



**LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA**  
Business Committee Conference Room - 2<sup>nd</sup> Floor Norbert Hill Center  
April 21, 2021  
9:00 a.m.

*This Legislative Operating Committee meeting will be closed to the public due to the Public Health State of Emergency. This is a preventative measure as a result of the COVID-19 pandemic. An audio recording of the meeting will be made available on the Nation's website.*

**I. Call to Order and Approval of the Agenda**

**II. Minutes to be Approved**

1. April 7, 2021 LOC Meeting Minutes (pg. 2)

**III. Current Business**

1. Election Law Emergency Amendments (pg. 3)
2. Public Peace Law (pg. 48)

**IV. New Submissions**

1. Pardon and Forgiveness Law Emergency Amendments (pg. 70)
2. Pardon and Forgiveness Screening Committee Bylaws Amendments (pg. 102)
3. Petition: L. Elm – Real Property Law Eviction and Termination (pg. 128)

**V. Additions**

**VI. Administrative Updates**

**VII. Executive Session**

**VIII. Recess/Adjourn**



**LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES**  
Oneida Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
April 7, 2021  
9:00 a.m.

**Present:** David P. Jordan, Kirby Metoxen Jennifer Webster, Marie Summers, Daniel Guzman King

**Others Present:** Clorissa N. Santiago, Kristen Hooker, Kristal Hill, Aliskwet Ellis

**I. Call to Order and Approval of the Agenda**

David P. Jordan called the April 7, 2021, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster to adopt the agenda as is; seconded by Marie Summers. Motion carried unanimously.

**II. Minutes to be Approved**

**1. March 3, 2021 LOC Meeting Minutes**

Motion by Kirby Metoxen to approve the March 3, 2021 LOC meeting minutes and forward to the Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

**III. Current Business**

**1. Audit Committee Bylaws Amendments**

Motion by Jennifer Webster to accept the Audit Committee bylaws amendments with the three noted changes and forward the bylaws to the Oneida Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.

**IV. New Submissions**

**1. Election Law Emergency Amendments**

Motion by Jennifer Webster to add the Election law emergency amendments to the Active Files List with Marie Summers as the sponsor; seconded by Marie Summers. Motion carried unanimously.

**V. Additions**

**VI. Administrative Items**

**VII. Executive Session**

**VIII. Adjourn**

Motion by Daniel Guzman King to adjourn at 9:12 a.m.; seconded by Marie Summers. Motion carried unanimously.





Legislative Operating Committee  
 April 21, 2021

# Election Law Emergency Amendments

<b>Submission Date:</b> 4/7/21	<b>Public Meeting:</b> n/a
<b>LOC Sponsor:</b> Marie Summers	<b>Emergency Enacted:</b> n/a

**Summary:** *This item was added to the Active Files List in response to the COVID-19 pandemic’s effect on the 2021 Special Election. On March 12, 2020, Chairman Tehassi Hill signed a “Declaration of Public Health State of Emergency” in response to the COVID-19 pandemic, which has since been extended for more than a year. On March 24, 2021, the Oneida Election Board submitted a memorandum to the Oneida Business Committee requesting that emergency amendments to the Election law be considered due to COVID-19’s effect on the 2021 Special Election. The caucus for the 2021 Special Election was scheduled for May 8, 2021, with the Special Election scheduled for July 10, 2021. On March 24, 2021, the Oneida Business Committee then adopted a motion to send this request to the Legislative Operating Committee.*

**3/24/21 OBC:** Motion by Lisa Liggins to send the request from the Oneida Election Board for emergency amendments to the Election law to the Legislative Operating Committee for consideration, seconded by David P. Jordan. Motion carried.

**4/7/21 LOC:** Motion by Jennifer Webster to add the Election law emergency amendments to the Active Files List with Marie Summers as the sponsor; seconded by Marie Summers. Motion carried unanimously.

**Next Steps:**

- Approve the Election law emergency adoption packet and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee  
FROM: David P. Jordan, LOC Chairperson  
DATE: April 28, 2021  
RE: Election Law Emergency Amendments

Please find the following attached backup documentation for your consideration of the Election Law Emergency Amendments:

1. Resolution: Emergency Amendments to the Election Law
2. Statement of Effect: Emergency Amendments to the Election Law
3. Election Law Emergency Amendments Legislative Analysis
4. Election Law (Redline)
5. Election Law (Clean)

#### Overview

Emergency amendments to the Election law (the “Law”) are being sought to address the impact of the COVID-19 pandemic on the Nation’s 2021 Special Election. The emergency amendments to the Law will:

- Eliminate the caucus from the election process [1 O.C. 102.6-1];
- Require an individual to submit an application in order to have his or her name placed on a ballot for an election [1 O.C. 102.6-1];
- Eliminate the requirement for an individual to obtain at least ten (10) signatures of qualified voters when submitting an application to be placed on the ballot [1 O.C. 102.6-1];
- Require that all applications be submitted to the Business Committee Support Office by the close of business on the application deadline established by the Oneida Election Board [1 O.C. 102.6-1(c)];
- Reduce the number of Oneida Election Board members who are required to sign the election totals on machine counted ballots from six (6) to three (3) [1 O.C. 102.10-2];
- Clarify that elections shall be held at an Oneida Nation facility instead of just in an Oneida Nation facility [1 O.C. 102.9-2]; and
- Eliminate the requirement that referendum questions be submitted in writing at the caucus, and instead allow for referendum questions to be submitted in writing to the Business Committee Support Office by the deadline established by the Oneida Election Board. [1 O.C. 102.12-9(c)].

