available cash resources, it stops an expenditure that would further impact available funding.

The Elder Per Capita Endowment (age 65+) will be made as scheduled. The amount is subject to approval of the Trust Enrollment Committee and the trust documents.

***Deferring Payments to OLIPP and Elder Endowments***

The budget identifies that the Nation will provide \$500,000 each to the Oneida Life Insurance Plan Plus and the Elder Endowment as supplemental payments. We have initially determined that deferring these payments will not have a negative impact on the current stability of these funds. We have asked Trust Enrollment Department to utilize existing resources with the funds for any necessary payments that will be required.

**Impact:** This recommendation does not add to available cash resources, it stops an expenditure that would further impact available funding.

***Halting General Tribal Council Meeting Stipend Payments for FY2020 and FY2021***

This recommendation reduces potential expenses of \$180,000 to \$200,000 per meeting. This is estimated at \$720,000 to \$800,000 if four meetings are scheduled. I recognize that with the public health emergency declaration, it is unlikely we will be scheduling and holding General Tribal Council meetings, this action will assist in recovery of the financial resources of the Nation once the emergency is concluded and gaming operations resume.

**Impact:** This recommendation does not add to available cash resources, it stops an expenditure that would further impact available funding.



Page 3

***Reducing the General Tribal Council Higher Education Scholarship Payments for FY2020 and FY2021***

This recommendation reduces the \$20,000/\$30,000 higher education scholarship to \$5000 per year for FY2020 and FY2021. Each fiscal year the Nation pays out approximately \$12.5 million in scholarship funding. The recommendation would provide some assistance, although much reduced, so that students will continue to attend colleges and universities to obtain their degrees. This is a long term need of the Nation we must fund to keep us on the forefront of knowledge resources, but we do not have sufficient cash to maintain this level of expenditure. The team continues to review ongoing federal support activities, and we hope that those actions of forgiving or otherwise reducing student loans will help members impacted during this two-year period. We have also recommended that this is a priority to be refunded at full levels when finances become available to do so.

**Impact:** This recommendation does not add to available cash resources, it stops an expenditure that would further impact available funding.

Thank you for considering these recommended resolutions.



**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



## **Statement of Effect**

### *Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*

#### **Summary**

This resolution adopts Tier V budget reductions from the *Budget Contingency Plan* beginning immediately in accordance with section 121.4-3 of the Budget Management and Control law.

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

*Date: March 25, 2020*

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

The Budget Management and Control law (“the Law”) was adopted by the Oneida Business Committee to set forth the requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval and to establish a triennial strategy planning process for the Nation’s budget. [1 O.C. 121.1-1].

The Law requires the Oneida Business Committee to work with the Chief Financial Officer, executive managers, and managers to create a budget contingency plan which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation. [1 O.C. 121.4-3]. The Oneida Business Committee is then required to approve the budget contingency plan by resolution. [1 O.C. 1214-3]. The Oneida Business Committee adopted the Nation’s Budget Contingency Plan through resolution BC-09-13-17-A.

The Oneida Business Committee then is responsible for the implementation of the budget contingency plan, provided that the Oneida Business Committee first makes a determination that the Nation is under extreme financial distress. [1 O.C. 1214-3]. Extreme financial distress includes, but is not limited to, natural or human made disasters, United States Government shutdown, Tribal shutdown, and economic downturns. [1 O.C. 1214-3].

The federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses. State governors, including the State of Wisconsin, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders.

In accordance with the authority granted to the Oneida Business Committee through the Emergency Management and Homeland Security law, on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” which sets into place the necessary authority should action need to be taken, and allows the Oneida Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1].

A public health emergency means that the occurrence or imminent threat of an illness or health condition which is a quarantinable disease; and poses a high probability of a large number of deaths or serious or long-term disability among humans. [3 O.C. 302.3-1(o)].

Since the declaration of a public health emergency, the Oneida Business Committee has taken action to protect the health and welfare of the members, employees and the community, including instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closure of the Nation's gaming operations, and insuring that employees will continued to be paid during the public health emergency as long as the Nation's resources will allow.

The declaration of a public health emergency by the Nation and the potential financial impacts of the COVID-19 pandemic met the Law's requirement that the Nation be under extreme financial distress for the budget contingency plan to be implemented.

The Oneida Business Committee adopted resolution BC-03-17-20-A which declared that Tier IV budget contingency measures are implemented which required a four percent (4%) reduction in overall expenditures and budgets.

Since the adoption of resolution BC-03-17-20-A, the Treasurer has implemented a COVID-19 Finance Team (Finance Team) to monitor the financial status of the Nation and make recommendations regarding expenditure restrictions for the remainder of FY2020, budgeting for FY2021, development of directions for a continuing resolution for FY2021, and other actions necessary to ensure governmental services can continue to be provided to those most in need and at risk regarding COVID-19 and the health impacts of the virus.

The Chief Financial Officer, Treasurer, and Finance Team are recommending the Oneida Business Committee adopt a resolution declaring a Tier V budget contingency be implemented. The Oneida Business Committee, after being informed regarding the current financial status and near-term future financial resources, has determined that implementation of Tier V budget reductions for the remainder of FY2020 is needed to preserve funding for necessary governmental services and activities

This resolution then adopts the following Tier V budget reductions from the Budget Contingency Plan (*Tier V – 5%, Oneida Business Committee identifies mandatory cuts across the Nation*) beginning immediately in accordance with section 121.4-3 of the Budget Management and Control Law.

The resolution then provides that the Operations shall reduce all funding to essential services, only, to the greatest extent possible until the end of Fiscal Year 2020, or until formerly announced otherwise, to maintain viability of the Nation and its' organization so long as the Nation is financially able to allocate funding. The resolution clarifies that essential services should be understood as including employee payroll as defined in the third resolve of this resolution, direct costs to provide the service, and indirect costs.

The resolution provides that employee levels are to be managed at essential employee levels only. Essential employee shall be defined as the minimum level necessary to provide essential programs and/or services as defined in the second resolve of this resolution.

Additionally, this resolution prohibits all travel, and puts on hold all Capital Expenditures, Capital Improvement Projects, and Technology Set Asides for the remainder of Fiscal Year 2020. The resolution then provides more detail on how projects that have been activated to various degrees shall be handled moving forward. The resolution also provides that all expenses arising out of the Building Maintenance Repairs line shall be restricted to emergency health, safety, or regulatory actions.

### ***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

## BC Resolution #

### Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020

- 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 federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses; and
- WHEREAS,** state governors, including the State of Wisconsin, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders; and
- WHEREAS,** on March 12, 2020 the Chairman declared a public health state of emergency, the Oneida Business Committee took actions to take steps to protect the health and welfare of the members, employees and the community, including instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closure of the Nation's gaming operations, and insuring that employees will continued to be paid during the public health emergency as long as the Nation's resources will allow; and
- WHEREAS,** the Oneida Business Committee adopted resolution # BC-03-17-2020-A which declared that Tier IV budget contingency measures are implemented which required a 4% reduction in overall expenditures and budgets; and
- WHEREAS,** the Treasurer has implemented a COVID-19 Finance Team (*Finance Team*) to monitor the financial status of the Nation and make recommendations regarding expenditure restrictions for the remainder of FY2020, budgeting for FY2021, development of directions for a continuing resolution for FY2021, and other actions necessary to ensure governmental services can continue to be provided to those most in need and at risk regarding COVID-19 and the health impacts of the virus; and
- WHEREAS,** the Finance Team has determined the following rules shall apply to all decisions being made regarding the finances of the Nation and how those limited resources shall be allocated:
1. All decisions are employee/member/community empathetic/compassionate balanced against cash flow; and
  2. All decisions shall protect investments; and utilize only available cash; and

**WHEREAS,** the Finance Team has identified that the Nation can, if funding is carefully managed, meet the needs of the operations in providing services for a 30-day period beginning from the closure date of the gaming operations; and

**WHEREAS,** the Finance Team, working closely with Intergovernmental Affairs and Communications, is kept up-to-date regarding federal emergency funding opportunities which will assist the Nation in managing the public health crises and has identified that the Nation has a potential gap of 30 to 60 days where federal financial assistance will be authorized and delivered; and

**WHEREAS,** the Finance Team, working closely with the Grants Office, has identified that granting agencies will be providing approvals to delay or amend existing grants considering the current public health crises which will assist the Nation in managing expenses during the financial constraints; and

**WHEREAS,** the Chief Financial Officer, Treasurer, and Finance Team, are recommending the Oneida Business Committee adopt a resolution declaring a Tier V budget contingency be implemented; and

**WHEREAS,** the Oneida Business Committee, after being informed regarding the current financial status and near-term future financial resources, has determined that implementation of Tier V budget reductions for the remainder of FY2020 is needed to preserve funding for necessary governmental services and activities;

*Tier V Budget Contingency Declaration*

**NOW THEREFORE BE IT RESOLVED,** that the Oneida Business Committee adopts Tier V budget reductions from the Budget Contingency Plan (*Tier V – 5%, Oneida Business Committee identifies mandatory cuts across the Nation*) beginning immediately in accordance with section 121.4-3 of the *Budget Management and Control Law*.

*Essential Services*

**NOW THEREFORE BE IT FURTHER RESOLVED,** that the Operations shall reduce all funding to essential services, only, to the greatest extent possible until the end of FY 2020, or until formerly announced otherwise, to maintain viability of the Nation and its' organization so long as the Nation is financially able to allocate funding. Essential services for the purposes of this Resolve should be understood as including employee payroll as defined in resolve #3, direct costs to provide the service, and indirect costs.

*Essential Employee Levels*

**NOW THEREFORE BE IT FURTHER RESOLVED,** that employee levels are to be managed at essential employee levels only. Essential employee shall be defined as the minimum level necessary to provide essential programs / services as defined in resolve #2.

*Travel*

**NOW THEREFORE BE IT FURTHER RESOLVED,** that all travel is prohibited.

*Capital Expenditures, Capital Improvement Projects and Technology Set Asides*

**NOW THEREFORE BE IT FURTHER RESOLVED,** that Capital Expenditures, Capital Improvement Projects, and Technology Set Asides are on hold for the Fiscal Year 2020; however, all projects that have been activated shall take the following steps.

1. All projects for which a contract has been signed and physical work on-site has begun shall be shut down as follows:
  - a. Stopping work and closing project activities to leave the project in a safe state until it can be restarted.
  - b. Stopping work and closing project activities to leave the project in a safe state in the event it will not be restarted.

- 102 c. Concluding any remaining work, such as punch-lists, in a manner which limits the financial  
103 impact to the Nation but closes the project in accordance with the contract.  
104 2. All projects for which a contract has been signed and physical work on-site has not begun shall be  
105 shut down immediately and closure of the contract as follows:  
106 a. Stopping work and closing project activities so the project can be re-started at some future  
107 date.  
108 b. Stopping work and closing project activities recognizing the project will not be restarted at  
109 some future date.  
110 3. All contracts not signed and posted requests for bids or proposals shall be withdrawn.  
111

112 *Building Maintenance and Repairs Expenses*

113 **NOW THEREFORE BE IT FINALLY RESOLVED**, all expenses arising out of the Building Maintenance  
114 Repairs line shall be restricted to emergency health, safety, or regulatory actions.





**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



### **Statement of Effect**

*General Membership and Elder (age 62+) Per Capita Payment for Fiscal Year 2020 Halted in Light of Public Health Emergency and Impact on Finances*

### **Summary**

This resolution declares that the Fiscal Year 2020 General Membership and Elder Per Capita (age 62+) payments shall be halted, but the Fiscal Year 2020 Elder Per Capita Endowment (age 65+) payments shall continue as scheduled as directed by the Oneida Trust Enrollment Committee.

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

*Date: March 25, 2020*

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

The Nation's Per Capita law specifies the procedure to be followed in the event that per capita payments are distributed by the Nation; and clearly provides the responsibilities of the various Oneida entities in the distribution or maintenance of any such per capita payments. [1 O.C. 123.1-1]. The Per Capita law does not in itself mandate a per capita payment, per capita payments may only be issued at the direction of the General Tribal Council through the adoption of a resolution. [1 O.C. 123.4-3].

Resolution BC-04-12-17-A titled, "Implementing Per Capita Plan for Fiscal Year 2017 to Fiscal Year 2021 Adopted by General Tribal Council on June 13, 2016" provides that in accordance with the duly adopted Per Capita law, the Oneida Business Committee implements the action of the General Tribal Council and directs the per capita payment of one thousand and three hundred dollars (\$1,300) to every member be included in the budgets for Fiscal Years 2017, 2018, 2019, 2020, and 2021.

This resolution declares the Fiscal Year 2020 General Membership and Fiscal Year 2020 Elder Per Capita (age 62+) to be halted, while the Fiscal Year 2020 Elder Per Capita Endowment (age 65+) payment shall continue as scheduled as directed by the Oneida Trust Enrollment Committee.

The federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses. Wisconsin Governor Tony Evers, as well as other state governors throughout the United States, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders.

In accordance with the authority granted to the Oneida Business Committee through the Emergency Management and Homeland Security law, on March 12, 2020, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" which sets into place the necessary



authority should action need to be taken, and allows the Oneida Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1].

Since the declaration of a public health emergency, the Oneida Business Committee has taken action to protect the health and welfare of the members, employees and the community, including instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closure of the Nation's gaming operations, and insuring that employees will continued to be paid during the public health emergency as long as the Nation's resources will allow.

The declaration of a public health emergency by the Nation and the potential financial impacts of the COVID-19 pandemic met the Budget Management and Control law's requirement that the Nation be under extreme financial distress for the budget contingency plan to be implemented. The Oneida Business Committee adopted resolution BC-03-17-20-A which declared that Tier IV budget contingency measures are implemented which required a four percent (4%) reduction in overall expenditures and budgets. On April 8, 2020, the Oneida Business Committee will consider the adoption of a resolution declaring that Tier V budget contingency measures be implemented.

Based on the COVID-19 public health emergency, this resolution provides that although the General Membership and Elder Per Capita payments have been budgeted for Fiscal Year 2020 in accordance with resolution BC-04-12-17-A, those payments shall be halted based on the fact that funds for these payments are accrued over the fiscal year based on the revenues generated from the gaming operations, which have been closed to assist in stopping the spread of COVID-19. The funds for payments for the Elder Per Capita Endowment, on the other hand, come from the Elder Per Capita Endowment which was created by the General Tribal Council in 1990, and therefore shall continue as scheduled as directed by the Oneida Trust Enrollment Committee.

### ***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

## BC Resolution #

### General Membership and Elder (age 62+) Per Capita Payment for Fiscal Year 2020 Halted in Light of Public Health Emergency and Impact on Finances

- 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 federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses; and
- WHEREAS,** state governors, including the State of Wisconsin, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders; and
- WHEREAS,** on March 12, 2020 the Chairman declared a public health state of emergency, the Oneida Business Committee took actions to take steps to protect the health and welfare of the members, employees and the community, including instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closure of the Nation's gaming operations, and insuring that employees will continued to be paid during the public health emergency as long as the Nation's resources will allow; and
- WHEREAS,** the Oneida Business Committee adopted resolution # BC-03-17-2020-A which declared that Tier IV budget contingency measures are implemented which required a 4% reduction in overall expenditures and budgets; and
- WHEREAS,** the Treasurer has implemented a COVID-19 Finance Team (*Finance Team*) to monitor the financial status of the Nation and make recommendations regarding expenditure restrictions for the remainder of FY2020, budgeting for FY2021, development of directions for a continuing resolution for FY2021, and other actions necessary to ensure governmental services can continue to be provided to those most in need and at risk regarding COVID-19 and the health impacts of the virus; and
- WHEREAS,** the Finance Team has determined the following rules shall apply to all decisions being made regarding the finances of the Nation and how those limited resources shall be allocated:
1. All decisions are employee/member/community empathetic/compassionate balanced against cash flow; and
  2. All decisions shall protect investments; and utilize only available cash; and

**WHEREAS,** the Finance Team has identified that the Nation can, if funding is carefully managed, meet the needs of the operations in providing governmental services for a 30-day period beginning from the closure date of the gaming operations; and

**WHEREAS,** the Finance Team, working closely with Intergovernmental Affairs and Communications, is kept up-to-date regarding federal emergency funding opportunities which will assist the Nation in managing the public health crises and has identified that the Nation has a potential gap of 30 to 60 days where federal financial assistance will be authorized and delivered; and

**WHEREAS,** the Finance Team, working closely with the Grants Office, has identified that granting agencies will be providing approvals to delay or amend existing grants considering the current public health crises which will assist the Nation in managing expenses during the financial constraints; and

**WHEREAS,** the General Tribal Council has adopted per capita payment plans for the general membership and elders

- General Membership Per Capita of \$1300, estimated at \$22 million;
- Elder Per Capita of \$2000 (age 62+), estimated at \$16 million; and
- Elder Per Capita of \$703.84 (age 65+), coming out of the Elder Percap, Higher Education and General Welfare Trust; and

**WHEREAS,** the General Tribal Council has always identified a need to maintain essential governmental services, and identifying potential loss of gaming revenues as a reason for discontinuing per capita payments; and

**WHEREAS,** per capita payments for the General Membership payment and the Elder Per Capita payment are accrued over the fiscal year based on the revenues generated from the gaming operations which have been closed to assist in stopping the spread of COVID-19; and

**WHEREAS,** the Elder Per Capita Endowment, created in 1990 by the General Tribal Council, contains funds for the payment of the Elder Per Capita Endowment payment; and

**WHEREAS,** the Oneida Business Committee, after being informed regarding the current financial status of the Nation and the long-term impact of closing the gaming operations as well as the impact of the virus on restarting the economy;

**NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee declares the FY2020 General Membership Per Capita payment be halted.

**NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee declares the FY2020 Elder Per Capita (age 62+) payment be halted.

**NOW THEREFORE BE IT FINALLY RESOLVED,** that the FY2020 Elder Per Capita Endowment (age 65+) payment shall continue as scheduled as directed by the Trust Enrollment Committee.



**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



## **Statement of Effect**

### *Deferring Payments to OLIPP and Elder Endowments*

#### **Summary**

This resolution defers the FY2020 supplemental payments that were budgeted for the Oneida Life Insurance Plan Plus and the Elder Endowments to allow for the Nation to maintain the necessary governmental services during this period of financial constraint caused by the COVID-19 pandemic.

*Submitted by: Kristen M. Hooker, Staff Attorney, Legislative Reference Office*

*Date: March 27, 2020*

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

The Nation's Endowments law sets forth the process for the establishment and maintenance of all endowment fund accounts established by the Oneida Nation. [1 O.C. 131-1]. Per the Endowments law, the Oneida Business Committee is delegated oversight authority over the Nation's endowment fund accounts. [1 O.C. 131.4-1].

The Endowments law has specific provisions governing the transfer of account funds [See e.g., 1 O.C. 131.8-2 (“transfer of funds shall not be allowed if the principal of the account is less than ten thousand dollars (\$10,000)) ...”] and the reduction of an account's principal [See e.g., 1 O.C. 131.9-1 (“[t]he reduction of an endowment fund account which contains five hundred thousand dollars (\$500,000) or more shall require a two-thirds (2/3) vote of the Oneida General Tribal Council.”)]. However, it does not mandate that supplemental payments or contributions be made to any endowment funds established thereunder.

In resolution GTC-08-19-91-B, the Oneida General Tribal Council set an annual contribution of five hundred thousand dollars (\$500,000) toward the Nation's Elder Endowments entitled the Elderly Trust Plan. And, in resolution GTC-1-17-09-B, it approved the Oneida Life Insurance Plan Plus (“OLIPP”) presented by the Oneida Business Committee for the provision of life insurance benefits to the membership and directed that it be implemented for FY2010. According to the resolution at issue, a five hundred thousand-dollar (\$500,000) contribution to OLIPP was budgeted for FY2020.

In this resolution, the Oneida Business Committee directs that the budgeted supplemental payments of five hundred thousand dollars (\$500,000) each to OLIPP and the Elder Endowments be deferred during Fiscal Year 2020.

The Budget Management and Control law (“Law”) was adopted by the Oneida Business Committee to set forth directives and guidance regarding short-term and long-term financial planning through budgeting and contingency planning. [Resolution BC-02-08-17-C].

With respect to contingency planning, the Law directs the Oneida Business Committee to work with the Chief Financial Officer, executive managers, and managers to create a budget contingency plan (“Plan”) which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation. [1 O.C. 121.4-3]. As part of the Plan, the Oneida Business Committee may require stabilization funds, reductions of expenditures, furloughs and other cost saving tools provided that such tools comply with the Nation’s laws, specifically its employment laws, rules and policies. [1O.C. 121.4-3(a)].

The Oneida Business Committee approved the Nation’s Plan in 2017 through adoption of resolution BC-09-13-17-A. The Oneida Business Committee is responsible for the Plan’s implementation; provided, it first determines that the Nation is under extreme financial distress. [1 O.C. 121.4-3]. The Law defines extreme financial distress to include, but not be limited to, natural or human-made disasters, United States Government shut-downs, Tribal shutdown and economic downturns. [1 O.C. 121.4-3]. And, the Plan specifies that a human-made disaster includes a pandemic.

The federal government has proclaimed a public health emergency due to the COVID-19 pandemic, attributing it to large numbers of individuals becoming ill, high mortality rates and impacts to the stock market, as well as businesses. State governors, including the State of Wisconsin, have also declared public health emergencies due to the pandemic and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders.

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” pursuant to the Emergency Management and Homeland Security law, which triggered the authority necessary to take action as a result of the pandemic and allows the Nation to seek reimbursement for emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. Based thereon, the Oneida Business Committee has acted to protect the health and welfare of the members, employees and community by instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closing the Nation’s gaming operations, and insuring that employees continued to be paid during the public health emergency as long as the Nation’s resources will allow.

The declaration also met the “extreme financial distress” standard necessary under the Law to implement the Nation’s budget contingency plan. Accordingly, the Oneida Business Committee adopted resolution BC-03-17-20-A thereby activating the Plan’s Tier IV budget contingency measures which require a four percent (4%) reduction in overall expenditures and budgets.

The Treasurer has since implemented a COVID-19 Finance Team (“Finance Team”) to monitor the financial status of the Nation and make recommendations regarding expenditure restrictions for the remainder of FY2020, budgeting for FY2021, development of directions for a continuing resolution for FY2021, and other actions necessary to ensure governmental services can continue to be provided to those most in need and at risk regarding COVID-19 and the health impacts of the virus. The Finance Team has identified that the Nation can, if funding is carefully managed, meet the needs of the operations in providing governmental services for a thirty (30) day period beginning from the closure date of operations.

In order to preserve funding for the Nation's necessary governmental services and activities, the Chief Financial Officer, Treasurer, and Finance Team recommends that the Oneida Business Committee defer FY2020 supplemental payments to the Oneida Life Insurance Plan Plus, resolution GTC-01-07-09-B, and the Elder Endowment, resolution GTC-08-19-91-B. The funds contain sufficient resources to make existing payments such that deferral of the FY2020 payments will not cause immediate financial distress that cannot be alleviated when the Nation's finances have recovered.

***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

## BC Resolution # Deferring Payments to OLIPP and Elder Endowments

- 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 federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses; and
- WHEREAS,** state governors, including the State of Wisconsin, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders; and
- WHEREAS,** on March 12, 2020 the Chairman declared a public health state of emergency, the Oneida Business Committee took actions to take steps to protect the health and welfare of the members, employees and the community, including instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closure of the Nation's gaming operations, and insuring that employees will continued to be paid during the public health emergency as long as the Nation's resources will allow; and
- WHEREAS,** the Oneida Business Committee adopted resolution # BC-03-17-2020-A which declared that Tier IV budget contingency measures are implemented which required a 4% reduction in overall expenditures and budgets; and
- WHEREAS,** the Oneida Business Committee adopted resolution # BC-04-\_\_-2020-\_\_, which declared that Tier V budget contingency measures are implemented and directed expenditure reductions regarding non-essential government functions and instituted lay-offs regarding non-critical personnel; and
- WHEREAS,** the Treasurer has implemented a COVID-19 Finance Team (*Finance Team*) to monitor the financial status of the Nation and make recommendations regarding expenditure restrictions for the remainder of FY2020, budgeting for FY2021, development of directions for a continuing resolution for FY2021, and other actions necessary to ensure governmental services can continue to be provided to those most in need and at risk regarding COVID-19 and the health impacts of the virus; and
- WHEREAS,** the Finance Team has determined the following rules shall apply to all decisions being made regarding the finances of the Nation and how those limited resources shall be allocated:

1. All decisions are employee/member/community empathetic/compassionate balanced against cash flow; and
2. All decisions shall protect investments; and utilize only available cash; and

**WHEREAS,** the Finance Team has identified that the Nation can, if funding is carefully managed, meet the needs of the operations in providing services for a 30-day period beginning from the closure date of the gaming operations; and

**WHEREAS,** the Finance Team, working closely with Intergovernmental Affairs and Communications, is kept up-to-date regarding federal emergency funding opportunities which will assist the Nation in managing the public health crises and has identified that the Nation has a potential gap of 30 to 60 days where federal financial assistance will be authorized and delivered; and

**WHEREAS,** the Finance Team, working closely with the Grants Office, has identified that granting agencies will be providing approvals to delay or amend existing grants considering the current public health crises which will assist the Nation in managing expenses during the financial constraints; and

**WHEREAS,** the budget for FY2020 identifies supplemental payments to the Oneida Life Insurance Plan Plus and the Elder Endowment in the amount of \$500,000 each; and

**WHEREAS,** the funds contain sufficient resources to make existing payments such that deferral of the FY2020 payments will not cause immediate financial distress that cannot be alleviated when the Nation's finances have recovered; and

**WHEREAS,** the Chief Financial Officer, Treasurer, and Finance Team, are recommending the Oneida Business Committee adopt a resolution which defers FY2020 supplemental payments to the Oneida Life Insurance Plan Plus, resolution # GTC-01-07-09-B, and the Elder Endowment, resolution # GTC-08-19-91-B; and

**WHEREAS,** the Oneida Business Committee, after being informed regarding the current financial status and near-term future financial resources, has determined that deferral of the payments is needed to preserve funding for necessary governmental services and activities;

*Oneida Life Insurance Plan Plus*

**NOW THEREFORE BE IT RESOLVED,** that the Oneida Business Committee directs that the budgeted supplemental payments to the Oneida Life Insurance Plan Plus shall be deferred during Fiscal Year 2020.

*Elder Endowment*

**NOW THEREFORE BE IT FINALLY RESOLVED,** that the Oneida Business Committee directs that the budgeted supplemental payments to the Elder Endowment shall be deferred during Fiscal Year 2020.



**Statement of Effect Inserted Here**

# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## BC Resolution #

### Halting General Tribal Council Meeting Stipend Payments for FY2020 and FY2021

- 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 federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses; and
- WHEREAS,** state governors, including the State of Wisconsin, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders; and
- WHEREAS,** on March 12, 2020 the Chairman declared a public health state of emergency, the Oneida Business Committee took actions to take steps to protect the health and welfare of the members, employees and the community, including instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closure of the Nation's gaming operations, and insuring that employees will continued to be paid during the public health emergency as long as the Nation's resources will allow; and
- WHEREAS,** the Treasurer has implemented a COVID-19 Finance Team (*Finance Team*) to monitor the financial status of the Nation and make recommendations regarding expenditures restrictions for the remainder of FY2020, budgeting for FY2021, development of directions for a continuing resolution for FY2021, and other actions necessary to ensure governmental services can continue to be provided to those most in need and at risk regarding COVID-19 and the health impacts of the virus; and
- WHEREAS,** the Finance Team has identified that the Nation can, if funding is carefully managed, meet the needs of the operations in providing governmental services for a 30-day period beginning from the closure date of the gaming operations; and
- WHEREAS,** the Finance Team, working closely with Intergovernmental Affairs and Communications, is kept up-to-date regarding federal emergency funding opportunities which will assist the Nation in managing the public health crises and has identified that the Nation has a potential gap of 30 to 60 days where federal financial assistance will be authorized and delivered; and
- WHEREAS,** the Finance Team, working closely with the Grants Office, has identified that granting agencies will be providing approvals to delay or amend existing grants considering the

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

Halting General Tribal Council Meeting Stipend Payments for FY2020 and FY2021  
Page 2 of 2

48 current public health crises which will assist the Nation in managing expenses during the  
49 financial constraints; and  
50

51 **WHEREAS,** the General Tribal Council has adopted a stipend payment for attendance at General Tribal  
52 Council meetings and the Oneida Business Committee has adopted the General Tribal  
53 Council Meetings Stipend Policy to implement the stipend payment; and  
54

55 **WHEREAS,** General Tribal Council meetings have been canceled, and no further meetings will be  
56 scheduled during this public health emergency to avoid the spread of COVID-19 through  
57 the membership and the community, especially since members age 62 and older, an at-  
58 risk population for contracting the virus, make up 25% to 30% of those in attendance at  
59 General Tribal Council meetings, and it is unknown how many members attending are in  
60 the additional high risk population which would include members with diabetes, heart and  
61 lung conditions, asthma, and immune compromised; and  
62

63 **WHEREAS,** it is likely that the financial status of the Nation will continue to be under extreme stress  
64 such that, when General Tribal Council meetings are scheduled, it will not be possible to  
65 make \$180,000 to \$200,000 in stipend payments in the near future and still maintain  
66 governmental services; and  
67

68 **WHEREAS,** the Oneida Business Committee, after being informed regarding the current financial status  
69 of the Nation and the long-term impact of closing the gaming operations as well as the  
70 impact of the virus on restarting the economy;  
71

72 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee declares General Tribal Council  
73 meeting stipend payments will not be paid in FY2020 and FY2021.



**Oneida Nation**  
Oneida Business Committee  
Legislative Operating Committee  
PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



## **Statement of Effect**

*Reducing the General Tribal Council Higher Education Scholarship Payments for FY2020 and FY2021*

### **Summary**

This resolution was created in response to the COVID-19 pandemic. It reduces the General Tribal Council Higher Education Scholarship to five thousand dollars (\$5,000), effective immediately, to allow for the Nation to maintain governmental services to those members of the community most at risk and, as long as resources will allow, continue payroll to employees of the Nation during the period of financial constraint caused by this public health emergency.

*Submitted by: Kristen M. Hooker, Staff Attorney, Legislative Reference Office*  
*Date: March 26, 2020*

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

The Budget Management and Control law (“Law”) was adopted by the Oneida Business Committee to set forth directives and guidance regarding short-term and long-term financial planning through budgeting and contingency planning. *[Resolution BC-02-08-17-C]*.

With respect to contingency planning, the Law directs the Oneida Business Committee to work with the Chief Financial Officer, executive managers, and managers to create a budget contingency plan (“Plan”) which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation. *[1 O.C. 121.4-3]*. As part of the Plan, the Oneida Business Committee may require stabilization funds, reductions of expenditures, furloughs and other cost saving tools provided that such tools comply with the Nation’s laws, specifically its employment laws, rules and policies. *[1 O.C. 121.4-3(a)]*.

The Oneida Business Committee approved the Nation’s Plan in 2017 through adoption of resolution BC-09-13-17-A. The Oneida Business Committee is responsible for the Plan’s implementation; provided, it first determines that the Nation is under extreme financial distress. *[1 O.C. 121.4-3]*. The Law defines extreme financial distress to include, but not be limited to, natural or human-made disasters, United States Government shut-downs, Tribal shutdown and economic downturns. *[1 O.C. 121.4-3]*. And, the Plan specifies that a human-made disaster includes a pandemic.

The federal government has proclaimed a public health emergency due to the COVID-19 pandemic, attributing it to large numbers of individuals becoming ill, high mortality rates and impacts to the stock market, as well as businesses. State governors, including the State of Wisconsin, have also declared public health emergencies due to the pandemic and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders.

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” pursuant to the Emergency Management and Homeland Security law, which triggered the authority necessary to take action as a result of the pandemic and allows the Nation to seek reimbursement for emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. Based thereon, the Oneida Business Committee has acted to protect the health and welfare of the members, employees and community by instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closing the Nation’s gaming operations, and insuring that employees continued to be paid during the public health emergency as long as the Nation’s resources will allow.

The declaration also met the “extreme financial distress” standard necessary under the Law to implement the Nation’s budget contingency plan. Accordingly, the Oneida Business Committee adopted resolution BC-03-17-20-A thereby activating the Plan’s Tier IV budget contingency measures which require a four percent (4%) reduction in overall expenditures and budgets.

The Treasurer has since implemented a COVID-19 Finance Team (“Finance Team”) to monitor the financial status of the Nation and make recommendations regarding expenditure restrictions for the remainder of FY2020, budgeting for FY2021, development of directions for a continuing resolution for FY2021, and other actions necessary to ensure governmental services can continue to be provided to those most in need and at risk regarding COVID-19 and the health impacts of the virus. The Finance Team has identified that the Nation can, if funding is carefully managed, meet the needs of the operations in providing governmental services for a thirty (30) day period beginning from the closure date of operations.

The General Tribal Council adopted a higher education scholarship to encourage members to obtain undergraduate and graduate level educations that will increase knowledge, skills and abilities of those members resulting in improved quality of life for members and their families. The higher education scholarship is utilized by almost 700 members, resulting in an estimated expense of \$12.5 million per year.

Based on the information provided regarding the current financial status of the Nation and the long-term impact of closing the gaming operations, as well as the impact of the virus on restarting the economy, the Oneida Business Committee has determined that it is likely that the financial status of the Nation will continue to be under extreme stress, such that it will not be possible to continue the higher education scholarship payments at the current amount for the near future and still maintain governmental services.

The Oneida Business Committee believes that reducing the higher education scholarship to five thousand dollars (\$5,000) per year will provide financial aid to students commensurate with the Nation’s current limited financial resources, while preserving resources for the provision of governmental services to members most at risk and insuring that employees will continue to be paid during the public health crisis so long as said resources will allow.

This resolution reduces the General Tribal Council Higher Education Scholarship to five thousand dollars (\$5,000) per year, effective immediately, and declares that, upon returning to improved

financial status, increasing the General Tribal Council Higher Education Scholarship payment amount shall be a priority.

***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

**BC Resolution #**  
**Reducing the General Tribal Council Higher Education Scholarship Payments for FY2020 and FY2021**

- 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 federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses; and
- WHEREAS,** state governors, including the State of Wisconsin, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders; and
- WHEREAS,** on March 12, 2020 the Chairman declared a public health state of emergency, the Oneida Business Committee took actions to take steps to protect the health and welfare of the members, employees and the community, including instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closure of the Nation's gaming operations, and insuring that employees will continued to be paid during the public health emergency as long as the Nation's resources will allow; and
- WHEREAS,** the Treasurer has implemented a COVID-19 Finance Team (*Finance Team*) to monitor the financial status of the Nation and make recommendations regarding expenditure restrictions for the remainder of FY2020, budgeting for FY2021, development of directions for a continuing resolution for FY2021, and other actions necessary to ensure governmental services can continue to be provided to those most in need and at risk regarding COVID-19 and the health impacts of the virus; and
- WHEREAS,** the Finance Team has identified that the Nation can, if funding is carefully managed, meet the needs of the operations in providing governmental services for a 30-day period beginning from the closure date of the gaming operations; and
- WHEREAS,** the Finance Team, working closely with Intergovernmental Affairs and Communications, is kept up-to-date regarding federal emergency funding opportunities which will assist the Nation in managing the public health crises and has identified that the Nation has a potential gap of 30 to 60 days where federal financial assistance will be authorized and delivered; and



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

Reducing the General Tribal Council Higher Education Scholarship Payments for FY2020 and FY2021  
Page 2 of 2

47 **WHEREAS,** the Finance Team, working closely with the Grants Office, has identified that granting  
48 agencies will be providing approvals to delay or amend existing grants considering the  
49 current public health crises which will assist the Nation in managing expenses during the  
50 financial constraints; and  
51

52 **WHEREAS,** the General Tribal Council has adopted a higher education scholarship to encourage  
53 members to obtain undergraduate and graduate level educations that will increase  
54 knowledge, skills, and abilities of those members resulting in improved quality of life for  
55 members and their families; and  
56

57 **WHEREAS,** the higher education scholarship is utilized by almost 700 members, and results in an  
58 estimated expense of \$12.5 million each year; and  
59

60 **WHEREAS,** it is likely that the financial status of the Nation will continue to be under extreme stress  
61 such that, when General Tribal Council meetings are scheduled, it will not be possible to  
62 continue the higher education scholarship payments at the current amount in the near  
63 future and still maintain governmental services; and  
64

65 **WHEREAS,** the Oneida Business Committee believes that reducing the higher education scholarship  
66 to \$5000 per year will provide financial aid to students based upon current limited financial  
67 resources; and  
68

69 **WHEREAS,** the Oneida Business Committee, after being informed regarding the current financial status  
70 of the Nation and the long-term impact of closing the gaming operations as well as the  
71 impact of the virus on restarting the economy;  
72

73 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee declares that the General Tribal  
74 Council Higher Education Scholarship is reduced to \$5000 per year, beginning immediately.  
75

76 **NOW THEREFORE BE IT FINALLY RESOLVED,** the Oneida Business Committee declares that upon  
77 returning to improved financial status it sets as a priority to increasing the General Tribal Council Higher  
78 Education Scholarship.

**Oneida Business Committee Agenda Request**


Adopt resolution entitled Amendments to the Vehicle Driver Certification and Fleet Management Law

**1. Meeting Date Requested:** 4 / 8 / 20**2. General Information:**Session: ☒ Open ☐ Executive - See instructions for the applicable laws, then choose one:Agenda Header: ☐ Accept as Information only☒ Action - please describe:**3. Supporting Materials**☐ Report ☒ Resolution ☐ Contract☒ Other:1. 3. 2. 4. ☐ Business Committee signature required**4. Budget Information**☐ Budgeted - Tribal Contribution ☐ Budgeted - Grant Funded ☐ Unbudgeted**5. Submission**Authorized Sponsor / Liaison: Primary Requestor/Submitter:   
Your Name, Title / Dept. or Tribal MemberAdditional Requestor:   
Name, Title / Dept.Additional Requestor:   
Name, Title / Dept.



**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



TO: Oneida Business Committee  
 FROM: David P. Jordan, LOC Chairperson   
 DATE: April 8, 2020  
 RE: Vehicle Driver Certification and Fleet Management Law Amendments

---

Please find the following attached backup documentation for your consideration of the proposed amendments to the Vehicle Driver Certification and Fleet Management law:

1. Resolution: Amendments to the Vehicle Driver Certification and Fleet Management Law
2. Statement of Effect: Amendments to the Vehicle Driver Certification and Fleet Management Law
3. Vehicle Driver Certification and Fleet Management Law Amendments Legislative Analysis
4. Vehicle Driver Certification and Fleet Management Law Amendments (Redline)
5. Vehicle Driver Certification and Fleet Management Law Amendments (Clean)
6. Vehicle Driver Certification and Fleet Management Law Amendments Fiscal Impact Statement

### *Overview*

On February 7, 2018, the LOC added the Vehicle Driver Certification and Fleet Management law amendments to its Active Files List. The purpose of the Vehicle Driver Certification and Fleet Management law is to establish standards that certify employees, elected and appointed officials, and volunteers to drive a fleet vehicle or personal vehicle on official business and regulate the use of all vehicles owned and leased by the Nation. [2 O.C. 210.1-1].

This resolution adopts amendments to the Vehicle Driver Certification and Fleet Management law which will:

- Revise the qualifications to become a certified driver, including:
  - Reduce the restriction on drug and alcohol convictions from three (3) years without an OWI, DUI, or PAC to twelve (12) months without an OWI, DUI, or PAC [2 O.C. 210.4-1(c)(2)];
  - Allow no more than three (3) moving violations or at-fault crashes within a two (2) year period [2 O.C. 210.4-1(c)(1)];
  - Allow individuals with probationary licenses to become certified drivers if at least eighteen (18) years of age or older [2 O.C. 210.4-2(a)-(b)];
- Provide an exemption to the Law for those individuals whose duties with respect to the implementation of a contract, agreement, or compact of the Nation include driving and may be subject to compliance with a motor vehicle operation policy as provided in the contract, agreement, or compact of the Nation when this law is less stringent than the said motor

vehicle operation policy [2 O.C. 210.4-5];

- Clarify the restriction on driving while using prescription or over the counter medications [2 O.C. 210.5-1(d)];
- Ban weapons in fleet vehicles and personal vehicles while in use for official business, with certain exceptions [2 O.C. 210.5-1(e)];
- Require all certified drivers to complete driver safety training every three (3) years, regardless of whether they drive fleet or personal vehicles, with certain exceptions [2 O.C. 210.5-2];
- Ban the use of e-cigarettes in tribal fleet vehicles [2 O.C. 210.5-3(f)];
- Require mileage reimbursement requests to be submitted within thirty (30) days of driving the miles or by the end of the fiscal year, whichever is sooner [2 O.C. 210.5-4(b)];
- Revise and simplify the process for suspending driver certification:
  - An individual's driver certification is only suspended if his or her driver's license has been suspended or revoked by the state of Wisconsin [2 O.C. 210.8-2];
  - All other violations of this law that do not result in the suspension or revocation of driver's license will be handled by disciplinary action [2 O.C. 210.8-7];
- Allow a supervisor to require an employee take additional driver safety training if the individual is involved in certain circumstances, such as an at-fault motor vehicle crash or issuance of a moving violation, while driving a fleet vehicle or personal vehicle on official business [2 O.C. 210.8-8]; and
- Make additional changes to revise and reorganize the law to increase clarity.

The Legislative Operating Committee developed the proposed amendments to the Vehicle Driver Certification and Fleet Management law through collaboration with representatives from the Nation's Risk Management Department, Fleet Management Department, and Human Resources Department – specifically including representatives from the Equal Employment Opportunity Department, Employment and Recruitment, Training and Development, and Personnel Services.

In accordance with the Legislative Procedures Act, a public meeting on the Vehicle Driver Certification and Fleet Management law was held on January 23, 2020. Two (2) people provided oral comments during the public meeting. The public comment period was then held open until January 30, 2020. The Legislative Operating Committee received two (2) submissions of written comments during the public comment period. All public comments received were accepted, reviewed, and considered by the Legislative Operating Committee on February 19, 2020. Any changes made based on those comments have been incorporated into this draft.

