

 <p>ONEIDA ONEIDA NATION STANDARD OPERATING PROCEDURE</p>	TITLE: OBC Complaint Process	ORIGINATION DATE: 11/26/2012 REVISION DATE: 11/04/20 EFFECTIVE DATE: Upon OBC approval
DIVISION: Non-Divisional	APPROVED BY: <i>Oneida Business Committee</i>	DATE: 11/24/20
DEPARTMENT: Oneida Business Committee	APPROVED BY: OBC Officer 	DATE: 12/2/20
REVISED: Jessica Vandekamp	REVIEWED BY: EEO Director 	DATE: 11/05/2020
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1.0 PURPOSE

To create a standardized process for handling employee complaints against an Oneida Business Committee (OBC) direct report.

This procedure is in alignment with the Oneida Personnel Policies and Procedures, OBC Resolution # 11-26-14-C.

2.0 DEFINITIONS

- 2.1 Employee Relations Representative: A position that reports to the OBC and is the liaison to the Human Resources Department.
- 2.2 Direct Reports: An Employee of the Oneida Nation who reports directly to the OBC as defined in resolution BC-09-23-20-A Setting Supervision and Management of Direct Reports to OBC; Legislative Reference Office Attorneys; Chief Financial Officer; Budget Analyst; and Audit Manager.
- 2.3 LOC: Legislative Operating Committee: consists of five (5) Councilmembers.
- 2.4 OBC Officers: Shall mean the Chairperson, Vice Chairperson, Treasurer, Secretary and LOC Chairperson.

3.0 PROCEDURES

Receiving a Complaint

- 3.1 All complaints must be in a written format, such as a letter or e-mail, and addressed to the OBC.
 - 3.1.1 OBC Professional Support staff may assist in putting a verbal complaint in writing to the OBC.

- 3.2 Any member of the OBC may accept complaints.
- 3.3 All complaints must be delivered to the Employee Relations Representative for processing.
- 3.4 Within two (2) business days, the Employee Relations Representative shall:
 - 3.4.1 Use date stamper to acknowledge the receipt of the complaint:
 - 3.4.1.1. Stamp “confidential” on each page, at the top of the document.
 - 3.4.1.2. Stamp the month/day/year received on each page of the document.
 - 3.4.2 Submit a copy of the complaint to each member of the OBC.
 - 3.4.3 Create a master complaint file.
 - 3.4.4 Submit the complaint to the master complaint file.
- 3.5 The Employee Relations Representative shall add the complaint to the next OBC meeting agenda in Executive Session for the OBC to review the complaint and to determine if the complaint has merit.
 - 3.5.1. The Employee Relations Representative shall contact the complainant and provide them a date and time to meet with the OBC to discuss their complaint during an Executive Session discussion.
- 3.6 If the complaint is determined to have no merit, the OBC shall make a motion to reflect this decision.
 - 3.6.1 Upon this decision, the complaint is considered closed.
 - 3.6.2 The Employee Relations Representative shall submit a copy of the meeting minutes with this motion to the master complaint file.
 - 3.6.3 Within two (2) business days of the motion, the Employee Relations Representative shall:
 - 3.6.3.1 Provide the complainant with written response indicating the complaint is closed.
 - 3.6.3.2. Submit a copy of the written response to the master complaint file.
- 3.7 If the complaint is determined to have merit, the OBC shall make a motion assigning three (3) OBC members to investigate the complaint.
 - 3.7.1 The OBC may authorize a designee, or multiple designees if needed due to recusal of OBC members from the investigation.
 - 3.7.1.1 If designee(s) are required, the OBC shall make a motion to reflect this decision.
 - 3.7.2 The Employee Relations Representative shall submit a copy of the meeting minutes with this motion to the master complaint file.
 - 3.7.3 Within two (2) business days of the motion, the Employee Relations Representative shall:
 - 3.7.3.1 Provide the complainant with written notice that the complaint is under investigation.
 - 3.7.3.2. Submit a copy of the written notice to the master complaint file.

