Title 2. Employment - Chapter 210

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they're driving law and a variety of vehicles the responsibility is attached to them

VEHICLE DRIVER CERTIFICATION AND FLEET MANAGEMENT

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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-04-08-20-H.

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 This law may be amended or repealed by the Oneida Business Committee and/or Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.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

(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. *Temporary Use of a Fleet Vehicle*. An individual in an entity that is not permanently assigned a fleet vehicle may request to use a fleet vehicle for the purpose of conducting official business by submitting a request to the Fleet Management 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.

210.6-7. *Authorized Passengers*. In addition to the employees, elected or appointed officials, or volunteers who are authorized to use a fleet vehicle, the following individuals shall be authorized to be a passenger in a fleet vehicle:

(a) Individuals being transported as part of a program or service of the Nation;

(b) Individuals being transported during the normal and ordinary course of representing and/or conducting business on behalf of the Nation; and/or

(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. *Modifications to Fleet Vehicles.* Modifications to fleet vehicles for personal reasons are not permitted. Modifications to fleet vehicles for operating purposes may be allowed only with the approval of the Fleet Management Department.

(a) Radar detection devices shall not be installed or used in fleet 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 Nation's laws and policies governing travel. Every vehicle rented shall include the purchase of the maximum collision damage waiver offered by the rental company.

210.7. Motor Vehicle Crashes or Damage to Vehicles

210.7-1. In the event of a motor vehicle crash or damage involving the fleet vehicle or personal vehicle driven on official business, an individual shall be subject to the following reporting 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-04-08-20-H.