### **Requested Action**

Approve the Resolution: Amendments to the Vehicle Driver Certification and Fleet Management Law

# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

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

### Amendments to the Vehicle Driver Certification and Fleet Management Law

- 1  
2  
3 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe  
4 recognized by the laws of the United States of America; and  
5  
6 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and  
7  
8 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,  
9 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and  
10  
11 **WHEREAS,** the Vehicle Driver Certification and Fleet Management law ("the Law") was adopted by the  
12 Oneida Business Committee through resolution BC-06-28-17-C; and  
13  
14 **WHEREAS,** the purpose of the Law is to establish standards that certify employees, elected and  
15 appointed officials, and volunteers to drive a fleet vehicle or personal vehicle on official  
16 business and regulate the use of all vehicles owned and leased by the Nation; and  
17  
18 **WHEREAS,** the Legislative Operating Committee worked collaboratively with representatives from the  
19 Nation's Risk Management Department, Fleet Management Department, and Human  
20 Resources Department – specifically including representatives from the Equal Employment  
21 Opportunity Department, Employment and Recruitment, Training and Development, and  
22 Personnel Services to develop the amendments to this Law; and  
23  
24 **WHEREAS,** the amendments to the Law revise the qualifications to become a certified driver, including:  
25 reduce the restriction on drug and alcohol convictions from three (3) years without an OWI,  
26 DUI, or PAC to twelve (12) months, allow no more than three (3) moving violations or at-  
27 fault crashes within a two (2) year period, and allow individuals with probationary licenses  
28 to become certified drivers if at least eighteen (18) years of age or older; and  
29  
30 **WHEREAS,** the amendments to the Law provide an exemption to the Law for those individuals whose  
31 duties with respect to the implementation of a contract, agreement, or compact of the  
32 Nation include driving and may be subject to compliance with a motor vehicle operation  
33 policy as provided in the contract, agreement, or compact of the Nation when this law is  
34 less stringent than the said motor vehicle operation policy; and  
35  
36 **WHEREAS,** the amendments to the Law clarify the restriction on driving while using prescription or over  
37 the counter medications; and  
38  
39 **WHEREAS,** the amendments to the Law ban weapons in fleet vehicles and personal vehicles while in  
40 use for official business, with certain exceptions; and  
41

BC Resolution # \_\_\_\_\_  
Amendments to Vehicle Driver Certification and Fleet Management Law  
Page 2 of 3

42 **WHEREAS,** the amendments to the Law require all certified drivers to complete driver safety training  
43 every three (3) years, regardless of whether they drive fleet or personal vehicles, with  
44 certain exceptions; and  
45

46 **WHEREAS,** the amendments to the Law ban the use of e-cigarettes in tribal fleet vehicles; and  
47

48 **WHEREAS,** the amendments to the Law require mileage reimbursement requests to be submitted  
49 within thirty (30) days of driving the miles or by the end of the fiscal year, whichever is  
50 sooner; and  
51

52 **WHEREAS,** the amendments to the Law revise and simplify the process for suspending driver  
53 certification so that now an individual's driver certification is only suspended if his or her  
54 driver's license has been suspended or revoked by the state of Wisconsin, and all other  
55 violations of this law that do not result in the suspension or revocation of driver's license  
56 will be handled by disciplinary action; and  
57

58 **WHEREAS,** the amendments to the Law allow a supervisor to require an employee take additional  
59 driver safety training if the individual is involved in certain circumstances, such as an at-  
60 fault motor vehicle crash or issuance of a moving violation, while driving a fleet vehicle or  
61 personal vehicle on official business; and  
62

63 **WHEREAS,** the amendments to the Law make other minor drafting revisions; and  
64

65 **WHEREAS,** in accordance with the Legislative Procedures Act a legislative analysis and fiscal impact  
66 statement were completed for the amendments to the Law; and  
67

68 **WHEREAS,** a public meeting on the proposed amendments to this Law was held on January 23, 2020,  
69 in accordance with the Legislative Procedures Act, and the public comment period was  
70 held open until January 30, 2020; and  
71

72 **WHEREAS,** the Legislative Operating Committee accepted, reviewed, and considered the public  
73 comments received on February 19, 2020; and  
74

75 **NOW THEREFORE BE IT RESOLVED,** that the amendments to the Vehicle Driver Certification and Fleet  
76 Management law are hereby adopted and shall be effective on July 7, 2020.  
77

78 **BE IT FURTHER RESOLVED,** that any individual who currently possesses certified driver status for the  
79 Nation shall maintain his or her certified driver status and be grandfathered in under the certified driver  
80 qualifications of this Law. The qualifications for certified driver status provided by this Law shall apply to all  
81 new applicants, new hires, or job transfers that occur after this Law becomes effective.  
82

83 **BE IT FURTHER RESOLVED,** that the Human Resources Department shall conduct a review of all job  
84 descriptions to identify positions in which driving is not an essential function in order to determine what job  
85 descriptions the requirement to obtain driver certification can thereby be removed from.  
86

87 **BE IT FURTHER RESOLVED,** that the Human Resources Department shall communicate with the Nation's  
88 Self Governance Department to identify positions within the Nation that would be required to comply with  
89 the Department of the Interior's Bureau of Indian Affairs' May 3, 2006 Motor Vehicle Operation Policy in  
90 accordance with the Nation's Compact and Funding Agreement with the U.S. Department of the Interior.  
91 The corresponding job descriptions for these positions shall be updated to note the required compliance  
92 with the Department of the Interior's Bureau of Indian Affairs' May 3, 2006 Motor Vehicle Operation Policy  
93 when this Law is less strict.

94  
95 **BE IT FINALLY RESOLVED**, that the Human Resources Department shall develop and provide a training  
96 on the amendments to this Law. This training may be provided through e-learning.  
97





**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



## **Statement of Effect**

### *Amendments to the Vehicle Driver Certification and Fleet Management Law*

#### **Summary**

This resolution adopts amendments to the Vehicle Driver Certification and Fleet Management law.

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

*Date: March 27, 2020*

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

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

The Vehicle Driver Certification and Fleet Management law was adopted by the Oneida Business Committee for the purpose of establishing standards that certify employees, elected and appointed officials, and volunteers to drive a fleet vehicle or personal vehicle on official business and regulate the use of all vehicles owned and leased by the Nation. [2 O.C. 210.1-1].

The amendments to the Vehicle Driver Certification and Fleet Management law will:

- Revise the qualifications to become a certified driver, including:
  - Reduce the restriction on drug and alcohol convictions from three (3) years without an OWI, DUI, or PAC to twelve (12) months without an OWI, DUI, or PAC [2 O.C. 210.4-1(c)(2)];
  - Allow no more than three (3) moving violations or at-fault crashes within a two (2) year period [2 O.C. 210.4-1(c)(1)];
  - Allow individuals with probationary licenses to become certified drivers if at least eighteen (18) years of age or older [2 O.C. 210.4-2(a)-(b)];
- Provide an exemption to the Law for those individuals whose duties with respect to the implementation of a contract, agreement, or compact of the Nation include driving and may be subject to compliance with a motor vehicle operation policy as provided in the contract, agreement, or compact of the Nation when this law is less stringent than the said motor vehicle operation policy [2 O.C. 210.4-5];
- Clarify the restriction on driving while using prescription or over the counter medications [2 O.C. 210.5-1(d)];
- Ban weapons in fleet vehicles and personal vehicles while in use for official business, with certain exceptions [2 O.C. 210.5-1(e)];

- Require all certified drivers to complete driver safety training every three (3) years, regardless of whether they drive fleet or personal vehicles, with certain exceptions [2 O.C. 210.5-2];
- Ban the use of e-cigarettes in tribal fleet vehicles [2 O.C. 210.5-3(f)];
- Require mileage reimbursement requests to be submitted within thirty (30) days of driving the miles or by the end of the fiscal year, whichever is sooner [2 O.C. 210.5-4(b)];
- Revise and simplify the process for suspending driver certification:
  - An individual's driver certification is only suspended if his or her driver's license has been suspended or revoked by the state of Wisconsin [2 O.C. 210.8-2];
  - All other violations of this law that do not result in the suspension or revocation of driver's license will be handled by disciplinary action [2 O.C. 210.8-7]; and
- Allow a supervisor to require an employee take additional driver safety training if the individual is involved in certain circumstances, such as an at-fault motor vehicle crash or issuance of a moving violation, while driving a fleet vehicle or personal vehicle on official business [2 O.C. 210.8-8].

Other additional drafting changes were made to update the language, increase clarification, and ensure compliance with drafting style and formatting requirements.

In accordance with the Legislative Procedures Act, a public meeting on the Vehicle Driver Certification and Fleet Management law was held on January 23, 2020. Two (2) people provided oral comments during the public meeting. The public comment period was then held open until January 30, 2020. The Legislative Operating Committee received two (2) submissions of written comments during the public comment period. All public comments received were accepted, reviewed, and considered by the Legislative Operating Committee on February 19, 2020. Any changes made based on those comments have been incorporated into this draft.

This resolution provides that the amendments to the Law would become effective on July 7, 2020. The Nation's Human Resources Department requested a ninety (90) day period before the Law became effective so that proper trainings could be developed that comply with the Law.

This resolution contains a grandfather clause that any individual who currently possesses certified driver status for the Nation shall maintain his or her certified driver status and be grandfathered in under the certified driver qualifications of this Law. The qualifications for certified driver status provided by this Law shall apply to all new applicants, new hires, or job transfers that occur after this Law becomes effective.

Additionally, the resolution provides various directives to the Nation's Human Resources Department, including:

- The Human Resources Department shall conduct a review of all job descriptions to identify positions in which driving is not an essential function in order to determine what job descriptions the requirement to obtain driver certification can thereby be removed from;
- The Human Resources Department shall communicate with the Nation's Self Governance Department to identify positions within the Nation that would be required to comply with

the Department of the Interior's Bureau of Indian Affairs' May 3, 2006 Motor Vehicle Operation Policy in accordance with the Nation's Compact and Funding Agreement with the U.S. Department of the Interior. The corresponding job descriptions for these positions shall be updated to note the required compliance with the Department of the Interior's Bureau of Indian Affairs' May 3, 2006 Motor Vehicle Operation Policy when this Law is less strict; and

- The Human Resources Department shall develop and provide a training on the amendments to this Law. This training may be provided through e-learning.

### ***Conclusion***

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



## AMENDMENTS TO VEHICLE DRIVER CERTIFICATION AND FLEET MANAGEMENT LEGISLATIVE ANALYSIS

### SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Amendments</b>	<ul style="list-style-type: none"> <li>▪ To revise the qualifications to become a certified driver, including:               <ul style="list-style-type: none"> <li>▪ Reduce the restriction on drug and alcohol convictions from three (3) years without an OWI to twelve (12) months without an OWI;</li> <li>▪ No more than three (3) moving violations or at-fault crashes within a two (2) year period;</li> <li>▪ Allow individuals with probationary licenses to become certified drivers if age 18 or older;</li> </ul> </li> <li>▪ To revise and simplify the process for suspending driver certification:               <ul style="list-style-type: none"> <li>▪ An individual's driver certification is only suspended if his or her driver's license has been suspended or revoked by the state of Wisconsin;</li> <li>▪ All other violations of this law that do not result in the suspension or revocation of driver's license will be handled by disciplinary action;</li> </ul> </li> <li>▪ To revise the restriction on driving while using prescription or over the counter medications to increase clarity;</li> <li>▪ To require all certified drivers to complete driver safety training every three (3) years, regardless of whether they drive fleet or personal vehicles, with certain exceptions;</li> <li>▪ To require mileage reimbursement requests to be submitted within thirty (30) days of driving the miles or by the end of the fiscal year, whichever is sooner;</li> <li>▪ To ban weapons in fleet vehicles and personal vehicles while in use for official business, with certain exceptions;</li> <li>▪ To ban the use of e-cigarettes in tribal fleet vehicles;</li> <li>▪ To create an exception to this policy for employees who are subject to stricter driver certification and training requirements due to contracts, agreements or compacts of the Nation.</li> <li>▪ Additional changes to revise and reorganize the law to increase clarity.</li> </ul>
<b>Purpose</b>	To establish standards that certify employees, elected and appointed officials, and volunteers to drive a fleet vehicle or personal vehicle on official business and regulate the use of all vehicles owned and leased by the Nation. <i>[2 O.C. 210.1-1]</i> .
<b>Affected Entities</b>	Human Resources Department (HRD), Risk Management, Fleet Management, Automotive Department, Employee Assistance Program (EAP), All employees, officials, and volunteers of the Nation who drive fleet vehicles or personal vehicles on official business. All supervisors of employees who drive fleet vehicles or personal vehicles on official business.
<b>Related Legislation</b>	Personnel Policies and Procedures, Travel and Expense Policy, Drug and Alcohol Free Workplace law, Clean Air Policy.

<b>Public Meeting</b>	A public meeting was held on January 23, 2020, and the public comment period was held open until January 30, 2020.
<b>Fiscal Impact</b>	A fiscal impact statement has been provided by the Finance Department.

## SECTION 2. LEGISLATIVE DEVELOPMENT

- A. The Nation's Vehicle Driver Certification and Fleet Management law is an employment law that governs how employees, elected and appointed officials and volunteers may drive personal or tribally-owned ("fleet") vehicles on official business. The law does not govern how employees, elected and appointed officials, or volunteers drive personal vehicles outside of work or when not conducting official business.
- B. The Nation's Vehicle Driver Certification and Fleet Management law was most recently amended on June 28, 2017. However, since the adoption of those amendments, the Human Resources Department and other departments of the Nation encountered challenges implementing the law due to lack of clarity. In addition, members of the Legislative Operating Committee (LOC) expressed concerns regarding the impact of driving certification requirements on the Nation's ability to recruit and hire for positions.
- C. This law was added to the LOC's Active file List on February 7, 2018, by the Legislative Reference Office after consultation with the Human Resources Department and Oneida Law Office. Beginning in July 2019, a work group of representatives from relevant entities and departments have met to review the law. Several of the proposed amendments reflect the feedback and suggestions of this work group.

## SECTION 3. CONSULTATION AND OUTREACH

- A. Representatives from the following departments or entities of the Nation participated in the development of this law and legislative analysis: Human Resources Department (Equal Employment Opportunity, Employment and Recruitment, Training and Development, Personnel Services), Risk Management, and Fleet Management.
- B. The following laws of the Nation were reviewed in drafting this analysis: Personnel Policies and Procedures, Travel and Expense Policy, Drug and Alcohol Free Workplace law, Clean Air Policy.
- C. In addition, the following laws or policies of other governments, tribes and organizations were reviewed:
  - Ho Chunk Nation Fleet Ordinance; and
  - State of WI Fleet Driver and Management Policies and Procedures

## SECTION 4. PROCESS

- A. Thus far, this law has followed the process set forth in the Legislative Procedures Act (LPA).
- B. The law was added to the Active Files List on February 7, 2018.
- C. At the time this legislative analysis was developed, the following work meetings had been held regarding developments of these amendments and legislative analysis:
  - July 15, 2019: Work meeting with HRD and Risk Management.
  - July 29, 2019: Work meeting with HRD and Risk Management.
  - August 13, 2019: Work meeting with HRD and Risk Management.
  - September 4, 2019: Work meeting with LOC.
  - October 2, 2019: Work meeting with HRD, Risk Management and Fleet Management.
  - October 16, 2019: Work meeting with LOC.

- October 24, 2019: Work meeting with LOC
- November 5, 2019: Work meeting with LOC, HRD and Risk Management.
- December 4, 2019: Work meeting with LOC.
- February 19, 2020: Work meeting with LOC.
- February 27, 2020: Work meeting with LOC.
- March 4, 2020: Work meeting with LOC and HRD.

## SECTION 5. CONTENTS OF THE LEGISLATION

- A. ***Qualifications for Driver Certification.*** In order to drive a tribally-owned fleet vehicle or a personal vehicle for official business, an employee, official or volunteer must obtain driver certification from the Oneida Human Resources Department. Many of the Nation's job descriptions require employees to be certified drivers as a requirement of their job. The law contains a list of requirements that an individual must meet in order to be certified. Proposed changes to these requirements include:

***Chart 1. Qualifications for Driver Certification – Comparison***

	<b>Current Law</b>	<b>Proposed Law</b>
<i>Age</i>	18 years or older	18 years or older
<i>License Status</i>	Possess valid, <u>non-probationary</u> Wisconsin Driver's License.	Possess valid Wisconsin Driver's License. <i>*Probationary license acceptable.</i>
<i>Driving Record Check: Drugs and Alcohol</i>	Disqualified if driving citation involving drugs or alcohol <u>within three (3) years.</u>	Disqualified if OWI, DUI or PAC citation <u>within the past twelve (12) months.</u>
<i>Driving Record Check: Other Driving Convictions</i>	No citation or conviction "related to a traffic incident." <i>*HRD interprets this to mean no "traffic incident that results in the loss of a valid WI driver's license."</i>	Disqualified if three (3) or more moving violations and/or at-fault motor vehicle crashes in the past two (2) years. <i>*Moving violation is defined as "any violation of motor vehicle or traffic law that is committed by the driver of a vehicle while the vehicle is moving. A moving violation does not include parking violations, equipment violations, or paperwork violations relating to insurance, registration or inspection."</i>
<i>Additional Requirements</i>	Complete all training requirements; Maintain minimum insurance requirements for personal vehicle.	Complete all training requirements; Maintain minimum insurance requirements for personal vehicle.

- 55     ▪ ***Change to Drug and Alcohol (OWI) Restrictions.*** Currently, if an individual has had a drug or  
56     alcohol conviction within the past three (3) years, such as an OWI, that individual cannot drive for  
57     the Nation. These amendments reduce this timeframe to twelve (12) months.
- 58         ○ *Current.* An individual cannot become a certified driver if they have had a driving citation  
59         related to drugs and alcohol within the past three (3) years. This includes OWI (Operating  
60         While Intoxicated), DUI (Driving Under the Influence), or PAC (Prohibited Alcohol  
61         Concentration) citations.
- 62         ○ *Proposed.* These amendments reduce this timeframe from three (3) years to twelve (12)  
63         months. This matches the timeframe that the WI State Government and University of  
64         Wisconsin System use for their employees, volunteers and students who drive state-owned  
65         vehicles.
- 66         ○ *Effect.* Individuals who have an OWI, DUI or PAC citation more than twelve (12) months  
67         ago may now become certified drivers for the Nation, provided they meet all other  
68         requirements of this law. The intent is to increase employment opportunities for individuals  
69         who may have had an OWI more than twelve (12) months ago and have complied with  
70         their sentencing and had their driver's license reinstated by the State of Wisconsin.
- 71     ▪ ***Change to Driving Record Restriction:*** Currently, if an individual has had "a citation or conviction  
72     related to a traffic incident," the law states that they cannot become a certified driver. However, the  
73     law provides no definition for what a "traffic incident" means. Therefore, based on the lack of  
74     clarity, HRD issued an interpretation in 2017 defining traffic incident as "any traffic incident that  
75     results in the loss of an applicant's and/or employee's valid Wisconsin driver's license."
- 76         ○ *Current.* Under HRD's interpretation of the current law, HRD only checks driving records  
77         to verify valid driver's license and to check for drug and alcohol convictions.
- 78         ○ *Proposed.* These amendments now state that an individual cannot have "three or more  
79         moving violations and/or at-fault motor vehicle crashes in the past two (2) years." The  
80         amendments define a "moving violation" as "any violation of motor vehicle or traffic law  
81         that is committed by the driver of a vehicle while the vehicle is moving. A moving violation  
82         does not include parking violations, equipment violations, or paperwork violations relating  
83         to insurance, registration or inspection."



84

**Moving Violations**

*Examples of Wisconsin motor vehicle/traffic citations that would count as “moving violations” under this law:*

- Speeding (1 to 10 mph over limit)
- Speeding (11 to 19 mph over limit)
- Speeding (20 mph over limit)
- Failure to obey traffic sign or signal
- Illegal turn
- Obstructing traffic
- Failure to give proper signal
- Driving wrong way on one way street
- Inattentive driving
- Failure to yield right of way
- Driving on wrong side of highway
- Driving too fast for conditions
- Failure to stop for school bus with lights flashing
- Attempt to elude an officer
- Reckless driving
- Following Too Closely
- Texting while driving

85 ○ *Effect.* Due to the lack of clarity in the current law, HRD does not currently check for any  
 86 traffic violations other than drug and alcohol related offenses. Upon adoption of this law,  
 87 HRD will now check driving records and will not certify any individuals with three (3) or  
 88 more moving violations in the past two (2) years.

- 89 ▪ ***Change to Probationary License.*** Under the current law, probationary licenses are not acceptable  
 90 as valid driver’s licenses. Under the proposed amendments, probationary licenses will now be  
 91 accepted as valid driver’s licenses so long as the individual is eighteen (18) years or older.

92 ○ *What is a Probationary License?* In Wisconsin, a probationary license is a driver’s license  
 93 issued to a new driver, regardless of age. According to WI DMV, “the main difference  
 94 between a probationary license and regular license consists of the restrictions listed on the  
 95 back of the license. A probationary license is not an instruction permit or learner’s permit.  
 96 It is a valid driver’s license for operation within and outside of Wisconsin.” New drivers  
 97 hold a probationary license for at least two (2) years after passing their driving test,  
 98 regardless of age.

99 ○ *Effect.* Individuals age eighteen (18) or older who hold a probationary license may now  
 100 become certified drivers so long as they meet all other requirements of this law.

- 101 ▪ ***Change to Occupational License.*** Previously, the law stated that an occupational license “is a valid,  
 102 non-probationary license if the driver’s abstract which accompanies the occupational license allows  
 103 the driver to operate vehicles for his or her job with the Nation.” These amendments delete this  
 104 provision and state only that an individual must hold a “valid Wisconsin driver’s license” [2 O.C.  
 105 210.4-2(b)]. The term “valid Wisconsin driver’s license” is not defined.

106 ○ *What is an Occupational License?* An occupational license is a restricted driver’s license.

- 107 According to WI DMV, “unlike a regular license, the driver is limited in where and when  
108 they can drive. Individuals may only drive to and from work or other places indicated on  
109 the license and only during specific times of the day.” An example is an individual who  
110 has their license suspended due to an OWI conviction. Such individuals may be eligible to  
111 apply for an occupational license to drive to and from work to maintain their employment.
- 112 ○ *Required Waiting Periods for Occupational License.* The required waiting period for an  
113 individual to apply for an occupational license after their driver’s license has been  
114 suspended varies depending on previous driving history and the reason for the current  
115 revocation suspension. A loss of license for demerit points (for example, speeding tickets)  
116 or first OWI has no waiting period. A second or subsequent OWI requires a 45-day waiting  
117 period or longer depending on the circumstances of the OWI.
  - 118 ○ *Effect.* The current law clearly states that an occupational license qualifies as a “valid  
119 license” under this law, and that individuals with occupational licenses may be certified as  
120 drivers so long as the occupational license allows them to operate vehicles for his or her  
121 job with the Nation. The proposed amendments lack clarity on this subject and may require  
122 interpretation by HRD as to whether an occupational license can be considered a valid  
123 license. Other provisions of this law, such as the 12-month restriction on OWIs, will also  
124 impact when an individual can be recertified.
  - 125 ■ ***Stricter Certification Procedures for Certain Entities.*** Previously, entities had the option to  
126 develop stricter driver certification standards and submit to Fleet Management, Risk Management  
127 and HRD for review and approval. This included specialized requirements regarding age,  
128 experience, training and licensing. This process has been eliminated. However, employees will be  
129 required to satisfy “any other requirements specific to the job description and/or vehicle that may  
130 be used by or assigned to the person” as well as “all driver training requirements imposed by the  
131 Nation or any federal or state agency regulations” [2 O.C. 210.4-2(d) and (e)].
    - 132 ○ *Effect.* Entities may include stricter driving requirements in job descriptions, department  
133 standard operating procedures (SOPs), and require employees to follow all tribal, state and  
134 federal requirements regarding specific vehicles (such as CDL certifications and required  
135 training for certain vehicles like buses.) However, entities will no longer submit stricter  
136 standards for approval by Fleet Management, Risk Management, and HRD.
- 137 **B. *Employee Vehicle Insurance Requirement.*** The Nation requires employees to maintain minimum  
138 insurance on their personal vehicle in order to use their vehicle to conduct official business [2 O.C.  
139 210.4-2(f)].
- 140 ■ *Current Requirement.* The current vehicle insurance requirement is one hundred thousand dollars  
141 (\$100,000) per person, three hundred thousand dollars (\$300,000) per motor vehicle crash for  
142 bodily injury, and (\$25,000) for property damage. These amounts remain unchanged in the  
143 amendments.
  - 144 ■ *New Option for Combined Single Limit:* As an alternative, employees of the Nation may instead  
145 opt to carry a “combined single limit” of two hundred and fifty thousand dollars (\$250,000). A  
146 combined single limit is a type of insurance policy with a maximum dollar amount that covers any  
147 combination of injuries or property damage, rather than split limits for each type of coverage as in  
148 a typical policy. This option was added at the recommendation of Risk Management.
  - 149 ■ *Effect.* Employees are still required to carry minimum vehicle insurance but may now opt to carry  
150 either split coverage (\$100k/\$300k/\$25k) or a combined single limit coverage (\$250k).

- 151 **C. *Access to List of Certified Drivers.*** The Human Resources Department (HRD) is required to maintain  
 152 a list of certified drivers. This list is currently provided by HRD to both Fleet Management and  
 153 Accounting. Now, HRD will also be required to provide this list to the Risk Management Department  
 154 [2 O.C. 210.4-3(c)].
- 155 **D. *Exemption for Drivers Subject to Stricter Contracts, Agreements or Compacts.*** The amendments add  
 156 an exception to the law for employees who may be subject to stricter driver certification requirements  
 157 as a result of contracts, agreements or compacts entered into by the Nation.
- 158 ■ *Department of Interior Compact and Funding Agreement.* The Nation has entered into a Compact  
 159 and Funding Agreement with the U.S. Department of Interior since 1994. In the current funding  
 160 agreement, the Nation agrees to self-administer a motor vehicle operations policy that is either  
 161 comparable or superior to the DOI's 2006 Motor Vehicle Operation Policy. The DOI's policy is  
 162 more stringent than the amendments proposed by the LOC.
  - 163 ■ *Effect.* As a result, any employee of the Nation whose duties involve driving with respect to  
 164 implementation of the Compact must follow the stricter DOI motor vehicle operation policy to  
 165 maintain compliance with this federal funding agreement. For a more detailed review, see Section  
 166 8 "Other Considerations."
- 167 **E. *Driving While on Prescription Drugs or Medication.*** The current law states that while operating a  
 168 vehicle on official business, drivers of the Nation shall not drive "while under the influence of  
 169 controlled substances, intoxicating beverages, prescription drugs or other medications that caution  
 170 against operating a motor vehicle when taken."
- 171 ■ *Problem with Wording of Medication Restriction.* The wording of the prescription drug and  
 172 medication restriction is unclear and has created challenges for HRD to implement. As HRD  
 173 explains, many common medications may instruct individuals to "use caution" if driving, such as  
 174 medication for seasonal allergies. "Alternatively, some medications have no driving warning yet  
 175 create impairment in some people." This has led to confusion as to whether employees can drive  
 176 while using their medications. HRD issued an interpretation in 2017 to clarify this restriction and  
 177 presented this concern to the LOC.
  - 178 ■ *Proposed Change.* The amendments now state that an individual may not drive while "while under  
 179 the influence of prohibited drugs or alcohol." In addition, drivers may not drive if "impaired by a  
 180 medical or physical condition or other factor that affects a driver's motor skills, reaction time or  
 181 concentration" [2 O.C. 210.5-1(d)].
    - 182 ○ *Definition of Prohibited Drug.* The amendments define prohibited drug as "marijuana,  
 183 cocaine, opiates, amphetamines, phencyclidine (PCP), hallucinogens, methaqualone,  
 184 barbiturates, narcotics, and any other substances included in Schedules I through V, as  
 185 defined by Section 812 of Title 21 of the United States Code. Prohibited drugs also  
 186 includes prescription medication or over-the-counter medicine when used in an  
 187 unauthorized or unlawful manner" [2 O.C. 210.3-1(i)].
    - 188 ○ *Effect.* The amendments clarify that employees may drive while using their prescription  
 189 or over-the-counter medications as long as they are using the medication in a lawful  
 190 manner and are not impaired while using the medication. Rather than restricting driving  
 191 based on the "use caution" label that appears on many medications, the restriction is now  
 192 based on the actual effects of that medication on the driver's motor skills, reaction time or  
 193 concentration.

- 194 **F. *Ban on Weapons in Vehicles While on Official Business.*** A new restriction has been added to the  
195 law stating that an individual cannot carry a weapon while operating a fleet or personal vehicle while  
196 on official business, regardless of whether the weapon is in the open or concealed [2 O.C. 210.5-  
197 1(e)].
- 198 ■ *Exception.* An individual who is carrying a weapon in the course of their official duties (such as a  
199 police officer) or participating in cultural activities or ceremonies (such as Oneida Rites of  
200 Passage) are exempt from this restriction.
  - 201 ■ *Definition of Weapon:* A weapon is defined as “a firearm, knife, electric weapon, club, or any  
202 other object intended to cause harm to oneself or others” [2 O.C. 210.3-1(k)].
  - 203 ■ *Current Policies and Laws Governing Weapons.*
    - 204 ○ The Nation’s current prohibited weapons policy, adopted by the BC resolution in 2011  
205 (BC-10-26-11-C), states that other than those required to carry weapons for their job, “no  
206 person shall carry a weapon, whether in the open or concealed, on Tribal public property,  
207 including any tribal building, gaming or retail business, facility, construction site, vehicle  
208 or at any Tribally sponsored event.”
    - 209 ○ In addition, the Workplace Violence Policy states that the possession or use of weapons  
210 on any kind of property of the Nation, including parking lots, other exterior premises or  
211 while engaged in activities for the Nation,” is a “prohibited behavior” [2 O.C. 223.5(g)].
    - 212 ○ Finally, the Nation’s Hunting, Fishing and Trapping law prohibits individuals from  
213 transporting a loaded firearm, air rifle or cocked bow or crossbow in a vehicle [4 O.C.  
214 409.9-1(c)].
    - 215 ○ *Conclusion:* Taken together, the Nation’s current laws and policies already restrict  
216 drivers from carrying weapons in their personal vehicles while on tribal property or in  
217 tribal parking lots or from carrying weapons in fleet vehicles under any circumstance.
  - 218 ■ *Effect.* These amendments clarify that drivers may not carry weapons in either personal or fleet  
219 vehicles while on official business of the Nation unless required to do so for their job or cultural  
220 activities.
- 221 **G. *E-Cigarettes in Fleet Vehicles.*** The current law already states that individuals may not smoke or permit  
222 others to smoke in the Nation’s fleet vehicles. Under these amendments, the use of electronic smoking  
223 devices, or “e-cigarettes,” will also be prohibited in the Nation’s fleet vehicles [210.5-3(f)].
- 224 **H. *Driver Safety Training.*** The current law requires all drivers certified to drive a fleet vehicle to complete  
225 driver safety training every three (3) years. These amendments will now require all certified drivers to  
226 complete this safety training, regardless of whether they drive a fleet vehicle or a personal vehicle on  
227 official business.
- 228 ■ *Training Responsibility Moved to HRD.* In addition, rather than Environmental Health and Safety  
229 Division, it will now be HRD’s responsibility to provide and monitor this training [2 O.C. 210.5-  
230 2]. During an LOC meeting, HRD Training and Development noted that there may be an expense  
231 related to purchasing or developing a driver safety training program.
  - 232 ■ *Training Exemptions.* Finally, individuals who are already required to comply with state or federal  
233 driver safety requirements (such as police officers) are exempt from the safety training offered by  
234 Oneida HRD.
- 235  
236  
237

238

**Chart 2. Driver Safety Training Requirements**

	<b>Current Law</b>	<b>Proposed Law</b>
<i>Who is required to attend Driver Safety Training?</i>	Drivers certified to drive a <u>tribal</u> vehicle.	All individuals with driver certification, whether they drive personal or fleet vehicles.
<i>How often attend Driver Safety Training?</i>	Every three (3) years	Every three (3) years.
<i>Who is required to provide the training?</i>	Environmental Health and Safety Division.	Human Resources Department.
<i>Exemption if employee already completed specialized driver training?</i>	Yes.	Yes.

239

240 **I. New 30-Day Deadline to Submit Mileage.** Employees and officials of the Nation seeking mileage  
 241 reimbursement for miles driven while conducting official business will now be required to submit their  
 242 mileage forms within thirty (30) days of driving the miles or by the end of the fiscal year, whichever is  
 243 sooner [2 O.C. 210.5-4(b)].

244 **J. Approval of Passengers in Fleet Vehicles.** Previously, the Oneida Business Committee was  
 245 responsible for authorizing passengers in a fleet vehicle who were not employees, officials, volunteers,  
 246 or individuals being transported as part of a program, service or to conduct business. In order to increase  
 247 efficiency, the supervisor of the employee, official, or volunteer will now be responsible for authorizing  
 248 these types passengers [2 O.C. 210.6-7(c)].

249 **K. Drug Testing Requirement for Motor Vehicle Crashes.** When a certified driver is involved in a motor  
 250 vehicle crash or damage involving a fleet vehicle or personal vehicle driven on official business, the  
 251 driver must immediately report the crash and complete an incident report. The current law also states  
 252 that the driver must comply with “any applicable alcohol and drug testing requirements established in  
 253 other laws of the Nation.” This reference to drug testing requirements in other laws has been deleted.

254 ■ **Drug and Alcohol Free Workplace law.** Although this reference has been deleted, employees of the  
 255 Nation are still required to follow the Drug and Alcohol Free Workplace law. This policy states  
 256 that if an employee is involved in a work-related accident, he or she must immediately inform their  
 257 supervisor and, as a condition of employment, participate in pre-employment, reasonable suspicion,  
 258 and follow-up testing upon the request of an appropriate authority [2 O.C. 202.8-3 and 8-4].

259 ■ **Effect.** Although the reference to alcohol and drug testing is deleted in this particular law,  
 260 employees of the Nation may still be required to participate in alcohol and drug testing in  
 261 accordance with the Drug and Alcohol Free Workplace law as a condition of their employment.

262 **L. Copy of Internal Reviews.** When there is a motor vehicle crash or damage involving a fleet vehicle or  
 263 personal vehicle on official business, the Fleet Management Department and Risk Management  
 264 Department coordinate and conduct an internal review of the incident. These departments may  
 265 recommend that an individual receive disciplinary action based on the incident. For example, discipline  
 266 can be recommended if an employee recklessly damages a fleet vehicle.

267 ■ **Reports Required for Both Fleet Vehicles and Personal Vehicle Crashes.** The current law states  
 268 that internal reviews are to be conducted “whenever necessary” for motor vehicle crashes involving  
 269 fleet vehicles, specifically. Now, internal reviews will be required for both fleet vehicles and  
 270 personal vehicles driven on official business in the event of a motor vehicle crash or damage [2  
 271 O.C. 210.7-1].



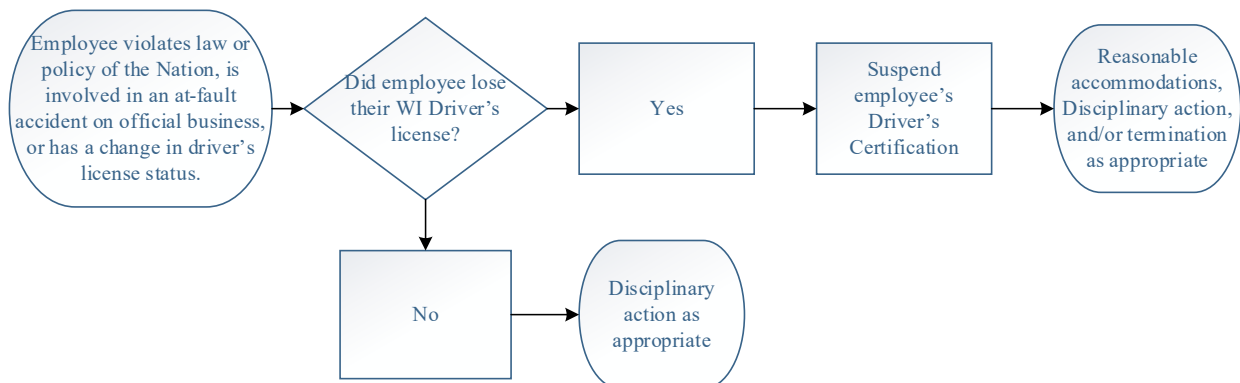
- *Copies of Reports to Area Managers.* Previously, these reports were provided to the driver and driver's supervisor. Now these reports will also be provided to the driver's area manager. The intent is to ensure that the driver's area manager is kept informed of incidents and can ensure that issues are addressed with employees [2 O.C. 210.7-2].

**M. *Driving Privileges.*** The current law allows for supervisors to "temporarily suspend" an individual's driving privileges without actually suspending their driver certification. In the other words, the individual is still certified as a driver by HRD, but his or her supervisor temporarily does not give them permission to drive on official business. This section has been deleted from the law. However, the amendments state that employees cannot drive fleet vehicles or their personal vehicles on official business "without obtaining permission from their supervisor" [2 O.C. 210.5-4(a) and 6-6(b)]. Therefore, supervisors will still have the authority to deny permission for an employee to drive on official business on an individual basis without suspending their driver certification.

**N. *Suspension of Driver Certification.*** The process for a supervisor to officially suspend an employee's driver certification has been substantially changed and simplified.

- *Proposed.* Under the proposed amendments, an individual's driver certification is suspended only when the individual's valid drivers license has been suspended or revoked by the state of Wisconsin or has otherwise become invalid. The length of the suspension lasts until the individual's driver's license is reinstated. In other words, if a person holds a valid Wisconsin driver's license, that person can drive for the Oneida Nation assuming he or she meets all other requirements of this law. All other violations of this law, such as failure to submit insurance or inappropriate use of a fleet vehicle, will now be handled by disciplinary action in accordance with the Nation's Personnel Policies and Procedures.

***Chart 3. Proposed Driver Certification Suspension Process.***



306 **Chart 4. Suspension of Driver Certification – Comparison.**

	<b>Current Law</b>	<b>Proposed Law</b>
<i>Reason(s) to Suspend Driver Certification</i>	Various violations of the law, including: <ul style="list-style-type: none"> <li>▪ having WI driver's license suspended or revoked,</li> <li>▪ being arrested or charged or convicted of motor vehicle operation violation involving drugs or alcohol;</li> <li>▪ Not reporting motor vehicle crash while on official business,</li> <li>▪ Not maintaining minimum insurance on personal vehicle</li> </ul>	Suspend driver certification only if Wisconsin Driver's License has been suspended, revoked or otherwise invalid.
<i>Length of Driver Certification Suspension</i>	<ul style="list-style-type: none"> <li>▪ Minimum length of suspension between five (5) and fifteen (15) days for the first three (3) suspensions.</li> <li>▪ More than three (3) suspensions in a three (3) year period results in a three (3) year suspension.</li> <li>▪ Citation for motor vehicle violation involving drugs or alcohol results in automatic three (3) year suspension.</li> </ul>	Suspended until the individual's WI Driver's license is reinstated by the WI Department of Motor Vehicles and the individual meets qualifications for reinstatement under this law.
<i>Supervisor Discretion to Suspend or Extend Driver Certification for any other reason not listed in this law?</i>	Yes, "based on the best interests of the Nation...if the supervisor determines it is appropriate to do so"	No.
<i>Is Driver Certification Suspension Appealable?</i>	No.	No.
<i>Can the supervisor offer reasonable accommodations if driver certification suspension affects an employee's ability to perform their job?</i>	Yes, the supervisor may: Provide non-driving accommodation within the home department; Reassign to a position that does not involve driving Leave of absence without pay.	Yes, the supervisor may: Reassign the individual to a position that does not require driving; Provide non-driving accommodation within the position; Remove the driving requirement from the job description Place the individual on unpaid leave until the individual obtains his or her driving certification.
<i>Can the Supervisor terminate employment individual's driver certification is suspended?</i>	Yes.	Yes, if a valid driver's license "is an essential requirement of the position."



307 **Chart 5. Reinstating Driver Certification – Comparison.**

	Current Law	Proposed Law
<i>Reinstatement of Driver Certification</i>	<ul style="list-style-type: none"> <li>Automatically reinstated if the suspension was thirty (30) days or less;</li> <li>If the suspension was thirty-one (31) days or more; HRD shall verify insurance and check the driving record to ensure that driver meets eligibility requirements, including no drug or alcohol convictions within three (3) years.</li> </ul>	<p>Upon review of HRD that individual's Driver's license has been reinstated and that the driver meets original qualifications for certification, including:</p> <ul style="list-style-type: none"> <li>No OWI, DUI or PAC violation within past 12 months;</li> <li>Less than three (3) moving violations or at fault accidents within the past two (2) years</li> <li>All other training and insurance requirements.</li> </ul>
<i>Failure to Reinstatement Driver Certification Appealable?</i>	Yes, any official, volunteer or employee may seek review of a decision not to reinstate certification by filing an appeal with the Judiciary.	No, failure to reinstate driver certification is not appealable.

308 **O. Additional Safety Training After an Accident.** Supervisors may now require an individual to complete  
309 additional driver safety training, at their own expense, if the individual is involved in an at-fault motor  
310 vehicle crash or damage while driving on official business, receives a moving violation while driving  
311 on official business, or has his or her driver's license suspended or revoked by the State of Wisconsin  
312 [2 O.C. 210.8-8].

- 313 ■ *Example.* NWTC offers an in-person "traffic school safety program", while other organizations  
314 offer certified online courses on topics such as "Failure to Yield Right of Way." Some Wisconsin  
315 drivers may already take such courses in order to reduce the number of points on their record.

316 **P. Minor Drafting Changes.** Additional minor drafting changes have been made throughout the law for  
317 clarity.  
318

## 319 SECTION 6. EFFECT ON EXISTING LEGISLATION

320 **A. References to the Other Laws of the Nation:** The following laws of the Nation are referenced in this  
321 law.

- 322 ■ *Personnel Policies and Procedures.* "In addition to the suspension of driver certification, a  
323 supervisor may take disciplinary action against an individual in accordance with the Nation's laws  
324 and policies governing employment if an employee..." [2 O.C. 210.8-7].
- 325 ■ *Travel and Expense Policy.* "A vehicle shall be rented in accordance with the Nation's laws and  
326 policies governing travel. Every vehicle rented shall include the purchase of the maximum  
327 collision damage waiver offered by the rental company" [2 O.C. 210.6-9(a)].
  - 328 ○ *Conflict.* The Travel and Expense Policy states that "insurance on all car rentals is  
329 covered by the Oneida Tribe's insurance policy." However, this does not reflect current  
330 practice. In addition, the Travel and Expense Policy conflicts with both the current  
331 Vehicle Driver Certification law and the proposed amendments, which both require the

purchase of maximum collision damage waiver from the rental company, as this is more cost effective for the Nation.

- *Recommendation:* The LOC and LRO should note the discrepancy in the Travel and Expense Policy and identify that section of the Travel and Expense Policy as an area for future amendments.

**B. *Other Laws that Reference Vehicle Driver Certification:*** The following laws of the Nation reference Vehicle Driver Certification and Fleet Management. These amendments do not conflict with any of the referenced laws.

- *Drug and Alcohol Free Workplace.* This law applies to all applicants for employment, whether external or internal, and all employees during working hours, when on-call, and when operating a vehicle owned by the Nation or a vehicle rented by the Nation. An employee is prohibited from the use of prohibited drugs and alcohol during working hours, when on-call, and when operating a vehicle owned by the Nation or a vehicle rented by the Nation [2 O.C. 202.4-1 and 4-2].
- *Clean Air Policy.* “Except as provided in 411.4-1(b)(1) and 411.4-2, no person may smoke... in any vehicle owned or operated by the Tribe” [4 O.C. 411.4-1(c)].

## SECTION 7. ENFORCEMENT AND ACCOUNTABILITY

**A. *Enforcement.*** This law is enforced in the following ways:

- *Suspension of Driver Certification.* A supervisor shall suspend an individual’s driver certification if the individual’s driver’s license is suspended or revoked by the State or becomes invalid for any other reason [2 O.C. 210.8-2].
- *Disciplinary Action.* In addition to the suspension of a driver certification, a supervisor may take disciplinary action against an individual in accordance with the Personnel Policies and Procedures [2 O.C. 210.8-7].

## SECTION 8. OTHER CONSIDERATIONS

**A. *Vehicle Driver & Fleet Management Data.*** The following data is provided for information:

- ***Number of Driver Certification Suspensions:***
  - 2017: 3
  - 2018: 13
  - 2019: 6
- ***Number of Employees Separated from Employment Due to Loss of Driver Certification:***
  - 2019: 2
- ***Number of Job Applicants Screened Out Due to OWI or Driving Convictions:***
  - HRD does not currently track this information. However, between July and November of 2019, at least five (5) applicants were screened out for not meeting driver certification requirements.

*Source: Email communications with HRD, 11/5/19.*
- ***Number of Fleet Vehicles***
  - The Nation currently owns 209 fleet vehicles. 200 of these vehicles are permanently assigned to a department of the Nation.

*Source: Email communication with Fleet Management, 10/29/19.*

***Chart 6. Vehicle Incidents Involving Nation-owned Vehicles***

<i>Fiscal Year</i>	<i># of Incidents</i>	<i># of Incidents At Fault</i>
2009	11	8
2010	21	13
2011	25	16
2012	7	5
2013	19	13
2014	19	12
2015	12	10
2016	16	15
2017	10	8
2018	20	15

Source: Email communication w/Risk Management, 10/29/19.

**B. Grandfather Clause for Drivers with Three or More Moving Violations or At-Fault Accidents within Past Two Years.** Under the current law and HRD's present interpretation, HRD only checks vehicle driver records for drug and alcohol related citations and to ensure valid driver's license. Once these amendments are passed, HRD will now check whether drivers had three (3) or more moving violations or at-fault accidents within the past two (2) years.

- *Need for Grandfather Clause.* Because HRD has not previously checked for moving violations, there may employees who are currently certified with three (3) or more accidents on their record in the past two (2) years. Since these employees were certified under the previous law, the LOC should consider adding a grandfather clause in the adopting resolution to ensure that these employees do not lose their driver certification upon adoption of this law.
- *Conclusion.* The LOC intends to add a grandfather clause for current certified drivers that have had three (3) or more moving violations or at-fault accidents within the past two (2) years. It is expected that this grandfather clause will state that new restrictions on moving violations shall apply only to new applicants, new hires, or job transfers that occur after the adoption date of this law.

**C. Certification of Drivers Previously Disqualified for OWI in the Last Three (3) Years.** Under the current law, applicants or employees who have had a drug or alcohol citation within the past three (3) years, such as an OWI, cannot become certified drivers for the Nation. Upon passage of this law, this restriction will be lowered to twelve (12) months. Therefore, there may be current employees of the Nation who will become eligible for driver certification upon adoption of this law. For example, an employee who had an OWI two years ago who is now working under a reasonable accommodation that doesn't involve driving.