Investigating a Complaint

- 3.8 The Employee Relations Representative will facilitate the investigation process using the Complaint Investigation Checklist.
- 3.9 The assigned OBC members, or designee(s), shall work together, in confidence, to investigate the complaint.
 - 3.9.1 Review the complaint to gain a background on the issue(s) presented.
 - 3.9.2 Determine what relevant information is still needed relating to the complaint.
 - 3.9.3 Initiate the investigation based on additional information that is needed.
 - 3.9.4 Develop and agree to a list of questions which must be answered.
 - 3.9.5 Develop a list of people, including the complainant, to interview.
- 3.10 The assigned OBC members, or designee(s), shall make every attempt to conclude the investigation, within forty-five (45) calendar days.
 - 3.10.1 If the investigation is not concluded in forty-five (45) days, the assigned OBC members will provide a status update to the OBC in Executive Session.
- 3.11 Upon the conclusion of the investigation, the assigned OBC members, or designee(s), shall submit a written report to the soonest OBC Meeting for Executive Session. The written report shall include:
 - 3.11.1 a summary of the complaint,
 - 3.11.2 investigation methodology,
 - 3.11.3 results of the investigation, and
 - 3.11.4 recommended action.
- 3.12 The Employee Relations Representative shall submit the written report to the master complaint file.
- 3.13 The Employee Relations Representative shall add the written report to the next OBC meeting agenda in Executive Session after conclusion of the investigation.
- 3.14 The OBC shall review the written report.
 - 3.14.1 The OBC shall accept the written report.
 - 3.14.1.1 Upon acceptance of the written report, the complaint shall be considered closed.
 - 3.14.2 The OBC may:
 - 3.14.2.1 approve the recommended action(s);
 - 3.14.2.2 modify the recommended action(s); or,
 - 3.14.2.3 reject the recommended action(s).
 - 3.14.3 When appropriate, OBC Officer(s) will be designated to follow through on approved action(s) that are outlined in the OBC SOP entitled "Disciplinary Process for Direct Reports to the Business Committee".

- 3.15 Within two (2) business days of the motion to accept the written report, the Employee Relations Representative shall:
 - 3.15.1 Provide the complainant with written response indicating the complaint is closed.
 - 3.15.2 Submit a copy of the written response to the master complaint file.

Duties and Responsibilities for Investigation

- 3.16 OBC members assigned to an investigation, their designee(s), shall:
 - 3.16.1 Conduct themselves in accordance with the approved complaint process and may work with the Employee Relations Representative if additional assistance is required.
 - 3.16.2 Recuse themselves if a real or perceived conflict of interest exists in accordance with the Conflict of Interest Policy and the Code of Ethics Law.

4.0 RECORDS

- 4.1 Record Maintenance
 - 4.1.1 Complaint records shall be maintained by the Employee Relations Representative in a Group accessible drive.
 - 4.1.2 Complaint records will be made available for OBC review within a reasonable amount of time, upon request.
 - 4.1.3 Records shall be held in accordance with the Open Records and Open Meetings Law.

5.0 REFERENCES

- 5.1 Human Resources Memorandum dated 11-21-01
- 5.2 Human Resources Area Manager Interpretation dated 12-09-11
- 5.3 Personnel Policies & Procedures, Section V.D
- 5.4 Resolution BC-09-23-20-A
- 5.5 Complaint Investigation Checklist
- 5.6 OBC SOP - Disciplinary Process for Direct Reports of the Business Committee

Complaint Investigation Checklist

Rev. 10/20/20 by JV

Purpose: This checklist is to be used once a complaint is deemed to have merit by the Business Committee and a sub-team of BC members is assigned.

Facilitator: Employee Relations Representative (ERR) to the OBC.

Documents for this process are located: G:\Business Committee\Direct Reports to BC\
SOP- Policies – Resolutions for Direct Reports\Complaint Procedures and Templates

Complaint Received Date:	Complaint #:	BC Meeting for Merit:
Complainant's Name	Interview Date	Prep Meeting w/Sub-team:
Direct Report Name	Interview Date	BC Meeting- 45-day update:
Witness #1	Interview date	BC Sub-team #1
Witness #2	Interview date	BC Sub-team #2
Witness #3	Interview date	BC Sub-team #3

- Send complainant a letter to notify of acceptance of complaint & investigation process.
- Schedule prep meeting between BC Sub-team and ERR to review the complaint and determine who needs to be interviewed, to include;
 - a. Complainant: the person(s) who wrote the complaint
 - b. Direct Report: employee supervised by the OBC that the complaint is about.
 - c. Witnesses: other people identified in the complaint (individuals, employees in the department, witnesses, etc.)
- Schedule investigation interviews with OBC Sub-team with:
 - a. Complainant
 - b. Witnesses
 - c. Direct Report, explaining:
 - The BC received a complaint that was deemed to have merit by the full committee.
 - Our (BC) responsibility is to investigate the complaints and bring back our findings and recommendations to the full BC at the Executive Session.

- Assist in drafting interview questions for:
 - a. Complainant
 - b. Direct report
 - c. Witnesses

- Attend interviews to take notes for:
 - a. Complainant
 - b. Direct report
 - c. Witnesses

- WRAP UP – OBC Sub-team meets to create/review final report, which must include:
 - a. Summary of complaint,
 - b. Investigation methodology, (interviews, sources used, etc.)
 - c. Results of the investigation,
 - d. Recommended action
 - e. Complete BC Agenda Request form and submit with report for next BC Executive Session.

- FOLLOW-UP
 - a. Once the OBC accepts the closeout report, the complaint shall be considered closed.
 - b. If there are Recommended Actions in the report, the OBC may:
 - i. Approve the recommendation
 - ii. Modify the recommendation, or
 - iii. Reject the recommendation
 - c. When appropriate, the Sub-team or designee(s) will follow through on a disciplinary action. **REFER TO: OBC SOP**, “Disciplinary Process for Direct Reports to the Business Committee.”