- *Recommendation.* Upon adoption of this law, HRD may want to communicate this information to supervisors and/or impacted employees so that they are aware that they may now be eligible for driver certification.

**D. Training Upon Adoption of Amendments.** Upon the adoption of these amendments, HRD should offer updated training to supervisors and employees of the Nation on the new provisions of this law.

- *Conclusion.* The LOC intends to direct HRD to offer an updated training to employees of the Nation on the new provisions of this law. This directive will be included in the adopting resolution of these amendments. The LOC will consult with HRD to determine a reasonable timeframe for HRD to develop and offer this training. During the LOC meeting on December 4, 2019, a representative of HRD Training and Development recommended allowing at least

180 days for HRD to develop the training on the new amendments.

**E. Impact of Driving Record Check on Currently Certified Drivers.** In order to become a newly certified driver, a driver must not have had an OWI within the past twelve (12) months and not had three (3) or more moving violations or at-fault accidents within the past two (2) years. However, an individual who has become certified can only have their driver certification suspended if they lose their valid Wisconsin driver's license.

- *Example Scenario.* In other words, an individual can be hired with a clean driving record, receive driver certification from the Nation, then have three (3) or more moving violations within a 2-year period during their employment, but still keep their driver certification because they never lost their valid driver's license as a result of the moving violations. However, if that same individual were to leave their employment with the Nation and later apply for another position in the organization, that individual could not become a certified driver, because they are now applying as a new driver and must pass the driving record check.

**Chart 7. Driving Record Requirement Comparison**

Scenario	Driving Record Requirements	Outcome
<i>New employee or transfer (New Certification)</i>	Valid Driver's license; No OWIs in the past 12 months, Not have three or more moving violations within the past 2 years	Three moving violations in 2 year period or an OWI in the past 12 months results in denial of driver certification.
<i>Current employee who is already a certified driver for the Nation (Maintain Certification)</i>	Valid Driver's license. <i>*Only lose certification if driver's license suspended or revoked by state of WI.</i>	Three moving violations in a 2 year period <u>does not</u> result in loss of driver certification unless the employee's driver's license was revoked or suspended.
<i>Employee who lost certification due to suspended driver's license and applies to be recertified after getting their license back (Re-Certification)</i>	Valid Driver's license; No OWIs in the past 12 months; Not have 3 or more moving violations in the past 2 years	Three moving violations in 2 year period or an OWI in the past 12 months results in denial of driver certification.

- *Recommendation.* While this discrepancy is not necessarily problematic, it may cause confusion for current employees and supervisors who receive three (3) or more traffic citations after they have become a certified driver for the nation. HRD and supervisors should be aware that a current employee can only lose their driver certification if they lose their WI driver's license – regardless of the number of moving violations on their record since becoming certified.

**F. Number of Job Descriptions Requiring Drivers License.** During the development of these amendments, the LOC expressed interest in learning how many of the Nation's job descriptions require employees to hold a valid driver's license as a condition of their employment. The LOC was interested to know if there may be positions where an employee rarely drives on official business, but their job

description still requires a valid driver's license to maintain employment.

- *Data:* HRD estimated that roughly 700 out of 950 program/non-divisional positions require a driver's license. Data for gaming positions was not available at the time this analysis was drafted.
- *Conclusion:* During a work meeting, the LOC encouraged HRD to review the Nation's job descriptions and determine whether it is necessary for certain jobs to require a driver's license. If the LOC intends to formalize this directive to HRD in the adopting resolution for this law.

**G. *Employees Subject to Department of Interior Compact & Funding Agreement.*** The Nation has entered into a Compact and Funding Agreement with the U.S. Department of Interior since 1994. In the current funding agreement, the Nation agrees to self-administer a motor vehicle operations policy that is either comparable or superior to the DOI's 2006 Motor Vehicle Operation Policy. The DOI's policy is more stringent than the amendments proposed by the LOC. Therefore, any employees whose positions are funded by these The following programs, services, functions, and activities are currently found within the Nation's BIA Funding Agreement:

Administrative Direction	Safety Management
Rights Protection	Forestry Management
Aid to Tribal Government	Wildlife Management
Law Enforcement	Indian Child Welfare
Facilities Management	Services to Children, Elderly, and Families
Economic Development	Welfare Assistance
Housing Improvement Program	Education (Scholarship, Adult Education)
Road Maintenance	Employment Assistance
Community Fire Protection	Johnson O'Malley
Agriculture	Litigation Support
Real Estate Services	Fish Hatchery
Real Estate Appraisals	Water Management
Environmental Quality	Hunting and Fishing Rights

- *Conclusion.* The LOC determined that it is important to identify the specific employees who may have to follow the BIA Motor Vehicle Operation Policy, so it is clear which employees are subject to the Nation's Law and which employees are required to follow a stricter policy. The Legislative Operating Committee intends to direct the Human Resources Department to work with the Self Governance Department to identify the positions that would be required to comply with the BIA Motor Vehicle Operations Policy, and to update the job descriptions so that it is clear which driving policy is applicable.

**H. *Fiscal Impact.*** A fiscal impact statement has been provided by the Finance Department.

- Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [1 O.C. 109.6-1].
- A fiscal impact statement shall be submitted by agencies as directed by the Legislative Operating Committee and may be prepared by any agency who may receive funding if the legislation is enacted; who may administer a program if the legislation is enacted; who may have financial information concerning the subject matter of the legislation; or by the Finance Office, upon request of the Legislative Operating Committee [1 O.C. 109.6-1(a and b)].

## Title 2. Employment - Chapter 210

Lot\$=sles Kayanl^sla Khale> Nya>teka>sl#htake Lonatl\$hute> Kayanl^sla  
they're driving law and a variety of vehicles the responsibility is attached to them

## VEHICLE DRIVER CERTIFICATION AND FLEET MANAGEMENT

~~210.1. Purpose and Policy~~  
~~210.2. Adoption, Amendment, Repeal~~  
~~210.3. Definitions~~  
~~210.4. Tribal Department Responsibilities~~  
~~210.5. Driver Responsibilities~~  
~~210.6. Tribal Vehicle Usage~~  
~~210.7. Rental Vehicles~~  
~~210.8. Driver Certification~~  
~~210.9. Motor Vehicle Crashes, Damage Involving Tribal Vehicles~~

~~210.10. Suspension and Revocation of Certification;  
Disciplinary Action~~  
~~210.11. Reinstatement of Certification~~  
~~210.1. Purpose and Policy~~  
~~210.2. Adoption, Amendment, Repeal~~  
~~210.3. Definitions~~  
~~210.4. Driver Certification~~  
~~210.5. Responsibilities of a Certified Driver~~  
~~210.6. Fleet Vehicles~~  
~~210.7. Motor Vehicle Crashes or Damage to Vehicles~~  
~~210.8. Suspension of Driver Certification and Other Enforcement~~

**210.1. Purpose and Policy**

210.1-1. *Purpose.* The ~~purposes~~purpose of this law ~~are~~is to:

- (a) establish standards that certify employees, elected and appointed officials, and volunteers to drive a Tribal fleet vehicle or ~~drive a~~ personal vehicle on Tribal official business; and
- (b) regulate the use of all vehicles owned and leased by the Nation.

210.1-2. *Policy.* It is the policy of the Nation to:

- (a) ensure the safety of the community and employees of the ~~Oneida~~ Nation;
- (b) minimize the Nation's liability when physical damage to vehicles and/or property damage occurs as a result of a motor vehicle crash; and
- (c) improve the efficiency and effectiveness of the use of vehicles owned by the Nation.

**210.2. Adoption, Amendment, Repeal**

210.2-1. This law was adopted by the Oneida Business Committee by resolution BC-06-28-17-C, and amended by resolution BC- - - -.

210.2-2. This law may be amended or repealed by the Oneida Business Committee and/or Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

210.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

210.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that, this law repeals the following:

(a) ~~BC-09-09-98-A (Amended Vehicle Driver Certification Policy)~~

(b) ~~BC-09-24-97-E (Oneida Vehicle Fleet Management Policy)~~

210.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**210.3. Definitions**

210.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

~~(a)~~(a) "Area manager" means an employee's supervisor's supervisor; or, an individual designated to be the area manager by a General Manager position.



(b) “Business day” means Monday through Friday, from 8:00 a.m. to 4:30 p.m.; excluding the Nation’s holidays.

~~(b) “Business miles” means miles driven in a vehicle by an individual in order to conduct Tribal business.~~

~~(c) “Certification” or “certified” means that a driver meets the requirements established by this law and is authorized to operate a Tribal vehicle and/or a personal vehicle on Tribal business.~~

~~(d) “Driver” means any employee, official and/or volunteer who is certified to operate a Tribal vehicle, or to drive a personal vehicle on Tribal business.~~

~~(e) “Driver’s abstract” means a driver’s official driving record, which includes, but is not limited to, any restrictions or limitations that may be imposed on the driver’s driving privileges.~~

~~(f) “Employee” means an individual who is employed by the Nation and is subject to the direction and control, but does not include elected or appointed officials, or employees of a chartered corporation of the Nation with respect to the material details of the work performed, or who has the status of an employee under the usual common law rules applicable to determining the employer-employee relationship. “Employee” includes, but is not limited to, an individual employed by any program or enterprise of the Nation, and political appointees.~~

~~(g)~~(d) “Entity” means a department, enterprise, program, board, committee or commission of the Nation.

(e) “Employee Assistance Program” means a professional counseling program staffed by clinical social workers licensed by the State of Wisconsin which offers services to the Nation’s employees and family members.

(f) “Fleet vehicle” means a vehicle owned or leased by the Nation.

(g) “Moving violation” means any violation of motor vehicle or traffic law that is committed by the driver of a vehicle while the vehicle is moving. A moving violation does not include parking violations, equipment violations, or paperwork violations relating to insurance, registration or inspection.

(h) “Nation” means the Oneida Nation.

~~(i) “Non-business miles” means miles driven in a Tribal vehicle that are not business-related, including commuting.~~

~~(j) “Official” means anyone who is serving on the Oneida Business Committee or the Oneida Judiciary, and any other person who is elected or appointed to a board, committee or commission created by the Oneida Business Committee or Oneida General Tribal Council.~~

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

(j) “Supervisor” means the direct supervisor of an employee. ~~Provided that, for~~For volunteers, elected or appointed officials ~~and, or~~ employees without a direct supervisor, it means the Human Resources Department or any party who has been designated by the Human Resources Department as responsible for performing a supervisor’s responsibilities under this law.

~~(l) “Tribal” or “Tribe” means the Oneida Nation.~~

~~(m)~~(k) “Weapon” means a firearm, knife, electric weapon, club, or any other object intended to cause harm to oneself or others.



82  
83 **210.4. Driver Certification**

84 210.4-1. An individual shall obtain driver certification from the Human Resources Department  
85 before operating a fleet vehicle” means a or personal vehicle on official business.

86 210.4-2. ~~owned or leased~~ Qualifications for Certification. In order to receive driver certification  
87 a person shall:

88 (a) Be eighteen (18) years of age or older;

89 (b) Hold a valid Wisconsin driver’s license;

90 (1) A person who holds a valid driver’s license from a state other than Wisconsin  
91 shall have thirty (30) days after his or her first day of employment or service to  
92 obtain a Wisconsin driver’s license.

93 (c) Have a driving record that does not reflect any of the following conditions:

94 (1) Three (3) or more moving violations and/or at-fault motor vehicle crashes in  
95 the past two (2) years; and/or

96 (2) An operating while intoxicated (OWI), driving under the influence (DUI), or  
97 prohibited alcohol concentration (PAC) citation within the last twelve (12) months.

98 (d) Complete all driver training requirements imposed by the Nation or any federal or  
99 state agency regulations;

100 (e) Satisfy any other requirements specific to the job description and/or vehicle that may  
101 be used by or assigned to the person; and

102 (f) Maintain one (1) of the following minimum insurance requirements for a personal  
103 vehicle if the individual may use his or her personal vehicle to conduct official business:

104 (1) the individual’s insurance covers:

105 (A) one hundred thousand dollars (\$100,000) per person;

106 (B) three hundred thousand dollars (\$300,000) per motor vehicle crash for  
107 bodily injury; and

108 (C) twenty-five thousand dollars (\$25,000) property damage; or

109 (2) the individual’s insurance covers two hundred and fifty thousand dollars  
110 (\$250,000) combined single limit.

111 210.4-3. The Nation’s Human Resources Department shall be responsible for determining whether  
112 an individual meets all the qualifications before approving or denying a driver certification.

113 (a) An individual shall provide his or her appropriate license, training certification, and  
114 insurance information to the Human Resources Department.

115 (b) The Human Resources Department shall have the authority to check the driving record  
116 of an individual at any time.

117 (c) The Human Resources Department shall maintain a current list of all certified drivers  
118 and provide the list to Fleet Management, Risk Management, and Central Accounting on a  
119 regular basis.

120 210.4-4. A supervisor shall ensure that an individual has received his or her driver certification  
121 from the Human Resources Department before allowing the individual to drive a fleet vehicle or a  
122 personal vehicle on official business.

123 210.4-5. Exemption. An individual whose duties with respect to the implementation of a contract,  
124 agreement, or compact of the Nation include driving may be subject to compliance with a motor  
125 vehicle operation policy as provided in the contract, agreement, or compact of the Nation when  
126 this law is less stringent than the said motor vehicle operation policy.

127  
128 210.5. (n) “Volunteer” means a person who provides a service to the Nation without  
129 receiving pay.

(e) ~~“Workday” means a regularly scheduled workday or service day for a driver, regardless of whether the day falls on a weekday or weekend.~~

**210.4. Tribal Department Responsibilities of a Certified Driver**

210.5-1. General Responsibilities. While operating a fleet vehicle or a personal vehicle on official business, an individual shall:

(a) Abide by all traffic laws;

(b) Wear a seat belt and require any passengers to wear a seat belt at all times;

(c) Not drive while under the influence of prohibited drugs and/or alcohol;

(d) Not drive if impaired by a medical or physical condition or other factor that affects a driver’s motor skills, reaction time, or concentration;

(e) Not carry a weapon, whether in the open or concealed;

(1) *Exemption.* An individual who is carrying a weapon in the course of performing his or her official duties, or is participating in cultural activities or ceremonies is exempt from this requirement.

(f) Not transport prohibited drugs and/or alcohol;

(1) *Exemption.* An employee of the Nation who is transporting prohibited drugs and/or alcohol in the course of performing his or her job duties is exempt from this requirement.

(g) Not deliver goods or services for personal gain, or operate private pools where the riders pay the driver; and

(h) Not use electronic devices in an unlawful manner.

210.5-2. Training Responsibilities. An individual with driver certification shall complete the driver safety training provided and monitored by the Human Resources Department every three (3) years.

(a) *Exemption.* An individual who is required to maintain compliance with any specialized driver safety training requirements imposed by state or federal regulatory agencies shall be exempt from the requirement to complete the driver safety training provided by the Human Resources Department.

~~210.5-3. 210.4-1. Department of Public Works. The Department of Public Works shall maintain Fleet Management and Automotive Departments to assist with the implementation of this law.~~

~~210.4-2. Fleet Management.~~ Vehicle Responsibilities. When operating a fleet vehicle, an individual shall:

(a) Complete a vehicle mileage log;

(b) Not transport unauthorized passengers;

(c) Notify the Fleet Management ~~shall~~ Department immediately of any problems with a fleet vehicle that may be a safety or mechanical hazard, or of any incidents that result in the inability of a fleet vehicle to complete a trip;

(d) Be personally responsible for all traffic citation costs, parking ticket costs, or any similar expense related to vehicle use;

(e) Use Oneida Retail locations for fueling fleet vehicles, unless the fleet vehicle needs fuel before it can be taken to an Oneida Retail location;

(f) Not smoke or use electronic smoking devices or permit others to smoke or use electronic smoking devices in the fleet vehicle; and

(g) Ensure the interior of the vehicle is kept in good condition, clean, and free of debris.

210.5-4. Personal Vehicle Responsibilities. When operating a personal vehicle on official business, an individual shall:

(a) Obtain permission from his or her supervisor to operate a personal vehicle on official business; and

(b) Submit all required documents for mileage reimbursement, if seeking reimbursement for miles driven while conducting official business, within thirty (30) days of driving the miles or by the end of the current fiscal year, whichever is sooner.

(1) Not seeking mileage reimbursement does not exempt an individual from the provisions of this law.

210.5-5. Notification Requirements. An individual shall notify his or her supervisor if he or she:

(a) Has his or her driver's license suspended or revoked by the State, or has his or her driver's license become invalid for any other reason;

(b) Meets any of the conditions for disciplinary action as provided in section 210.8-7; and/or

(c) Has any impairment by a medical or physical condition or other factor that affects his or her motor skills, reaction time, or concentration.

## 210.6(a) Purchase. Fleet Vehicles

210.6-1. Fleet Management Department. The Nation's Fleet Management Department shall purchase, manage, and monitor the use of Tribal vehicles, the Nation's fleet vehicles. The Fleet Management Department's responsibilities shall include, but are not limited to:

(a) Maintain a list of all fleet vehicles that are available for use, including the removal of vehicles permanently assigned to specific entities of the Nation;

(b) Remove unsafe vehicles from the fleet;

(b)(c) Obtain estimates of and schedule Tribal fleet vehicle repairs when necessary;

(c) Participate in motor vehicle crash investigations;

(d) Participate in situations requiring approval of driver certifications;

(e)(d) Install or remove global positioning system monitors on Tribal equipment on fleet vehicles;

(e) Ensure the Nation's logo is on all fleet vehicles; and

(f) Ensure that all Tribal fleet vehicles are equipped with a mileage log and an auto incident kit which contains forms and instructions for reporting any incident; and.

(g) Maintain a list of all fleet vehicles that are available for use by drivers; including vehicles permanently assigned to specific departments.

210.4-3.6-2. Automotive Department. The Automotive Department shall service and maintain Tribal fleet vehicles according to factory recommendations, or the maintenance schedule established by the Automotive Department, whichever is stricter. Any vehicle deemed unsafe by the Automotive Department shall be reported to the Fleet Management Department.

210.4-46-3. Risk Management. Department. The Risk Management shall:

(a) Secure Department shall be responsible for securing and maintain maintaining insurance coverage for all Tribal fleet vehicles, or may designate another party to do so; Additional responsibilities of the Risk Management Department shall include, but is not limited to:

(b) Provide(a) Providing auto insurance identification cards in every Tribal fleet vehicle;

(c) Process(b) Processing all submitted vehicle claims and related information; and

(d) Submit(c) Submitting claims to the insurance company;.

210.6-4. Use of a Fleet Vehicle. A fleet vehicle may be permanently assigned to an entity for use or requested for use on a temporary basis. A fleet vehicle shall be used for conducting official business of the Nation. When used for travel purposes, a fleet vehicle may also be used for incidental purposes such as travel to and from lodging and/or meal sites.

(a) Prohibited Use of a Fleet Vehicles. A fleet vehicle shall not be used for any of the following purposes:

(1) Personal use for non-business purposes;

(2) Towing cargo for personal reasons;

(3) Hauling loads that could structurally damage the vehicle; and/or

(4) Jump starting vehicles, other than fleet vehicles.

210.6-5. Permanently Assigned Fleet Vehicles. The Fleet Management Department may permanently assign a fleet vehicle to an entity if the entity meets the minimum mileage criteria as established by the Fleet Management Department.

(a) Exception to Minimum Mileage Criteria. The Fleet Management Department may grant an entity an exception to the minimum mileage criteria.

(b) An entity who is permanently assigned a fleet vehicle shall regularly schedule maintenance work and safety checks with the Automotive Department.

(c) An entity that is permanently assigned a fleet vehicle is responsible for ensuring that any individual who drives the vehicle has his or her driver certification.

210.6-6. (e) Participate in motor vehicle crash investigations; and

(f) Participate in situations requiring approval of certifications.

~~210.4-5. Human Resources Department.~~ Temporary Use The Human Resources Department shall:

(a) ~~Maintain a current list of drivers and provide the list to Fleet Management and the Central Accounting Department on a regular basis;~~

(b) ~~Perform driving record checks and approve or deny certification based on the review of an individual's driving record; and notify the appropriate parties immediately of ineligibility in writing;~~

(c) ~~Notify supervisors immediately of~~

(1) ~~the certification status of his or her employees or volunteers; and~~

(2) ~~of any cancellation or lapse in a personal vehicle driver's insurance coverage.~~

(d) ~~Assist supervisors with the administration of suspensions and/or revocations of certification;~~

(e) ~~Request and maintain records of proof of insurance on personal vehicles driven on Tribal business;~~

(f) ~~Participate in motor vehicle crash investigations;~~

(g) ~~Maintain documentation of all required driver training and regulatory compliance;~~

(h) ~~Perform, or delegate to another person to perform, the supervisory responsibilities identified in this law, for drivers who do not have a supervisor.~~

~~210.4-6. Environmental Health & Safety Division.~~ The Environmental Health & Safety Division shall provide driver safety training as included herein, and provide the Human Resources Department with the names of drivers who have completed training after each training session.

~~210.4-7. Supervisors.~~ For drivers who do not have a supervisor, the Human Resources Department shall either assume the supervisor's responsibilities, or shall delegate those responsibilities to another person. Fleet Vehicle. An individual in an entity. Supervisors of drivers shall:

(a) ~~Ensure those drivers who report to them are certified before allowing those employees to drive a Tribal vehicle or a personal vehicle on Tribal business.~~

(b) ~~Ensure drivers have the appropriate license, training certification(s), and insurance information on file with the Human Resources Department.~~

(c) ~~Ensure all motor vehicle crashes and damages are reported in accordance with this law.~~

(d) ~~Ensure that all Tribal vehicle mileage is recorded and submitted to Fleet Management in accordance with requirements established by Fleet Management.~~

(e) ~~Approve expense reports submitted for personal vehicle mileage reimbursement.~~

(f) ~~Promptly take appropriate action to investigate:~~

(1) ~~all infractions of this law of which they become aware, including but not limited to, allegations of alcohol or drug use while using a Tribal vehicle or personal~~ not permanently assigned a fleet vehicle for Tribal business.

- ~~(2) allegations of a history of unsafe driving, regardless of whether or not the employee has ever been charged with an offense.~~
- ~~(g) Ensure that all employees who directly report to them abide by this law.~~
- ~~(h) Implement disciplinary action against employee drivers who violate this law, in accordance with the Nation's laws governing employment.~~
- ~~(i) When necessary, refer drivers to:~~
- ~~(1) the Environmental Health & Safety Division or an appropriate agency or training source for additional driver training; and/or~~
- ~~(2) the Employee Assistance Program, in accordance with applicable policies and procedures of the Nation.~~

## **~~210.5. Driver Responsibilities~~**

### **~~210.5-1. While operating a Tribal vehicle or a personal vehicle on Tribal business, drivers shall:~~**

- ~~(a) Abide by all provisions of this law.~~
- ~~(b) Follow all traffic laws, respect property, be courteous and use good judgment.~~
- ~~(c) Wear seat belts and require passengers to wear seat belts at all times.~~
- ~~(d) Not drive while:~~
- ~~(1) under the influence of controlled substances, intoxicating beverages, prescription drugs or other medications that caution against operating a motor vehicle when taken, or~~
- ~~(2) impaired by a medical or physical condition or other factor that affects a driver's motor skills, reaction time or concentration.~~
- ~~(e) Not transport controlled substances, intoxicating beverages, or any passenger that is in possession of controlled substance or intoxicating beverages; without prior written approval from his or her supervisor to do so.~~
- ~~(1) Exemptions. Employees of the Nation who are transporting such substances, beverages or passengers in the course of performing their job duties are exempt from this requirement.~~
- ~~(f) Not transport unauthorized passengers.~~
- ~~(g) Not use devices such as cell phones, whether for talking or texting; notebook or laptop computers; books or book applications; newspapers or magazines; and two-way radios unless the vehicle is safely stopped.~~
- ~~(1) Exemptions. The following are exempt from this requirement:~~
- ~~(A) Authorized emergency vehicle communication equipment~~
- ~~(B) Navigation devices~~
- ~~(C) Communication equipment used while performing services for the Nation.~~

## **210.6. Tribal Vehicle Usage**

~~210.6-1. Drivers who do not have access to a permanently assigned Tribal vehicle and who are unable to use a vehicle assigned to another department, may request to use a Tribal fleet vehicle to conduct Tribal~~for the purpose of conducting official ~~business by submitting a request to the Fleet Management. Whenever possible, such requests shall be made at least one (1) week in advance.~~  
Department.

- (a) Requests for the use of a fleet vehicle shall be made at least one (1) week in advance, unless urgent circumstances arise.
- (b) Before determining whether a fleet vehicle is available, or approving the use of a fleet vehicle, the Fleet Management Department shall confirm that:
- (1) The individual requesting the fleet vehicle has his or her driver certification;



(2) The individual has authorization to use the fleet vehicle from his or her supervisor, if an employee, or by the individual's entity, if the individual is an elected or appointed official of the Nation or volunteer; and

(3) Any passengers are authorized to travel in a fleet vehicle.

(c) The Fleet Management Department may combine vehicle use for travel to the same destination.

(d) The Fleet Management Department may cancel reservations that are not fulfilled in a timely manner ~~and may combine vehicle use for travel to the same destination.~~

~~(b) Before determining whether a Tribal vehicle is available or approving the use of a Tribal vehicle, Fleet Management shall confirm that:~~

~~(1) the driver is certified.~~

~~(2) the driver has written consent to use a Tribal vehicle; provided by the driver's supervisor, if the driver is an employee; or by the driver's entity, if the driver is an official or volunteer.~~

~~(3) any passengers are authorized to travel in a Tribal vehicle, in accordance with 210.6-3.~~

~~(e) Before approving the use of a permanently assigned Tribal vehicle by any driver, the department shall be responsible for confirming that the requirements of (b) are met.~~ 7. *Authorized Passengers.*

~~210.6-2. In order to have a Tribal vehicle permanently assigned to an entity, the entity shall drive a minimum number of miles annually, as determined by Fleet Management. Exceptions to the mileage criteria may be granted upon request by an entity and with written approval from Fleet Management.~~

~~(a) Entities who have a permanently assigned vehicle shall regularly schedule service work, maintenance work and safety checks with the Automotive Department.~~

210.6-3. The following individuals may travel in a Tribal vehicle:

~~(a) Employees;~~ addition to the employees, elected or appointed officials, or volunteers who are ~~on Tribal business;~~ authorized to use a fleet vehicle, the following individuals shall be authorized to be a passenger in a fleet vehicle:

~~(b)a) Individuals being transported as part of a program or service of the Nation;~~

~~(e)b) Individuals being transported during the normal and ordinary course of representing and/or conducting business on behalf of the Nation; and/or~~

~~(d) Individuals who are authorized, by Oneida Business Committee motion, to travel in a Tribal vehicle. The Oneida Business Committee may request input from Fleet Management before making a determination on these requests.~~

210.6-4. When a driver uses a Tribal vehicle, he or she shall:

~~(a) Complete a vehicle mileage log. Vehicle mileage logs shall be provided in each Tribal vehicle.~~

~~(b) Notify Fleet Management immediately of any problem(s) with a Tribal vehicle that may be a safety or mechanical hazard, or of any incidents that result in the inability of a Tribal vehicle to complete a trip.~~

~~(c) Be personally responsible for all traffic citation costs, parking ticket costs or any similar expense related to vehicle use.~~

~~(d) Use Oneida One Stops for fueling Tribal vehicles, unless the Tribal vehicle needs fuel before it can be taken to an Oneida One Stop.~~

~~(e) Not smoke, and not permit others to smoke, in the Tribal vehicle.~~

~~(f) Ensure the interior of the vehicle is kept in good condition, clean and free of debris.~~

(c) Any other individual who is authorized to be a passenger by the supervisor of the employee, elected or appointed official, or volunteer.

~~210.6-8. 210.6-5. Tribal vehicles shall be used for business miles. When away from the work site, a Tribal vehicle may also be used for incidental purposes, such as travel to and from lodging and meal sites. Tribal vehicles shall not be used for any of the following:~~

~~(a) Personal use or non-business miles, except as authorized under the Business Committee Vehicle Policy.~~

~~(b) Vacation.~~

~~(c) Towing cargo for personal reasons.~~

~~(d) Hauling loads that could structurally damage the vehicle.~~

~~(e) Delivering goods or services for personal gain, or operating private pools where the riders pay the driver.~~

~~(f) Transporting hitchhikers.~~

~~(g) Jump starting vehicles, other than Tribal vehicles.~~

~~210.6-6. Tribal logos shall be placed on all Tribal vehicles.~~

~~210.6-7. Additional Equipment, Modifications:~~

~~(a) to Fleet Vehicles.~~ Modifications to Tribalfleet vehicles for personal reasons are not permitted. Modifications to Tribalfleet vehicles for operating purposes may be allowed only with the approval of the Fleet Management- Department.

~~(1) Provided that, this shall not be construed to prohibit drivers from making temporary, non-permanent modifications, such as adjusting the positions of vehicle seats or mirrors.~~

~~(b) Fleet Management may equip Tribal vehicles with Global Positioning Systems (GPS) to monitor vehicle usage.~~

~~(c)(a)~~ Radar detection devices shall not be installed or used in Tribalfleet vehicles.

## **210.7. Rental Vehicles**

~~210.7-1. Rental vehicles are considered Tribal vehicles for the purpose of this law. All provisions of this law apply to rental vehicle usage. Vehicles~~210.6-9. Rental Vehicles. An individual shall have his or her driver certification before using a rental vehicle to conduct official business. An individual shall operate the rental vehicle with the same responsibilities and restrictions as a fleet vehicle.

~~(a) A vehicle~~ shall be rented in accordance with the ~~Oneida Travel and Expense Policy~~Nation's laws and ~~drivers of rental vehicles shall be certified in accordance with this law.~~

~~210.7-2. policies governing travel.~~ Every vehicle ~~rental~~rented shall include the purchase of the maximum collision damage waiver offered by the rental ~~companies~~company.

## **210.8. Driver Certification**

~~210.8-1. Certification. All persons shall be certified before operating a Tribal vehicle or personal vehicle on Tribal business. In order to be certified, an individual shall:~~

~~(a) Be eighteen (18) years of age or older.~~

~~(b) Satisfy any additional experience requirements established by law or by rules promulgated by the Human Resources Department, that apply for the vehicle being assigned or used.~~

~~(c) Hold a valid, non-probationary Wisconsin driver's license and provide proof of such license, including any commercial endorsement(s), to the Human Resources Department within thirty (30) days after his or her start of employment or time of election, appointment or volunteer service.~~

~~(1) Drivers with commercial driver's licenses may be restricted to only operating Tribal vehicles within the state of Wisconsin.~~



~~(2) An occupational license is a valid, non-probationary driver's license if the driver's abstract which accompanies the occupational license allows the driver to operate vehicles for his or her job with the Nation.~~

~~(3) Individuals with a driver's license from a state other than Wisconsin shall obtain a Wisconsin driver's license within thirty (30) days after their first day of actual employment or service and provide a copy to the Human Resources Department.~~

~~(d) Pass a driving record check by the Human Resources Department to verify the driver has a valid, non-probationary driver's license as identified in (c); and to verify the driver has no citation or conviction related to a traffic incident, and no driving citation or conviction involving drugs or alcohol, within the time period(s) that would make the driver ineligible for certification under this law.~~

~~(1) The individual shall have his or her driving record checked by the Human Resources Department prior to his or her hire date or start date.~~

~~(A) State Department of Motor Vehicle reports shall be used to determine whether an individual passes the driving record check.~~

~~(B) An individual with a driver's license from a state other than Wisconsin shall have his or her driving record checked based on that state's license.~~

~~(2) The Nation reserves the right to check driving records of a driver at any time. All drivers shall authorize the Human Resources Department to check his or her driving record.~~

~~(3) The Nation reserves the right to allow insurance carriers or agents to check driving records at any time. This review shall be deemed to be a review by the Nation.~~

~~(e) Complete all driver training requirements imposed by the Nation, an individual entity, or by any federal or state agency regulations.~~

~~(1) Except as provided in (e)(2), drivers who are certified to operate a Tribal vehicle shall complete driver safety training every three (3) years.~~

~~(A) The training program shall be administered, scheduled, and documented by the Environmental Health & Safety Division.~~

~~(B) A break in employment or service of one hundred eighty (180) days or greater requires retraining.~~

~~(C) Drivers shall be paid their regular wage for all required training.~~

~~(2) Tribal vehicle drivers who are subject to specialized driver safety training requirements imposed by state or federal regulatory agencies are exempt from the driver safety training required in (e)(1), provided that, such drivers shall complete all required driver safety training according to the applicable regulations before operating a Tribal vehicle to which the regulations apply.~~

~~210.8 2. Additional Requirements for Personal Vehicle Drivers. In addition to the requirements listed in 210.8 1, the following also apply for drivers of personal vehicles on Tribal business.~~

~~(a) Insurance. Each driver shall provide the Human Resources Department with written proof that he or she carries at least the minimum insurance coverage required by this law. Drivers shall maintain updated proof of vehicle insurance and provide copies to the Human Resources Department. The Human Resources Department may request written proof of insurance from drivers at any time.~~

~~(1) The minimum insurance requirements on a personal vehicle are:~~

~~—— (A) one hundred thousand dollars (\$100,000) per person;~~

~~—— (B) three hundred thousand dollars (\$300,000) per accident for bodily injury; and~~

~~—— (C) twenty five thousand dollars (\$25,000) property damage.~~

~~(2). A driver shall immediately notify the Human Resources Department of any cancellation or lapse in his or her insurance coverage. No driver may drive a personal vehicle on Tribal business during the time he or she does not have the required minimum personal auto insurance coverage.~~

~~(3) If a personal vehicle driver's required insurance lapses, the Human Resources Department shall immediately remove the driver from the list of certified drivers, and notify the driver's supervisor once this action has been taken.~~

~~(b) Mileage Reimbursement.~~

~~(1) A driver who operates a personal vehicle on Tribal business shall be reimbursed for any business miles driven if he or she:~~

~~(A) was certified at the time and had written proof of required insurance on file with the Human Resources Department.~~

~~(B) had prior consent from his or her supervisor to travel those miles on Tribal business.~~

~~(2) While driving on Tribal business, drivers of personal vehicles shall not use their vehicle for personal gain of any kind.~~

~~(3) All provisions of this law apply to drivers of personal vehicles on Tribal business regardless of whether or not vehicle mileage reimbursement is submitted.~~

~~210.8 3. Additional Requirements~~

~~(a) Individual entities may require stricter certification procedures and standards that do not conflict with these standards; including but not limited to, specialized requirements regarding age, experience, training, and licensing. Such procedures and standards shall be submitted to Fleet Management, Risk Management and the Human Resources Department for review and approval.~~

~~(b) Drivers are subject to all specialized requirements imposed by state or federal regulatory agencies; including but not limited to, regulatory requirements pertaining to the use of drugs and alcohol.~~

~~210.8 4. Drivers shall immediately notify their supervisor; and the supervisor shall immediately notify the Human Resources Department in writing, of any of the following:~~

~~(a) An arrest, charge or conviction for any:~~

~~(1) motor vehicle operation violation involving drugs or alcohol; or~~

~~(2) criminal offense related to a traffic incident.~~

~~(b) Any restriction, suspension, revocation, cancellation or, if applicable, reinstatement of driving privileges related to his or her driver's license.~~

~~210.8 5. Drivers shall immediately notify their supervisor of any impairment by a medical or physical condition or other factor that affects his or her motor skills, reaction time or concentration. Supervisors shall notify the Human Resources Department, in writing, of such information when appropriate.~~

**210.9. Motor Vehicle Crashes; or Damage Involving Tribal to Vehicles**

~~210.9 7-1. This section shall apply in the event a driver is involved in a motor vehicle crash while driving a Tribal vehicle or a personal vehicle on Tribal business; and/or in the event that a Tribal vehicle is damaged during use. Provided that, if the Travel and Expense Policy has more restrictive requirements regarding accident reporting, the provisions of that policy shall apply.~~

~~210.9 2. In the event of a motor vehicle crash or damage involving the vehicle, drivers fleet vehicle or personal vehicle driven on official business, an individual shall be subject to the following reporting requirements; provided that, if a driver an individual sustains injuries that make it impossible to meet the reporting deadlines identified herein; the driver shall instead make the required reports as soon as he or she is able to do so:~~

(a) immediately report the crash or damage to local law enforcement if it results in any of the following:

(1) death of a person;

(2) an injury to the driver or another person that requires medical ~~intervention by law enforcement or emergency personnel, or treatment at a medical facility;~~ attention;

~~(2) death of a person; or~~

(3) damage to property that does not belong to the driver or the Nation; or

(4) ~~a Tribal~~ vehicle being disabled and/or needing to be towed.

(b) immediately report the motor vehicle crash or damage to his or her supervisor; ~~and~~

(c) provide the Fleet Management Department and Risk Management Department with a completed auto incident report by the end of the next business day immediately following the motor vehicle crash or damage.

~~(d) comply with any applicable alcohol and drug testing requirements established in other laws of the Nation.~~

~~210.9-3. Drivers shall follow any additional, applicable motor vehicle crash reporting requirements for vehicles regulated by a state or federal agency.~~

~~210.9-4.7-2. Internal Review. Whenever necessary, The~~ Fleet Management Department and Risk Management Department shall coordinate and conduct an internal reviewsreview of the auto incident report for a motor vehicle crash and/or damage to a vehicle~~crashes involving Tribal vehicles. Internal reviews may include other personnel as deemed appropriate by.~~

(a) Fleet Management and Risk Management:

~~(a) Fleet Management and Risk Management shall have investigative authority to:~~

~~(1) determine fault, if not determined by law enforcement; and/or~~

~~(2) may recommend whether a driver's certification~~ an individual should be suspendedsubject to disciplinary action and/or a driver safety training requirement based on the motor vehicle crash or incident resulting in damage to a vehicle.

~~(b) Internal reviews~~ The internal review shall be completed as soon as practicablepossible after a motor vehicle crash has been reported; ~~and shall be conducted in accordance with industry standards of practice.~~

(c) Following an internal review, Fleet Management and Risk Management shall issue ~~an investigation~~a report. Copies of the ~~investigation~~ report shall be:

(1) provided to the driver, the driver's supervisor, and the driver's area manager; and

(2) provided to the Human Resources Department if the Fleet Management Department and Risk Management Department recommend disciplinary action.

## **210.8supervisor; Suspension of Driver Certification and Other Enforcement**

~~210.8-1. (2) retained by Fleet Management and Risk Management for a minimum of three (3) years.~~

~~210.9-5. If, while driving a Tribal vehicle, a driver is determined to be, or admitted~~ Suspension of driver certification is the suspension of an individual's ability to drive a fleet vehicle or personal vehicle on official business and is not a leave from work. Suspension of driver certification is non-appealable.

210.8-2. Qualifications for Suspension. A supervisor shall suspend an individual's driver certification if the individual's driver's license is suspended or revoked by the State or becomes invalid for any other reason.

(a) A supervisor may refer drivers to the Employee Assistance Program in accordance with applicable laws and policies of the Nation.

570 210.8-3. *Length of Suspension.* The individual's driver certification shall be suspended until a  
571 time in which the individual has obtained a valid driver's license and meets the qualifications for  
572 reinstatement of driver certification.

573 210.8-4. *Notification of Suspension.* The supervisor shall notify the Human Resources  
574 Department in writing if he or she suspends the driver certification of an individual and shall  
575 provide the basis for the suspension. Once notified of a suspension of driver certification the  
576 Human Resources Department shall remove the individual from the list of current certified drivers.

577 210.8-5. *Reasonable Accommodations to Suspension.* If the suspension of an individual's driver  
578 certification affects the individual's ability to perform his or her job duties, a supervisor may take  
579 one of the following actions:

580 (a) Reassign the individual to a position which does not require driving;

581 (b) Provide non-driving accommodation within the position;

582 (c) Remove the driving requirement from the job description;

583 (d) Place the individual on unpaid leave until the individual obtains his or her driver  
584 certification; or

585 (e) Terminate the individual because a valid driver's license is an essential requirement of  
586 the position.

587 210.8-6. *Reinstatement of Driver Certification.* An individual may have his or her driver  
588 certification reinstated upon a review by the Human Resources Department that the individual  
589 again meets all the qualifications for driver certification provided for in section 210.4-2.

590 210.8-7. *Other Enforcement Actions.* A supervisor may take disciplinary action against an  
591 individual in accordance with the Nation's laws and policies governing employment if the  
592 individual is an employee, or in accordance with the laws and policies of the Nation governing  
593 sanctions and penalties if the individual is an elected or appointed official of the Nation, for any  
594 of the following actions:

595 (a) Failing to comply with any provision of this law;

596 (b) Failing to complete any applicable driver training requirements;

597 (c) Driving a fleet vehicle without being certified under the provisions of this law;

598 (d) Admitting to, or being determined to be, partially or entirely at fault in a motor vehicle  
599 crash involving vehicle damage, property damage, or personal injury, ~~the driver may have~~  
600 ~~his or her certification suspended;~~ and

## 601 **210.10. Suspension and Revocation of Certification; Disciplinary Action**

602 ~~210.10-1. Any driver who violates this law may be subject to suspension of his or her vehicle~~  
603 ~~driver certification, and/or driving privileges.~~

604 ~~(a) *Driving Privilege Suspensions.*~~

605 ~~(1) In certain situations, a supervisor may temporarily suspend a driver's driving~~  
606 ~~privileges without suspending the driver's certification. When a driver's driving~~  
607 ~~privileges are suspended, the driver shall not be permitted to drive a Tribal vehicle~~  
608 ~~or to drive a personal vehicle on Tribal business.~~

609 ~~(A) A supervisor shall temporarily suspend a driver's driving privileges:~~

610 ~~(1) When the driver is unable to provide proof that the driver carries~~  
611 ~~any insurance required by this law, or~~

612 ~~(2) When the driver has not satisfied any driver training~~  
613 ~~requirements as required by this law; but has made arrangements to~~  
614 ~~complete the required driver training within a reasonable period of~~  
615 ~~time.~~

616 ~~(3) Upon request from the Human Resources Department, in~~  
617 ~~conjunction with the Risk Management Department, pending an~~  
618

investigation that appears likely to lead to a suspension of certification.

(4) In any other situation where the supervisor is unable to determine whether the driver has valid certification and is eligible to drive a Tribal vehicle or a personal vehicle on Tribal business.

(B) When a supervisor suspends a driver's driving privileges; the supervisor shall promptly notify both the driver and the Human Resources Department, in writing, of the suspension, including the effective date; as well as the conditions that the employee is required to meet before the suspension may be lifted. The supervisor shall also notify both the driver and the Human Resource Department, in writing, once the driver's driving privileges are reinstated.

(C) A driver's driving privileges shall automatically be reinstated after the driver satisfactorily fulfills the conditions identified by the supervisor when the driving privileges are suspended.

(b) *Certification Suspensions.* A driver shall have his or her certification suspended for any of the following:

(1) Refusing to allow the Nation or an insurance carrier check his or her driving record.

(2) Failing to immediately notify his or her supervisor of any information as required in 210.8-4 or elsewhere in this law.

(3) Noncompliance with motor vehicle crash reporting requirements established by this law.

(4) Failing to complete any applicable driver training requirements.

(5) Being arrested, charged or convicted of a motor vehicle operation violation involving drugs, alcohol or criminal offense related to a traffic incident.

(6) Having his or her driver's license restricted, suspended, revoked or cancelled by the state.

(7) Knowingly driving a Tribal vehicle without being certified under the provisions of this law.

(8) For a personal vehicle certification, not (e) **Not** maintaining the minimum insurance requirements for a personal vehicle.

(c) Supervisors who fail to uphold this law may face disciplinary action, in accordance with the laws of the Nation governing employment.

(d) Regardless of whether a violation results in suspension of certification;

(1) employees who violate this law may also be subject to disciplinary action, in accordance with laws of the Nation governing employment;

(2) officials who violate this law may also be subject to sanctions and penalties in accordance with applicable laws of the Nation; including but not limited to, removal from office for elected officials and termination of appointment for appointed officials.

210.10-2. Except as provided in 210.11-2(d) and 210.10-7(b), suspension of a vehicle driver certification or of driving privileges, is not appealable.

210.10-3. *Suspensions Affecting Employment Status.* Suspension of certification is a suspension of driving privileges and is not leave from work. Individuals who have their driving privileges suspended in accordance with 210.10-1(a), or who have their certification suspended and their ability to perform their duties as an employee affected by that suspension may request, in writing, that their **8-8. Additional Driver Safety Training.** A supervisor and a Human Resources Department representative determine what, if any, options may be available to them. Options may



include, but are not limited to: non-driving accommodation within the home department; reassignment to a position which does not may require driving; a leave of absence without pay; or termination of employment.

210.10 4. The minimum length of a suspension shall be based on the number of prior suspensions that have occurred within the past three (3) years from the date of the incident that resulted in the most recent suspension:

(a) The first time a driver has that an individual complete an additional applicable driver safety training, at his or her vehicle driver certification suspended, the suspension shall last no less than five (5) full-time workdays.

(b) The second time a driver has his or her vehicle driver certification suspended, the suspension shall last no less than ten (10) full-time workdays.

(c) The third time a driver has his or her vehicle driver certification suspended, the suspension shall last no less than fifteen (15) full-time workdays.

(d) Drivers who incur more than three (3) vehicle driver certification suspensions under this law within a three (3) year period shall lose their vehicle driver certification for three (3) years, beginning with the date of the incident that resulted in the most recent suspension.

210.10 5. Due to the seriousness of a citation for the operation of motor vehicles involving drugs or alcohol, vehicle driver certification shall be suspended upon the issuance of a driving citation involving drugs or alcohol. Certification may only be reinstated upon the dismissal of the citation or upon three (3) years passing from the date of citation.

210.10 6. A break in employment or service of one hundred eighty (180) days or greater shall clear the driver's record of any vehicle driver certification suspensions, except for three (3) year suspensions resulting from a violation that involved drugs or alcohol. However, all prior suspensions may be used in re-employment consideration.

210.10 7. Notwithstanding any other provision of this law, the Nation reserves the right to suspend an individual's certification or extend a certification suspension. Certification may be suspended; or an existing suspension may be extended, based on the best interests of the Nation and in accordance with the following:

(a) For officials and volunteers: upon unanimous agreement between the Human Resources Department, Fleet Management and Risk Management.

(b) For employees: A supervisor may suspend an employee's certification or extend an existing suspension, when the supervisor determines it is appropriate to do so. The employee may appeal this adverse employment action in accordance with the employment laws of the Nation.

## **210.11. Reinstatement of Certification**

210.11 1. Vehicle driver certifications that are suspended for thirty (30) days or less shall be automatically reinstated upon expiration of the suspension.

210.11 2. A driver whose certification is suspended for thirty one (31) days or more, may have his or her certification reinstated in accordance with the following:

(a) The driver may request reinstatement of his or her certification after:

(1) A certification suspension has concluded or any citation(s) are dismissed or the individual is cleared of any charges alleged in a citation that resulted in a driving certification suspension; and

(2) Three (3) years have passed since own expense, if the individual was convicted of a motor vehicle operation citation involving drugs or alcohol; and;

(3) The state removes a (a) is involved in an at-fault motor vehicle crash or damage involving the fleet vehicle or personal vehicle driven on official business;

(b) receives a moving violation while driving a fleet vehicle or personal vehicle driven on official business; and

(c) has his or her driver's license ~~suspension; and~~ suspended or revoked by the State or becomes invalid for any other reason.

~~(4) Written proof has been submitted to the Human Resources Department that the individual has any required insurance coverage.~~

~~(b) Upon receiving a request to reinstate an individual's certification, the Human Resources Department shall:~~

~~(1) check the individual's driving record to ensure the individual has no violations on his or her driving record preventing reinstatement; and~~

~~(2) verify the written proof of insurance submitted by the individual, provided it meets the requirements of this law.~~

~~(c) If the individual passes the driving record check and his or her proof of insurance is verified, the individual's certification shall be reinstated upon approval of the Human Resources Department.~~

~~(1) Exception. For an individual's fourth (4<sup>th</sup>) suspension or a suspension due to a conviction of motor vehicle operation citation involving drugs or alcohol the individual's certification may only be reinstated if the following requirements are met:~~

~~(A) For officials and volunteers: certification may only be reinstated upon unanimous approval of the Human Resources Department, Fleet Management and Risk Management.~~

~~(B) For employees: The supervisor shall notify the Human Resources Department, Area Manager, and Risk Management of the request; and may reinstate the employee's certification if none of those entities object.~~

~~(d) Any official, volunteer or employee may seek review of a decision not to reinstate certification, by filing an appeal with the Judiciary.~~

*End.*

Adopted BC-06-28-17-C.

Amended BC- - - - .



**Title 2. Employment - Chapter 210**

**Lot\$=sles Kayanl^sla Khale> Nya>teka>sl#htake Lonatl\$hute> Kayanl^sla**  
*they're driving law and a variety of vehicles the responsibility is attached to them*

**VEHICLE DRIVER CERTIFICATION AND FLEET MANAGEMENT**

210.1. Purpose and Policy

210.2. Adoption, Amendment, Repeal

210.3. Definitions

210.4. Driver Certification

210.5. Responsibilities of a Certified Driver

210.6. Fleet Vehicles

210.7. Motor Vehicle Crashes or Damage to Vehicles

210.8. Suspension of Driver Certification and Other Enforcement

**210.1. Purpose and Policy**

210.1-1. *Purpose.* The purpose of this law is to establish standards that certify employees, elected and appointed officials, and volunteers to drive a fleet vehicle or personal vehicle on official business and regulate the use of all vehicles owned and leased by the Nation.

210.1-2. *Policy.* It is the policy of the Nation to ensure the safety of the community and employees of the Nation; minimize the Nation's liability when physical damage to vehicles and/or property damage occurs as a result of a motor vehicle crash; and improve the efficiency and effectiveness of the use of vehicles owned by the Nation.

**210.2. Adoption, Amendment, Repeal**

210.2-1. This law was adopted by the Oneida Business Committee by resolution BC-06-28-17-C, and amended by resolution BC-\_\_-\_\_-\_\_.

210.2-2. This law may be amended or repealed by the Oneida Business Committee and/or Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

210.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

210.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

210.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**210.3. Definitions**

210.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Area manager" means an employee's supervisor's supervisor; or, an individual designated to be the area manager by a General Manager position.

(b) "Business day" means Monday through Friday, from 8:00 a.m. to 4:30 p.m.; excluding the Nation's holidays.

(c) "Employee" means an individual employed by the Nation, but does not include elected or appointed officials, or employees of a chartered corporation of the Nation.

(d) "Entity" means a department, enterprise, program, board, committee or commission of the Nation.

(e) "Employee Assistance Program" means a professional counseling program staffed by clinical social workers licensed by the State of Wisconsin which offers services to the Nation's employees and family members.

(f) "Fleet vehicle" means a vehicle owned or leased by the Nation.

(g) "Moving violation" means any violation of motor vehicle or traffic law that is committed by the driver of a vehicle while the vehicle is moving. A moving violation does

not include parking violations, equipment violations, or paperwork violations relating to insurance, registration or inspection.

(h) “Nation” means the Oneida Nation.

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

(j) “Supervisor” means the direct supervisor of an employee. For volunteers, elected or appointed officials, or employees without a direct supervisor, it means the Human Resources Department or any party who has been designated by the Human Resources Department as responsible for performing a supervisor’s responsibilities under this law.

(k) “Weapon” means a firearm, knife, electric weapon, club, or any other object intended to cause harm to oneself or others.

#### **210.4. Driver Certification**

210.4-1. An individual shall obtain driver certification from the Human Resources Department before operating a fleet vehicle or personal vehicle on official business.

210.4-2. *Qualifications for Certification.* In order to receive driver certification a person shall:

(a) Be eighteen (18) years of age or older;

(b) Hold a valid Wisconsin driver’s license;

(1) A person who holds a valid driver’s license from a state other than Wisconsin shall have thirty (30) days after his or her first day of employment or service to obtain a Wisconsin driver’s license.

(c) Have a driving record that does not reflect any of the following conditions:

(1) Three (3) or more moving violations and/or at-fault motor vehicle crashes in the past two (2) years; and/or

(2) An operating while intoxicated (OWI), driving under the influence (DUI), or prohibited alcohol concentration (PAC) citation within the last twelve (12) months.

(d) Complete all driver training requirements imposed by the Nation or any federal or state agency regulations;

(e) Satisfy any other requirements specific to the job description and/or vehicle that may be used by or assigned to the person; and

(f) Maintain one (1) of the following minimum insurance requirements for a personal vehicle if the individual may use his or her personal vehicle to conduct official business:

(1) the individual’s insurance covers:

(A) one hundred thousand dollars (\$100,000) per person;

(B) three hundred thousand dollars (\$300,000) per motor vehicle crash for bodily injury; and

(C) twenty-five thousand dollars (\$25,000) property damage; or

(2) the individual’s insurance covers two hundred and fifty thousand dollars (\$250,000) combined single limit.

210.4-3. The Nation’s Human Resources Department shall be responsible for determining whether an individual meets all the qualifications before approving or denying a driver certification.

(a) An individual shall provide his or her appropriate license, training certification, and insurance information to the Human Resources Department.

(b) The Human Resources Department shall have the authority to check the driving record of an individual at any time.

(c) The Human Resources Department shall maintain a current list of all certified drivers and provide the list to Fleet Management, Risk Management, and Central Accounting on a regular basis.

210.4-4. A supervisor shall ensure that an individual has received his or her driver certification from the Human Resources Department before allowing the individual to drive a fleet vehicle or a personal vehicle on official business.

210.4-5. *Exemption.* An individual whose duties with respect to the implementation of a contract, agreement, or compact of the Nation include driving may be subject to compliance with a motor vehicle operation policy as provided in the contract, agreement, or compact of the Nation when this law is less stringent than the said motor vehicle operation policy.

## **210.5. Responsibilities of a Certified Driver**

210.5-1. *General Responsibilities.* While operating a fleet vehicle or a personal vehicle on official business, an individual shall:

- (a) Abide by all traffic laws;
- (b) Wear a seat belt and require any passengers to wear a seat belt at all times;
- (c) Not drive while under the influence of prohibited drugs and/or alcohol;
- (d) Not drive if impaired by a medical or physical condition or other factor that affects a driver's motor skills, reaction time, or concentration;
- (e) Not carry a weapon, whether in the open or concealed;
  - (1) *Exemption.* An individual who is carrying a weapon in the course of performing his or her official duties, or is participating in cultural activities or ceremonies is exempt from this requirement.
- (f) Not transport prohibited drugs and/or alcohol;
  - (1) *Exemption.* An employee of the Nation who is transporting prohibited drugs and/or alcohol in the course of performing his or her job duties is exempt from this requirement.
- (g) Not deliver goods or services for personal gain, or operate private pools where the riders pay the driver; and
- (h) Not use electronic devices in an unlawful manner.

210.5-2. *Training Responsibilities.* An individual with driver certification shall complete the driver safety training provided and monitored by the Human Resources Department every three (3) years.

- (a) *Exemption.* An individual who is required to maintain compliance with any specialized driver safety training requirements imposed by state or federal regulatory agencies shall be exempt from the requirement to complete the driver safety training provided by the Human Resources Department.

210.5-3. *Fleet Vehicle Responsibilities.* When operating a fleet vehicle, an individual shall:

- (a) Complete a vehicle mileage log;
- (b) Not transport unauthorized passengers;
- (c) Notify the Fleet Management Department immediately of any problems with a fleet vehicle that may be a safety or mechanical hazard, or of any incidents that result in the inability of a fleet vehicle to complete a trip;
- (d) Be personally responsible for all traffic citation costs, parking ticket costs, or any similar expense related to vehicle use;
- (e) Use Oneida Retail locations for fueling fleet vehicles, unless the fleet vehicle needs fuel before it can be taken to an Oneida Retail location;
- (f) Not smoke or use electronic smoking devices or permit others to smoke or use electronic smoking devices in the fleet vehicle; and

(g) Ensure the interior of the vehicle is kept in good condition, clean, and free of debris.

210.5-4. *Personal Vehicle Responsibilities.* When operating a personal vehicle on official business, an individual shall:

(a) Obtain permission from his or her supervisor to operate a personal vehicle on official business; and

(b) Submit all required documents for mileage reimbursement, if seeking reimbursement for miles driven while conducting official business, within thirty (30) days of driving the miles or by the end of the current fiscal year, whichever is sooner.

(1) Not seeking mileage reimbursement does not exempt an individual from the provisions of this law.

210.5-5. *Notification Requirements.* An individual shall notify his or her supervisor if he or she:

(a) Has his or her driver's license suspended or revoked by the State, or has his or her driver's license become invalid for any other reason;

(b) Meets any of the conditions for disciplinary action as provided in section 210.8-7; and/or

(c) Has any impairment by a medical or physical condition or other factor that affects his or her motor skills, reaction time, or concentration.

## **210.6. Fleet Vehicles**

210.6-1. *Fleet Management Department.* The Nation's Fleet Management Department shall purchase, manage, and monitor the use of the Nation's fleet vehicles. The Fleet Management Department's responsibilities shall include, but are not limited to:

(a) Maintain a list of all fleet vehicles that are available for use, including vehicles permanently assigned to specific entities of the Nation;

(b) Remove unsafe vehicles from the fleet;

(c) Obtain estimates of and schedule fleet vehicle repairs when necessary;

(d) Install or remove equipment on fleet vehicles;

(e) Ensure the Nation's logo is on all fleet vehicles; and

(f) Ensure that all fleet vehicles are equipped with a mileage log and an auto incident kit which contains forms and instructions for reporting any incident.

210.6-2. *Automotive Department.* The Automotive Department shall service and maintain fleet vehicles according to factory recommendations, or the maintenance schedule established by the Automotive Department, whichever is stricter. Any vehicle deemed unsafe by the Automotive Department shall be reported to the Fleet Management Department.

210.6-3. *Risk Management Department.* The Risk Management Department shall be responsible for securing and maintaining insurance coverage for all fleet vehicles. Additional responsibilities of the Risk Management Department shall include, but is not limited to:

(a) Providing auto insurance identification cards in every fleet vehicle;

(b) Processing all submitted vehicle claims and related information; and

(c) Submitting claims to the insurance company.

210.6-4. *Use of a Fleet Vehicle.* A fleet vehicle may be permanently assigned to an entity for use or requested for use on a temporary basis. A fleet vehicle shall be used for conducting official business of the Nation. When used for travel purposes, a fleet vehicle may also be used for incidental purposes such as travel to and from lodging and/or meal sites.

(a) *Prohibited Use of a Fleet Vehicles.* A fleet vehicle shall not be used for any of the following purposes:

(1) Personal use for non-business purposes;

(2) Towing cargo for personal reasons;

(3) Hauling loads that could structurally damage the vehicle; and/or

- 186 (4) Jump starting vehicles, other than fleet vehicles.
- 187 210.6-5. *Permanently Assigned Fleet Vehicles.* The Fleet Management Department may
- 188 permanently assign a fleet vehicle to an entity if the entity meets the minimum mileage criteria as
- 189 established by the Fleet Management Department.
- 190 (a) *Exception to Minimum Mileage Criteria.* The Fleet Management Department may
- 191 grant an entity an exception to the minimum mileage criteria.
- 192 (b) An entity who is permanently assigned a fleet vehicle shall regularly schedule
- 193 maintenance work and safety checks with the Automotive Department.
- 194 (c) An entity that is permanently assigned a fleet vehicle is responsible for ensuring that
- 195 any individual who drives the vehicle has his or her driver certification.
- 196 210.6-6. *Temporary Use of a Fleet Vehicle.* An individual in an entity that is not permanently
- 197 assigned a fleet vehicle may request to use a fleet vehicle for the purpose of conducting official
- 198 business by submitting a request to the Fleet Management Department.
- 199 (a) Requests for the use of a fleet vehicle shall be made at least one (1) week in advance,
- 200 unless urgent circumstances arise.
- 201 (b) Before determining whether a fleet vehicle is available, or approving the use of a fleet
- 202 vehicle, the Fleet Management Department shall confirm that:
- 203 (1) The individual requesting the fleet vehicle has his or her driver certification;
- 204 (2) The individual has authorization to use the fleet vehicle from his or her
- 205 supervisor, if an employee, or by the individual's entity, if the individual is an
- 206 elected or appointed official of the Nation or volunteer; and
- 207 (3) Any passengers are authorized to travel in a fleet vehicle.
- 208 (c) The Fleet Management Department may combine vehicle use for travel to the same
- 209 destination.
- 210 (d) The Fleet Management Department may cancel reservations that are not fulfilled in a
- 211 timely manner.
- 212 210.6-7. *Authorized Passengers.* In addition to the employees, elected or appointed officials, or
- 213 volunteers who are authorized to use a fleet vehicle, the following individuals shall be authorized
- 214 to be a passenger in a fleet vehicle:
- 215 (a) Individuals being transported as part of a program or service of the Nation;
- 216 (b) Individuals being transported during the normal and ordinary course of representing
- 217 and/or conducting business on behalf of the Nation; and/or
- 218 (c) Any other individual who is authorized to be a passenger by the supervisor of the
- 219 employee, elected or appointed official, or volunteer.
- 220 210.6-8. *Modifications to Fleet Vehicles.* Modifications to fleet vehicles for personal reasons are
- 221 not permitted. Modifications to fleet vehicles for operating purposes may be allowed only with the
- 222 approval of the Fleet Management Department.
- 223 (a) Radar detection devices shall not be installed or used in fleet vehicles.
- 224 210.6-9. *Rental Vehicles.* An individual shall have his or her driver certification before using a
- 225 rental vehicle to conduct official business. An individual shall operate the rental vehicle with the
- 226 same responsibilities and restrictions as a fleet vehicle.
- 227 (a) A vehicle shall be rented in accordance with the Nation's laws and policies governing
- 228 travel. Every vehicle rented shall include the purchase of the maximum collision damage
- 229 waiver offered by the rental company.
- 230

## 231 **210.7. Motor Vehicle Crashes or Damage to Vehicles**

232 210.7-1. In the event of a motor vehicle crash or damage involving the fleet vehicle or personal

233 vehicle driven on official business, an individual shall be subject to the following reporting

234 requirements; provided that, if an individual sustains injuries that make it impossible to meet the



reporting deadlines identified herein; the driver shall instead make the required reports as soon as he or she is able to do so:

(a) immediately report the crash or damage to local law enforcement if it results in any of the following:

(1) death of a person;

(2) an injury to the driver or another person that requires medical attention;

(3) damage to property that does not belong to the driver or the Nation; or

(4) a vehicle being disabled and/or needing to be towed.

(b) immediately report the motor vehicle crash or damage to his or her supervisor; and

(c) provide the Fleet Management Department and Risk Management Department with a completed auto incident report by the end of the next business day immediately following the motor vehicle crash or damage.

210.7-2. *Internal Review.* The Fleet Management Department and Risk Management Department shall coordinate and conduct an internal review of the auto incident report for a motor vehicle crash and/or damage to a vehicle.

(a) Fleet Management and Risk Management may recommend whether an individual should be subject to disciplinary action and/or a driver safety training requirement based on the motor vehicle crash or incident resulting in damage to a vehicle.

(b) The internal review shall be completed as soon as possible after a motor vehicle crash has been reported.

(c) Following an internal review, Fleet Management and Risk Management shall issue a report. Copies of the report shall be:

(1) provided to the driver, the driver's supervisor, and the driver's area manager; and

(2) provided to the Human Resources Department if the Fleet Management Department and Risk Management Department recommend disciplinary action.

## **210.8. Suspension of Driver Certification and Other Enforcement**

210.8-1. Suspension of driver certification is the suspension of an individual's ability to drive a fleet vehicle or personal vehicle on official business and is not a leave from work. Suspension of driver certification is non-appealable.

210.8-2. *Qualifications for Suspension.* A supervisor shall suspend an individual's driver certification if the individual's driver's license is suspended or revoked by the State or becomes invalid for any other reason.

(a) A supervisor may refer drivers to the Employee Assistance Program in accordance with applicable laws and policies of the Nation.

210.8-3. *Length of Suspension.* The individual's driver certification shall be suspended until a time in which the individual has obtained a valid driver's license and meets the qualifications for reinstatement of driver certification.

210.8-4. *Notification of Suspension.* The supervisor shall notify the Human Resources Department in writing if he or she suspends the driver certification of an individual and shall provide the basis for the suspension. Once notified of a suspension of driver certification the Human Resources Department shall remove the individual from the list of current certified drivers.

210.8-5. *Reasonable Accommodations to Suspension.* If the suspension of an individual's driver certification affects the individual's ability to perform his or her job duties, a supervisor may take one of the following actions:

(a) Reassign the individual to a position which does not require driving;

(b) Provide non-driving accommodation within the position;

(c) Remove the driving requirement from the job description;



(d) Place the individual on unpaid leave until the individual obtains his or her driver certification; or

(e) Terminate the individual because a valid driver's license is an essential requirement of the position.

210.8-6. *Reinstatement of Driver Certification.* An individual may have his or her driver certification reinstated upon a review by the Human Resources Department that the individual again meets all the qualifications for driver certification provided for in section 210.4-2.

210.8-7. *Other Enforcement Actions.* A supervisor may take disciplinary action against an individual in accordance with the Nation's laws and policies governing employment if the individual is an employee, or in accordance with the laws and policies of the Nation governing sanctions and penalties if the individual is an elected or appointed official of the Nation, for any of the following actions:

(a) Failing to comply with any provision of this law;

(b) Failing to complete any applicable driver training requirements;

(c) Driving a fleet vehicle without being certified under the provisions of this law;

(d) Admitting to, or being determined to be, partially or entirely at fault in a motor vehicle crash involving vehicle damage, property damage, or personal injury; and

(e) Not maintaining the minimum insurance requirements for a personal vehicle.

210.8-8. *Additional Driver Safety Training.* A supervisor may require that an individual complete an additional applicable driver safety training, at his or her own expense, if the individual:

(a) is involved in an at-fault motor vehicle crash or damage involving the fleet vehicle or personal vehicle driven on official business;

(b) receives a moving violation while driving a fleet vehicle or personal vehicle driven on official business; and

(c) has his or her driver's license suspended or revoked by the State or becomes invalid for any other reason.

*End.*

---

Adopted BC-06-28-17-C.

Amended BC-\_\_-\_\_-\_\_-\_\_.

# FINANCE ADMINISTRATION

## Fiscal Impact Statement



## MEMORANDUM

TO: Larry Barton, Chief Financial Officer  
RaLinda Ninham-Lamberies, Assistant Chief Financial Officer

FROM: Terry Cornelius, Chief Financial Analyst

DATE: March 26, 2020

RE: **Fiscal Impact of the Amendments to the Vehicle Driver Certification and Fleet Management Law**

### I. Estimated Fiscal Impact Summary

<b>Law:</b> Amendments to the Indian Preference in Contracting Law		Draft 3
<b>Implementing Agency</b>	Legislative Operating Committee	
<b>Estimated time to comply</b>	Unable to determine	
<b>Estimated Impact</b>	<b>Current Fiscal Year</b>	<b>10 Year Estimate</b>
<b>Total Estimated Fiscal Impact</b>	<b>Indeterminate</b>	<b>Indeterminate</b>

### II. Background

This Law was adopted by the Oneida Business Committee by resolution BC-06-28-17-C as the Vehicle Driver Certification and Fleet Management Law. Upon adoption this law repealed both the Vehicle Driver Certification Policy and the Oneida Vehicle Fleet Management Policy. A public meeting was held on January 23, 2020. The amendments to the legislation are the following:

- The qualifications to become a certified driver are updated:
  - Restriction on drug and alcohol convictions is reduced from three years without and OWI to 12 months without an OWI.
  - Drivers may have no more than three moving violations or at fault crashes within a two-year period.
  - Allow persons with probationary licenses to become certified drivers at age 18 or older.
- The process to suspend driver certification is modified.

- Certification is suspended when a driver's license is suspended or revoked by the State of Wisconsin.
- There will be disciplinary action for other violations not resulting in the State loss of driving privileges.
- Restrictions pertaining to use of over the counter or prescription medications are revised.
- Driver safety training for all certified drivers will be required every three years, with certain exceptions.
- Mileage reimbursement requests must be submitted within 3 days of trip or by the end of the current fiscal year, whichever is sooner.
- The use of e-cigarettes in tribal fleet vehicles will be banned.
- Weapons in fleet vehicles and in personal vehicles when used for official tribal business will be banned, with certain exceptions.
- Exceptions to the law may be created for drivers whom are subject to more stringent driver certification and/or training requirements due to outside contracts, agreements or compacts.

### **III. Methodology and Assumptions**

A "Fiscal Impact Statement" means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.

Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.

The analysis was completed based on the information provided as of the date of this memo.

### **IV. Executive Summary of Findings**

We attempted contact three times with the Human Resources Department, Risk Management and the Department of Public Works – Fleet Management. We did not receive responses to our inquiries for estimated impact from DPW Fleet Management nor the Human Resources Department. The Risk Management Director indicated there should not be a significant increase in costs to Oneida Nation. The request for estimated timeframes needed to comply with the amendments to the Law, was not addressed. Therefore, we cannot include this important information in our analysis and are unable to render a full fiscal impact statement.

The Risk Management Director indicated his area and DPW Fleet Management did participate in providing information to the LOC leading up to the Public Meeting. It was along the lines of data of the number of crashes over the last ten years.

Researching information, we examined the Center for Insurance Policy and Research within the National Association of Insurance Commissioners. According to the data there, the main rating factors in determining the pricing of automobile insurance premiums include:

- Age.
- Driving experience.
- Driving record.
- Claims history.

There are nine other factors which are determined by the Center for Insurance Policy and Research to be the main drivers of insurance rates. These other factors are not touched upon by the Amendments, however. Any changes to our Vehicle Driver Certifications in these areas noted in above bullet points could possibly have the impact of increasing our premium prices paid by Oneida Nation. The Risk Management Director does not see the potential impact as significant, however. It is noted that the proposed Amendments include relaxing requirements in each of the areas noted above, which, according to the National Association of Insurance Commissioners, are key drivers of insurance rates.

#### **V. Financial Impact**

The Fiscal Impact of implementing this legislation is indeterminate at this time. It is remotely possible that the Amendments could cause our insurance premiums paid by Oneida Nation to increase, but we cannot know the amount predicted until the Risk Management Department obtains quotes from insurance companies.

#### **VI. Recommendation**

Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of this legislation, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

**Oneida Business Committee Agenda Request**

Approve two (2) actions regarding the resolution entitled Amendments to the Indian Preference in...

**1. Meeting Date Requested:** 4 / 8 / 20**2. General Information:**Session: ☒ Open ☐ Executive - See instructions for the applicable laws, then choose one:Agenda Header: ☐ Accept as Information only☒ Action - please describe:

1) Adopt the resolution "Amendments to the Indian Preference in Contracting Law"

2) Direct the General Manager and Chief Financial Officer to provide the Oneida Business Committee with an update within thirty (30) days on the Indian Preference Office and Purchasing Department's progress on the development and/or updating of the required standard operating procedures.

**3. Supporting Materials**☐ Report ☒ Resolution ☐ Contract☒ Other:1. 3. 2. 4. ☐ Business Committee signature required**4. Budget Information**☐ Budgeted - Tribal Contribution☐ Budgeted - Grant Funded☐ Unbudgeted**5. Submission**Authorized Sponsor / Liaison: Primary Requestor/Submitter:   
Your Name, Title / Dept. or Tribal MemberAdditional Requestor:   
Name, Title / Dept.Additional Requestor:   
Name, Title / Dept.



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



TO: Oneida Business Committee  
FROM: David P. Jordan, LOC Chairperson  
DATE: April 8, 2020  
RE: Indian Preference in Contracting Law Amendments

Please find the following attached backup documentation for your consideration of the proposed amendments to the Indian Preference in Contracting law:

1. Resolution: Amendments to the Indian Preference in Contracting Law
2. Statement of Effect: Amendments to the Indian Preference in Contracting Law
3. Indian Preference in Contracting Law Amendments Legislative Analysis
4. Indian Preference in Contracting Law Amendments (Redline)
5. Indian Preference in Contracting Law Amendments (Clean)
6. Indian Preference in Contracting Law Amendments Fiscal Impact Statement

#### Overview

On April 17, 2019, the LOC added the Indian Preference in Contracting law amendments to its Active Files List. The purpose of the Indian Preference in Contracting law is to establish an Indian Preference Office and increase economic benefits for the Nation and members of the Nation by providing for the maximum utilization of Indian workers and businesses on projects of the Nation which occur on or near the Reservation. [5 O.C. 502.1-1].

This resolution adopts amendments to the Indian Preference in Contracting law which will:

- Update the definition of tribal corporation to include any corporation chartered and/or wholly owned by the Nation [5 O.C. 502.3-1(ee)];
- Exempt tribal corporations from the requirement to submit a certification renewal application on an annual basis [5 O.C. 502.5-6(c)];
- Permit joint ventures to qualify for Indian Preference on a project-specific basis [5 O.C. 502.5-8];
- Raise the contract threshold for when Indian Preference is applied from one thousand five hundred dollars (\$1,500) to three thousand dollars (\$3,000) [5 O.C. 502.6-1];
- Set a new timeframe for the Indian Preference Office's review of contracts prior the posting or announcement of a contract [5 O.C. 502.6-3];
- Clarify the Indian Preference Office's authority to develop a fine and penalty schedule for violations of this law, to be approved by the Oneida Business Committee by resolution [5 O.C. 502.9-5(a)(4)(A)];
- Make additional updates and clarify language throughout the law.



The Legislative Operating Committee developed the proposed amendments to the Indian Preference in Contracting law through collaboration with representatives from the Nation's Indian Preference Office, Purchasing Department, Oneida Law Office, Community and Economic Development Division, and the Oneida ESC Group.

In accordance with the Legislative Procedures Act, a public meeting on the Indian Preference in Contracting law was held on December 19, 2019. One (1) person provided oral comments during the public meeting. The public comment period was then held open until December 30, 2019. The Legislative Operating Committee received two (2) submissions of written comments during the public comment period. All public comments received were accepted, reviewed, and considered by the Legislative Operating Committee on February 5, 2020. Any changes made based on those comments have been incorporated into this draft.

**Requested Action**

Approve the Resolution: Amendments to the Indian Preference in Contracting Law

# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## BC Resolution # \_\_\_\_\_ Amendments to the Indian Preference in Contracting Law

- 1  
2  
3 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe  
4 recognized by the laws of the United States of America; and  
5  
6 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and  
7  
8 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,  
9 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and  
10  
11 **WHEREAS,** the Indian Preference in Contracting law ("the Law") was adopted by the Oneida Business  
12 Committee through resolution BC-03-27-13-B; and  
13  
14 **WHEREAS,** the purpose of the Law is to establish an Indian Preference Office and increase economic  
15 benefits for the Nation and members of the Nation by providing for the maximum utilization  
16 of Indian workers and businesses on projects of the Nation which occur on or near the  
17 Reservation; and  
18  
19 **WHEREAS,** the Legislative Operating Committee worked collaboratively with representatives from the  
20 Nation's Indian Preference Office, Purchasing Department, Oneida Law Office, Community  
21 and Economic Development Division, and the Oneida ESC Group to develop the  
22 amendments to this Law; and  
23  
24 **WHEREAS,** the amendments to the Law update the definition of tribal corporation to now include any  
25 corporation wholly owned by the Nation in addition to those corporations chartered by the  
26 Nation; and  
27  
28 **WHEREAS,** the amendments to the Law provide tribal corporations an exemption from the requirement  
29 to submit a certification renewal application on an annual basis; and  
30  
31 **WHEREAS,** the amendments to the Law now permit joint ventures to qualify for Indian Preference on a  
32 project-specific basis; and  
33  
34 **WHEREAS,** the amendments to the Law raise the contract threshold for when Indian Preference is  
35 applied from one thousand five hundred dollars (\$1,500) to three thousand dollars (\$3,000);  
36 and  
37  
38 **WHEREAS,** the amendments to the Law set a new timeframe for the Indian Preference Office's review  
39 of contracts prior the posting or announcement of a contract; and  
40  
41 **WHEREAS,** the amendments to the Law clarify the Indian Preference Office's authority to develop a  
42 fine and penalty schedule for violations of this law, to be approved by the Oneida Business  
43 Committee by resolution; and

44  
45 **WHEREAS,** the amendments to the Law make other minor drafting revisions; and  
46

47 **WHEREAS,** in accordance with the Legislative Procedures Act a legislative analysis and fiscal impact  
48 statement were completed for the amendments to the Law; and  
49

50 **WHEREAS,** a public meeting on the proposed amendments to this Law was held on December 19,  
51 2019, in accordance with the Legislative Procedures Act, and the public comment period  
52 was held open until December 30, 2019; and  
53

54 **WHEREAS,** the Legislative Operating Committee accepted, reviewed, and considered the public  
55 comments received on February 5, 2020; and  
56

57 **NOW THEREFORE BE IT RESOLVED,** that the amendments to the Indian Preference law are hereby  
58 adopted and shall be effective on May 8, 2020.  
59

60 **BE IT FINALLY RESOLVED,** that the Indian Preference Office and Purchasing Department shall  
61 implement the Law as adopted and develop and/or revise any internal processes and/or standard operating  
62 procedures as needed to implement this Law.  
63



**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



## **Statement of Effect** *Amendments to the Indian Preference in Contracting Law*

### **Summary**

This resolution adopts amendments to the Indian Preference in Contracting law.

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

*Date: March 13, 2020*

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

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

The Indian Preference in Contracting law was adopted by the Oneida Business Committee for the purpose of establishing an Indian Preference Office and increase economic benefits for the Nation and members of the Nation by providing for the maximum utilization of Indian workers and businesses on projects of the Nation which occur on or near the Reservation. [5 O.C. 502.1-1].

The amendments to the Indian Preference in Contracting law will:

- Update the definition of tribal corporation to include any corporation chartered and/or wholly owned by the Nation [5 O.C. 502.3-1(ee)];
- Exempt tribal corporations from the requirement to submit a certification renewal application on an annual basis [5 O.C. 502.5-6(c)];
- Permit joint ventures to qualify for Indian Preference on a project-specific basis [5 O.C. 502.5-8];
- Raise the contract threshold for when Indian Preference is applied from one thousand five hundred dollars (\$1,500) to three thousand dollars (\$3,000) [5 O.C. 502.6-1];
- Set a new timeframe for the Indian Preference Office’s review of contracts prior the posting or announcement of a contract [5 O.C. 502.6-3]; and
- Clarify the Indian Preference Office’s authority to develop a fine and penalty schedule for violations of this law, to be approved by the Oneida Business Committee by resolution [5 O.C. 502.9-5(a)(4)(A)].

Other additional minor changes were made to the draft to update the language and ensure compliance with drafting style and formatting requirements.

In accordance with the LPA, a public meeting on the proposed amendments to the Indian Preference in Contracting law was held on December 19, 2019. One (1) person provided oral comments during the public meeting. The public comment period was then held open until December 30, 2019. The Legislative Operating Committee received two (2) submissions of written comments during the public comment period. All public comments received were accepted, reviewed, and considered by the Legislative Operating Committee on February 5, 2020. Any changes made based on those comments have been incorporated into this draft.

### ***Conclusion***

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



## Yukwat^nhas Ukwehu=w# Kayanl^hsla

# AMENDMENTS TO INDIAN PREFERENCE IN CONTRACTING LAW LEGISLATIVE ANALYSIS

## SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Ernie Stevens III	SPONSOR: Ernie Stevens III	DRAFTER: Clorissa N. Santiago	ANALYST: Brandon Wisneski
Intent of the Amendments	<ul style="list-style-type: none"> <li>To update the definition of tribal corporation to include any corporation chartered and/or wholly owned by the Nation;</li> <li>To raise the threshold to apply Indian Preference from one thousand five hundred dollars (\$1,500) to three-thousand dollars (\$3,000) for any contracts entered into by the Nation;</li> <li>To permit joint ventures to qualify for Indian Preference on a project-specific basis;</li> <li>To exempt tribal corporations from having to submit a certification renewal application on an annual basis;</li> <li>Set a new timeline for Indian Preference Office to review contracts;</li> <li>Clarify the Indian Preference Office's authority to develop a fine and penalty schedule for violations of this law, to be approved by the Oneida Business Committee by resolution.</li> </ul>		
Purpose	To establish an Indian Preference Office and increase economic benefits for the Nation and members of the Nation by providing for the maximum utilization of Indian workers and businesses on projects of the Nation which occur on or near the Reservation /5 O.C. 502.1-1/.		
Affected Entities	Indian Preference Office, Purchasing Department, Oneida Judiciary, Oneida Police Department, Oneida Licensing Department, Corporations chartered and/or wholly owned by the Nation, and any department or entity of the Nation that enters into projects or contracts greater than \$3,000.		
Related Legislation	Open Records and Open Meetings law, Vendor Licensing law, Personnel Policies and Procedures; Independent Contractor Policy, Travel and Expense Policy.		
Public Meeting	A public meeting was held on December 19, 2019.		
Fiscal Impact	A fiscal impact statement has been provided by the Finance Department.		

## SECTION 2. LEGISLATIVE DEVELOPMENT

- A. The Nation's Indian Preference in Contracting law was adopted on July 29, 1998 and most recently amended on March 27, 2013. The purpose of this law is to increase economic benefits for the Nation and members of the Nation by providing maximum utilization of Indian workers and businesses on projects of the Nation. The Nation's Indian Preference Office is responsible for monitoring and enforcing Indian Preference in contracting.
- B. This law was added to the LOC's Active file List on April 17, 2019 at the request of Councilmember Ernie Stevens III. The original intent of the amendments was to update the definition of "tribal entity." Since that time, a work group of representatives from relevant entities and departments have met to



review the law. Many of the proposed amendments reflect the feedback and suggestions of this work group.

### SECTION 3. CONSULTATION AND OUTREACH

- A. Representatives from the following departments or entities of the Nation participated in the development of this law and legislative analysis: Indian Preference Office, Purchasing Department, Law Office, Community and Economic Development Division, and Oneida ESC Group.
- B. The following laws of the Nation were reviewed in drafting this analysis: Open Meetings and Open Records law, Vendor Licensing law, Personnel Policies and Procedures, Independent Contractor Policy, Travel and Expense Policy, Layoff Policy, Furlough Policy, Oneida Nation Law Enforcement Ordinance.

### SECTION 4. PROCESS

- A. Thus far, this law has followed the process set forth in the Legislative Procedures Act (LPA).
- B. The law was added to the Active Files List on April 17, 2019.
- C. A public meeting was held on December 19, 2019 with the public comment period held open until December 30, 2019.
- C. At the time this legislative analysis was developed, the following work meetings had been held regarding developments of these amendments and legislative analysis:
- May 20, 2019 Work Meeting: LOC, Indian Preference, Purchasing, Oneida ESC Group.
  - June 5, 2019 Work Meeting: LOC.
  - June 6, 2019 Work Meeting: LOC.
  - July 25, 2019 Work Meeting: LOC, Law Office, Indian Preference, Purchasing.
  - September 26, 2019 Work Meeting: LOC, Indian Preference, Purchasing, Community Economic Development.
  - October 21, 2019 Work Meeting: Indian Preference, Community Economic Development.
  - October 24, 2019 Work Meeting: LOC.
  - November 14, 2019 Work Meeting: Indian Preference and Purchasing.
  - December 12, 2019 Work Meeting: LOC.
  - February 5, 2020 Work Meeting: LOC.
  - March 3, 2020 Special Oneida Business Committee Work Meeting.

### SECTION 5. CONTENTS OF THE LEGISLATION

- A. **Definition of Tribal Corporation.** The Indian Preference law applies to tribal corporations to the extent that those corporations enter into contracts with the Oneida Nation [5 O.C. 502.6-1(b)]. Previously, the definition of tribal corporation was “a corporation chartered by the Oneida Tribe of Indians of Wisconsin pursuant to the Constitution and Bylaws of the Oneida Tribe.” This definition has been updated to “a corporation chartered and/or wholly owned by the Nation pursuant to the Constitution and Bylaws of the Oneida Nation” [5 O.C. 502.3-1(ee)].
- *Effect.* Some of the corporations owned by the Nation are chartered in other states. For example, Oneida ESC Group is incorporated in the state of Nevada, but wholly owned by the Oneida Nation. This updated definition clarifies that this law will apply to all of the Nation’s corporations regardless of where they are chartered, organized or incorporated.

**Chart 1. List of Oneida Nation Corporations.**

<i>Tribal Corporation</i>	
<i>Oneida Airport Hotel Corporation</i>	Chartered by Oneida Nation.
<i>Bay Bancorporation</i>	Incorporated under WI Business Corporation law. Wholly owned by Oneida Nation.
<i>Oneida ESC Group, LLC</i>	Limited liability company (LLC) organized under Nevada law. Wholly owned by Oneida Nation.
<i>Oneida Golf Course Enterprise Corporation</i>	Chartered by Oneida Nation.
<i>Oneida Seven Generations Corporation.</i>	Chartered by Oneida Nation. Currently in the process of being dissolved.

**B. Joint Ventures.** Joint ventures will now qualify for Indian Preference on a project-specific basis.

- *What is a Joint Venture?* A “joint venture” is a one-time grouping of two (2) or more entities in a business undertaking [5 O.C. 502.3-1(v)]. A joint venture is a partnership where each party jointly undertakes a transaction for mutual profit. Each member of the joint venture contributes assets and shares risk [Cornell Law Legal Information Institute (LII)]. For example, two companies may form a joint venture to bid on a construction project that they otherwise would be unable to complete on their own.
- *Joint Ventures Now Eligible for Indian Preference.* Previously, joint ventures were not eligible to receive Indian Preference. These amendments will permit joint ventures to receive Indian Preference on a project-specific basis [5 O.C. 502.5-8]. In other words, the joint venture will only receive Indian Preference for the specific project they are bidding on. Because joint ventures are typically a short-term partnership, any future joint venture will need to reapply for Indian Preference each time they bid on a project.
- *Effect.* Entities that form joint ventures to bid on projects will now qualify for Indian Preference provided they meet all other requirements of this law.

**C. Threshold to Apply Indian Preference.** Currently, the Indian Preference law applies to all of the Nation’s contracts over \$1,500 except where prohibited by law or grant funding requirements. These amendments raise this threshold. Now, the Indian Preference law will only apply to the Nation’s contracts over \$3,000 [5 O.C. 502.6-1].

- *Justification.* This change was made at the recommendation of the Purchasing Department to match the Nation’s current procurement threshold. The Nation’s procurement policy requires three bids for any contract or purchase over \$3,000. Setting both the Indian Preference and three-bid thresholds at \$3,000 will make both policies easier to implement for the Nation. Purchasing also explained that most Indian Preference vendors bid on projects above \$3,000, such as construction-related projects. Therefore, Purchasing Department predicts that the higher threshold will have minimal impact on most Indian Preference vendors.
- *Effect.* Indian Preference will only apply to contracts greater than \$3,000. Any vendors bidding on projects between \$1,500 and \$2,999 will no longer receive Indian Preference.

**D. New Timeline for Indian Preference Office to Review Contracts.** The current Indian Preference law already requires that projects must be submitted to the Indian Preference Office for review before being posted or announced for bids. However, the current law does not include a timeframe for the Indian Preference office to complete this review.

- *New Timeline.* These amendments add a new timeline for when the Indian Preference office must complete this review. Now, the Indian Preference Office must complete their review within five (5) business days [5 O.C. 502.6-4]. The intent is to ensure that projects can be posted in a timely manner.

**E. *Fine and Penalty Schedule for Indian Preference Violations.*** The current Indian Preference law already authorizes the Indian Preference Office to develop and the Business Committee to approve a fine and penalty schedule for violations of this law. However, no fine and penalty schedule has been adopted.

- *Changes.* Previously, this law stated that fine amounts must be no less than \$100 and no more than \$1,000. These amendments remove this limitation. In addition, the amendments also specify that the fine amounts will be adopted by the Business Committee by resolution. [5 O.C. 502.9-5(a)(4)].

**F. *Certification Renewal Exemption for Tribal Corporations.*** Indian Preference certification is granted on an annual basis and expires after one (1) year. Each year, certified entities must submit a renewal application and reporting form to maintain their certification. This ensures that entities still meet the requirements for Indian preference. Tribal corporations will now be exempt from having to submit a certification renewal form on an annual basis. [5 O.C. 502.5-6(c)].

- *Background:* Tribal corporations are chartered and/or wholly owned by the Oneida Nation. Compared to a private entity, tribal corporations are unlikely to experience a change in ownership or control that would impact their Indian Preference certification status without the Nation being aware of it. Therefore, the requirement to submit renewal forms each year has been deleted. Tribal corporations will still be required to notify that Indian Preference Office of any occurrence that would impact their eligibility for certification in accordance with 502.5-5.

**G. *Minor Drafting Changes.*** Minor drafting changes have been made throughout the law, such as changing “Tribe” to “Nation” or moving the order of existing sections.

## SECTION 6. EFFECT ON EXISTING LEGISLATION

**A. *References to the Other Laws of the Nation:*** The following laws of the Nation are referenced in this law. These amendments do not conflict with any of the referenced laws.

- *Open Records and Open Meetings law.* In accordance with the Nation’s laws and policies governing open records, general, non-proprietary and non-private information provided for the purposes of acquiring certification shall be considered open records and available for public inspection. [5 O.C. 502.5-7 and 502.9-3(c)(2)].
- *Personnel Policies and Procedures.* In the execution of employment duties and in accordance with the Nation’s laws and policies governing employment, employees of the Nation shall follow this law in following contracting and bidding procedures for the Nation or entities of the Nation [5 O.C. 502.6-7].
- *Vendor Licensing.* All contracts this law applies to must include reference to the Nation’s laws governing vendor licensing and provide the contracting parties with directions on how to access that document [5 O.C. 502.6-8(c)].

**B. *Other Laws that Reference Indian Preference in Contracting:*** The following laws of the Nation reference Indian Preference in Contracting. These amendments do not conflict with any of the referenced laws.

- 131       ▪ *Independent Contractor Policy*. “It is... the policy of the Tribe that the order of preference, as set  
132       out in the Tribe’s Indian Preference law, be used in the selection of independent contractors” [5  
133       *O.C. 503.1-2(b)*].
- 134       ▪ *Travel and Expense Policy*. In regard to business expenses, “Considerations should be given to  
135       patronizing tribally owned business and Indian Preference vendors certified by the Compliance  
136       division” [2 *O.C. 219.9-4(f)*].
- 137       ▪ *Judiciary Canons of Judicial Conduct*. “Nothing in these canons shall be construed as prohibiting  
138       a Judge from affiliating with, using the facilities of, or attending events sponsored by organizations  
139       that support Native American issues, exercise tribal or Indian Preference...” [8 *O.C. 802.3.2.2*].
- 140    C. ***Other Laws that Reference Indian Preference in Hiring***: The following laws of the Nation reference  
141       Indian Preference as it relates to the Nation’s hiring process. The standards set in this law do not apply  
142       to preference “as applicable to employees hired through the Nation’s HRD or pursuant to an  
143       employment contract” [5 *O.C. 502.6-2(a)*]. The Nation’s Indian preference in hiring process is located  
144       in Section III of the Nation’s Personnel Policies and Procedures. These amendments do not conflict  
145       with any of the referenced laws.
- 146       ▪ *Layoff Policy*. “The Oneida Tribe recognizes Indian preference in the development of layoff SOPs.  
147       Indian preference as used in this policy shall mean a preference granted to retain the Oneida  
148       member employee when all other things being equal with non-member employees. Provided that,  
149       a manager may identify critical positions within the business unit which shall not be subject to  
150       Indian Preference” [2 *O.C. 207.4-1*].
- 151       ▪ *Furlough Policy*. “Indian preference may not be used as a consideration in identifying employees  
152       to be furloughed” [2 *O.C. 205.5-4*].
- 153       ▪ *Oneida Nation Law Enforcement Ordinance*. “The following positions shall be held only by  
154       members of the Oneida Tribe: Police Chief, Assistant Chief, Police Lieutenant or Sergeant,  
155       Conservation Director, Assistant Conservation Director... All other positions and appointments  
156       shall be subject to the Indian Preference rules of the Oneida Tribe” [3 *O.C. 301.5-3(d)*].

## 158 SECTION 7. ENFORCEMENT AND ACCOUNTABILITY

- 159   A. ***Enforcement***. The Nation’s Indian Preference Office is authorized to enforce this law [5 *O.C. 502.4-1*  
160       502.9-5]. In addition, the Oneida Police Department is authorized to enforce orders issued by the Trial  
161       Court, such as cease-and-desist orders [5 *O.C. 502.9-8*].  
162

## 163 SECTION 8. OTHER CONSIDERATIONS

- 164   A. ***Fine and Penalty Schedule***. At the time this analysis was drafted, the Indian Preference Office is  
165       developing a fine and penalty schedule for consideration by the Oneida Business Committee. The LOC  
166       intends to bring a proposed fine and penalty schedule resolution to the Oneida Business Committee at  
167       the time these amendments are up for adoption.
- 168   B. ***Fiscal Impact***. A fiscal impact statement has been provided by the Finance Department.
- 169       ▪ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except  
170       emergency legislation [1 *O.C. 109.6-1*].
  - 171       ▪ A fiscal impact statement shall be submitted by agencies as directed by the Legislative Operating  
172       Committee and may be prepared by any agency who may receive funding if the legislation is  
173       enacted; who may administer a program if the legislation is enacted; who may have financial

174 information concerning the subject matter of the legislation; or by the Finance Office, upon request  
175 of the Legislative Operating Committee [*1 O.C. 109.6-1(a and b).*].  
176

**Title 5. Business - Chapter 502****~~INDIAN PREFERENCE IN CONTRACTING~~****Yukwat^nhas Ukwehu=w# Kayanl^hsla***Laws concerning the hiring of the Oneida People*

~~502.1. Purpose and Policy~~  
~~502.2. Adoption, Amendment, Conflicts~~  
~~502.3. Definitions~~  
~~502.4. Jurisdiction~~  
~~502.5. Indian Preference Office~~  
~~502.6. Certification of Entities~~  
~~502.7. Application of Indian Preference~~  
~~502.8. Skills Bank and Qualified Trades Workers~~  
~~502.9. Compliance Agreements~~  
~~502.10. Office Investigations and Enforcement~~

**INDIAN PREFERENCE IN CONTRACTING**

502.1. Purpose and Policy  
502.2. Adoption, Amendment, Conflicts  
502.3. Definitions  
502.4. Jurisdiction  
502.5. Certification of Entities

502.6. Application of Indian Preference to Contracts  
502.7. Compliance Agreements  
502.8. Skills Bank and Qualified Trades Workers  
502.9. Investigations and Enforcement

**502.1. Purpose and Policy**

502.1-1. *Purpose.* The purpose of this law is to establish an Indian Preference Office and increase economic benefits for the ~~Tribes~~Nation and ~~Tribal~~ members of the Nation by providing for the maximum utilization of Indian workers and businesses on ~~Tribal~~ projects of the Nation which occur on or near the Reservation.

502.1-2. *Policy.* It is the policy of the ~~Tribes~~:

- (a) ~~To~~Nation to ensure that Indian preference provisions are applied fairly in all situations and in such a way that reflects the intent of this law; and
- (b) ~~To~~ to undertake reasonable efforts to ensure that all entities that enter into contracts with or on behalf of the ~~Tribes~~Nation utilize the labor force of Indian workers and businesses by applying Indian preference in all aspects of fulfilling that contract, including but not limited to: hiring, training, business opportunities, labor and/or professional services, and the supply of materials.

**502.2. Adoption, Amendment, Conflicts**

502.2-1. This law is adopted by the Oneida Business Committee by Resolution BC-03-27-13-B and ~~shall be effective immediately.~~amended by resolution BC- - - - -.

502.2-2. This law may be amended ~~pursuant to the procedures set out in Tribal law~~or repealed by the Oneida Business Committee ~~and/or the Oneida~~ General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

502.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

502.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. ~~However, this law specifically supersedes the following:~~

- (a) BC-04-03-96-A - Indian Preference Policy Rider I;
- (b) BC-05-22-96-A - Technical Amendments to Rider I Policy;
- (c) BC-06-10-98-D - Amendment to Resolution 5-22-96-A;
- (d) BC-07-29-98-B - Indian Preference Law;



(e) BC-03-27-02-A - Sections 9-14 of the Indian Preference Law; and  
 (f) BC-03-26-03-A - Amendment to Indian Preference Law Addendum.  
 502.2-5. This law is adopted under authority of the Constitution of the Oneida ~~Tribe of Indians of Wisconsin.~~  
 502.2-6. ~~Adoption and enforcement of this law does not waive the sovereign immunity of the Oneida Tribe of Indians of Wisconsin~~Nation.

### 502.3. Definitions

502.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

~~(a)~~ (a) “Agent” means one who acts relative to a fiduciary relationship to another; a person authorized to negotiate and/or transact business on behalf of an entity.

~~(b)~~ (b) “Bid” means an offer to execute a specified job or jobs within a prescribed time and not exceeding a proposed amount, and includes both offers that become legally binding upon acceptance, and nonbinding or informal quotes.

~~(c)~~ (c) “Bid shopping” means the practice of divulging a contractor’s or subcontractor’s bid to other prospective bidders before the award of a contract, in order to secure a lower bid.

~~(d)~~ (d) “Broker” means an intermediary; an independent contractor employed to negotiate business between a buyer and seller for compensation.

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

~~(f)~~ (f) “Certification” means verification by the Indian Preference Office that an entity meets all the requirements necessary to qualify for Indian preference in accordance with this law.

~~(g)~~ “Certified entity. See Entity, Certified entity

~~(h)~~ “Compliance agreement” means a binding agreement, negotiated between the Indian Preference Office and a contractor, identifying specific Indian preference-related requirements for a Tribal project.

~~(i)~~ “Construction contract” means any contract issued to build, repair or remodel structures, and includes subcontracts and other construction agreements.

~~(j)~~ “Contractor” means one who enters into a contract.

~~(k)~~ “Core work crew” means the minimum amount of the contractor’s key employees that are essential to start up and continue work on a Tribal project.

~~(l)~~ “Days” means calendar days, except as otherwise provided.

~~(m)~~ “Employee” means any person that performs services and/or labor for an employer in exchange for compensation.

~~(n)~~ “Employer” means any entity, except the Oneida Tribe of Indians of Wisconsin, that controls and directs an employee under an express or implied contract of employment and is obligated to pay salary or wages in compensation.

~~(o)~~ “Entity” means any person, sole proprietor, partnership, corporation, franchise, governmental enterprise, or any other natural or artificial person or organization. The term is intended to be as broad and encompassing as possible to ensure this law covers all employment and contract activities within the jurisdiction of the Tribe.

~~(p)~~ (g) “Certified entity” means an entity that has received certification as an Indian-owned business from the Indian Preference Office.

~~“Tribal”~~ (h) “Compliance agreement” means a binding agreement, negotiated between the Indian Preference Office and a contractor identifying specific Indian preference-related requirements for a project.

(i) “Construction contract” means any contract issued to build, repair, or remodel structures, and includes subcontracts and other construction agreements.

(j) “Contractor” means one who enters into a contract.

(k) “Core work crew” means the minimum amount of the contractor’s key employees, who perform a critical function such that an employer would risk likely financial damage or loss if that task were assigned to a person unfamiliar with and/or untrained in the employer’s procedures and routines, that are essential to start up and continue work on a project.

(l) “Employee” means any person that performs services and/or labor for an employer in exchange for compensation.

(m) “Employer” means any entity” means, except the Nation, that controls and directs an employee under an express or implied contract of employment and is obligated to pay salary or wages in compensation.

(n) “Enterprise” means any internal operation owned and operated by the Nation that generates revenues through its core business functions, including but not limited to, Oneida Gaming, Oneida Retail, and Oneida Printing.

(o) “Entity” means any person, sole proprietor, partnership, corporation, franchise, governmental body, or any other natural or artificial person or organization. The term is intended to be as broad and encompassing as possible to ensure this law covers all Tribal employment and contract activities within the jurisdiction of the Nation.

~~(2)~~ (p) “Entities of the Nation” means all programs, departments, boards, committees, commissions and similar business units of the Nation, but shall not mean Tribal corporations, such as Oneida Seven Generations Corporation or Oneida Tribal Integrated Enterprises.

~~(q)~~ (q) “Front” means a business entity that is strategically structured, financed, operated or staffed such as to unfairly take advantage of Indian preference as granted under this law.

~~(r)~~ (r) “Indian” means an enrolled member of any federally-recognized Indian tribe.

~~(s)~~ (s) “Indian-owned business” means an entity which is majority owned and managed by an Indian.

~~(t)~~ (t) “Indian preference” means preference for Indians, regardless of tribal affiliation, in all aspects of employment and contracting.

~~(u)~~ (u) “Internal service” means any service provided for free or at cost for the TribeNation and includes but is not limited to such services as certain types of advocacy or representation, mail delivery and pick up, grant writing or assistance, tourism initiatives, Human Resource assistance and technical support.

~~(v)~~ (v) “Joint venture” means an entity that is fifty percent (50%) owned and managed by an Indian.

~~(w)~~ (w) “Key employee” means a one who performs a critical function such that an employer would risk likely financial damage-time grouping of two (2) or less if that task were assigned to a person unfamiliar with and/or untrained more entities in the employer’s procedures and routines a business undertaking.

~~(x)~~ (w) “Lowest responsible bidder” means a bidder who, after any Indian preference discounts are applied, submits the lowest bid and is considered to be fully responsible and qualified to perform the work for which the bid is submitted.

~~(y)~~ (w) “Office(x) “Nation” means the Indian Preference Office or its designee.

~~(x) “Oneida” means the Oneida Tribe of Indians of Wisconsin Nation.~~

~~(y) “Outsource” means to obtain goods or any contract other than a service from a third party, instead of having construction contract, and includes subcontracts and other agreements.~~

~~(z) “Project” means any effort whereby the Nation or an entity of the Nation contracts for labor and/or goods or services be provided from within the Tribe by a Tribal entity or Tribal enterprise that will support or benefit any aspect of the Nation’s government, holdings, infrastructure, workplace, economy or community.~~

~~(aa) “Qualified trades worker” means a skilled worker qualified to perform services for the trade in which the person is trained, and includes general laborers.~~

~~(bb) “Reservation” means all the lands within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.~~

~~(cc) “Skills Bank” means the services provided by the Office, whereby listings of qualified trades workers are maintained and made available for those required to comply with this law.~~

~~(dd) “Subcontractor” means a trade contractor, who is awarded a contract for the supply of services pursuant to a construction agreement, or a junior or secondary contractor who performs some or all of the prime contractor’s contractual obligations.~~

~~(ee) “Trade contractor” means an entity that is awarded a contract for the supply of services pursuant to a construction agreement, including all entities that enter into any subcontracts.~~

~~(ff) “Tribal” or “Tribe” means the Oneida Tribe of Indians of Wisconsin.~~

~~(gg) “Trial Court” means the Trial Court of the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later authorized to administer the judicial authorities and responsibilities of the Nation by Oneida General Tribal Council resolution GTC-03-19-17-A.~~

~~(hh) “Tribal corporation” means a corporation chartered and/or wholly owned by the Oneida Tribe of Indians of Wisconsin Nation pursuant to the Constitution and Bylaws of the Oneida Tribe.~~

~~(ii) “Tribal enterprise” means any internal operation owned and operated by the Tribe that generates revenues through its core business functions, including but not limited to: Oneida Gaming, Oneida Retail, Oneida Farm, and Oneida Printing.~~

~~(jj) Tribal entity. See Entity, Tribal entity.~~

~~(kk) “Tribal project” means any effort whereby the Tribe or a Tribal entity contracts for labor and/or goods or services that will support or benefit any aspect of the Tribal government, holdings, infrastructure, workplace, economy or community.~~

#### 502.4. Jurisdiction

502.4-1. The Indian Preference Office shall ~~have authority over matters relating to the interpretation~~ implement, monitor, and enforce this law ~~as set out within this law~~ and other applicable laws and policies relating to Indian preference.

502.4-2. The ~~Tribe’s judicial system~~ Trial Court shall have ~~exclusive~~ jurisdiction over all ~~other~~ matters ~~relating~~ related to the interpretation and enforcement of this law.

502.4-23. The Indian Preference Office and ~~the Tribe’s judicial system~~ Trial Court shall have jurisdiction over all parties to any contract, subcontract, or compliance agreement to which this law applies, as well as jurisdiction over all subcontractors, employees, or other entities working

with, for, or on behalf of such a party in fulfilling such contract, subcontract or compliance agreement.

#### **502.5. Certification of EntitiesIndian Preference Office**

~~502.5-1. An Indian Preference Office is hereby created~~*Criteria* ~~for the purpose of implementing, monitoring and enforcing this law and other applicable laws and policies relating to Indian preference.~~

~~502.5-2. The Office shall have the following duties, along with other responsibilities as may be listed throughout this law.~~

~~(a) *Certification of Entities.*~~

~~(1) Verify information provided by entities seeking~~*as an Indian-Owned Business.*  
~~In order to seek certification and make determination of eligibility.~~

~~(2) Issue certification.~~

~~(b) *Skills Bank.* Establish and maintain a Skills Bank and actively recruit qualified trades workers for listing in the Skills Bank.~~

~~(1) Identify, initiate, and sponsor training, internship and apprenticeship opportunities necessary in order to increase the pool of qualified trades workers and to assist Indians in becoming qualified in the various job classifications used by employers.~~

~~(2) Cooperate with other Tribal programs to provide counseling and support to assist Indians in retaining employment.~~

~~(c) *Negotiations.* Negotiate compliance agreements that include, but are not limited to the following:~~

~~(1) Numerical hiring goals and timetables that specify the minimum number of Indians that must be utilized per Tribal contract dollar.~~

~~(2) Compensation of qualified trades workers including wage scale, salaries and other benefits. Compensation shall be determined based on the prevailing federal, state and/or Tribal wage scales.~~

~~(d) *Monitoring.*~~

~~(1) Perform on-site inspections to verify compliance with this law.~~

~~(2) Require and review weekly workforce reports.~~

~~(3) Establish a mandatory training process for Tribal entities that do contracting or bidding as a regular function of their duties.~~

~~(4) Provide training to assist certified entities with understanding their rights and abilities under this law.~~

~~(5) Receive feedback from contractors regarding the performance of any certified entity or qualified trades worker.~~

~~(e) *Investigations.* Investigate written complaints and respond to inquiries.~~

~~(f) *Enforcement.*~~

~~(1) Enforce compliance agreements and the provisions of this law.~~

~~(2) Create internal procedures to implement and carry out the provisions of this law.~~

~~(3) Suspend or revoke certification of entities or remove trades workers from the Skills Bank.~~

~~(4) Issue Notices of Noncompliance.~~

~~(5) Represent the interests of the Tribe in bringing or defending Indian preference-related actions before the Tribe's judicial system relating to noncompliance with~~

218 this law, a compliance agreement, or regulations or policies issued pursuant to this  
219 law.

220 (6) Establish a schedule of fines in accordance with 502.10-3, and impose such  
221 fines in accordance with 502.10-4.

222 502.5-3. *Records.* Any records created and maintained by the Office shall be made available in  
223 accordance with applicable Tribal and federal law.

224 502.5-4. Within the scope of authority defined in this law, the Office may enter into cooperative  
225 agreements with federal and state agencies, subject to the approval of the Oneida Business  
226 Committee.

227 502.5-5. Prior to the posting or announcement of a contract for any Tribal project, the  
228 specifications for such project shall be submitted to the Office.

229 (a) The Office shall, with experts identified from other Tribal entities, review the  
230 specifications, including bidding requirements, to ensure that there are no unnecessary and  
231 unjustifiable restrictions that may:

232 (1) preclude certified entities from bidding or being eligible to fulfill the contract  
233 or subcontract;

234 (2) disqualify qualified trades workers from employment opportunities created  
235 under such contract or subcontract; or

236 (3) create conditions that would make bidding, compliance, or employment unduly  
237 burdensome for qualified trades workers or certified entities.

238 (b) *Unbundling a Contract.* The Office may require that specific portions of a contract be  
239 outsourced to internal services, Tribal enterprises, certified entities and/or qualified trades  
240 workers, even if a single entity is capable of providing all of the goods and/or services  
241 required under the contract. Provided that, such outsourcing shall not cause undue hardship,  
242 unnecessary delay or additional expenses in completing the Tribal project.

## 244 **502.6. Certification of Entities**

245 502.6-1. Applicants seeking certification of an Indian-owned business shall submit a completed  
246 and signed application to the Office, along with any documentation required under 502.6-4.

247 502.6-2. The Office may interview the following criteria shall be met by the applicant(s) and/or  
248 request additional information as may be necessary to make a determination regarding  
249 certification. entity:

250 502.6-3. Within thirty (30) days of receiving the application and any additional requested  
251 information, the Office shall inform the applicant of a determination to:

252 (a) grant the certification; or

253 (b) deny the certification, including a full written explanation of the reason for the denial;  
254 or

255 (c) grant probationary certification for a period of up to one (1) year, if so determined by  
256 the Office for reasonable and just cause as identified and set out in regulations. During the  
257 probationary period, the applicant shall satisfy any conditions imposed by the Office, and  
258 the Office shall monitor the activities of the applicant, and may request and receive such  
259 information as necessary to ensure compliance with this law. The Office shall either grant  
260 or deny full certification at the end of the probationary period, or upon petition by the  
261 applicant, whichever occurs first.

262 502.6-4. Certification may be granted to entities that qualify in accordance with the criteria listed  
263 in this law. In order to receive certification, an applicant entity shall provide proof of:



~~(a)~~ (a) There is Indian financial ownership, control and management of at least fifty-one percent (51%) of the entity. Evidence of both financial ownership and control shall be embodied in the entity's organizational documents, including, but not limited to the documents of incorporation, stock ownership, or a partnership agreement.

(1) *Indian Financial Ownership.* Indian financial ownership is established where the ~~Tribe, Tribal~~Nation, members of the Nation and/or other Indians own fifty-one percent (51%) or more of the assets and equipment, receive fifty-one percent (51%) or more of distributed net profits, and would receive fifty-one percent (51%) or more of the entity's assets upon dissolution.

(2) *Indian Control.* Indian control is established where the ~~Tribe, Tribal~~Nation, member of the Nation and/or other Indian owner(s) maintain a minimum of fifty-one percent (51%) of voting rights or other controlling decisional authority.

(3) *Indian Management.* Indian Management is established where an Indian owner(s) is directly involved in the entity's management, this can be shown where:

(A) at least one (1) Indian owner is directly involved in the daily operations of the entity on a full-time basis and in a senior-level position; or

(B) at least one (1) Indian owner is responsible for the oversight of operations, even though the daily operations are conducted by non-owner employees.

~~(b) Financial~~ (b) The entity can demonstrate financial responsibility, including but not limited to, evidence of an adequate line of credit, contributions of sufficient working capital, applicable required bonding and insurance, materials and/or equipment necessary to perform applicable work.

~~(c) All~~ The entity can provide past and current licensing or certifications, including any penalties, or other punitive actions or debarments taken by any licensing body within the past ten (10) years.

502.6-5-2. Application. The applicant entity shall submit a completed and signed application to the Indian Preference Office, along with any documentation proving the entity meets the criteria for certification of an Indian-owned business.

(a) Upon receiving an application, the Indian Preference Office may interview the applicant and/or request additional information as may be necessary to make a determination regarding certification.

502.5-3. Certification Determination. Within thirty (30) days of receiving the application and any additional requested information, the Indian Preference Office shall inform the applicant of a determination to:

(a) grant the certification;

(b) deny the certification, including a full written explanation of the reason for the denial;  
or

(c) grant probationary certification for a period of up to one (1) year, if so determined by the Indian Preference Office for reasonable and just cause.

(1) During the probationary period, the applicant shall satisfy any conditions imposed by the Indian Preference Office.

(2) The Indian Preference Office shall monitor the activities of the applicant, and may request and receive such information as necessary to ensure compliance with this law.



(3) The Indian Preference Office shall either grant or deny full certification at the end of the probationary period, or upon petition by the applicant, whichever occurs first.

502.5-4. Once an applicant entity has been granted certification, the Indian Preference Office shall mail a certificate to the entity. – Granting an entity certification does not convey any comment regarding the ability of the entity to perform any work nor does it guarantee that an entity has met all the qualifications to obtain work under any particular contract where Indian preference may be applied.

502.6-5-5. Notification Requirements. A certified entity shall report the following to the Indian Preference Office within ten (10) business days of such an occurrence:

- (a) changes in the ownership or control status of the entity; ~~and/or~~
- (b) suspension, revocation, lapse or loss of any licensing, certification, insurance, bonding, or credit lines; and/or
- (c) any other changes that could:
  - (1) affect an entity's eligibility for certification;
  - (2) affect the financial liability of any entity, contracting party or the Tribe, Nation;
  - ~~and/or~~
  - (3) alter the status of the qualifications of the entity.

502.5-6-7. Certification Renewal. Certification is granted on an annual basis, and shall lapse after one (1) year unless renewed.

- (a) To apply for a renewal certification, each certified entity shall complete and return a renewal application and annual reporting form so that the Indian Preference Office may update its records.
- (b) Annual renewal notices, applications and reporting forms shall be mailed to each certified entity at least thirty (30) days prior to the expiration of an entity's certification; however, the responsibility for renewal is upon the entity.

~~502.6-8. Open Records. In accordance with the Open Records and Open Meetings law (c)~~  
Exemption for Tribal Corporations. Tribal corporations shall be exempt from the requirement to renew certification on an annual basis. Certification for a Tribal corporation is granted until such a time that the Indian Preference Office is made aware that there have been changes that may affect the certification status of a Tribal corporation in accordance with the notification requirements of section 502.5-5.

(1) When a Tribal corporation complies with the notification requirements of section 502.5-5 the Tribal corporation shall also apply for renewal of its certification.

(A) The Indian Preference Office shall provide the Tribal corporation with a renewal application and annual reporting form.

(B) The Tribal corporation shall return the renewal application and annual reporting form to the Indian Preference Office ten (10) days.

502.5-7. Open Records. In accordance with the Nation's laws and policies governing open records, general, non-proprietary and non-private information provided for the purposes of acquiring certification shall be considered open records and available for public inspection. Provided ~~further,~~ that, all information given for purposes of receiving certification, including financial information, is subject to internal audit of the Tribe Nation.

~~502.6-95-8. Joint Ventures. Joint~~All joint ventures ~~shall not be certified seeking certification as eligible for Indian preference even though one equal fifty percent (50%) partner is an Indian that shares in equal financial ownership, control and direct involvement with-owned business shall~~

submit documentation of the business arrangements of the joint venture in addition to the required documentation for certification.

(a) Certification for a joint venture shall be issued on a project specific basis.

502.6-105-9. *Brokers, Agents and Franchises.*

(a) *Brokers.* Brokers shall be certified as an Indian-owned business only if they are dealers who own, operate or maintain a store, warehouse or other establishment in which the commodities being supplied are bought, kept in stock and sold to the public in the usual course of business; provided that this requirement shall not apply where the applicant demonstrates that it is not customary and usual in the area of the trade in question for a broker to maintain an establishment and to keep commodities in stock.

(1) To qualify as an Indian-owned business, the broker shall provide conclusive evidence that the broker is an independent contractor and not an agent of a non-Indian owned business.

(2) The broker shall also provide proof that he owes no fiduciary responsibility nor has a fixed or permanent relationship to any one company. A broker shall hold himself or herself out for employment to the public generally and that the employment is not that of being a special agent for a single client.

(b) *Agents.* Agents who are employees of a non-Indian-owned business or who merely represent a company, such as an insurance agent or real estate agent for a non-Indian-owned business, shall not be certified as an Indian-owned business.

(c) *Franchises.* A franchise may be certified as an Indian-owned business if the franchisee does not pay the franchisor a share or percentage of revenue or profits, but only compensates the franchisor through licensing, royalty and franchise fees as set out by contract, and/or for services provided, such as training and advising.

502.6-115-10. *Fronts are Prohibited.* Entities shall be disqualified from certification as an Indian preference-eligibility-owned business in all situations where the entity operates as a front in order to unfairly take advantage of Indian preference granted under this law to Indian-owned businesses.

(a) The Indian Preference Office shall not certify entities that operate solely as fronts.

(b) No entity shall manipulate its business structure or misrepresent the roles of Indian individuals or entities in such a way as to become eligible for Indian preference in a manner inconsistent with the purpose and intent of this law.

(c) Examples of fronts include but are not limited to:

(1) Entities that represent that they are exercising management control of a Tribal project in order to qualify for Indian preference when in fact such management control is exercised by a non-Indian entity;

(2) Entities where Indians have senior management titles without the correlating responsibilities, control, or knowledge of operations; where the entity only qualifies for certification because an Indian holds that senior management role;

(3) Entities, not including legitimate brokers, that derive profit only by providing goods or services at an increased cost, where such goods or services could be acquired directly on the open market and/or from the entity's source without paying a marked-up cost; and/or

(4) Any other situation where the Indian Preference Office determines that the application of Indian preference would in fact predominantly or substantially benefit non-Indians or non-Indian-owned businesses; or where Indians or Indian-owned businesses only benefit by assisting the non-Indian or non-Indian-owned business with receiving the contract.

403  
404 **502.76. Application of Indian Preference to Contracts**

405 502.76-1. *Application of the Law.* Except where prohibited or limited by law or grant funding  
406 requirements, this law shall apply to all contracts over ~~one~~three thousand ~~five hundred~~ dollars  
407 (\$~~1,500.00~~3,000) that meet the requirements of (a) and/or (b) below:

408 (a) This law shall apply to:

409 (1) all contracts, subcontracts, and compliance agreements to which the  
410 ~~T~~ribeNation is a party, and all contracts, subcontracts and compliance agreements  
411 that are entered into on behalf of, or for the benefit of the ~~T~~ribeNation, whereby  
412 goods and services are provided on or near the Reservation; and

413 (2) all subcontractors, employees, or other entities working with, for, on behalf of  
414 a party to a contract, subcontract or compliance agreement as identified in (1), in  
415 fulfilling such contract, subcontract, or compliance agreement.

416 (b) *Tribal Corporations.* This law shall apply to Tribal corporations to the extent such  
417 corporations enter into contracts with the ~~T~~ribeNation.

418 502.76-2. *Non-Applicability of the Law.*

419 (a) ~~Tribal~~Indian Preference in Hiring of Employees of the Nation. The standards set out  
420 in this law shall not apply to preference as applicable to ~~Tribal~~employees hired through  
421 the ~~O~~neidaNation's Human Resources ~~department~~Department or pursuant to an  
422 employment contract.

423 (b) *Internal Services and Tribal Enterprises.* The application of Indian preference shall be  
424 superseded in specific situations in accordance with the following:

425 (1) The ~~T~~ribeNation shall exclusively utilize internal services and ~~Tribal~~  
426 enterprises whenever an internal service of the ~~T~~ribeNation or ~~Tribal~~ enterprise  
427 could or does provide the necessary goods and services in the ordinary course of  
428 business.

429 (2) If an internal service or ~~Tribal~~enterprise is unable to fulfill some or all of the  
430 requirements of a contract, then the provisions of this law shall apply to any  
431 outsourcing conducted by the internal service or ~~Tribal~~enterprise.

432 502.6-3. Contract Specifications Review. Prior to the posting or announcement of a contract for  
433 any project of the Nation, the specifications for such project shall be submitted to the Indian  
434 Preference Office.

435 (a) Within five (5) business days of receiving the specifications of the project the Indian  
436 Preference Office shall, with experts identified from other entities of the Nation, review  
437 the specifications, including bidding requirements, to ensure that there are no unnecessary  
438 and/or unjustifiable restrictions that may:

439 502.7 3-(1) preclude certified entities from bidding or being eligible to fulfill the  
440 contract or subcontract;

441 (2) disqualify qualified trades workers from employment opportunities created  
442 under such contract or subcontract; and/or

443 (3) create conditions that would make bidding, compliance, or employment unduly  
444 burdensome for qualified trades workers or certified entities.

445 (b) Unbundling a Contract. The Indian Preference Office may require that specific  
446 portions of a contract be outsourced to internal services, enterprises, certified entities  
447 and/or qualified trades workers, even if a single entity is capable of providing all of the  
448 goods and/or services required under the contract. Provided that, such outsourcing shall

not cause undue hardship, unnecessary delay or additional expenses in completing the project.

502.6-4. In soliciting bids, the entity offering the contract shall indicate that Indian preference shall be applied in accordance with this law.

502.7-4.6-5. Cooperative Agreements. Within the scope of authority defined in this law, the Indian Preference Office may enter into cooperative agreements with federal and state agencies, subject to the approval of the Oneida Business Committee.

502.6-6. Cultural Setting of Contracts. All parties to a contract to which this law applies shall recognize that any operations are taking place within a unique cultural setting within the ~~community of the Tribe.~~ Nation. Every contractor shall make reasonable accommodations to the customs and beliefs of all Indian workers so as to promote rather than hinder the employment of Indians.

(a) If an Indian worker wishes to attend any traditional cultural activities or ceremonies, the worker shall provide reasonable advance notice to the contractor in requesting such time off.

(b) Where attendance at traditional cultural activities or ceremonies requires a worker to take time off from a regularly scheduled shift or workday, such time may be paid or unpaid, at the discretion of the employer or as established by contract or compliance agreement.

~~502.6-7-5. Tribal.~~ Employees of the Nation. In the execution of employment duties and in accordance with the ~~Tribe's Personnel Policies~~ Nation's laws and ~~Proceedures, Tribal policies governing employment,~~ employees of the Nation shall follow this law in following contracting and bidding procedures for the ~~Tribe~~ Nation or ~~Tribal~~ entities of the Nation.

(a) The Indian Preference Office shall establish a training process for entities of the Nation that do contracting or bidding as a regular function of their duties.

~~502.7-6-8.~~ Contracts and Attachments. All contracts this law applies to shall:

(a) Stipulate that compliance with this law is required, and that violation of any portion of this law or applicable compliance agreement may be deemed a material and substantial breach of contract, enforceable:

(1) As set forth by the terms of the original contract for a breach of contract; and

(2) In accordance with the provisions of this law.

(b) Reference this law, and shall contain an ~~Acknowledgment Clause~~ acknowledgment clause, whereby the contractor shall agree to the following:

(1) The contractor has read and understands the provisions of this law;

(2) The contractor understands how this law affects the contractor's rights and responsibilities; and

(3) The contractor agrees that the provisions of this law shall govern the performance of the parties.

(c) Reference ~~Chapter 56 of the Oneida Code of Laws, Oneida Vendor Licensing~~ Nation's laws governing vendor licensing, and provide the contracting parties with directions on how to access that document.

502.6-9. Applying Indian Preference to Non-Construction Contracts. Where more than one (1) bid is received for a non-construction contract, an Indian preference percentage discount of five percent (5%) shall be applied to all bids received from certified Indian-owned businesses.

502.6-10. Applying Indian Preference to Construction Contracts. Where more than one (1) bid is received for a construction contract, the discount applied to bids from certified Indian-owned businesses shall be:

~~502.7-7. In the event that a dispute may arise regarding this law or a compliance agreement, all affected parties shall cooperate in good faith with the Office toward a mutually satisfactory resolution.~~

~~(a) ten percent (10%) of the first fifty thousand dollar (\$50,000) segment of a bid;~~

~~(b) plus nine percent (9%) of the next fifty thousand dollar (\$50,000) segment of a bid;~~

~~(c) plus eight percent (8%) of the next one hundred thousand dollar (\$100,000) segment of a bid;~~

~~(d) plus seven percent (7%) of the next one hundred thousand dollar (\$100,000) segment of a bid;~~

~~(e) plus six percent (6%) of the next one hundred thousand dollar (\$100,000) segment of a bid;~~

~~(f) plus five percent (5%) of the next one hundred thousand dollar (\$100,000) segment of a bid;~~

~~(g) plus four percent (4%) of the next five hundred thousand dollar (\$500,000) segment of a bid;~~

~~(h) plus two percent (2%) of the next one million dollar (\$1,000,000) segment of a bid; and~~

~~(i) plus one percent (1%) of any amount over two million dollars (\$2,000,000).~~

~~502.7-8-11. Awarding the Contract.~~ After the appropriate discount has been subtracted from preferred bids, the following shall be used to determine which bidder is awarded the contract:

~~(a) If a bid from a certified entity is less than the total of the apparent low bid after Indian preference is applied, then the contract shall be awarded to the certified entity.~~

~~(b) If none of the certified entity bids are less than the total of the apparent low bid after the Indian preference discount is applied, the contract shall be awarded to the lowest responsible bidder.~~

~~502.7-9. Applying Indian Preference to Non-Construction Contracts. Where more than one (1) bid is received for a non-construction contract, an Indian preference percentage discount of five percent (5%) shall be applied to all bids received from certified Indian-owned businesses.~~

~~502.7-10. Applying Indian Preference to Construction Contracts. Where more than one (1) bid is received for a construction contract, the discount applied to bids from certified Indian-owned businesses shall be:~~

~~(a) ten percent (10%) of the first \$50,000 segment of a bid.~~

~~(b) plus nine percent (9%) of the next \$50,000 segment of a bid.~~

~~(c) plus eight percent (8%) of the next \$100,000 segment of a bid.~~

~~(d) plus seven percent (7%) of the next \$100,000 segment of a bid.~~

~~(e) plus six percent (6%) of the next \$100,000 segment of a bid.~~

~~(f) plus five percent (5%) of the next \$100,000 segment of a bid.~~

~~(g) plus four percent (4%) of the next \$500,000 segment of a bid.~~

~~(h) plus two percent (2%) of the next \$1,000,000 segment of a bid.~~

~~(i) plus one percent (1%) of any amount over \$2,000,000.~~

~~502.7-11. Bid shopping is prohibited.~~

## ~~502.8. Skills Bank and Qualified Trades Workers~~

~~502.8-1. The~~ 6-12. Monitoring the Contract. Once a contract is awarded to an entity, the Indian Preference Office shall ~~establish~~ perform the following monitoring duties:

~~(a) Perform on-site inspections to verify compliance with this law;~~

~~(b) Require and administer a Skills Bank~~ review weekly workforce reports;



(c) Provide training to assist ~~with providing Indians and first generation descendants~~certified entities with ~~employment opportunities. The goal~~understanding their rights and abilities under this law; and

(d) Receive feedback from contractors regarding the performance of ~~the Tribe is to achieve one hundred percent (100%) participation of~~any certified entity or qualified trades ~~workers on Tribal projects~~worker.

~~502.8-2. The Skills Bank shall be the exclusive referral source under this law, representing the official compilation of qualified trades workers eligible for Indian preference in accordance with this law. Skills Bank listings shall include the names and qualifications of the qualified trades workers.~~

~~502.8-3. The Office shall regularly update the Skills Bank listings.~~

~~502.8-4. Entities required to fill positions in accordance with~~502.6-13. In the event that a dispute may arise regarding this law ~~and/or a compliance agreement under 502.9, all affected parties shall contact~~cooperate in good faith with the Indian Preference Office ~~prior to the commencement of any work~~toward a mutually satisfactory resolution.

~~(a) Except where prohibited by law or grant funding requirements, the entity shall hire qualified trades workers from the Skills Bank in the following order of priority:~~

~~(1) Members of the Oneida Tribe.~~

~~(2) First generation descendants of Oneida Tribal members.~~

~~(3) Members of other federally recognized Indian tribes.~~

~~(b) If a law or grant funding requirements prohibit the hiring of qualified trades workers in accordance with 502.8-4(a), qualified trades workers shall be hired in accordance with the requirements of said law or grant.~~

~~(c) If the necessary labor cannot be acquired from the Skills Bank, then a limited waiver may be granted in accordance with 502.8-4.~~

~~502.8-5. In order to be added to the Skills Bank, an applicant shall submit a completed application and documentation of the following:~~

~~(a) proof of enrollment or proof that the individual is a first generation descendant of the Oneida Tribe.~~

~~(b) education; including degrees, diplomas, apprenticeships, internships or continuing education training related to the field.~~

~~(c) if applicable, proof of a driver license, including any endorsements.~~

~~(d) if the worker is seeking to be listed as a qualified trades worker for a specific trade, then the worker shall provide specific information related to that trade, including:~~

~~(1) past and current licensing, credentials and certifications, including information related to penalties or punitive actions taken by any licensing body within the past ten (10) years; and~~

~~(2) any required or possessed insurance and/or bonding.~~

~~502.8-6. Placing an applicant in the Skills Bank as a qualified trades worker confers recognition that he or she is eligible to receive Indian preference in accordance with this law. A qualified trades worker shall be qualified for Indian preference for employment for a particular skill or trade if he or she meets the minimum qualifications for a particular skill or trade.~~

~~502.8-7. Wage and Hour Standards, Layoffs and Terminations, Call Backs, Promotions, Unions.~~

~~(a) Every contractor utilizing qualified trades workers shall ensure that such workers receive equal compensation, including overtime pay, and shall have equal work standards, that are provided to other employees. Contractors that hire qualified trades workers in~~



~~order to comply with this law, but do not utilize those workers in a manner similar to other employees are not maintaining equal work standards.~~

~~(b) In making any layoffs or terminations, all contractors shall notify the Office prior to laying off or terminating a qualified trades worker.~~

~~(1) No qualified trades worker with at least minimum qualifications for the job classification shall be terminated or laid off so long as a non Indian employee in the same craft with similar skills remains employed. If the contractor lays off by crews, qualified trades workers shall be transferred to any crew that will be retained, as long as there are non Indian employees in the same craft employed elsewhere under the same contract.~~

~~(2) No contractor shall terminate or lay off any qualified trades worker pursuant to this law, without documented good cause. The contractor shall promptly replace the qualified trades worker with another qualified trades worker.~~

~~(3) When a contractor begins to call back laid off employees, that contractor shall notify the Office and shall call back qualified trades workers before bringing back other employees.~~

~~(e) Qualified trades workers and certified entities shall not be required to affiliate with organized labor for employment under this law. The mere absence of affiliation with organized labor shall not disqualify a qualified trades worker from employment or contracting where that worker is otherwise qualified. A qualified trades worker shall not be guaranteed to receive the benefits of a union contract, other than wage scales, unless the worker elects to join the union.~~

~~502.8-8. Construction Contracts: Core Work Crew. As a condition of a construction contract award, the contractor shall identify its core work crew, including those core work crew employees utilized by known subcontractors. If such employees are approved by the Office, they may be employed on the Tribal project without regard to Indian preference. Provided that, core work crew employees shall at no time displace qualified trades workers and/or potential qualified trades workers by performing work outside their trade or skill.~~

~~(a) For the purposes of employment on a Tribal project, the Office and the contractor, and any subcontractor, shall negotiate the designated members of the contractor's core work crew.~~

~~(b) Any contractor that fills vacant positions immediately prior to undertaking work pursuant to a contract to which this section applies shall provide evidence acceptable to the Office that such actions were not intended to circumvent the provisions of this law.~~

~~(c) A contractor shall not use extraneous qualification criteria or other personnel requirements that prevent qualified trades workers from being employed, unless the contractor is able to demonstrate that such criteria or requirements are required by regulatory compliance.~~

## ~~502.9.~~

### ~~502.7.~~ Compliance Agreements

~~502.97-1. Compliance Agreements. All contractors and subcontractors shall comply with the terms of any compliance agreement executed in accordance with this law. Once a bid has been accepted, but before work commences on any portion of a contract or subcontract, each contractor shall meet with the Indian Preference Office to negotiate and execute a compliance agreement. All contractors and subcontractors shall comply with the terms of any compliance agreement executed in accordance with this law.~~

502.7-2. Contents of a Compliance Agreement. A compliance agreement shall include, but is not limited to, the following information:

(a) Numerical hiring goals and timetables that specify the minimum number of Indians that must be utilized per contract dollar; and

(b) Compensation of qualified trades workers including wage scale, salaries and other benefits. Compensation shall be determined based on the prevailing wage scales of the Nation and/or federal or state governments.

502.7-3. 502.9-2. Term of a Compliance Agreement. Where a contract lasts for more than one (1) year, compliance agreements shall be reviewed annually and revised as necessary to reflect changes in hiring plans or the number of certified entities available.

502.9-37-4. Unless prior written consent of the Indian Preference Office has been received, a contractor shall not deviate from an executed compliance agreement by adding or removing any subcontracts, subcontractors or positions filled by qualified trades workers or certified entities, or by filling a vacancy with a non-qualified trades worker or a non-certified entity.

502.9-47-5. Limited Waivers. The Indian Preference Office shall establish standard operating procedures to provide for emergency conditions and situations whereby a limited waiver of compliance may be authorized, in situations where a contractor has made a significant and documented good faith effort to achieve compliance, or can demonstrate that compliance is not practical for reasons other than pricing.

### 502.8. Skills Bank and Qualified Trades Workers

502.8-1. The Indian Preference Office shall establish and administer a Skills Bank to assist with providing Indians and first-generation descendants with employment opportunities. The goal of the Nation is to achieve one hundred percent (100%) participation of qualified trades workers on projects.

(a) The Indian Preference Office shall identify, initiate, and sponsor training, internship, and apprenticeship opportunities necessary in order to increase the pool of qualified trades workers and to assist Indians in becoming qualified in the various job classifications used by employers.

(b) The Indian Preference Office shall cooperate with other programs of the Nation to provide counseling and support to assist Indians in retaining employment.

502.8-2. The Skills Bank shall be the exclusive referral source under this law, representing the official compilation of qualified trades workers eligible for Indian preference in accordance with this law. Skills Bank listings shall include the names and qualifications of the qualified trades workers.

502.10- The Indian Preference Office shall regularly update the Skills Bank listings.

502.8-3. Entities required to fill positions in accordance with this law and/or a compliance agreement under section 502.7, shall contact the Indian Preference Office prior to the commencement of any work.

(a) Except where prohibited by law or grant funding requirements, the entity shall hire qualified trades workers from the Skills Bank in the following order of priority:

(1) Members of the Nation;

(2) First generation descendants of the Nation; and then

(3) Members of other federally-recognized Indian tribes.

(b) If a law or grant funding requirement prohibits the hiring of qualified trades workers in accordance with section 502.8-3(a), qualified trades workers shall be hired in accordance with the requirements of said law or grant.

(c) If the necessary labor cannot be acquired from the Skills Bank, then a limited waiver may be granted by the Indian Preference Office.

502.8-4. In order to be added to the Skills Bank, an applicant shall submit a completed application and documentation of the following:

(a) proof of enrollment or proof that the individual is a first-generation descendant of the Nation;

(b) education; including degrees, diplomas, apprenticeships, internships or continuing education training related to the field;

(c) proof of a driver's license, including any endorsements, if applicable;

(d) if the worker is seeking to be listed as a qualified trades worker for a specific trade, then the worker shall provide specific information related to that trade, including:

(1) past and current licensing;

(2) credentials and certifications; and

(3) information related to penalties or punitive actions taken by any licensing body within the past ten (10) years.

502.8-5. Placing an applicant in the Skills Bank as a qualified trades worker confers recognition that he or she is eligible to receive Indian preference in accordance with this law. A qualified trades worker shall be qualified for Indian preference for employment for a particular skill or trade if he or she meets the minimum qualifications for a particular skill or trade.

502.8-6. Wage and Hour Standards, Layoffs and Terminations, Call-Backs, Promotions, Unions.

(a) Every contractor utilizing qualified trades workers shall ensure that such workers receive equal compensation, including overtime pay, and shall have equal work standards, that are provided to other employees. Contractors that hire qualified trades workers in order to comply with this law, but do not utilize those workers in a manner similar to other employees are not maintaining equal work standards.

(b) In making any layoffs or terminations, all contractors shall notify the Indian Preference Office prior to laying off or terminating a qualified trades worker.

(1) No qualified trades worker with at least minimum qualifications for the job classification shall be terminated or laid off so long as a non-Indian employee in the same craft with similar skills remains employed. If the contractor lays off by crews, qualified trades workers shall be transferred to any crew that will be retained, as long as there are non-Indian employees in the same craft employed elsewhere under the same contract.

(2) No contractor shall terminate or lay off any qualified trades worker pursuant to this law, without documented good cause. The contractor shall promptly replace the qualified trades worker with another qualified trades worker.

(3) When a contractor begins to call back laid-off employees, that contractor shall notify the Indian Preference Office and shall call back qualified trades workers before bringing back other employees.

(c) Qualified trades workers and certified entities shall not be required to affiliate with organized labor for employment under this law. The mere absence of affiliation with organized labor shall not disqualify a qualified trades worker from employment or contracting where that worker is otherwise qualified. A qualified trades worker shall not be guaranteed to receive the benefits of a union contract, other than wage scales, unless the worker elects to join the union.

502.8-7. Construction Contracts: Core Work Crew. As a condition of a construction contract award, the contractor shall identify its core work crew, including those core work crew employees

utilized by known subcontractors. If such employees are approved by the Indian Preference Office, they may be employed on the project without regard to Indian preference. Provided that, core work crew employees shall at no time displace qualified trades workers and/or potential qualified trades workers by performing work outside their trade or skill.

(a) For the purposes of employment on a project, the Indian Preference Office and the contractor, and any subcontractor, shall negotiate the designated members of the contractor's core work crew.

(b) Any contractor that fills vacant positions immediately prior to undertaking work pursuant to a contract to which this section applies shall provide evidence acceptable to the Indian Preference Office that such actions were not intended to circumvent the provisions of this law.

(c) A contractor shall not use extraneous qualification criteria or other personnel requirements that prevent qualified trades workers from being employed, unless the contractor is able to demonstrate that such criteria or requirements are required by regulatory compliance.

#### **502.9. Investigations and Enforcement**

~~502.10~~ 502.9-1. ~~Office Investigations—Any Complaints.~~ An individual or entity may file a written complaint with the Indian Preference Office if aggrieved by a perceived act of noncompliance with:

(a) this law;

(b) a compliance agreement; and/or

(c) any standard operating procedure issued pursuant to this law; who wishes to complain shall file a written complaint with the Office.

502.9-2. Contents of the Complaint. A complaint shall ~~provide such~~ include information that will reasonably enable the Indian Preference Office to understand the general nature of the complaint and carry out an investigation. ~~Wherever possible, the complainant shall provide the Office with, such as~~ evidence of any discriminatory practices, alleged misconduct, or other ~~noncompliance~~ non-compliance.

~~(a)~~ 502.9-3. Complaint Investigation. Upon receipt of a complaint or after witnessing ~~noncompliance~~ non-compliance with this law while conducting its monitoring duties, the Indian Preference Office shall conduct an investigation.

~~(1) If the Office receives a complaint or information that an entity is operating in a manner that is harmful to the health, safety, or welfare of the Tribe or community, the Office shall immediately refer the complaint or information to the appropriate Tribal department or authority for investigation. The Office may also independently investigate such complaint or information for purposes of ensuring compliance with this law, and shall have the authority to review the results of any other investigation conducted by another Tribal department or authority in accordance with the Open Records and Open Meetings Law.~~

~~(2)~~ (a) In conducting an investigation, the to determine if the complaint has merit, the Indian Preference Office shall be authorized to:

(1) inspect and copy all relevant records;

(2) interview and ~~shall have the right to~~ speak to workers; and ~~to~~

(3) conduct inspections of the job site(s).

~~(3)~~ (b) Information collected during an Indian Preference Office investigation shall be kept confidential unless disclosure is necessary or required as part of any judicial or



administrative proceeding or in accordance with ~~Tribal law. Provided that, any report or recommendation prepared by the Office for use at a hearing shall be promptly released to the complainant and alleged violator.~~ a law of the Nation.

~~(b1) Any report or recommendation prepared by the Indian Preference Office for use at a hearing shall be promptly released to the complainant and alleged violator.~~

~~(c) If, after conducting the Indian Preference Office receives a complaint or information that an entity is operating in a manner that is harmful to the health, safety, or welfare of the Nation or community, the Indian Preference Office shall immediately refer the complaint or information to the appropriate department or authority of the Nation for investigation under.~~

~~(1) The referral of a complaint does not prohibit the Indian Preference Office from its independent investigation of such complaint or information for purposes of ensuring compliance with this section, the law.~~

~~(2) The Indian Preference Office shall have the authority to review the results of any other investigation conducted by another department or authority of the Nation in accordance with the Nation's laws and policies governing open records.~~

~~502.9-4. Alleged Violation Has No Merit. If the Indian Preference Office determines that the alleged violation has no merit, the Indian Preference Office shall notify all parties in writing that the issue will~~ complaint shall be closed. ~~A~~

~~(a) The complainant may appeal~~ file a complaint to contest this decision ~~to~~ with the ~~Tribe's judicial system~~ Nation's Trial Court within ten (10) business days after issuance of such notice.

~~(1) The complainant's appeal may only request the Tribe's judicial system~~ (b) The Trial Court shall then conduct an in-camera inspection of the investigation completed by the Indian Preference Office. - During an in-camera inspection, only a judge ~~(s)~~ may review the information obtained by the Indian Preference Office during the investigation, as this information is confidential and disclosure is not necessary.

~~(2c) If, after reviewing the Office's investigation, the Tribe's judicial system determines that there is sufficient evidence of a genuine and material issue of noncompliance, the Tribe's judicial system shall order the Office to take action in accordance with 502.10-4 and/or 502.10-5, as if the Office's original investigation had determined that sufficient evidence of a genuine and material issue of noncompliance existed.~~

~~(3) If, after reviewing the Indian Preference Office's investigation, the Tribe's judicial system Trial Court determines the alleged violation has no merit, the Tribe's judicial system Trial Court shall notify all parties in writing that the issue~~ matter will be ~~closed~~ dismissed and no further appeals of the matter will be accepted.

~~502.10-2. Retaliatory Action Prohibited. No entity shall punish, terminate, harass or take any other adverse personnel or hiring action in retaliation for a party's exercise of Indian preference rights under this law. However, this section shall not prohibit action that can be reasonably justified as taken in good faith based on documented employee performance.~~

~~502.10-3. Fines and Fees.~~

~~(a) The Office shall establish, and the Oneida Business Committee shall approve:~~

~~(1) a schedule of fines that may be imposed upon any person or entity violating provisions of this law. Each offense shall result in a fine of no less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000); and a separate offense~~

shall be deemed committed on each day during which a violation occurs or continues.

(2) a schedule of penalty fees that may be imposed upon any person or entity on all amounts due on monetary judgments not paid within at least thirty (30) days of the initial judgment.

(b) No fines or penalty fees may be assessed against the Tribe, the Office or other Tribal departments, or employees engaged in their official duties under this law.

502.10-4.(d) If, after an reviewing the Indian Preference Office's investigation under 502.10-1, the Office reasonably believes Trial Court determines that there is sufficient evidence of a genuine and material issue of noncompliance non-compliance, the Trial Court shall order the Indian Preference Office to take action in accordance with section 502.9-5. 502.9-5. Alleged Violation Has Merit. If the Indian Preference Office determines that the alleged violation has merit and there is sufficient evidence of a genuine and material issue of non-compliance, the Indian Preference Office may take action to resolve the complaint.

(a) The Indian Preference Office may take any of the following actions to resolve the complaint:

(a1) Attempt to reach an informal or formal resolution of the alleged noncompliance non-compliance;

(A) If a formal resolution is reached, any agreement shall be in writing and signed by all parties. The issue shall then remain in abeyance for the term of the contract during which time all parties shall comply with the terms of the written agreement. Breach of the terms of the written agreement may be a cause of action for litigation before the Tribe's judicial system Trial Court.

(b2) Issue a Notice notice of Noncompliance non-compliance to the entity by certified mail;

(A) The Notice notice shall state the specific violation(s) alleged, the requirements that must be met to ensure compliance with this law, and shall provide a reasonable amount of time, not to exceed thirty (30) days, wherein the entity shall provide evidence that it has taken the steps necessary to come into compliance.

(e3) Place the entity's certification in probationary status for a period not to exceed six (6) months; or suspend, revoke, or deny renewal of the entity's certification;

(A) Once certification is revoked, an entity shall not be eligible to re-apply for re-certification until one (1) year has passed from the effective date of the revocation.

(B) At any time that certification is suspended, revoked, or has lapsed, a formerly certified entity shall not qualify for Indian preference. Where a certified entity loses certification:

(+)(C) Where a certified entity loses certification:

(i) the contractor may be required to replace that entity with another certified entity if the work has not begun or performance under a contract has not commenced, unless replacement is impossible or would cause undue hardship; or

(2ii) the Indian Preference Office may authorize the contractor to continue to utilize that entity without regard to Indian preference if



work has already begun or performance under a contract has commenced.

(d4) Issue a fine;

(A) The Indian Preference Office shall be delegated authority to develop a fine and penalty schedule that may be imposed upon any person or entity violating provisions of this law. The fine and penalty schedule shall be adopted by the Oneida Business Committee through resolution.

(B) No fines as established or penalties may be assessed against the Nation, the Indian Preference Office, or other department of the Nation, or employees engaged in their official duties under 502.10-3 this law.

(e5) Re-negotiate a compliance agreement with the contractor to include additional opportunities for qualified trades workers or certified entities; and/or

(f6) Request the appropriate entity withdraw any licensing issued by the ~~Tribe~~Nation.

(b) An individual or entity may contest an action taken by the Indian Preference Office by filing a complaint with the Trial Court within ten (10) business days after the date of issuance of the Indian Preference Office's decision.

502.10-5-9-6. Additional Enforcement Measures. If the Indian Preference Office is unable to facilitate a satisfactory resolution, and a ~~Notice~~notice of ~~Noncompliance~~non-compliance or action against a certified entity's certification has not resulted in a successful resolution, the Indian Preference Office may file an action with the ~~Tribe's judicial system~~Trial Court, seeking appropriate relief, including but not limited to:

(a) An injunction;

(b) Specific performance, including but not limited to:

(1) reinstatement of a qualified trades worker at the previous wage;

(2) immediate removal of employees hired in violation of this law; and/or

(3) employment, promotion or additional training for Indian preference-eligible parties injured by a violation;

(c) Payment of back pay, damages, and/or costs associated with the enforcement of an order issued by the ~~Tribe's judicial system~~Trial Court, including but not limited to filing fees, attorney fees, and/or costs incurred by the Indian Preference Office in bringing an action. Provided that, no money damages may be claimed in any suit against the ~~Tribe~~Nation, the Indian Preference Office or other ~~Tribal~~departments of the Nation, or ~~Tribal~~officials of the Nation or employees engaged in their official duties under this law; and/or

(d) ~~Other~~Any other action the ~~Tribe's judicial system~~Trial Court deems lawful, equitable, and necessary to ensure compliance with this law and to alleviate or remedy any harm caused by ~~noncompliance~~non-compliance.

502.10-6-9-7. Although relief granted by the ~~Tribe's judicial system under 502.10-5~~Trial Court may benefit an individual qualified trades worker, certified Indian preference entity, or other individual or entity, neither the Indian Preference Office nor the ~~Tribe~~Nation represents those individuals and/or entities in any action for non-compliance with this law.

502.10-7-9-8. Cease-and-Desist Orders. The Oneida ~~Tribal~~Police ~~are~~Department is hereby expressly authorized and directed to enforce such cease-and-desist or related orders as may from time to time be properly issued by the ~~Tribe's judicial system~~Trial Court. Such orders shall require a decree or order to render them enforceable. The Oneida ~~Tribal~~Police Department shall not be civilly liable for enforcing such orders so long as the ~~Commission~~Trial Court signs the order.

915 ~~502.10-8. Appeals.~~

916 ~~(a) Any appeal from an action taken by the Office shall be filed with the Tribe's judicial~~  
917 ~~system within ten (10) business days after the date of issuance of the Office's decision.~~  
918 ~~Any decision not appealed within the required time frame shall become final.~~

919 ~~(b) Except as otherwise stated in this law, a party may appeal orders, rulings and judgments~~  
920 ~~of the Tribe's judicial system in accordance with the applicable rules of appellate~~  
921 ~~procedure.~~

922 502.9-9. Retaliatory Action Prohibited. No entity shall punish, terminate, harass or take any other  
923 adverse personnel or hiring action in retaliation for a party's exercise of Indian preference rights  
924 under this law. However, this section shall not prohibit action that can be reasonably justified as  
925 taken in good faith based on documented employee performance.

926  
927 *End.*  
928

929 Adopted BC-03-27-13-B

930 Amended BC- - - -

**Title 5. Business - Chapter 502**  
**Yukwat^nhas Ukwehu=w# Kayanl^hsla**  
*Laws concerning the hiring of the Oneida People*  
**INDIAN PREFERENCE IN CONTRACTING**

502.1. Purpose and Policy

502.2. Adoption, Amendment, Conflicts

502.3. Definitions

502.4. Jurisdiction

502.5. Certification of Entities

502.6. Application of Indian Preference to Contracts

502.7. Compliance Agreements

502.8. Skills Bank and Qualified Trades Workers

502.9. Investigations and Enforcement

---

**502.1. Purpose and Policy**

502.1-1. *Purpose.* The purpose of this law is to establish an Indian Preference Office and increase economic benefits for the Nation and members of the Nation by providing for the maximum utilization of Indian workers and businesses on projects of the Nation which occur on or near the Reservation.

502.1-2. *Policy.* It is the policy of the Nation to ensure that Indian preference provisions are applied fairly in all situations and in such a way that reflects the intent of this law; and to undertake reasonable efforts to ensure that all entities that enter into contracts with or on behalf of the Nation utilize the labor force of Indian workers and businesses by applying Indian preference in all aspects of fulfilling that contract, including but not limited to: hiring, training, business opportunities, labor and/or professional services, and the supply of materials.

**502.2. Adoption, Amendment, Conflicts**

502.2-1. This law is adopted by the Oneida Business Committee by Resolution BC-03-27-13-B and amended by resolution BC-\_\_-\_\_-\_\_-\_\_.

502.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

502.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

502.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. However, this law specifically supersedes the following:

- (a) BC-04-03-96-A - Indian Preference Policy Rider I;
- (b) BC-05-22-96-A - Technical Amendments to Rider I Policy;
- (c) BC-06-10-98-D - Amendment to Resolution 5-22-96-A;
- (d) BC-07-29-98-B - Indian Preference Law;
- (e) BC-03-27-02-A - Sections 9-14 of the Indian Preference Law; and
- (f) BC-03-26-03-A - Amendment to Indian Preference Law Addendum.

502.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**502.3. Definitions**

502.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) "Agent" means one who acts relative to a fiduciary relationship to another; a person authorized to negotiate and/or transact business on behalf of an entity.

- (b) “Bid” means an offer to execute a specified job or jobs within a prescribed time and not exceeding a proposed amount, and includes both offers that become legally binding upon acceptance, and nonbinding or informal quotes.
- (c) “Bid shopping” means the practice of divulging a contractor’s or subcontractor’s bid to other prospective bidders before the award of a contract, in order to secure a lower bid.
- (d) “Broker” means an intermediary; an independent contractor employed to negotiate business between a buyer and seller for compensation.
- (e) “Business day” means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays recognized by the Nation.
- (f) “Certification” means verification by the Indian Preference Office that an entity meets all the requirements necessary to qualify for Indian preference in accordance with this law.
- (g) “Certified entity” means an entity that has received certification as an Indian-owned business from the Indian Preference Office.
- (h) “Compliance agreement” means a binding agreement, negotiated between the Indian Preference Office and a contractor identifying specific Indian preference-related requirements for a project.
- (i) “Construction contract” means any contract issued to build, repair, or remodel structures, and includes subcontracts and other construction agreements.
- (j) “Contractor” means one who enters into a contract.
- (k) “Core work crew” means the minimum amount of the contractor’s key employees, who perform a critical function such that an employer would risk likely financial damage or loss if that task were assigned to a person unfamiliar with and/or untrained in the employer’s procedures and routines, that are essential to start up and continue work on a project.
- (l) “Employee” means any person that performs services and/or labor for an employer in exchange for compensation.
- (m) “Employer” means any entity, except the Nation, that controls and directs an employee under an express or implied contract of employment and is obligated to pay salary or wages in compensation.
- (n) “Enterprise” means any internal operation owned and operated by the Nation that generates revenues through its core business functions, including but not limited to, Oneida Gaming, Oneida Retail, and Oneida Printing.
- (o) “Entity” means any person, sole proprietor, partnership, corporation, franchise, governmental body, or any other natural or artificial person or organization. The term is intended to be as broad and encompassing as possible to ensure this law covers all employment and contract activities within the jurisdiction of the Nation.
- (p) “Entities of the Nation” means all programs, departments, boards, committees, commissions and similar business units of the Nation, but shall not mean Tribal corporations.
- (q) “Front” means a business entity that is strategically structured, financed, operated or staffed such as to unfairly take advantage of Indian preference as granted under this law.
- (r) “Indian” means an enrolled member of any federally-recognized Indian tribe.
- (s) “Indian-owned business” means an entity which is majority owned and managed by an Indian.
- (t) “Indian preference” means preference for Indians, regardless of tribal affiliation, in all aspects of employment and contracting.

(u) “Internal service” means any service provided for free or at cost for the Nation and includes but is not limited to such services as certain types of advocacy or representation, mail delivery and pick up, grant writing or assistance, tourism initiatives, Human Resource assistance and technical support.

(v) “Joint venture” means a one-time grouping of two (2) or more entities in a business undertaking.

(w) “Lowest responsible bidder” means a bidder who, after any Indian preference discounts are applied, submits the lowest bid and is considered to be fully responsible and qualified to perform the work for which the bid is submitted.

(x) “Nation” means the Oneida Nation.

(y) “Non-construction contract” means any contract other than a construction contract, and includes subcontracts and other agreements.

(z) “Project” means any effort whereby the Nation or an entity of the Nation contracts for labor and/or goods or services that will support or benefit any aspect of the Nation’s government, holdings, infrastructure, workplace, economy or community.

(aa) “Qualified trades worker” means a skilled worker qualified to perform services for the trade in which the person is trained, and includes general laborers.

(bb) “Reservation” means all the lands within the exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

(cc) “Subcontractor” means a trade contractor, who is awarded a contract for the supply of services pursuant to a construction agreement, or a junior or secondary contractor who performs some or all of the prime contractor’s contractual obligations.

(dd) “Trial Court” means the Trial Court of the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later authorized to administer the judicial authorities and responsibilities of the Nation by Oneida General Tribal Council resolution GTC-03-19-17-A.

(ee) “Tribal corporation” means a corporation chartered and/or wholly owned by the Nation pursuant to the Constitution and Bylaws of the Oneida Nation.

#### **502.4. Jurisdiction**

502.4-1. The Indian Preference Office shall implement, monitor, and enforce this law and other applicable laws and policies relating to Indian preference.

502.4-2. The Trial Court shall have jurisdiction over all matters related to the interpretation and enforcement of this law.

502.4-3. The Indian Preference Office and Trial Court shall have jurisdiction over all parties to any contract, subcontract, or compliance agreement to which this law applies, as well as jurisdiction over all subcontractors, employees, or other entities working with, for, or on behalf of such a party in fulfilling such contract, subcontract or compliance agreement.

#### **502.5. Certification of Entities**

502.5-1. *Criteria for Certification as an Indian-Owned Business.* In order to seek certification as an Indian-owned business the following criteria shall be met by the applicant entity:

(a) There is Indian financial ownership, control and management of at least fifty-one percent (51%) of the entity. Evidence of both financial ownership and control shall be

embodied in the entity's organizational documents, including, but not limited to the documents of incorporation, stock ownership, or a partnership agreement.

(1) *Indian Financial Ownership.* Indian financial ownership is established where the Nation, members of the Nation and/or other Indians own fifty-one percent (51%) or more of the assets and equipment, receive fifty-one percent (51%) or more of distributed net profits, and would receive fifty-one percent (51%) or more of the entity's assets upon dissolution.

(2) *Indian Control.* Indian control is established where the Nation, member of the Nation and/or other Indian owner(s) maintain a minimum of fifty-one percent (51%) of voting rights or other controlling decisional authority.

(3) *Indian Management.* Indian Management is established where an Indian owner(s) is directly involved in the entity's management, this can be shown where:

(A) at least one (1) Indian owner is directly involved in the daily operations of the entity on a full-time basis and in a senior-level position; or

(B) at least one (1) Indian owner is responsible for the oversight of operations, even though the daily operations are conducted by non-owner employees.

(b) The entity can demonstrate financial responsibility, including but not limited to, evidence of an adequate line of credit, contributions of sufficient working capital, applicable required bonding and insurance, materials and/or equipment necessary to perform applicable work.

(c) The entity can provide past and current licensing or certifications, including any penalties, or other punitive actions or debarments taken by any licensing body within the past ten (10) years.

502.5-2. *Application.* The applicant entity shall submit a completed and signed application to the Indian Preference Office, along with any documentation proving the entity meets the criteria for certification of an Indian-owned business.

(a) Upon receiving an application, the Indian Preference Office may interview the applicant and/or request additional information as may be necessary to make a determination regarding certification.

502.5-3. *Certification Determination.* Within thirty (30) days of receiving the application and any additional requested information, the Indian Preference Office shall inform the applicant of a determination to:

(a) grant the certification;

(b) deny the certification, including a full written explanation of the reason for the denial; or

(c) grant probationary certification for a period of up to one (1) year, if so determined by the Indian Preference Office for reasonable and just cause.

(1) During the probationary period, the applicant shall satisfy any conditions imposed by the Indian Preference Office.

(2) The Indian Preference Office shall monitor the activities of the applicant, and may request and receive such information as necessary to ensure compliance with this law.



177 (3) The Indian Preference Office shall either grant or deny full certification at the  
178 end of the probationary period, or upon petition by the applicant, whichever  
179 occurs first.

180 502.5-4. Once an applicant entity has been granted certification, the Indian Preference Office  
181 shall mail a certificate to the entity. Granting an entity certification does not convey any  
182 comment regarding the ability of the entity to perform any work nor does it guarantee that an  
183 entity has met all the qualifications to obtain work under any particular contract where Indian  
184 preference may be applied.

185 502.5-5. *Notification Requirements.* A certified entity shall report the following to the Indian  
186 Preference Office within ten (10) business days of such an occurrence:

187 (a) changes in the ownership or control status of the entity;  
188 (b) suspension, revocation, lapse or loss of any licensing, certification, insurance,  
189 bonding, or credit lines; and/or  
190 (c) any other changes that could:  
191 (1) affect an entity's eligibility for certification;  
192 (2) affect the financial liability of any entity, contracting party or the Nation;  
193 and/or  
194 (3) alter the status of the qualifications of the entity.

195 502.5-6. *Certification Renewal.* Certification is granted on an annual basis and shall lapse after  
196 one (1) year unless renewed.

197 (a) To apply for a renewal certification, each certified entity shall complete and return a  
198 renewal application and annual reporting form so that the Indian Preference Office may  
199 update its records.

200 (b) Annual renewal notices, applications and reporting forms shall be mailed to each  
201 certified entity at least thirty (30) days prior to the expiration of an entity's certification;  
202 however, the responsibility for renewal is upon the entity.

203 (c) *Exemption for Tribal Corporations.* Tribal corporations shall be exempt from the  
204 requirement to renew certification on an annual basis. Certification for a Tribal  
205 corporation is granted until such a time that the Indian Preference Office is made aware  
206 that there have been changes that may affect the certification status of a Tribal  
207 corporation in accordance with the notification requirements of section 502.5-5.

208 (1) When a Tribal corporation complies with the notification requirements of  
209 section 502.5-5 the Tribal corporation shall also apply for renewal of its  
210 certification.

211 (A) The Indian Preference Office shall provide the Tribal corporation  
212 with a renewal application and annual reporting form.

213 (B) The Tribal corporation shall return the renewal application and annual  
214 reporting form to the Indian Preference Office ten (10) days.

215 502.5-7. *Open Records.* In accordance with the Nation's laws and policies governing open  
216 records, general, non-proprietary and non-private information provided for the purposes of  
217 acquiring certification shall be considered open records and available for public inspection.  
218 Provided that, all information given for purposes of receiving certification, including financial  
219 information, is subject to internal audit of the Nation.

220 502.5-8. *Joint Ventures.* All joint ventures seeking certification as an Indian-owned business  
221 shall submit documentation of the business arrangements of the joint venture in addition to the  
222 required documentation for certification.

223 (a) Certification for a joint venture shall be issued on a project specific basis.

224 502.5-9. *Brokers, Agents and Franchises.*

225 (a) *Brokers.* Brokers shall be certified as an Indian-owned business only if they are  
226 dealers who own, operate or maintain a store, warehouse or other establishment in which  
227 the commodities being supplied are bought, kept in stock and sold to the public in the  
228 usual course of business; provided that this requirement shall not apply where the  
229 applicant demonstrates that it is not customary and usual in the area of the trade in  
230 question for a broker to maintain an establishment and to keep commodities in stock.

231 (1) To qualify as an Indian-owned business, the broker shall provide conclusive  
232 evidence that the broker is an independent contractor and not an agent of a non-  
233 Indian owned business.

234 (2) The broker shall also provide proof that he owes no fiduciary responsibility  
235 nor has a fixed or permanent relationship to any one company. A broker shall  
236 hold himself or herself out for employment to the public generally and that the  
237 employment is not that of being a special agent for a single client.

238 (b) *Agents.* Agents who are employees of a non-Indian-owned business or who merely  
239 represent a company, such as an insurance agent or real estate agent for a non-Indian-  
240 owned business, shall not be certified as an Indian-owned business.

241 (c) *Franchises.* A franchise may be certified as an Indian-owned business if the  
242 franchisee does not pay the franchisor a share or percentage of revenue or profits, but  
243 only compensates the franchisor through licensing, royalty and franchise fees as set out  
244 by contract, and/or for services provided, such as training and advising.

245 502.5-10. *Fronts are Prohibited.* Entities shall be disqualified from certification as an Indian-  
246 owned business in all situations where the entity operates as a front in order to unfairly take  
247 advantage of Indian preference granted under this law to Indian-owned businesses.

248 (a) The Indian Preference Office shall not certify entities that operate solely as fronts.

249 (b) No entity shall manipulate its business structure or misrepresent the roles of Indian  
250 individuals or entities in such a way as to become eligible for Indian preference in a  
251 manner inconsistent with the purpose and intent of this law.

252 (c) Examples of fronts include but are not limited to:

253 (1) Entities that represent that they are exercising management control of a  
254 project in order to qualify for Indian preference when in fact such management  
255 control is exercised by a non-Indian entity;

256 (2) Entities where Indians have senior management titles without the correlating  
257 responsibilities, control, or knowledge of operations; where the entity only  
258 qualifies for certification because an Indian holds that senior management role;

259 (3) Entities, not including legitimate brokers, that derive profit only by providing  
260 goods or services at an increased cost, where such goods or services could be  
261 acquired directly on the open market and/or from the entity's source without  
262 paying a marked-up cost; and/or

263 (4) Any other situation where the Indian Preference Office determines that the  
264 application of Indian preference would in fact predominantly or substantially  
265 benefit non-Indians or non-Indian-owned businesses; or where Indians or Indian-  
266 owned businesses only benefit by assisting the non-Indian or non-Indian-owned  
267 business with receiving the contract.  
268

269 **502.6. Application of Indian Preference to Contracts**

270 502.6-1. *Application of the Law.* Except where prohibited or limited by law or grant funding  
271 requirements, this law shall apply to all contracts over three thousand dollars (\$3,000) that meet  
272 the requirements of (a) and/or (b) below:

273 (a) This law shall apply to:

274 (1) all contracts, subcontracts, and compliance agreements to which the Nation is  
275 a party, and all contracts, subcontracts and compliance agreements that are  
276 entered into on behalf of, or for the benefit of the Nation, whereby goods and  
277 services are provided on or near the Reservation; and

278 (2) all subcontractors, employees, or other entities working with, for, on behalf of  
279 a party to a contract, subcontract or compliance agreement as identified in (1), in  
280 fulfilling such contract, subcontract, or compliance agreement.

281 (b) *Tribal Corporations.* This law shall apply to Tribal corporations to the extent such  
282 corporations enter into contracts with the Nation.

283 502.6-2. *Non-Applicability of the Law.*

284 (a) *Indian Preference in Hiring of Employees of the Nation.* The standards set out in this  
285 law shall not apply to preference as applicable to employees hired through the Nation's  
286 Human Resources Department or pursuant to an employment contract.

287 (b) *Internal Services and Enterprises.* The application of Indian preference shall be  
288 superseded in specific situations in accordance with the following:

289 (1) The Nation shall exclusively utilize internal services and enterprises  
290 whenever an internal service of the Nation or enterprise could or does provide the  
291 necessary goods and services in the ordinary course of business.

292 (2) If an internal service or enterprise is unable to fulfill some or all of the  
293 requirements of a contract, then the provisions of this law shall apply to any  
294 outsourcing conducted by the internal service or enterprise.

295 502.6-3. *Contract Specifications Review.* Prior to the posting or announcement of a contract for  
296 any project of the Nation, the specifications for such project shall be submitted to the Indian  
297 Preference Office.

298 (a) Within five (5) business days of receiving the specifications of the project the Indian  
299 Preference Office shall, with experts identified from other entities of the Nation, review  
300 the specifications, including bidding requirements, to ensure that there are no  
301 unnecessary and/or unjustifiable restrictions that may:

302 (1) preclude certified entities from bidding or being eligible to fulfill the contract  
303 or subcontract;

304 (2) disqualify qualified trades workers from employment opportunities created  
305 under such contract or subcontract; and/or

306 (3) create conditions that would make bidding, compliance, or employment  
307 unduly burdensome for qualified trades workers or certified entities.

308 (b) *Unbundling a Contract.* The Indian Preference Office may require that specific  
309 portions of a contract be outsourced to internal services, enterprises, certified entities  
310 and/or qualified trades workers, even if a single entity is capable of providing all of the  
311 goods and/or services required under the contract. Provided that, such outsourcing shall  
312 not cause undue hardship, unnecessary delay or additional expenses in completing the  
313 project.

314 502.6-4. In soliciting bids, the entity offering the contract shall indicate that Indian preference  
315 shall be applied in accordance with this law.

502.6-5. *Cooperative Agreements.* Within the scope of authority defined in this law, the Indian Preference Office may enter into cooperative agreements with federal and state agencies, subject to the approval of the Oneida Business Committee.

502.6-6. *Cultural Setting of Contracts.* All parties to a contract to which this law applies shall recognize that any operations are taking place within a unique cultural setting within the Nation. Every contractor shall make reasonable accommodations to the customs and beliefs of all Indian workers so as to promote rather than hinder the employment of Indians.

(a) If an Indian worker wishes to attend any traditional cultural activities or ceremonies, the worker shall provide reasonable advance notice to the contractor in requesting such time off.

(b) Where attendance at traditional cultural activities or ceremonies requires a worker to take time off from a regularly scheduled shift or workday, such time may be paid or unpaid, at the discretion of the employer or as established by contract or compliance agreement.

502.6-7. *Employees of the Nation.* In the execution of employment duties and in accordance with the Nation's laws and policies governing employment, employees of the Nation shall follow this law in following contracting and bidding procedures for the Nation or entities of the Nation.

(a) The Indian Preference Office shall establish a training process for entities of the Nation that do contracting or bidding as a regular function of their duties.

502.6-8. *Contracts and Attachments.* All contracts this law applies to shall:

(a) Stipulate that compliance with this law is required, and that violation of any portion of this law or applicable compliance agreement may be deemed a material and substantial breach of contract, enforceable:

(1) As set forth by the terms of the original contract for a breach of contract; and

(2) In accordance with the provisions of this law.

(b) Reference this law, and shall contain an acknowledgment clause, whereby the contractor shall agree to the following:

(1) The contractor has read and understands the provisions of this law;

(2) The contractor understands how this law affects the contractor's rights and responsibilities; and

(3) The contractor agrees that the provisions of this law shall govern the performance of the parties.

(c) Reference the Nation's laws governing vendor licensing, and provide the contracting parties with directions on how to access that document.

502.6-9. *Applying Indian Preference to Non-Construction Contracts.* Where more than one (1) bid is received for a non-construction contract, an Indian preference percentage discount of five percent (5%) shall be applied to all bids received from certified Indian-owned businesses.

502.6-10. *Applying Indian Preference to Construction Contracts.* Where more than one (1) bid is received for a construction contract, the discount applied to bids from certified Indian-owned businesses shall be:

(a) ten percent (10%) of the first fifty thousand dollar (\$50,000) segment of a bid;

(b) plus nine percent (9%) of the next fifty thousand dollar (\$50,000) segment of a bid;

(c) plus eight percent (8%) of the next one hundred thousand dollar (\$100,000) segment of a bid;

(d) plus seven percent (7%) of the next one hundred thousand dollar (\$100,000) segment of a bid;

- (e) plus six percent (6%) of the next one hundred thousand dollar (\$100,000) segment of a bid;
- (f) plus five percent (5%) of the next one hundred thousand dollar (\$100,000) segment of a bid;
- (g) plus four percent (4%) of the next five hundred thousand dollar (\$500,000) segment of a bid;
- (h) plus two percent (2%) of the next one million dollar (\$1,000,000) segment of a bid; and
- (i) plus one percent (1%) of any amount over two million dollars (\$2,000,000).

502.6-11. *Awarding the Contract.* After the appropriate discount has been subtracted from preferred bids, the following shall be used to determine which bidder is awarded the contract:

- (a) If a bid from a certified entity is less than the total of the apparent low bid after Indian preference is applied, then the contract shall be awarded to the certified entity.
- (b) If none of the certified entity bids are less than the total of the apparent low bid after the Indian preference discount is applied, the contract shall be awarded to the lowest responsible bidder.
- (c) Bid shopping is prohibited.

502.6-12. *Monitoring the Contract.* Once a contract is awarded to an entity, the Indian Preference Office shall perform the following monitoring duties:

- (a) Perform on-site inspections to verify compliance with this law;
- (b) Require and review weekly workforce reports;
- (c) Provide training to assist certified entities with understanding their rights and abilities under this law; and
- (d) Receive feedback from contractors regarding the performance of any certified entity or qualified trades worker.

502.6-13. In the event that a dispute may arise regarding this law or a compliance agreement, all affected parties shall cooperate in good faith with the Indian Preference Office toward a mutually satisfactory resolution.

## **502.7. Compliance Agreements**

502.7-1. *Compliance Agreements.* Once a bid has been accepted, but before work commences on any portion of a contract or subcontract, each contractor shall meet with the Indian Preference Office to negotiate and execute a compliance agreement. All contractors and subcontractors shall comply with the terms of any compliance agreement executed in accordance with this law.

502.7-2. *Contents of a Compliance Agreement.* A compliance agreement shall include, but is not limited to, the following information:

- (a) Numerical hiring goals and timetables that specify the minimum number of Indians that must be utilized per contract dollar; and
- (b) Compensation of qualified trades workers including wage scale, salaries and other benefits. Compensation shall be determined based on the prevailing wage scales of the Nation and/or federal or state governments.

502.7-3. *Term of a Compliance Agreement.* Where a contract lasts for more than one (1) year, compliance agreements shall be reviewed annually and revised as necessary to reflect changes in hiring plans or the number of certified entities available.

502.7-4. Unless prior written consent of the Indian Preference Office has been received, a contractor shall not deviate from an executed compliance agreement by adding or removing any



subcontracts, subcontractors or positions filled by qualified trades workers or certified entities, or by filling a vacancy with a non-qualified trades worker or a non-certified entity.

502.7-5. *Limited Waivers*. The Indian Preference Office shall establish standard operating procedures to provide for emergency conditions and situations whereby a limited waiver of compliance may be authorized, in situations where a contractor has made a significant and documented good faith effort to achieve compliance, or can demonstrate that compliance is not practical for reasons other than pricing.

#### **502.8. Skills Bank and Qualified Trades Workers**

502.8-1. The Indian Preference Office shall establish and administer a Skills Bank to assist with providing Indians and first-generation descendants with employment opportunities. The goal of the Nation is to achieve one hundred percent (100%) participation of qualified trades workers on projects.

(a) The Indian Preference Office shall identify, initiate, and sponsor training, internship, and apprenticeship opportunities necessary in order to increase the pool of qualified trades workers and to assist Indians in becoming qualified in the various job classifications used by employers.

(b) The Indian Preference Office shall cooperate with other programs of the Nation to provide counseling and support to assist Indians in retaining employment.

502.8-2. The Skills Bank shall be the exclusive referral source under this law, representing the official compilation of qualified trades workers eligible for Indian preference in accordance with this law. Skills Bank listings shall include the names and qualifications of the qualified trades workers. The Indian Preference Office shall regularly update the Skills Bank listings.

502.8-3. Entities required to fill positions in accordance with this law and/or a compliance agreement under section 502.7, shall contact the Indian Preference Office prior to the commencement of any work.

(a) Except where prohibited by law or grant funding requirements, the entity shall hire qualified trades workers from the Skills Bank in the following order of priority:

(1) Members of the Nation;

(2) First generation descendants of the Nation; and then

(3) Members of other federally-recognized Indian tribes.

(b) If a law or grant funding requirement prohibits the hiring of qualified trades workers in accordance with section 502.8-3(a), qualified trades workers shall be hired in accordance with the requirements of said law or grant.

(c) If the necessary labor cannot be acquired from the Skills Bank, then a limited waiver may be granted by the Indian Preference Office.

502.8-4. In order to be added to the Skills Bank, an applicant shall submit a completed application and documentation of the following:

(a) proof of enrollment or proof that the individual is a first-generation descendant of the Nation;

(b) education; including degrees, diplomas, apprenticeships, internships or continuing education training related to the field;

(c) proof of a driver's license, including any endorsements, if applicable;

(d) if the worker is seeking to be listed as a qualified trades worker for a specific trade, then the worker shall provide specific information related to that trade, including:

(1) past and current licensing;

(2) credentials and certifications; and



(3) information related to penalties or punitive actions taken by any licensing body within the past ten (10) years.

502.8-5. Placing an applicant in the Skills Bank as a qualified trades worker confers recognition that he or she is eligible to receive Indian preference in accordance with this law. A qualified trades worker shall be qualified for Indian preference for employment for a particular skill or trade if he or she meets the minimum qualifications for a particular skill or trade.

502.8-6. *Wage and Hour Standards, Layoffs and Terminations, Call-Backs, Promotions, Unions.*

(a) Every contractor utilizing qualified trades workers shall ensure that such workers receive equal compensation, including overtime pay, and shall have equal work standards, that are provided to other employees. Contractors that hire qualified trades workers in order to comply with this law, but do not utilize those workers in a manner similar to other employees are not maintaining equal work standards.

(b) In making any layoffs or terminations, all contractors shall notify the Indian Preference Office prior to laying off or terminating a qualified trades worker.

(1) No qualified trades worker with at least minimum qualifications for the job classification shall be terminated or laid off so long as a non-Indian employee in the same craft with similar skills remains employed. If the contractor lays off by crews, qualified trades workers shall be transferred to any crew that will be retained, as long as there are non-Indian employees in the same craft employed elsewhere under the same contract.

(2) No contractor shall terminate or lay off any qualified trades worker pursuant to this law, without documented good cause. The contractor shall promptly replace the qualified trades worker with another qualified trades worker.

(3) When a contractor begins to call back laid-off employees, that contractor shall notify the Indian Preference Office and shall call back qualified trades workers before bringing back other employees.

(c) Qualified trades workers and certified entities shall not be required to affiliate with organized labor for employment under this law. The mere absence of affiliation with organized labor shall not disqualify a qualified trades worker from employment or contracting where that worker is otherwise qualified. A qualified trades worker shall not be guaranteed to receive the benefits of a union contract, other than wage scales, unless the worker elects to join the union.

502.8-7. *Construction Contracts: Core Work Crew.* As a condition of a construction contract award, the contractor shall identify its core work crew, including those core work crew employees utilized by known subcontractors. If such employees are approved by the Indian Preference Office, they may be employed on the project without regard to Indian preference. Provided that, core work crew employees shall at no time displace qualified trades workers and/or potential qualified trades workers by performing work outside their trade or skill.

(a) For the purposes of employment on a project, the Indian Preference Office and the contractor, and any subcontractor, shall negotiate the designated members of the contractor's core work crew.

(b) Any contractor that fills vacant positions immediately prior to undertaking work pursuant to a contract to which this section applies shall provide evidence acceptable to the Indian Preference Office that such actions were not intended to circumvent the provisions of this law.

(c) A contractor shall not use extraneous qualification criteria or other personnel requirements that prevent qualified trades workers from being employed, unless the contractor is able to demonstrate that such criteria or requirements are required by regulatory compliance.

#### **502.9. Investigations and Enforcement**

502.9-1. *Complaints.* An individual or entity may file a written complaint with the Indian Preference Office if aggrieved by an act of non-compliance with:

- (a) this law;
- (b) a compliance agreement; and/or
- (c) any standard operating procedure issued pursuant to this law.

502.9-2. *Contents of the Complaint.* A complaint shall include information that will reasonably enable the Indian Preference Office to understand the general nature of the complaint and carry out an investigation, such as evidence of any discriminatory practices, alleged misconduct, or other non-compliance.

502.9-3. *Complaint Investigation.* Upon receipt of a complaint or after witnessing non-compliance with this law while conducting its monitoring duties, the Indian Preference Office shall conduct an investigation.

(a) In conducting an investigation to determine if the complaint has merit, the Indian Preference Office shall be authorized to:

- (1) inspect and copy all relevant records;
- (2) interview and speak to workers; and
- (3) conduct inspections of the job site.

(b) Information collected during an Indian Preference Office investigation shall be kept confidential unless disclosure is necessary or required as part of any judicial or administrative proceeding or in accordance with a law of the Nation.

- (1) Any report or recommendation prepared by the Indian Preference Office for use at a hearing shall be promptly released to the complainant and alleged violator.

(c) If the Indian Preference Office receives a complaint or information that an entity is operating in a manner that is harmful to the health, safety, or welfare of the Nation or community, the Indian Preference Office shall immediately refer the complaint or information to the appropriate department or authority of the Nation for investigation.

- (1) The referral of a complaint does not prohibit the Indian Preference Office from its independent investigation of such complaint or information for purposes of ensuring compliance with this law.

- (2) The Indian Preference Office shall have the authority to review the results of any other investigation conducted by another department or authority of the Nation in accordance with the Nation's laws and policies governing open records.

502.9-4. *Alleged Violation Has No Merit.* If the Indian Preference Office determines that the alleged violation has no merit, the Indian Preference Office shall notify all parties in writing that the complaint shall be closed.

(a) The complainant may file a complaint to contest this decision with the Nation's Trial Court within ten (10) business days after issuance of such notice.

(b) The Trial Court shall then conduct an in-camera inspection of the investigation completed by the Indian Preference Office. During an in-camera inspection only a judge

may review the information obtained by the Indian Preference Office during the investigation as this information is confidential and disclosure is not necessary.

(c) If after reviewing the Indian Preference Office's investigation, the Trial Court determines the alleged violation has no merit, the Trial Court shall notify all parties in writing that the matter will be dismissed and no further appeals of the matter will be accepted.

(d) If after reviewing the Indian Preference Office's investigation the Trial Court determines that there is sufficient evidence of a genuine and material issue of non-compliance, the Trial Court shall order the Indian Preference Office to take action in accordance with section 502.9-5.

502.9-5. *Alleged Violation Has Merit.* If the Indian Preference Office determines that the alleged violation has merit and there is sufficient evidence of a genuine and material issue of non-compliance, the Indian Preference Office may take action to resolve the complaint.

(a) The Indian Preference Office may take any of the following actions to resolve the complaint:

(1) Attempt to reach an informal or formal resolution of the alleged non-compliance;

(A) If a formal resolution is reached, any agreement shall be in writing and signed by all parties. The issue shall then remain in abeyance for the term of the contract during which time all parties shall comply with the terms of the written agreement. Breach of the terms of the written agreement may be a cause of action for litigation before the Trial Court.

(2) Issue a notice of non-compliance to the entity by certified mail;

(A) The notice shall state the specific violation(s) alleged, the requirements that must be met to ensure compliance with this law, and shall provide a reasonable amount of time, not to exceed thirty (30) days, wherein the entity shall provide evidence that it has taken the steps necessary to come into compliance.

(3) Place the entity's certification in probationary status for a period not to exceed six (6) months; or suspend, revoke, or deny renewal of the entity's certification;

(A) Once certification is revoked, an entity shall not be eligible to apply for re-certification until one (1) year has passed from the effective date of the revocation.

(B) At any time that certification is suspended, revoked, or has lapsed, a formerly certified entity shall not qualify for Indian preference.

(C) Where a certified entity loses certification:

(i) the contractor may be required to replace that entity with another certified entity if the work has not begun or performance under a contract has not commenced, unless replacement is impossible or would cause undue hardship; or

(ii) the Indian Preference Office may authorize the contractor to continue to utilize that entity without regard to Indian preference if work has already begun or performance under a contract has commenced.

(4) Issue a fine;

(A) The Indian Preference Office shall be delegated authority to develop a fine and penalty schedule that may be imposed upon any person or entity violating provisions of this law. The fine and penalty schedule shall be adopted by the Oneida Business Committee through resolution.

(B) No fines or penalties may be assessed against the Nation, the Indian Preference Office, or other department of the Nation, or employees engaged in their official duties under this law.

(5) Re-negotiate a compliance agreement with the contractor to include additional opportunities for qualified trades workers or certified entities; and/or

(6) Request the appropriate entity withdraw any licensing issued by the Nation.

(b) An individual or entity may contest an action taken by the Indian Preference Office by filing a complaint with the Trial Court within ten (10) business days after the date of issuance of the Indian Preference Office's decision.

502.9-6. *Additional Enforcement Measures.* If the Indian Preference Office is unable to facilitate a satisfactory resolution, and a notice of non-compliance or action against a certified entity's certification has not resulted in a successful resolution, the Indian Preference Office may file an action with the Trial Court, seeking appropriate relief, including but not limited to:

(a) An injunction;

(b) Specific performance, including but not limited to:

(1) reinstatement of a qualified trades worker at the previous wage;

(2) immediate removal of employees hired in violation of this law; and/or

(3) employment, promotion or additional training for Indian preference-eligible parties injured by a violation;

(c) Payment of back pay, damages, and/or costs associated with the enforcement of an order issued by the Trial Court, including but not limited to filing fees, attorney fees, and/or costs incurred by the Indian Preference Office in bringing an action. Provided that, no money damages may be claimed in any suit against the Nation, the Indian Preference Office or other departments of the Nation, or officials of the Nation or employees engaged in their official duties under this law; and/or

(d) Any other action the Trial Court deems lawful, equitable, and necessary to ensure compliance with this law and to alleviate or remedy any harm caused by non-compliance.

502.9-7. Although relief granted by the Trial Court may benefit an individual qualified trades worker, certified Indian preference entity, or other individual or entity, neither the Indian Preference Office nor the Nation represents those individuals and/or entities in any action for non-compliance with this law.

502.9-8. *Cease-and-Desist Orders.* The Oneida Police Department is hereby expressly authorized and directed to enforce such cease-and-desist or related orders as may from time to time be properly issued by the Trial Court. Such orders shall require a decree or order to render them enforceable. The Oneida Police Department shall not be civilly liable for enforcing such orders so long as the Trial Court signs the order.

502.9-9. *Retaliatory Action Prohibited.* No entity shall punish, terminate, harass or take any other adverse personnel or hiring action in retaliation for a party's exercise of Indian preference rights under this law. However, this section shall not prohibit action that can be reasonably justified as taken in good faith based on documented employee performance.

End.

640 Adopted BC-03-27-13-B  
641 Amended BC-\_\_-\_\_-\_\_-\_\_  
642  
643  
644  
645  
646  
647

# FINANCE ADMINISTRATION

## Fiscal Impact Statement



## MEMORANDUM

TO: Larry Barton, Chief Financial Officer  
RaLinda Ninham-Lamberies, Assistant Chief Financial Officer

FROM: Terry Cornelius, Chief Financial Analyst

DATE: March 4, 2020

RE: **Fiscal Impact of the Amendments to the Indian Preference in Contracting Law**

### I. Estimated Fiscal Impact Summary

<b>Law:</b> Amendments to the Indian Preference in Contracting Law		Draft 2
<b>Implementing Agency</b>	Legislative Operating Committee	
<b>Estimated time to comply</b>	30 days, for Indian Preference to develop reporting format	
<b>Estimated Impact</b>	<b>Current Fiscal Year</b>	<b>10 Year Estimate</b>
<b>Total Estimated Fiscal Impact</b>	<b>Indeterminate</b>	<b>Indeterminate</b>

### II. Background

This Law was adopted by the Oneida Business Committee by resolution BC-07-29-98-B as the Indian Preference Law, which was amended by resolutions BC-03-27-02-A and BC-03-26-03-A, before being adopted in its present form of the Indian Preference in Contracting Law by Oneida Business Committee Resolution BC-03-27-13-B. A public meeting was held on December 19, 2019. The amendments to the legislation are the following:

- The definition of a tribal corporation is updated.
  - Now includes any corporation chartered and/or wholly owned by the Nation.
- The threshold to invoke Indian Preference is raised from \$1,500.00 to \$3,000.00.
  - This is in keeping with Accounting Department Policies.
- Joint Ventures are now permitted to qualify for Indian Preference.
- Tribal corporations no longer have to submit certification renewal application every year.
- A new timeline is set for Indian Preference Office to review contracts.
- The Indian Preference Office will be granted authority to develop a fine and penalty schedule for violations of this law.



- This is to be approved later by the Oneida Business Committee via a BC Resolution.

### **III. Methodology and Assumptions**

A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.

Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.

The analysis was completed based on the information provided as of the date of this memo.

### **III. Executive Summary of Findings**

According to Patrick Stensloff, the Director of Purchasing, the portions of the Amendments to the Law which pertain to monetizing Indian Preference do not have a material direct fiscal impact. The document maintains a five percent ( 5%) discount to be provided for certified Indian owned businesses for non-construction contracts. For construction contracts, the Amendment maintains that same laddered approach to Indian Preference discounts as the version which was approved with Business Committee Resolution BC-03-27-13-B.

There is a small change in that the threshold before Indian Preference rules kick in is raised from a floor of \$1,500.00 to a new floor of \$3,000.00. This level is in keeping with other Central Accounting practices and will have a positive impact for the Nation by lowering our expenses for small contracts. We asked both the Purchasing Department and the Engineering Department regarding the quantification of this benefit. Both indicated there are no reports tracked which would be able to demonstrate the number of construction contracts between \$1,500.00 and \$3,000.00 nor the extra amounts paid by the Nation to certified Indian owned businesses in such an instance. The Engineering Department indicated there was not enough staff time available to build such a report.

Another change in the Amendment is establishing that the Indian Preference Office may develop a fine and penalty schedule, to be approved by the Oneida Business Committee. This could serve to lessen non-compliance with contracts on behalf of chosen vendors. It is, however, difficult to predict a dollar amount of impact of a fine and penalty schedule.

Indian Preference Office has requested 30 days after approval to be in compliance. The Office must draft a Renewal Application and an Annual Reporting format.

### **III. Financial Impact**

The Fiscal Impact of implementing this legislation is indeterminate due to the inability to obtain reporting of small dollar contracts under \$3,000.00 wherein Indian Preference was applied.

Of concern is that this proposed Amendment, and the existing Law, seems to hinge awarding contracts on price, alone. Accepting the lowest bid in contracting does not always render a level of acceptable quality in the work performed. Much can be gained by measuring the experience of the vendors in the type of work requested. Deciding to award solely based upon lowest bidders could lead to failures and rework, thereby resulting in an increase of overall project costs.

#### **IV. Recommendation**

Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of this legislation, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

**Oneida Business Committee Agenda Request**

Adopt resolution entitled Indian Preference in Contracting Law Fine and Penalty Schedule

**1. Meeting Date Requested:** 4 / 8 / 20**2. General Information:**Session: ☒ Open ☐ Executive - See instructions for the applicable laws, then choose one:Agenda Header: ☐ Accept as Information only☒ Action - please describe:**3. Supporting Materials**☐ Report ☒ Resolution ☐ Contract☒ Other:1. 3. 2. 4. ☐ Business Committee signature required**4. Budget Information**☐ Budgeted - Tribal Contribution ☐ Budgeted - Grant Funded ☐ Unbudgeted**5. Submission**Authorized Sponsor / Liaison: Primary Requestor/Submitter: Jennifer Falck, LRO Director  
Your Name, Title / Dept. or Tribal MemberAdditional Requestor: Clorissa N. Santiago, LRO Senior Staff Attorney  
Name, Title / Dept.Additional Requestor: \_\_\_\_\_  
Name, Title / Dept.

# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## BC Resolution # \_\_\_\_\_ Indian Preference in Contracting Law Fine and Penalty Schedule

**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 Indian Preference in Contracting law ("the Law") was adopted by the Oneida Business Committee through resolution BC-03-27-13-B; and then amended by resolutions BC-\_\_-\_\_-\_\_; and

**WHEREAS,** the purpose of the Law is to establish an Indian Preference Office and increase economic benefits for the Nation and members of the Nation by providing for the maximum utilization of Indian workers and businesses on projects of the Nation which occur on or near the Reservation; and

**WHEREAS,** the Law allows the Indian Preference Office to take action to resolve a complaint if the Indian Preference Office determines that an alleged violation has merit and there is sufficient evidence of a genuine and material issue of non-compliance; and

**WHEREAS,** the actions the Indian Preference Office is delegated the authority to take include an informal or formal resolution of the alleged noncompliance, a notice of noncompliance by certified mail, placing the entity's Indian preference certification in probationary status, suspension, denial, or revocation, of the entity's Indian preference certification, issuance of fines, renegotiation of compliance agreement, and a request for withdrawal of licensing issued by the Nation; and

**WHEREAS,** the Law delegates authority to the Indian Preference Office to develop a fine and penalty schedule that may be imposed upon any person or entity violating provisions of the Law; and

**WHEREAS,** the fine and penalty schedule is required to be adopted by the Oneida Business Committee through resolution; and

**NOW THEREFORE BE IT RESOLVED,** that by a finding by the Indian Preference Office that an alleged violation has merit and there is sufficient evidence of a genuine and material issue of non-compliance section 502.9-5(a) of the Law allows the Indian Preference Office to take any of the following action against an entity:

- Attempt to reach an informal or formal resolution of the alleged non-compliance;
- Issue a notice of non-compliance to the entity by certified mail;

- Place the entity's certification in probationary status for a period not to exceed six (6) months; or suspend, revoke, or deny renewal of the entity's certification;
- Issue a fine;
- Re-negotiate a compliance agreement with the contractor to include additional opportunities for qualified trades workers or certified entities; and/or
- Request the appropriate entity withdraw any licensing issued by the Nation.

**BE IT FURTHER RESOLVED**, the Indian Preference Office hereby sets forth the following fine schedule to be used if it is determined that a fine is the appropriate action to take against an entity to resolve a complaint:

<b>FINE SCHEDULE</b>				
<b>Violation</b>	<b>Reference</b>	<b>1<sup>st</sup> Offense</b>	<b>2<sup>nd</sup> Offense</b>	<b>3<sup>rd</sup> Offense and Up</b>
Beginning work prior to completing negotiations of the required compliance agreement	502.7-1	\$100	\$200	\$400
Failure to comply with the terms of any compliance agreement executed in accordance to this law	502.7-1 502.7-4	\$100	\$200	\$400
Failure to submit the qualified trades worker employee's work evaluation as required in the compliance agreement	502.7-1	\$100	\$200	\$400
Failure to submit certified weekly payroll and manpower report as required in the compliance agreement	502.7-1	\$100	\$200	\$400
Failure to hire qualified trades workers from the Skills Bank in accordance with the order of priority	502.8-3(a)	\$100	\$200	\$400
Failure to provide equal compensation and/or maintain equal work standards for qualified trades workers	502.8-6(a)	\$100	\$200	\$400
Failure to notify the Indian Preference Office of any layoffs or terminations of a qualified trades worker	502.8-6(b)	\$100	\$200	\$400
Termination of a qualified trades worker	502.8-6(b)(2)	\$100	\$200	\$400

BC Resolution # \_\_\_\_\_  
**Indian Preference in Contracting Law Fine and Penalty Schedule**  
 Page 3 of 3

without documented good cause				
Failure to notify Indian Preference Office of intent to call back laid off employees, and/or failure to call back qualified trades workers before other employees	502.8-6(b)(3)	\$100	\$200	\$400
Use of extraneous qualification criteria or other personnel requirements to prevent qualified trades workers from being employed	502.8-7(c)	\$100	\$200	\$400
Breach of contract due to violation of this law or compliance agreement	502.6-8	\$250	\$500	\$1,000
Non-compliance with contract or compliance agreement resulting in harm to the health, safety or welfare of the Nation and/or the community	502.6-8 and 502.7-1	\$1,500	\$3,000	\$6,000

**BE IT FURTHER RESOLVED**, that a separate offense shall be deemed committed on each day during which a violation occurs or continues.

**BE IT FURTHER RESOLVED**, that all fines are required to be paid to the Indian Preference Office within thirty (30) days from the date of issuance.

**BE IT FURTHER RESOLVED**, failure to pay any fines issued within thirty (30) days from the date of issuance shall result in a late penalty of ten dollars (\$10) per day and may result in the Indian Preference Office suspending the violating contractor from the project with reinstatement available upon payment in full of all fines currently due.

**BE IT FURTHER RESOLVED**, any money received from fines collected for violations of this Law shall be contributed to the General Fund.

**BE IT FINALLY RESOLVED**, the Oneida Business Committee hereby adopts this resolution which shall become effective on May 8, 2020.





**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



## **Statement of Effect**

### *Indian Preference in Contracting Law Fine and Penalty Schedule*

#### **Summary**

Through this resolution the Oneida Business Committee adopts a fine schedule for violations of the Indian Preference in Contracting law.

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

*Date: March 13, 2020*

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

The Indian Preference in Contracting law (“the Law”) was adopted by the Oneida Business Committee for the purpose of establishing an Indian Preference Office and increase economic benefits for the Nation and members of the Nation by providing for the maximum utilization of Indian workers and businesses on projects of the Nation which occur on or near the Reservation. [5 O.C. 502.1-1].

The Law allows the Indian Preference Office to take action to resolve a complaint if the Indian Preference Office determines that an alleged violation has merit and there is sufficient evidence of a genuine and material issue of non-compliance. [5 O.C. 502.9-5]. The Indian Preference Office is delegated the authority to take any of the following actions to resolve the complaint:

- informal or formal resolution of the alleged noncompliance;
- a notice of noncompliance by certified mail;
- placing the entity’s Indian preference certification in probationary status;
- suspension, denial, or revocation, of the entity’s Indian preference certification;
- issuance of fines;
- renegotiation of compliance agreement; and
- requests for withdrawal of licensing issued by the Nation.

[5 O.C. 502.9-5(a)(1)-(6)].

The Law then delegates authority to the Indian Preference Office to develop a fine and penalty schedule that may be imposed upon any person or entity violating provisions of this Law. [5 O.C. 502.9-5(a)(4)(A)]. The fine and penalty schedule is required to be adopted through resolution by the Oneida Business Committee. [5 O.C. 502.9-5(a)(4)(A)].

This resolution was developed by the Indian Preference Office and sets forth the fine and penalty schedule which includes the specific fine amounts for various violations of this Law. The resolution also clarifies the other actions the Indian Preference Office may utilize when it is determined that an alleged violation has merit and there is sufficient evidence of a genuine and material issue of non-compliance.

The resolution further provides that:

- a separate offense shall be deemed committed on each day during which a violation occurs or continues;
- all fines are required to be paid to the Indian Preference Office within thirty (30) days from the date of issuance;
- failure to pay any fines issued within thirty (30) days from the date of issuance shall result in a late penalty of ten dollars (\$10) per day and may result in the Indian Preference Office suspending the violating contractor from the project with reinstatement available upon payment in full of all fines currently due; and
- any money received from fines collected for violations of this Law shall be contributed to the General Fund.

### ***Conclusion***

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

Adopt resolution entitled Declaring Oneida ESC Group LLC as the Nation's General Contractor

---

## Business Committee Agenda Request

1. Meeting Date Requested: 04/08/20

2. General Information:

Session: ☒ Open

☐ Executive – must qualify under §107.4-1.

Justification: *Choose reason for Executive.*

3. Supporting Documents:

☐ Contract Document(s)

☐ Legal Review

☒ Resolution

☐ Correspondence

☐ Minutes

☐ Statement of Effect

☐ Fiscal Impact Statement

☐ Report

☐ Travel Documents

☒ Other: Chief Counsel is finalizing the resolution; it will be provided as a handout.

4. Budget Information:

☐ Budgeted

☐ Budgeted – Grant Funded

☐ Unbudgeted

☐ Not Applicable

☐ Other: *Describe*

5. Submission:

Authorized Sponsor: Lisa Summers, Secretary

Primary Requestor: \_\_\_\_\_

Additional Requestor: Jo Anne House, Chief Counsel

Additional Requestor: (Name, Title/Entity)

Submitted By: LLIGGINS

Enter the e-poll results into the record regarding BC resolution # 03-26-20-A Extension of March 12th...

## Business Committee Agenda Request

1. Meeting Date Requested: 04/06/20

2. General Information:

Session: ☒ Open

☐ Executive – must qualify under §107.4-1.

Justification: *Choose reason for Executive.*

3. Supporting Documents:

☐ Contract Document(s)

☐ Legal Review

☐ Resolution

☐ Correspondence

☐ Minutes

☐ Statement of Effect

☐ Fiscal Impact Statement

☐ Report

☐ Travel Documents

☒ Other: E-poll results, request and back up

4. Budget Information:

☐ Budgeted

☐ Budgeted – Grant Funded

☐ Unbudgeted

☒ Not Applicable

☐ Other: *Describe*

5. Submission:

Authorized Sponsor: Lisa Summers, Secretary

Primary Requestor: \_\_\_\_\_

Additional Requestor: (Name, Title/Entity)

Additional Requestor: (Name, Title/Entity)

Submitted By: LLIGGINS

## E-POLL RESULTS: Extension of March 12 Declaration of Public Health Emergency

TribalSecretary <TribalSecretary@oneidanation.org>

Thu 3/26/2020 11:47 AM

**To:** TribalSecretary <TribalSecretary@oneidanation.org>; Brandon L. Yellowbird-Stevens <bsteven@oneidanation.org>; Daniel P. Guzman <dguzman@oneidanation.org>; David P. Jordan <djordan1@oneidanation.org>; Ernest L. Stevens <esteven4@oneidanation.org>; Jennifer A. Webster <JWEBSTE1@oneidanation.org>; Kirby W. Metoxen <KMETOX@oneidanation.org>; Lisa M. Summers <lsummer2@oneidanation.org>; Patricia M. King <tking@oneidanation.org>; Tehassi Tasi Hill <thill7@oneidanation.org>

**Cc:** Lisa A. Liggins <lliggins@oneidanation.org>; Brian A. Doxtator <bdoxtat2@oneidanation.org>; Danelle A. Wilson <dwilson1@oneidanation.org>; Fawn J. Billie <fbillie@oneidanation.org>; Jameson J. Wilson <jwilson@oneidanation.org>; Jessica L. Wallenfang <JWALLENF@oneidanation.org>; Laura E. Laitinen-Warren <LLAITINE@oneidanation.org>; Leyne C. Orosco <lorosco@oneidanation.org>; Rhiannon R. Metoxen <rmetoxe2@oneidanation.org>; Rosa J. Laster <rlaster@oneidanation.org>; Simone A. Ninham <sninham2@oneidanation.org>

 2 attachments (939 KB)

Updated Agenda Packet - E-Poll Reuquest to Extend Emergency Decleration Period to May 12 2020.pdf; 2020 03 25  
- LS Comments to Epoll.pdf;

### E-POLL RESULTS

The e-poll to Adopt Resolution entitled Extension of March 12 Declaration of Public Health Emergency **has been approved**. Per Section 5.1. of the OBC SOP "Conducting Electronic Voting (E-polls)", an e-poll must receive at least five (5) affirmative responses in support of the question in order to be approved). All votes were received before the deadline, so we were able to conclude the voting early, below are the results:

Support: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Lisa Summers, Brandon Stevens, Ernie Stevens III, Jennifer Webster

Per section 5.2.c. of the OBC SOP "Conducting Electronic Voting (E-polls)", attached are copies of any comment by an OBC member made beyond a vote.

Brooke Doxtator

BCC Supervisor

Business Committee Support Office (BCSO)

---

**From:** TribalSecretary <TribalSecretary@oneidanation.org>

**Sent:** Wednesday, March 25, 2020 3:43 PM

**To:** Brandon L. Yellowbird-Stevens <bsteven@oneidanation.org>; Daniel P. Guzman <dguzman@oneidanation.org>; David P. Jordan <djordan1@oneidanation.org>; Ernest L. Stevens <esteven4@oneidanation.org>; Jennifer A. Webster <JWEBSTE1@oneidanation.org>; Kirby W. Metoxen <KMETOX@oneidanation.org>; Lisa M. Summers <lsummer2@oneidanation.org>; Patricia M. King <tking@oneidanation.org>; Tehassi Tasi Hill <thill7@oneidanation.org>

**Cc:** Lisa A. Liggins <lliggins@oneidanation.org>; TribalSecretary <TribalSecretary@oneidanation.org>;

Brian A. Doxtator <bdoxtat2@oneidanation.org>; Danelle A. Wilson <dwilson1@oneidanation.org>; Fawn J. Billie <fbillie@oneidanation.org>; Jameson J. Wilson <jwilson@oneidanation.org>; Jessica L. Wallenfang <JWALLENF@oneidanation.org>; Laura E. Laitinen-Warren <LLAITINE@oneidanation.org>; Leyne C. Orosco <lorosco@oneidanation.org>; Rhiannon R. Metoxen <rmetoxe2@oneidanation.org>; Rosa J. Laster <rlaster@oneidanation.org>; Simone A. Ninham <sninham2@oneidanation.org>

**Subject:** E-POLL REQUEST: Extension of March 12 Declaration of Public Health Emergency

### **E-POLL REQUEST**

#### **Summary:**

In light of the timelines identified in the attached memo set by actions taken either by the Oneida Business Committee or the COVID-19 Decision Making Team, an extension of the emergency declaration is necessary to avoid potential conflicts in orders. As it currently stands, the Safer at Home Declaration would extend the closure of gaming operations from April 5th to April 11th. Both dates are before the April 24th timeline.

Requesting the Oneida Business Committee to adopt the attached resolution extending the public health emergency period from April 12th to May 12th at 11:59 p.m. This will clarify the closure of businesses to coincide with the Safer at Home Declaration.

**Justification for E-Poll:** An extension of emergency declarations is necessary to avoid potential conflicts in orders.

#### **Requested Action:**

Adopt Resolution entitled Extension of March 12 Declaration of Public Health Emergency (Please Note: the SOE date should be May 12<sup>th</sup>)

#### **Deadline for response:**

Responses are due no later than **4:30 p.m., Thursday, March 26, 2020.**

#### **Voting:**

1. Use the voting button above, if available; OR
2. Reply with "Support" or "Oppose".

Brooke Doxtator

BCC Supervisor

Business Committee Support Office (BCSO)

 **Description:** Description:  
Oneida  
emailSig\_logo\_tag

office 920.869.4452

fax 920.869.4040



**Brooke M. Doxtator**

---

**From:** Lisa M. Summers  
**Sent:** Wednesday, March 25, 2020 4:10 PM  
**To:** TribalSecretary; Brandon L. Yellowbird-Stevens; Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Jennifer A. Webster; Kirby W. Metoxen; Patricia M. King; Tehassi Tasi Hill  
**Cc:** Lisa A. Liggins; Brian A. Doxtator; Danelle A. Wilson; Fawn J. Billie; Jameson J. Wilson; Jessica L. Wallenfang; Laura E. Laitinen-Warren; Leyne C. Orosco; Rhiannon R. Metoxen; Rosa J. Laster; Simone A. Ninham  
**Subject:** RE: E-POLL REQUEST: Extension of March 12 Declaration of Public Health Emergency

Approve, noting the date change in the statement of effect.

---

**From:** TribalSecretary <TribalSecretary@oneidanation.org>  
**Sent:** Wednesday, March 25, 2020 3:43 PM  
**To:** Brandon L. Yellowbird-Stevens <bsteven@oneidanation.org>; Daniel P. Guzman <dguzman@oneidanation.org>; David P. Jordan <djordan1@oneidanation.org>; Ernest L. Stevens <esteven4@oneidanation.org>; Jennifer A. Webster <JWEBSTE1@oneidanation.org>; Kirby W. Metoxen <KMETOX@oneidanation.org>; Lisa M. Summers <lsummer2@oneidanation.org>; Patricia M. King <tking@oneidanation.org>; Tehassi Tasi Hill <thill7@oneidanation.org>  
**Cc:** Lisa A. Liggins <lliggins@oneidanation.org>; TribalSecretary <TribalSecretary@oneidanation.org>; Brian A. Doxtator <bdoxtat2@oneidanation.org>; Danelle A. Wilson <dwilson1@oneidanation.org>; Fawn J. Billie <fbillie@oneidanation.org>; Jameson J. Wilson <jwilson@oneidanation.org>; Jessica L. Wallenfang <JWALLENF@oneidanation.org>; Laura E. Laitinen-Warren <LLAITINE@oneidanation.org>; Leyne C. Orosco <lorosco@oneidanation.org>; Rhiannon R. Metoxen <rmetoxe2@oneidanation.org>; Rosa J. Laster <rlaster@oneidanation.org>; Simone A. Ninham <sninham2@oneidanation.org>  
**Subject:** E-POLL REQUEST: Extension of March 12 Declaration of Public Health Emergency

**E-POLL REQUEST****Summary:**

In light of the timelines identified in the attached memo set by actions taken either by the Oneida Business Committee or the COVID-19 Decision Making Team, an extension of the emergency declaration is necessary to avoid potential conflicts in orders. As it currently stands, the Safer at Home Declaration would extend the closure of gaming operations from April 5th to April 11th. Both dates are before the April 24th timeline.

Requesting the Oneida Business Committee to adopt the attached resolution extending the public health emergency period from April 12th to May 12th at 11:59 p.m. This will clarify the closure of businesses to coincide with the Safer at Home Declaration.

**Justification for E-Poll:** An extension of emergency declarations is necessary to avoid potential conflicts in orders.

**Requested Action:**

Adopt Resolution entitled Extension of March 12 Declaration of Public Health Emergency (Please Note: the SOE date should be May 12<sup>th</sup>)

**Deadline for response:**

Responses are due no later than **4:30 p.m., Thursday, March 26, 2020.**

**Voting:**

1. Use the voting button above, if available; OR
2. Reply with "Support" or "Oppose".

Brooke Doxtator

BCC Supervisor

Business Committee Support Office (BCSO)



office 920.869.4452

fax 920.869.4040

**CONFIDENTIALITY NOTICE:** This message and any included attachments are intended only for the addressee. This message may contain privileged, confidential, or proprietary information. Unauthorized forwarding, printing, copying, distribution, or use of such information is strictly prohibited and may be unlawful. If you have received this message in error, please inform us promptly by reply e-mail, then delete the e-mail and destroy any printed copy.

**Oneida Business Committee Agenda Request****1. Meeting Date Requested:**    \_\_\_ / \_\_\_ / \_\_\_**2. General Information:**Session:    ☒ Open    ☐ Executive - See instructions for the applicable laws, then choose one:Agenda Header: ☐ Accept as Information only☒ Action - please describe:**3. Supporting Materials**☐ Report    ☒ Resolution    ☐ Contract☐ Other:1. 3. 2. 4. ☒ Business Committee signature required**4. Budget Information**☐ Budgeted - Tribal Contribution    ☐ Budgeted - Grant Funded    ☒ Unbudgeted**5. Submission**Authorized Sponsor / Liaison: Primary Requestor/Submitter: Jo Anne House, Chief Counsel  
Your Name, Title / Dept. or Tribal MemberAdditional Requestor: \_\_\_\_\_  
Name, Title / Dept.Additional Requestor: \_\_\_\_\_  
Name, Title / Dept.

**Oneida Business Committee Agenda Request****6. Cover Memo:**

Describe the purpose, background/history, and action requested:

See attached memo.

Requested Action: Motion to adopt resolution titled "Extension of March 12th Declaration of Public Health Emergency".

1) Save a copy of this form for your records.

2) Print this form as a \*.pdf *OR* print and scan this form in as \*.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** \*.pdf file to: [BC\\_Agenda\\_Requests@oneidanation.org](mailto:BC_Agenda_Requests@oneidanation.org)

Jo Anne House, PhD | Chief Counsel  
James R. Bittorf | Deputy Chief Counsel  
Kelly M. McAndrews | Senior Staff Attorney

Michelle L. Gordon  
Carl J. Artman  
Krystal L. John  
Peggy A. Schneider

Law Office



## MEMORANDUM

**TO:** Oneida Business Committee

**FROM:** Jo Anne House, Chief Counsel

**DATE:** March 25, 2020

**SUBJECT:** E-Poll Request: Resolution Extending Emergency Declaration Period

---

### Timeline

March 12, 2020 An emergency declaration under section 302.8-2 of the *Emergency Management and Homeland Security Law* was issued at the recommendation of the Emergency Management Director and the Public Health Officer.

March 17, 2020 Gaming operations ordered closed by Nation on March 21, 2020, re-open in two weeks or April 5th.

March 19, 2020 Gaming operations closed.

March 24, 2020 A Safer at Home Declaration of the COVID-19 Decision Making Team was issued on March 24, 2020. This declaration is effective during the public health emergency period and is intended to work in conjunction with the order for the State of Wisconsin which ends on April 24, 2020.

April 5, 2020 Potential re-opening date for gaming operations.

April 11, 2020 End of initial public health emergency period which also ends Safer at Home Order.

April 24, 2020 State of Wisconsin Safer at Home order ends.

In light of the timelines identified above set by actions taken either by the Oneida Business Committee or the COVID-19 Decision Making Team, an extension of the emergency declaration is necessary to avoid potential conflicts in orders. As it currently stands, the Safer at Home Declaration would extend the closure of gaming operations from April 5<sup>th</sup> to April 11<sup>th</sup>. Both dates are before the April 24<sup>th</sup> timeline.

I am requesting the Oneida Business Committee to adopt the attached resolution extending the public health emergency period from April 12<sup>th</sup> to May 12<sup>th</sup> at 11:59 p.m. This will clarify the closure of businesses to coincide with the Safer at Home Declaration.

**Requested Action: Motion to adopt resolution titled “Extension of March 12<sup>th</sup> Declaration of Public Health Emergency.”**



**Oneida Nation**  
Oneida Business Committee  
Legislative Operating Committee  
PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



**Statement of Effect**  
*Extension of March 12<sup>th</sup> Declaration of Public Health Emergency*

**Summary**

This resolution extends the dates of the Declaration of Public Health Emergency for an additional thirty (30) days.

*Submitted by: Jennifer Falck, Legislative Reference Office Director*  
*Date: March 25, 2020*

**Analysis by the Legislative Reference Office**

On March 12, 2020, in accordance with the Emergency Management and Homeland Security law, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19. [3 O.C. 302.8-1]. This declaration of a public health state of emergency set into place the necessary authority should action need to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. The timeframe for the declaration was set for March 12- April 12, 2020.

This resolution, in accordance with section 302.8-5, the Oneida Business Committee extends the public health emergency declaration for an additional 30 days beginning on April 12, 2020 and ending at 11:59 pm on May 13, 2020.

The resolution describes Wisconsin’s current COVID-19 status; as of March 24 there were 457 positive test results in Wisconsin, 5 fatalities statewide, and five (5) positive test results in Brown and Outagamie Counties. The resolution indicates that the COVID-19 Team issued a Safer at Home Declaration which directs that individuals within the Oneida Reservation should stay at home, businesses should close, and Social Distancing should be practiced by all persons which is effective during the state of emergency.

**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

## BC Resolution # Extension of March 12<sup>th</sup> Declaration of Public Health Emergency

- 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 federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses; and
- WHEREAS,** state governors, including the State of Wisconsin, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders; and
- WHEREAS,** on March 12, 2020 the Chairman declared a public health state of emergency, the Oneida Business Committee took actions to take steps to protect the health and welfare of the members, employees and the community, including instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closure of the Nation's gaming operations, and insuring that employees will continued to be paid during the public health emergency as long as the Nation's resources will allow; and
- WHEREAS,** the status of the COVID-19 pandemic continues to change on a daily basis, with at least New York and Washington continuing to experience the worst cases; and
- WHEREAS,** the State of Wisconsin has experienced a growth in cases from March 12<sup>th</sup> to March 24<sup>th</sup> now identifying 457 positive tests, 5 deaths, and of these tests:
- there are 5 positive results in Brown and Outagamie counties
  - the worst hit area has 261 positive tests and 3 deaths in Milwaukee County; and
- WHEREAS,** the State of Wisconsin has general contact with residents of the State of Illinois (1,535 positive tests and 16 deaths, 70% of those positive tests in the Chicago area), the State of Minnesota (262 positive tests and 1 death), and the State of Michigan (463 positive tests and 9 deaths); and
- WHEREAS,** a positive test does not identify the number of individuals who have the virus, including those who are not showing symptoms or who have isolated themselves at home; and

45 **WHEREAS,** the initial Public Health Emergency Declaration issued by the Chairman under section  
46 302.8-2 requested by the Emergency Management Director on March 12<sup>th</sup> would expire on  
47 April 11<sup>th</sup>; and  
48

49 **WHEREAS,** the COVID-19 Team has issued a Safer At Home Declaration which directs that individuals  
50 within the Oneida Reservation should stay at home, businesses should close, and Social  
51 Distancing should be practiced by all persons which is effective during the state of  
52 emergency which mirrors the order issued by the State of Wisconsin that is effective  
53 through April 24<sup>th</sup>; and  
54

55 **WHEREAS,** the Emergency Management Director and the Public Health Officer have advised extension  
56 of the emergency declaration supported by information from the Centers for Disease  
57 Control and the level of spread of COVID-19 throughout the State of Wisconsin,  
58 surrounding states, and the United States;  
59

60 *Extension of Public Health Emergency Declaration*

61 **NOW THEREFORE BE IT RESOLVED,** that in accordance with section 302.8-5, the Oneida Business  
62 Committee extends the public health emergency declaration for an additional 30 days beginning on April  
63 12, 2020 and ending at 11:59 p.m. on May 12, 2020.

**Oneida Business Committee Agenda Request**

Accept the March 4, 2020, regular Legislative Operating Committee meeting minutes

**1. Meeting Date Requested:** 4 / 8 / 20**2. General Information:**Session: ☒ Open ☐ Executive - See instructions for the applicable laws, then choose one:Agenda Header: ☐ Accept as Information only☒ Action - please describe:**3. Supporting Materials**☐ Report ☐ Resolution ☐ Contract☒ Other:1. 3. 2. 4. ☐ Business Committee signature required**4. Budget Information**☐ Budgeted - Tribal Contribution☐ Budgeted - Grant Funded☐ Unbudgeted**5. Submission**Authorized Sponsor / Liaison: Primary Requestor/Submitter:   
Your Name, Title / Dept. or Tribal MemberAdditional Requestor:   
Name, Title / Dept.Additional Requestor:   
Name, Title / Dept.



Oneida Nation  
Oneida Business Committee  
Legislative Operating Committee  
PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



**LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES**  
Oneida Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
March 04, 2020  
9:00 a.m.

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

**Excused:** Jennifer Webster

**Others Present:** Brandon Wisneski, Clorissa N. Santiago, Kristen Hooker, Joanne House, Nicolas Reynolds, Terry Cornelius, Jameson Wilson, Leyne Orosco, Bonnie Pigman, Mollie Passon, Lee Cornelius.

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

David Jordan called the March 4, 2020, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Ernest Stevens III to adopt the agenda: seconded by Kirby Metoxen. Motion carried unanimously.

**II. Minutes to be Approved**

**1. February 19, 2020 LOC Meeting Minutes**

Motion by Kirby Metoxen to approve the February 19, 2020, Legislative Operating Committee meeting minutes and forward to the Business Committee for consideration; seconded by Ernest Stevens III. Motion carried unanimously.

**III. Current Business**

**1. Vehicle Driver Certification and Fleet Management Amendments (:50-14:36)**

Motion by Daniel Guzman King to accept the updated public comment review memorandum, draft law and legislative analysis; seconded by Ernest Stevens III. Motion carried unanimously.

Motion by Ernest Stevens III to approve the Vehicle Driver Certification and Fleet Management law amendments fiscal impact statement request memorandum and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by March 18, 2020; seconded by Kirby Metoxen. Motion carried unanimously.

**2. Children's Burial Fund Amendments (14:37-21:36)**

Motion by Kirby Metoxen to accept the public comments and the public comment review memorandum and defer to a work meeting for further consideration; seconded by Daniel Guzman King. Motion carried unanimously.



**3. Oneida Food Service Code Amendments (21:37-27:03)**

Motion by Ernest Stevens III to accept the public comment and the public comment review memorandum and defer to a work meeting for further consideration; seconded by Daniel Guzman King. Motion carried unanimously.

**4. Curfew Law Amendments (27:05-30:22)**

Motion by Kirby Metoxen to approve the public meeting packet and forward the Curfew law amendments to a public meeting to be held on April 2, 2020; seconded by Ernest Stevens III. Motion carried unanimously.

**5. Domestic Animals Law Amendments (30:23-32:15)**

Motion by Kirby Metoxen to approve the public meeting packet and forward to the Domestic Animals law amendments to a public meeting to be held on April 2, 2020; seconded by Ernest Stevens III. Motion carried unanimously.

**6. Boards, Committees and Commissions Law Emergency Amendments (32:16-36:19)**

Motion by Daniel Guzman King to approve the Boards, Committees, and Commissions law emergency adoption packet and forward to the Oneida Business Committee for consideration; seconded by Ernest Stevens III. Motion carried unanimously.

**7. Wellness Court Law (36:20-:54)**

Motion by Daniel Guzman King to approve the article and the first community outreach notice to be published in the March 19, 2020 Kalihwisaks edition, the second community outreach notice to be published in the April 16, 2020 Kalihwisaks edition, and the third community outreach notice to be published in the May 21, 2020, Kalihwisaks edition; seconded by Kirby Metoxen. Motion carried unanimously.

**IV. New Submissions****V. Additions****VI. Administrative Items****1. Consideration of Legislative Solution to Election Issues Memo (39:56-50:26)**

Motion by Daniel Guzman King to approve the memorandum with the noted change and forward to the Oneida Business Committee. Motion failed due to lack of second.

Motion by Kirby Metoxen to approve the memorandum and forward to the Oneida Business Committee; seconded by Ernest Stevens III. Motion carried.

Ayes: Ernest Stevens III, Kirby Metoxen  
Abstained: Daniel Guzman King

**VII. Executive Session****VIII. Adjourn**

Motion by Ernest Stevens III to adjourn at 9:50 a.m.; seconded by Kirby Metoxen. Motion carried unanimously.

**Oneida Business Committee Agenda Request**

Accept the March 18, 2020, regular Legislative Operating Committee meeting minutes

**1. Meeting Date Requested:** 4 / 8 / 20**2. General Information:**Session: ☒ Open ☐ Executive - See instructions for the applicable laws, then choose one:Agenda Header: ☐ Accept as Information only☒ Action - please describe:**3. Supporting Materials**☐ Report ☐ Resolution ☐ Contract☒ Other:1. 3. 2. 4. ☐ Business Committee signature required**4. Budget Information**☐ Budgeted - Tribal Contribution☐ Budgeted - Grant Funded☐ Unbudgeted**5. Submission**Authorized Sponsor / Liaison: Primary Requestor/Submitter: Jennifer Falck, LRO Director  
Your Name, Title / Dept. or Tribal MemberAdditional Requestor: Clorissa N. Santiago, LRO Senior Staff Attorney  
Name, Title / Dept.Additional Requestor: \_\_\_\_\_  
Name, Title / Dept.





**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



**LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES**  
 Oneida Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
 March 18, 2020  
 2:30 p.m.

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

**Others Present:** Clorissa N. Santiago, Kristen Hooker, Jennifer Falck, Jameson Wilson, Leyne Orosco, Mollie Passon, Lee Cornelius.

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

David Jordan called the March 18, 2020, Legislative Operating Committee meeting to order at 2:30 p.m.

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

**II. Minutes to be Approved**

**1. March 04, 2020 LOC Meeting Minutes**

Motion by Kirby Metoxen to approve the March 04, 2020 LOC Meeting Minutes and forward to the Oneida Business Committee; seconded by Ernest Stevens III. Motion carried unanimously.

**III. Current Business**

**1. Indian Preference in Contracting Law Amendments (:44-5:49)**

Motion by Jennifer Webster to approve the Indian Preference in Contracting Law adoption packet and forward to the Oneida Business Committee for consideration; seconded by Ernest Stevens III. Motion carried unanimously.

Motion by Kirby Metoxen to approve the resolution “Indian Preference in Contracting Law Fine & Penalty Schedule” and forward to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

**2. Children’s Burial Fund Policy Amendments (5:50-11:56)**

Motion by Ernest Stevens III to accept the updated public comment review memorandum, draft law and legislative analysis; seconded by Daniel Guzman King. Motion carried unanimously.

Motion by Jennifer Webster to approve the Children’s Burial Fund amendments fiscal impact statement request memorandum and forward to the Finance Department directing a fiscal impact statement be prepared and submit to the LOC by April 1, 2020; seconded by Ernest Stevens III. Motion carried unanimously.

A good mind. A good heart. A strong fire.



**3. Tobacco Law Amendments (11:57-14:09)**

Motion by Kirby Metoxen to accept to draft and analysis and defer to a work meeting for further consideration; seconded by Jennifer Webster. Motion carried unanimously.

Ayes: Ernest Stevens III, Kirby Metoxen, Jennifer Webster  
Abstained: Daniel Guzman King

**4. Oneida Food Service Code Agreement (14:16-23:24)**

Motion by Ernest Stevens III to accept to updated public comment review memorandum, draft law and legislative analysis; seconded by Kirby Metoxen. Motion carried unanimously.

Motion by Kirby Metoxen to approve the Oneida Food Service Code amendments fiscal impact statement request memorandum and forward to the Finance Department directing a fiscal impact statement be prepared and submitted to the LOC by April 1, 2020; seconded by Jennifer Webster. Motion carried unanimously.

**IV. New Submissions****V. Additions****VI. Administrative Items****VII. Executive Session****VIII. Adjourn**

Motion by Ernest Stevens III to adjourn at 2:54 p.m.; seconded by Kirby Metoxen. Motion carried unanimously.

Accept the January 23, 2020, regular Quality of Life Committee meeting minutes



## Quality of Life Committee

Regular Meeting  
2:30 p.m. Thursday, January 23, 2020  
BC-Executive Conference Room

### Minutes

---

**Present:** Daniel Guzman-King, Tehassi Hill, Kirby Metoxen, Ernest Stevens III, Brandon Yellowbird-Stevens;

**Others Present:** Aliskwet Ellis, Tina Jorgenson;

#### I. CALL TO ORDER AND ROLL CALL

*Meeting called to order by Brandon Yellowbird-Stevens at 2:35 p.m.*

#### II. APPROVAL OF THE AGENDA

Motion by Ernest Stevens III to approve the agenda, seconded by Tehassi Hill. Motion carried unanimously:

Ayes: Daniel Guzman-King, Tehassi Hill, Kirby Metoxen, Ernest Stevens III

#### III. APPROVAL OF MEETING MINUTES

##### A. December 12, 2019 Quality of Life Meeting Minutes

Motion by Ernest Stevens III to approve the December 12, 2019 Quality of Life meeting minutes, seconded by Tehassi Hill. Motion carried:

Ayes: Tehassi Hill, Kirby Metoxen, Ernest Stevens III

Abstained: Daniel Guzman-King

#### IV. UNFINISHED BUSINESS – NONE

#### V. NEW BUSINESS – NONE

#### VI. REPORTS

##### A. Environmental Issues – Ernest Stevens III

Motion by Ernest Stevens III to request Environmental Team to come back with an updated plan and updated draft on a position statement on the Rights of Nature and Environmental Issues, seconded by Daniel Guzman-King. Motion carried unanimously:

Ayes: Daniel Guzman-King, Tehassi Hill, Kirby Metoxen, Ernest Stevens III

**B. Wellness Council – Tina Jorgenson**

Motion by Tehassi Hill to approve the Wellness Council Report, seconded by Daniel Guzman-King.

Motion carried:

Ayes:	Daniel Guzman-King, Tehassi Hill, Ernest Stevens III
Not Present:	Kirby Metoxen

**C. Tribal Action Plan – Debbie Thundercloud**

Motion by Daniel Guzman-King to approve the Tribal Action Report, seconded by Tehassi Hill. Motion carried unanimously.

Ayes:	Daniel Guzman-King, Tehassi Hill, Kirby Metoxen
Not Present:	Ernest Stevens III

**VII. ADJOURN**

Motion by Tehassi Hill to adjourn at 3:32 p.m., seconded by Daniel Guzman-King. Motion carried:

Ayes:	Daniel Guzman-King, Tehassi Hill, Kirby Metoxen
Not Present:	Ernest Stevens III

**Oneida Business Committee Agenda Request****1. Meeting Date Requested:** 4 / 08 / 20**2. General Information:**Session: ☒ Open ☐ Executive - See instructions for the applicable laws, then choose one:Agenda Header: ☐ Accept as Information only☒ Action - please describe:**3. Supporting Materials**☐ Report ☐ Resolution ☐ Contract☒ Other:1. 3. 2. 4. ☐ Business Committee signature required**4. Budget Information**☐ Budgeted - Tribal Contribution☐ Budgeted - Grant Funded☐ Unbudgeted**5. Submission**Authorized Sponsor / Liaison: Primary Requestor/Submitter:   
Your Name, Title / Dept. or Tribal MemberAdditional Requestor:   
Name, Title / Dept.Additional Requestor:   
Name, Title / Dept.

Table the update and progress report regarding the implementation procedures for BC resolution #...

## Business Committee Agenda Request

1. Meeting Date Requested: 04/08/20

2. General Information:

Session: ☒ Open

☐ Executive – must qualify under §107.4-1.

Justification: *Choose reason for Executive.*

3. Supporting Documents:

☐ Contract Document(s)

☐ Legal Review

☐ Resolution

☒ Correspondence

☐ Minutes

☐ Statement of Effect

☐ Fiscal Impact Statement

☐ Report

☐ Travel Documents

☐ Other: *Describe*

4. Budget Information:

☐ Budgeted

☐ Budgeted – Grant Funded

☐ Unbudgeted

☒ Not Applicable

☐ Other: *Describe*

5. Submission:

Authorized Sponsor: Lisa Summers, Secretary

Primary Requestor: \_\_\_\_\_

Additional Requestor: (Name, Title/Entity)

Additional Requestor: (Name, Title/Entity)

Submitted By: LLIGGINS



A good mind. A good heart. A strong fire.



## Business Committee Agenda Request – Cover Memo

**From:** Lisa Liggins, Information Management Specialist/BC Support Office  
**Date:** 04/02/2020  
**RE:** *Enter Topic*

---

### **PURPOSE**

An agenda for an update and progress report regarding the implementation procedures for BC resolution # 03-11-20-C is the BC agenda; action by the BC is needed to table this item.

### **BACKGROUND**

At the March 11, 2020, regular BC meeting, the following actions took place:

“1) Motion by Jennifer Webster to adopt resolution 03-11-20-C Interpretation of General Tribal Council January 20, 2020 Economic Development and Fiscal Strategy Motion and Setting Implementation Procedures, seconded by David P. Jordan. Motion carried; and 2) Motion by Lisa Summers to direct the General Manager to provide the Oneida Business Committee with an update within two (2) weeks on the Community and Economic Development Division Director's progress on the development of the required standard operating procedures and direct Finance to provide Oneida Business Committee a progress report within two (2) weeks on any changes that need to be done on their part of the process, seconded by Jennifer Webster. Motion carried.”

Since that time, priorities have been adjusted due to the COVID-19 pandemic. The recommendation is to table this item. No specific time frame is needed; the item will remain on the agenda under tabled business until such time as the BC chooses to take it from the table to address.

### **REQUESTED ACTION**

Table the update and progress report regarding the implementation procedures for BC resolution # 03-11-20-C

**Oneida Business Committee Agenda Request**

Approve two (2) actions regarding the 2020 Annual Meeting of the Stockholders of The Native American..

**1. Meeting Date Requested:**    \_\_ / \_\_ / \_\_

**2. General Information:**

Session:    ☒ Open    ☐ Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

☐ Accept as Information only

☒ Action - please describe:

Approve proxy.

**3. Supporting Materials**

☐ Report    ☐ Resolution    ☐ Contract

☒ Other:

1.

3.

2.

4.

☒ Business Committee signature required

**4. Budget Information**

☐ Budgeted - Tribal Contribution    ☐ Budgeted - Grant Funded    ☒ Unbudgeted

**5. Submission**

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Jo Anne House, Chief Counsel  
Your Name, Title / Dept. or Tribal Member

Additional Requestor: \_\_\_\_\_  
Name, Title / Dept.

Additional Requestor: \_\_\_\_\_  
Name, Title / Dept.

## Oneida Business Committee Agenda Request

### 6. Cover Memo:

Describe the purpose, background/history, and action requested:

The Oneida Nation has received notice of the 2020 Annual Meeting of the Stockholders of Native American Bancorporation Co. (NAB) to be held on April 21, 2020. The agenda, at this time, contains voting for three candidates to sit on the board. Similar to all other banks, the NAB consists of the Bancorporation board of directors over the Bank board of directors. Like our BayBank Bancorporation, these boards are made up of the same members.

The Proxy vote needs to be submitted by April 19, 2020. The options are (Option 1) to authorize Thomas D. Ogaard (or some named individual) to vote their discretion OR (Option 2) to vote as directed. It is recommended to choose Option 1 and allow the President/CEO to vote their discretion. There are only three candidates for three vacancies.

Requested Action: Motion to approve Option 1 on the Proxy for Native American Bancorporation Co. April 21, 2020 Annual Meeting of the Stockholders and to approve the Proxy for that meeting.

1) Save a copy of this form for your records.

2) Print this form as a \*.pdf OR print and scan this form in as \*.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** \*.pdf file to: [BC\\_Agenda\\_Requests@oneidanation.org](mailto:BC_Agenda_Requests@oneidanation.org)

# The Native American Bancorporation Co.

## Proxy Statement

### 2020 ANNUAL MEETING OF STOCKHOLDERS OF THE NATIVE AMERICAN BANCORPORATION CO.

The 2020 Annual Meeting of Stockholders of The Native American Bancorporation Co. (the “**Company**”) will be held on April 21, 2020 at 9:00 A.M. MDT, **by video/teleconference**. **The link is <https://zoom.us/j/3530807386>. The meeting ID is 3530807386.** The number of shares of Class A common stock of the Company entitled to vote at the 2020 Annual Meeting of Stockholders is **96,673** shares. Only those stockholders of record at the close of business on February 28, 2020 will be entitled to vote.

The only known matter to be submitted to stockholders at the Annual Meeting is the election of three nominees to serve as Class I Directors for the ensuing three years until their successor is elected and qualified.

#### 1. Election of Directors.

(a) Nominees. Under the bylaws of the Company, as amended, the Board of Directors of Bancorp has been divided into three approximately equal classes with directors in each class to be elected to a three-year term.

Pursuant to a resolution of the Board of Directors, three (3) people were nominated for election as Class I members of the Board of Directors as set forth below (“**Company Nominees**”). At the 2020 Annual Meeting of Stockholders the stockholders will be asked to elect the Company Nominees as Class I members of the Board of Directors.

No other persons were nominated for election by any stockholders of the Company pursuant to bylaws of the Company. Therefore, there are no **Alternative Nominees** to be considered for election to the Board of Directors at the 2020 Annual Meeting of Stockholders.

The term of the individuals serving as Class I Directors expires as of the Annual Meeting of the Stockholders in 2020. The individuals were nominated for re-election as Class I Directors for a three-year term to expire at the time of the Annual Meeting of the Stockholders in 2023, the year of expiration of the term of Class I Directors, and until their successor(s) have been duly elected and qualified. Shares represented by a duly executed proxy will be voted in accordance with instructions on such proxy and as described below under “Cumulative Voting.” The individuals nominated as Class I Directors are:

<u>Name</u>	<u>Principal Occupation</u>	<u>Director From</u>
David Cottrell	President and CEO United Companies, Inc. Alaska	2009-present

Lance Morgan	President and CEO Ho-Chunk, Inc. Nebraska	2015-present
T.J. Show	President Show Logging Corporation Montana	2012-present

Further information concerning the Company Nominees are as follows:

**David Cottrell** was elected as a director in 2009, is a CPA and the retired managing partner of Mikunda, Cottrell & Company, an Alaska CPA firm. He is currently President of the firm of Mikunda Cottrell Accounting and Consulting. He is also the President and CEO of United Companies, Inc., one of our shareholders. He is a graduate of the California State University at Fullerton, California.

**Lance Morgan** is President and Chief Executive officer of Ho-Chunk, Inc., an economic development corporation owned by the Winnebago Tribe of Nebraska. Mr. Morgan is also the managing partner in the law firm Fredericks, Peebles and Morgan, LLP, with offices in seven states, that specializes in Indian law related to legislative and governmental issues, corporate and financial affairs, energy and tax issues, as well as litigation. Mr. Morgan is an adjunct professor at Arizona State University and currently serves on the board for several corporate entities and a bank. He has served as the President of Native American Contractors Association, an economic advisor to the Bureau of Indian Affairs, on the Consumer Advisory Board of the United States Federal Reserve and as a Champion of Change panelist for the 2011 White House Symposium on Economic Development. He earned a Bachelor's Degree in Economics from the University of Nebraska and his Juris doctorate from Harvard Law School. Mr. Morgan is an enrolled member of the Winnebago Tribe of Nebraska.

**T.J. Show** is the President of Show Logging Corporation and has served as a director of our Bank since June 2012. He is the former Chairman of the Blackfeet Indian Tribe.

The Board of Directors recommends a vote "FOR" the election of the nominees as Class I Directors of the Company to serve until the Annual Meeting of the Stockholders in 2023. Each share of Class A common stock is entitled to cumulative voting in connection with this matter. Cumulative voting is discussed below.

(b) For Informational Purposes Only:

Class II Directors with terms expiring in 2021. The terms of individuals serving as Class II Directors of the Board of Directors expire as of the Annual Meeting of the Stockholders in 2021. Those individuals are:

<u>Name</u>	<u>Principal Occupation</u>	<u>Director From</u>
Cristina Danforth	Former Chairwoman Oneida Tribe of Indians of Wisconsin Wisconsin	2001-present
Thomas D. Ogaard	President and CEO Native American Bancorporation and Native American Bank, N.A. Colorado	2013-present

Class III Directors with terms expiring in 2022. The terms of individuals serving as Class III Directors of the Board of Directors expire as of the Annual Meeting of the Stockholders in 2022. Those individuals are:

<u>Name</u>	<u>Principal Occupation</u>	<u>Director From</u>
Derrick Watchman	Navajo Nation Arizona	2001-2003 2011-present
Rod Worl	CEO The Eyak Corporation Alaska	2011-present

(c) Principal Stockholders.

The following table summarizes the Company's Class A stockholders as of February 28, 2020:



Native American Bancorporation  
Class A and Class B Common Shareholders  
As of February 28, 2020

Shareholder	Total Class A	% Ownership of Class A	Total Class B	% Ownership of Class B Non-voting	Total Common	%
	Shares	Voting Shares	Shares	Shares	Shares	Ownership
The Eyak Corporation	24,150	24.98%	9,886	18.00%	34,036	22.45%
Ho-Chunk, Inc.	13,195	13.65%	32,696	59.55%	45,891	30.28%
Sealaska Corporation	14,016	14.50%	-	0.00%	14,016	9.25%
UCI, LLC	6,126	6.34%	-	0.00%	6,126	4.04%
Wells Fargo Community Development Corporation	3,590	3.71%	6,154	11.21%	9,744	6.43%
The Ford Foundation	3,590	3.71%	6,154	11.21%	9,744	6.43%
Sac and Fox Tribe of the Mississippi in Iowa	3,270	3.38%	-	0.00%	3,270	2.16%
The F.B Heron Foundation	2,924	3.02%	-	0.00%	2,924	1.93%
Fort Belknap Planning & Development Corp. DBA						
Island Mountain Development Group	2,247	2.32%	-	0.00%	2,247	1.48%
ClearingHouse CDFI	2,200	2.28%	-	0.00%	2,200	1.45%
Mashantucket Pequot Tribal Nation	2,055	2.13%	-	0.00%	2,055	1.36%
Shoshone-Bannock Tribes	1,751	1.81%	-	0.00%	1,751	1.16%
Old Harbor Settlement Trust	1,751	1.81%	-	0.00%	1,751	1.16%
Tunica Biloxi Tribe EDC	1,725	1.78%	-	0.00%	1,725	1.14%
Association of Village Council Presidents	1,539	1.59%	-	0.00%	1,539	1.02%
Akhiok-Kaguyak, Inc.	1,539	1.59%	-	0.00%	1,539	1.02%
Three Affiliated Tribes	1,161	1.20%	-	0.00%	1,161	0.77%
Oneida Tribe of Indians of Wisconsin	1,161	1.20%	-	0.00%	1,161	0.77%
Ute Mountain Ute Tribe	1,000	1.03%	-	0.00%	1,000	0.66%
The Navajo Nation	1,000	1.03%	-	0.00%	1,000	0.66%
Mille Lacs Band of Ojibwe Indians	1,000	1.03%	-	0.00%	1,000	0.66%
Grand Traverse Band Economic	1,000	1.03%	-	0.00%	1,000	0.66%
Eastern Shoshone Tribe	1,000	1.03%	-	0.00%	1,000	0.66%
Chippewa Cree Tribe	1,000	1.03%	-	0.00%	1,000	0.66%
Blackfeet Indian Nation	1,000	1.03%	-	0.00%	1,000	0.66%
Arctic Slope Regional Corporation	1,000	1.03%	-	0.00%	1,000	0.66%
AMERIND Risk Management Corporation	250	0.26%	-	0.00%	250	0.16%
Table Mountain Rancheria	100	0.10%	-	0.00%	100	0.07%
Seminole Tribe of Florida	100	0.10%	-	0.00%	100	0.07%
Cheyenne River Sioux Tribe	100	0.10%	-	0.00%	100	0.07%
Puyallup International, Inc.	68	0.07%	-	0.00%	68	0.04%
The Mohegan Tribe	35	0.04%	-	0.00%	35	0.02%
Sault Ste. Marie Tribe	10	0.01%	-	0.00%	10	0.01%
Salt River Pima-Maricopa Indian Community	10	0.01%	-	0.00%	10	0.01%
Colville Tribal Enterprise Corporation	10	0.01%	-	0.00%	10	0.01%
Directors qualifying shares	-	0.00%	17	0.03%	17	0.01%
	96,673	100.00%	54,907	100.00%	151,580	100.00%

(d) Passivity Agreements.

Three of our principal stockholders, Ho-Chunk, Inc., The Eyak Corporation and Sealaska Corporation, who own an aggregate of approximately 53% of our outstanding Class A common stock, have each entered into an agreement with the Board of Governors of the Federal Reserve System (“**FRB**”) (“**passivity agreement**”). The passivity agreements, among other things, limit the stockholders from: (i) exercising a controlling influence over us or our management’s policies; (ii) having or seeking to have more than one representative on our Board of Directors; (iii) owning or controlling more than 25% of any class of our voting securities; (iv) proposing any action that would make us a subsidiary of theirs; (v) soliciting proxies with respect to stockholder actions; (vi) soliciting proxies in opposition to the Company’s nominees for directors; (vii) entering into any agreements restricting the discretion of our management over policies and decisions; and (viii) entering into any banking or non-banking relationships with our bank (except a limited amount of depository accounts).

The FRB’s purpose of such passivity agreements is to limit the ability of a passive investor (10%-25% ownership) to exercise a controlling influence over the management or policies of a bank or bank holding company.

The FRB has required any of our stockholders owning 10% or more of outstanding Class A common stock to enter in a passivity agreement. However, we were advised by FRB personnel that the FRB can require a passivity agreement from a stockholder owning 5% or more of any class of a bank holding company’s voting securities.

(e) Bylaw Nomination Provisions.

On October 16, 2012, the Board of Directors adopted new bylaws that enable certain stockholders of the Company (“**Eligible Stockholders**”) to directly nominate candidates to the Company’s Board of Directors utilizing the Company’s proxy materials, provided the Company may impose appropriate safeguards to ensure that the mechanism is not used to the detriment of the Company or otherwise abused.

The procedures to utilize this means of nominating candidates must be followed strictly or such candidate will not be included in the Company’s proxy materials. A complete copy of the new bylaw provisions, Sections 2.11 and 2.12 were included with the Notice of Annual Meeting of Stockholders sent to you on or about February 28, 2020.

There were no candidates nominated by our Eligible Stockholders in connection with our 2020 Annual Meeting of Stockholders.

(f) Cumulative Voting.

As set forth above, the Company’s Board of Directors has nominated a slate of three (3) people to serve as a Class III Director for a period of three years until their successor is elected and qualified. There are no other nominees.

The Company’s Certificate of Incorporation provides for cumulative voting in the election of directors. This means that each stockholder has one vote per share owned times the

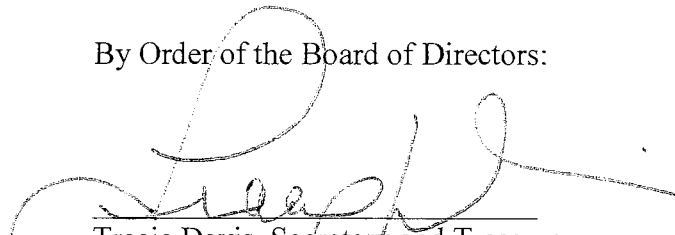
number of director positions up for election, which in the present case is one. The stockholder may allocate the votes among one or more of the different nominees as he/she wishes. As a result of cumulative voting, a stockholder or group of stockholders controlling a certain percentage (depending on the number of vacancies on the Board), but less than 51%, of the shares of Class A common stock can vote so as to assure representation on the Company's Board of Directors.

2. Other Business.

For all other purposes except for the election of directors, each share of Class A common stock is entitled to one vote. The Company is not aware of any business to be presented for consideration at the 2020 Annual Meeting of Stockholders other than as specified in the Notice of 2020 Annual Meeting previously sent to stockholders and as discussed in detail above. If any other matters are properly presented, the persons identified in the enclosed Proxy intend to vote in accordance with their best judgment.

Dated: March 27, 2020

By Order of the Board of Directors:



Tracie Davis, Secretary and Treasurer  
The Native American Bancorporation Co.

**YOUR VOTE IS IMPORTANT – PLEASE RETURN THE COMPLETED, DATED AND FULLY  
EXECUTED PROXY TO THE COMPANY AT:**

**Thomas D. Ogaard  
The Native American Bancorporation Co.  
201 N. Broadway  
Denver, Colorado 80203**

**Or if returned via facsimile to (303) 988-5533**

**Or if returned via email to [togaard@nabna.com](mailto:togaard@nabna.com) or [tdavis@nabna.com](mailto:tdavis@nabna.com)**

**By 5:00 p.m. MDT on April 20, 2020.**

**Proxy**  
**The Native American Bancorporation Co.**

Know All Persons By These Presents that the undersigned stockholder of The Native American Bancorporation Co. ("Company") does hereby appoint \_\_\_\_\_ (please print or Thomas D. Ogaard, President and CEO, if no individual is named), my true and lawful attorney, with full power of substitution, for me and in my name, place and stead, to vote shares of Class A common stock of the Company which the undersigned would be entitled to vote at the 2020 Annual Meeting of Stockholders to be held on April 21, 2020, at 9:00 a.m. MDT via video/teleconference or at any adjournments thereto, with all the powers the undersigned would possess if personally present as follows:

1. Election of Directors.

To elect Three (3) nominees as Class I Directors as set forth and described in the Proxy Statement dated February 28, 2020, accompanying this proxy:

\_\_\_\_\_  
 Number of Shares of the Company Held of Record on February 28, 2020 X 3 =  
 Number of Votes That You May Vote For One Or More Nominees

Check one:

1. ☐ TO VOTE DISCRETIONARY, the Proxyholder will exercise his/her discretion to distribute your total cumulative votes among the candidates for a three year term of membership on the Board of Directors ending in 2023.

OR

2. ☐ TO VOTE DIRECTED, the Proxyholder will distribute your cumulative votes among the candidates in the manner you indicate below for a three year of membership on the Board of Directors ending 2023.

**Company Nominees Standing for Election:**

Number of Votes For:

David Cottrell  
 Lance Morgan  
 T.J. Show  
 \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

This proxy will also be voted at the discretion of the holder on such other business as may properly come before the meeting. This proxy may be revoked prior to its execution by notice to Thomas D. Ogaard, President and CEO.

Dated: \_\_\_\_\_, 2020

Please **Date** and then **Print** and **Sign** as follows:

\_\_\_\_\_  
 (Print Name of Stockholder Above)

\_\_\_\_\_  
 (Print Name and Title of Stockholder's Authorized Representative Above)

\_\_\_\_\_  
 (Signature of Representative)

\_\_\_\_\_  
 (Title)

**YOUR VOTE IS IMPORTANT – PLEASE RETURN THE COMPLETED, DATED AND FULLY  
EXECUTED PROXY TO THE COMPANY AT:**

**Thomas D. Ogaard  
The Native American Bancorporation Co.  
201 N. Broadway  
Denver, Colorado 80203**

**Or if returned via facsimile to (303) 988-5533  
Or if returned via email to [togaard@nabna.com](mailto:togaard@nabna.com) or [tdavis@nabna.com](mailto:tdavis@nabna.com)  
by 5:00 p.m. MDT on April 19, 2019.**

**Oneida Business Committee Agenda Request**

Approve two (2) actions regarding the draft Continuing Resolution for FY-2021

**1. Meeting Date Requested:**    \_\_ / \_\_ / \_\_**2. General Information:**Session:    ☒ Open    ☐ Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

☒ Accept as Information only☐ Action - please describe:**3. Supporting Materials**☐ Report    ☒ Resolution    ☐ Contract☐ Other:1. 3. 2. 4. ☐ Business Committee signature required**4. Budget Information**☐ Budgeted - Tribal Contribution    ☐ Budgeted - Grant Funded    ☐ Unbudgeted**5. Submission**

Authorized Sponsor / Liaison:

Primary Requestor/Submitter:

---

Your Name, Title / Dept. or Tribal Member

Additional Requestor:

---

Name, Title / Dept.

Additional Requestor:

---

Name, Title / Dept.



## Oneida Business Committee Agenda Request

### 6. Cover Memo:

Describe the purpose, background/history, and action requested:

I have attached the draft FY2021 Continuing Resolution for information only. With half of the current fiscal year concluded, and the closing of the Nation's primary revenue source supporting governmental services, it is important to have some guidance regarding expenditure limitations in FY2021.

The Oneida Business Committee approved resolution # BC-03-17-2020-A, Adoption of Tier IV Budget Contingency Plan for the Remainder of Fiscal Year 2020 as a Result of Potential COVID-19 Pandemic Financial Impacts. Subsequently, the COVID-19 Decision Making Team subsequently approved the Declaration - Suspension of all Fiscal Year 2021 Budget Planning Activities on March 19, 2020.

I and my team has continued to review the finances of the Nation and economic outlooks. The information we have reviewed identifies that it is not likely to be possible to reconvene budget planning for FY2021, and that economic impacts will continue to reverberate through the economy and affecting individual spending abilities and habits.

I am submitting the draft FY2021 Continuing Resolution to ensure that the organization has the most time available to respond to FY2021 budgeting and spending plans.

This resolution is subject to change depending on positive or negative changes that will be occurring in the next six months.

Requested Action: Accept as information only and request direct reports to keep their areas aware of this FY2021 budget planning restriction.

1) Save a copy of this form for your records.

2) Print this form as a \*.pdf OR print and scan this form in as \*.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** \*.pdf file to: BC\_Agenda\_Requests@oneidanation.org

# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## FOR INFORMATION ONLY - DRAFT

### BC Resolution #

### Continuing Resolution for Fiscal Year 2021

- 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 federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses; and
- WHEREAS,** state governors, including the State of Wisconsin, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders; and
- WHEREAS,** on March 12, 2020 the Chairman declared a public health state of emergency, the Oneida Business Committee took actions to take steps to protect the health and welfare of the members, employees and the community, including instituting expenditure restrictions to preserve resources for the provision of governmental services to members most at risk, closure of the Nation's gaming operations, and insuring that employees will continued to be paid during the public health emergency as long as the Nation's resources will allow; and
- WHEREAS,** the Oneida Business Committee adopted resolution # BC-03-17-2020-A which declared that Tier IV budget contingency measures are implemented which required a 4% reduction in overall expenditures and budgets; and
- WHEREAS,** the Treasurer has implemented a COVID-19 Finance Team (*Finance Team*) to monitor the financial status of the Nation and make recommendations regarding expenditure restrictions for the remainder of FY2020, budgeting for FY2021, development of directions for a continuing resolution for FY2021, and other actions necessary to ensure governmental services can continue to be provided to those most in need and at risk regarding COVID-19 and the health impacts of the virus; and
- WHEREAS,** the Finance Team has determined the following rules shall apply to all decisions being made regarding the finances of the Nation and how those limited resources shall be allocated:
1. All decisions are employee/member/community empathetic/compassionate balanced against cash flow; and
  2. All decisions shall protect investments; and utilize only available cash; and

48 **WHEREAS,** the Finance Team has identified that the Nation can, if funding is carefully managed, meet  
49 the needs of the operations in providing services for a 30-day period beginning from the  
50 closure date of the gaming operations; and  
51

52 **WHEREAS,** the Finance Team, working closely with Intergovernmental Affairs and Communications, is  
53 kept up-to-date regarding federal emergency funding opportunities which will assist the  
54 Nation in managing the public health crises and has identified that the Nation has a  
55 potential gap of 30 to 60 days where federal financial assistance will be authorized and  
56 delivered; and  
57

58 **WHEREAS,** the Finance Team, working closely with the Grants Office, has identified that granting  
59 agencies will be providing approvals to delay or amend existing grants considering the  
60 current public health crises which will assist the Nation in managing expenses during the  
61 financial constraints; and  
62

63 **WHEREAS,** the Finance Team has identified it is impossible to identify revenues at any level of  
64 accuracy during this emergency public health period as the economy is impacted and  
65 beyond as the economy recovers, which impacts the ability to generate a budget for the  
66 FY2021; and  
67

68 **WHEREAS,** the Treasurer, upon review of the information from the Finance Team, is recommending  
69 the Oneida Business Committee adopt a continuing budget resolution for FY2021;  
70

71 *Continuing Resolution for FY2021*

72 **NOW THEREFORE BE IT RESOLVED,** that the Oneida Business Committee adopts this continuing budget  
73 resolution for FY2021, directing that FY2021 expenditures shall be based on the FY2020 budget as  
74 impacted by resolution # BC-04-\_\_-20-\_\_, *Tier V Budget Contingency Declared for Remainder of Fiscal*  
75 *Year 2020*, and all expenditures shall be restricted to the greatest extent possible to allow the Nation to  
76 provide essential services.  
77

78 **NOW THEREFORE BE IT RESOLVED,** that the planned \$0.50 wage increase for FY2021 shall not be  
79 implemented.  
80

81 *Essential Services*

82 **NOW THEREFORE BE IT FURTHER RESOLVED,** that the Operations shall reduce all funding to essential  
83 services, only, to the greatest extent possible for FY2021, or until formerly announced otherwise, to  
84 maintain viability of the Nation and its' organization so long as the Nation is financially able to allocate  
85 funding. Essential services for the purposes of this Resolve should be understood as including employee  
86 payroll as defined in Resolve #3, direct costs to provide the service, and indirect costs.  
87

88 *Essential Employee Levels*

89 **NOW THEREFORE BE IT FURTHER RESOLVED,** that employee levels are to be managed at essential  
90 employee levels only. Essential employee shall be defined as the minimum level necessary to provide  
91 essential programs/services as defined in Resolve #2.  
92

93 *Travel*

94 **NOW THEREFORE BE IT FURTHER RESOLVED,** that all travel is prohibited.  
95

96 *Capital Expenditures, Capital Improvement Projects and Technology Set Asides*

97 **NOW THEREFORE BE IT FURTHER RESOLVED,** that Capital Expenditures, Capital Improvement  
98 Projects, and Technology Set Asides are on hold for the Fiscal Year 2021; however, all projects that have  
99 been activated shall take the following steps.

- 100 1. All projects for which a contract has been signed and physical work on-site has begun shall be shut  
101 down as follows:

- 102 a. Stopping work and closing project activities to leave the project in a safe state until it can  
103 be restarted.  
104 b. Stopping work and closing project activities to leave the project in a safe state in the event  
105 it will not be restarted.  
106 c. Concluding any remaining work, such as punch-lists, in a manner which limits the financial  
107 impact to the Nation but closes the project in accordance with the contract.  
108 2. All projects for which a contract has been signed and physical work on-site has not begun shall be  
109 shut down immediately and closure of the contract as follows:  
110 a. Stopping work and closing project activities so the project can be re-started at some future  
111 date.  
112 b. Stopping work and closing project activities recognizing the project will not be restarted at  
113 some future date.  
114 3. All contracts not signed and posted requests for bids or proposals shall be withdrawn.  
115

116 *Building Maintenance and Repairs Expenses*

117 **NOW THEREFORE BE IT FINALLY RESOLVED**, all expenses arising out of the Building Maintenance  
118 Repairs line shall be restricted to emergency health, safety, or regulatory actions.

Enter the e-poll results into the record regarding the U.S. Health and Human Services Secretary's Tribal...

## Business Committee Agenda Request

1. Meeting Date Requested: 04/08/20

2. General Information:

Session: ☒ Open

☐ Executive – must qualify under §107.4-1.

Justification: *Choose reason for Executive.*

3. Supporting Documents:

☐ Contract Document(s)

☐ Legal Review

☐ Resolution

☐ Correspondence

☐ Minutes

☐ Statement of Effect

☐ Fiscal Impact Statement

☐ Report

☐ Travel Documents

☒ Other: E-poll results, request and back up

4. Budget Information:

☐ Budgeted

☐ Budgeted – Grant Funded

☐ Unbudgeted

☒ Not Applicable

☐ Other: *Describe*

5. Submission:

Authorized Sponsor: Lisa Summers, Secretary

Primary Requestor: \_\_\_\_\_

Additional Requestor: (Name, Title/Entity)

Additional Requestor: (Name, Title/Entity)

Submitted By: LLIGGINS

**E-POLL RESULTS: Authorize the Chairman to sign the nomination letter for Councilwoman Jennifer Webster to represent the Bemidji Area as primary or alternate representative on the U.S. Health and Human Services Secretary's Tribal Advisory Committee ...**

TribalSecretary <TribalSecretary@oneidanation.org>

To: BC Members; TribalSecretary <TribalSecretary@oneidanation.org>

Cc: BC Assistants; BC\_Agenda\_Requests <BC\_Agenda\_Requests@oneidanation.org>

 1 attachments (390 KB)

BCAR Authorize the Chair to sign the nomination letter for JW to represent the Bemidji Area as primary or alternate representative on the HHS STAC.pdf;

## **E-POLL RESULTS**

The e-poll to authorize the Chairman to sign the nomination letter for Councilwoman Jennifer Webster to represent the Bemidji Area as primary or alternate representative on the U.S. Health and Human Services Secretary's Tribal Advisory Committee (STAC), **has been approved**. As of the deadline, below are the results:

Support: David P. Jordan, Trish King, Kirby Metoxen, Lisa Summers, Jennifer Webster

*Lisa Liggins*

*Information Management Specialist*

*Business Committee Support Office (BCSO)*

---

**From:** TribalSecretary <TribalSecretary@oneidanation.org>

**Sent:** Friday, March 13, 2020 11:37 AM

**To:** Brandon L. Yellowbird-Stevens <bsteven@oneidanation.org>; Daniel P. Guzman <dguzman@oneidanation.org>; David P. Jordan <djordan1@oneidanation.org>; Ernest L. Stevens <esteven4@oneidanation.org>; Jennifer A. Webster <JWEBSTE1@oneidanation.org>; Kirby W. Metoxen <KMETOX@oneidanation.org>; Lisa M. Summers <lsummer2@oneidanation.org>; Patricia M. King <tking@oneidanation.org>; Tehassi Tasi Hill <thill7@oneidanation.org>

**Cc:** TribalSecretary <TribalSecretary@oneidanation.org>; Brian A. Doxtator <bdoxtat2@oneidanation.org>; Jameson J. Wilson <jwilson@oneidanation.org>; Simone A. Ninham <sninham2@oneidanation.org>; Danelle A. Wilson <dwilson1@oneidanation.org>; Fawn J. Billie <fbillie@oneidanation.org>; Jessica L. Wallenfang <JWALLENF@oneidanation.org>; Laura E. Laitinen-Warren <LLAITINE@oneidanation.org>; Leyne C. Orosco <lorosco@oneidanation.org>; Rhiannon R. Metoxen <rmetoxe2@oneidanation.org>; Rosa J. Laster <rlaster@oneidanation.org>

**Subject:** E-POLL REQUEST: Authorize the Chairman to sign the nomination letter for Councilwoman Jennifer Webster to represent the Bemidji Area as primary or alternate representative on the U.S. Health and Human Services Secretary's Tribal Advisory Committee (STAC)

**E-POLL REQUEST****Summary:**

The Office of Self-Governance is requesting an e-poll to authorize the Chair to sign a nomination letter for Jennifer Webster to represent the Bemidji area as primary or alternate representative on the U.S. Health and Human Services (HHS) Secretary's Tribal Advisory Committee (STAC). STAC was established by HHS in an effort to create a coordinated, Department-wide strategy to incorporate tribal guidance on HHS priorities, policies and budget. Provided as back-up is the STAC nomination letter for the Chair's signature and the STAC vacancy notice from HHS.

**Justification for E-Poll:** Nominations are due by March 18, 2020, prior to the next regularly scheduled Business Committee meeting.

**Requested Action:**

Authorize the Chairman to sign the nomination letter for Councilwoman Jennifer Webster to represent the Bemidji Area as primary or alternate representative on the U.S. Health and Human Services Secretary's Tribal Advisory Committee (STAC).

**Deadline for response:**

Responses are due no later than **4:30 p.m., MONDAY, March 16, 2020.**

**Voting:**

1. Use the voting button above, if available; OR
2. Reply with "Support" or "Oppose".
- 3.

**Lisa Liggins**

Information Management Specialist

Business Committee Support Office (BCSO)



**Oneida Business Committee Agenda Request****1. Meeting Date Requested:**      /    /   **2. General Information:**Session:    ☒ Open    ☐ Executive - See instructions for the applicable laws, then choose one:Agenda Header: ☐ Accept as Information only☒ Action - please describe:

Authorize the Chairman to sign the nomination letter for Councilwoman Jennifer Webster to represent the Bemidji Area as primary or alternate representative on the U.S. Health and Human Services Secretary's Tribal Advisory Committee (STAC).

**3. Supporting Materials**☐ Report    ☐ Resolution    ☐ Contract☒ Other:1. 3. 2. 4. ☐ Business Committee signature required**4. Budget Information**☐ Budgeted - Tribal Contribution    ☐ Budgeted - Grant Funded    ☐ Unbudgeted**5. Submission**Authorized Sponsor / Liaison: Primary Requestor/Submitter: Your Name, Title / Dept. or Tribal MemberAdditional Requestor: Name, Title / Dept.

Additional Requestor:

Name, Title / Dept.

## Oneida Business Committee Agenda Request

### 6. Cover Memo:

Describe the purpose, background/history, and action requested:

Summary:

The Office of Self-Governance is requesting an e-poll to authorize the Chair to sign a nomination letter for Jennifer Webster to represent the Bemidji area as primary or alternate representative on the U.S. Health and Human Services Secretary's Tribal Advisory Committee (STAC). STAC was established by HHS in an effort to create a coordinated, Department-wide strategy to incorporate tribal guidance on HHS priorities, policies and budget. Provided as back-up is the STAC nomination letter for the Chair's signature and the STAC vacancy notice from HHS.

Justification for E-Poll: Nominations are due by March 18, 2020, prior to the next regularly scheduled Business Committee meeting.

Requested Action:

Authorize the Chairman to sign the nomination letter for Councilwoman Jennifer Webster to represent the Bemidji Area as primary or alternate representative on the U.S. Health and Human Services Secretary's Tribal Advisory Committee (STAC).

Deadline for Response:

Monday, March 16, 2020.

1) Save a copy of this form for your records.

2) Print this form as a \*.pdf OR print and scan this form in as \*.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** \*.pdf file to: [BC\\_Agenda\\_Requests@oneidanation.org](mailto:BC_Agenda_Requests@oneidanation.org)

**DEPARTMENT OF HEALTH & HUMAN SERVICES**Office of the Secretary  
Washington, D.C. 2020

February 6, 2020

Dear Tribal Leader:

The Department of Health and Human Services (HHS) Secretary's Tribal Advisory Committee (STAC) currently has vacancies for membership. I would like to solicit your recommendation for nominations to serve on this committee as the delegate for the areas that have an open seat.

The STAC was established in 2010 by HHS in an effort to create a coordinated, Department-wide strategy to incorporate tribal guidance on HHS priorities, policies, and budget. The STAC's tribal representation is comprised of seventeen positions: one delegate (and one alternate) from each of the twelve Indian Health Service (IHS) areas and one delegate (and one alternate) for the five National At-Large Members positions. In working closely with tribal leadership on this committee, the Department has elevated the level of attention given to the government-to-government relationship with Indian tribes and has developed mechanisms for continuous improvement and communication with our partnerships with tribes.

Due to election turnover, we have several vacancies to fill. I am writing to request your support in nominating candidates for the following vacancies on the STAC. These vacancies include a primary delegate and an alternate from each of the following regions. Those selected will serve a two-year term. The vacancies open for nomination are:

1. Albuquerque Primary and Alternate
2. Bemidji Area Primary and Alternate
3. California Primary and Alternate
4. Nashville Primary and Alternate
5. Navajo Primary and Alternate
6. Oklahoma Primary and Alternate
7. Portland Primary and Alternate
8. Tucson Primary and Alternate
9. National At-Large Primary Delegate (1)

All nominees must either be elected or appointed tribal officials acting in their official capacity as elected officials of their tribes, or be designated by an elected tribal official with the designee having authority to act on behalf of the tribal official. Nominations *must be* made by an elected or appointed official from a federally recognized tribe acting in his or her official capacity.

***Area Representatives***

Area Representatives should be an elected official or designated representative that is qualified to represent the views of the Indian tribes in the respective area for which they are being nominated.

***National At-Large Members***

In order to achieve the broadest coverage of HHS-related national perspectives and views, the STAC will include five positions for National At-Large Members. A National At-Large Member should be an elected official or designated representative that is qualified to represent the views of

the nominating tribe and of tribes on a national, collective perspective, including, but not limited to, such views expressed by groups like the National Congress of American Indians, National Indian Health Board, Tribal Self Governance Advisory Committee, Direct Service Tribes Advisory Committee, National Indian Child Welfare Association, National Indian Head Start Director's Association, and National Tribal Environmental Council.

Nominations will be considered for selection in the priority order listed below. In the event that there is more than one nomination in the priority list, individuals who have a letter of support from tribal officials acting in their official capacity shall have priority and letters of support from tribal organizations will be taken into consideration when selecting the primary and alternate delegates.

1. Tribal President/Chairperson/Governor
2. Tribal Vice-President/Vice-Chairperson/Lt. Governor
3. Elected or Appointed Tribal Official
4. Designated Tribal Official

HHS will support the travel of the primary representative to attend in-person meetings of the STAC or, if the primary delegate cannot attend, will pay for the alternate's travel. We encourage you to submit your nomination letter, no later than **March 18, 2020** to:

Laura Trueman, Director  
Office of Intergovernmental and External Affairs  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW, Room 620-E  
Washington, DC 20201  
E-mail: [STAC@hhs.gov](mailto:STAC@hhs.gov)

Selections will be made and individuals notified by **April 1, 2020**. Detailed information about the STAC can be found at <http://www.hhs.gov/iea/tribal/aboutstac/index.html>.

Thank you for your continued hard work and support of our efforts to build healthier communities. If you have further questions or concerns, please feel free to contact Stacey Ecoffey, Principal Advisor for Tribal Affairs, at [Stacey.Ecoffey@hhs.gov](mailto:Stacey.Ecoffey@hhs.gov) or by phone at (202) 690-6060.

Sincerely,



Laura Trueman, Director  
Office of Intergovernmental and External Affairs



Oneida Nation  
Oneida Business Committee  
PO Box 365 • Oneida, WI 54155-0365  
[oneida-nsn.gov](http://oneida-nsn.gov)



March 13, 2020

*Submitted electronically via [STAC@hhs.gov](mailto:STAC@hhs.gov)*

Laura Trueman  
Director, Office of Intergovernmental and External Affairs  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW, Room 620-E  
Washington, DC 20201

RE: Nomination to Secretary's Tribal Advisory Committee – Bemidji Area Primary Representative

Dear Ms. Trueman,

The Oneida Nation would like to nominate Councilwoman Jennifer Webster to represent the Bemidji area as the primary or alternate representative on the Secretary's Tribal Advisory Committee; however, we prefer she serve as the primary representative. Councilwoman Webster currently serves as the Oneida Nation's health liaison whereby she participates and collaborates on many complex health care issues with federal and state government officials including the Indian Health Service, the Centers for Medicare and Medicaid Services, and the U.S. Department of Health and Human Services.

Councilwoman Webster currently serves as the Bemidji Area alternate representative on the Indian Health Service Tribal Self-Governance Advisory Committee, the Administration for Children and Families Tribal Advisory Committee, and the Indian Health Care Improvement Fund Work Group. Councilwoman Webster works collaboratively with tribal nations located in the Bemidji area as well as throughout Indian Country and builds and maintains positive relationships with federal partners.

Councilwoman Webster's extensive experience with HHS agencies and her dedication to the health and well-being of tribal communities make her an ideal candidate to serve as the Bemidji Area primary representative on the Secretary's Tribal Advisory Committee.

Below is the best contact information for **Jennifer Webster**:

Mailing Address: **PO Box 365, Oneida, WI 54155**

Email Address: [jwebstel@oneidanation.org](mailto:jwebstel@oneidanation.org)

Phone Number: **(920) 869-4457**

Thank you for your consideration of our request. If you have any questions, please contact Candice Skenandore, Oneida Self-Governance Coordinator at (920) 869-4281 or [cskena10@oneidanation.org](mailto:cskena10@oneidanation.org)

Sincerely,

ONEIDA NATION

---

Tehassi Tasi Hill, Oneida Nation Chairperson