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” due to the COVID-19 pandemic 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]. The Oneida Business Committee has extended this Public Health State of Emergency until May 12, 2021,

through the adoption of the following resolutions: BC-03-26-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-21-D. [3 O.C. 302.8-2].

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 this Law are necessary for the preservation of the public health, safety, and general welfare of the Reservation population. The emergency amendments are needed to protect the Reservation population against the public health crisis that is the COVID-19 pandemic. The elimination of the requirement to hold the caucus while allowing individuals to be placed on the ballot through the submission of an application, in conjunction with the elimination to obtain at least ten (10) signatures from qualified voters, will eliminate any unnecessary contact between individuals which could spread the COVID-19 virus, while also ensuring that the July 2021 Special Election can occur without interruption.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of these amendments would be contrary to public interest. The caucus is scheduled to be held on May 8, 2021. The Law currently requires that the caucus occur at least forty-five (45) days before a special election. The 2021 Special Election is scheduled to be held on July 10, 2021. Therefore, the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the 2021 Special Election could occur uninterrupted without violating the caucus procedures currently contained in the Law.

The emergency amendments to the Law will become effective immediately upon adoption by the Oneida Business Committee and will remain effective for six (6) months. There will be one (1) opportunity to extend the emergency amendments for an additional six (6) months. [1 O.C. 109.9-5(b)].

### **Requested Action**

Adopt the Resolution: Emergency Amendments to the Election Law

# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## BC Resolution # Emergency Amendments to the Election Law

- 1 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe  
2 recognized by the laws of the United States of America; and  
3
- 4 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and  
5
- 6 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,  
7 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and  
8
- 9 **WHEREAS,** the Election law (“the Law”) was adopted by the General Tribal Council on June 19, 1993  
10 for the purpose of governing the procedures for the conduct of orderly elections of the  
11 Nation, and was most recently amended by the General Tribal Council through resolution  
12 GTC-04-23-17-A; and  
13
- 14 **WHEREAS,** on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of*  
15 *Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for  
16 the Nation until April 12, 2020, and set into place the necessary authority for action to be  
17 taken and allows the Nation to seek reimbursement of emergency management actions  
18 that may result in unexpected expenses; and  
19
- 20 **WHEREAS,** the Nation’s Public Health State of Emergency has since been extended until May 12,  
21 2021, through the adoption of the following resolutions: BC-03-26-20-A, BC-05-06-20-A,  
22 BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-  
23 10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-21-D; and  
24
- 25 **WHEREAS,** on March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer*  
26 *at Home*” declaration which prohibits all public gatherings of any number of people and  
27 orders all individuals present within the Oneida Reservation to stay at home or at their  
28 place of residence, with certain exceptions allowed; and  
29
- 30 **WHEREAS,** the COVID-19 Core Decision Making Team has issued subsequent declarations modifying  
31 the “*Safer at Home*” declaration including the April 21, 2020 “*Updated Safer at Home*”  
32 declaration, the May 19, 2020, “*Safer at Home Declaration, Amendment, Open for*  
33 *Business*” declaration, the June 10, 2020, “*Stay Safer at Home*” declaration, and the July  
34 17, 2020, “*Safe Re-Opening Governmental Offices*” declaration; and  
35
- 36 **WHEREAS,** the 2021 Special Election has been scheduled for July 10, 2021; and  
37
- 38 **WHEREAS,** the Oneida Election Board has requested emergency amendments to the Election law to  
39 address the impact of COVID-19 on the 2021 Special Election; and  
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- 41 **WHEREAS,** the proposed emergency amendments to the Law eliminate the caucus from the election  
42 process and instead require that an individual submit an application in order to be placed  
43 on the ballot; and

44  
45 **WHEREAS,** the proposed emergency amendments to the Law eliminate the requirement of an  
46 individual to obtain no less than ten (10) signatures of qualified voters when submitting a  
47 form to be placed on the ballot; and  
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49 **WHEREAS,** the proposed emergency amendments to the Law provide that elections shall be held at  
50 an Oneida Nation facility(s) as determined by the Oneida Election Board, as opposed to  
51 just in an Oneida Nation facility(s); and  
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53 **WHEREAS,** the proposed emergency amendments to the Law lower the number of Oneida Election  
54 Board members that are required sign the election totals, which includes the tape signed  
55 by the members of the Nation before the polls were opened, from six (6) to three (3)  
56 members; and  
57

58 **WHEREAS,** the proposed emergency amendments to the Law provide that referendum questions  
59 regarding issues directing affecting the Nation or general membership are to be presented  
60 to the Nation's Secretary, or designated agent, in writing, during normal business hours,  
61 Monday through Friday by the deadline established by the Election Board; and  
62

63 **WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact  
64 legislation on an emergency basis, to be in effect for a period of six (6) months, renewable  
65 for an additional six (6) months; and  
66

67 **WHEREAS,** emergency adoption of legislation is allowed when legislation is necessary for the  
68 immediate preservation of the public health, safety, or general welfare of the Reservation  
69 population, and the amendment of the legislation is required sooner than would be possible  
70 under the Legislative Procedures Act; and  
71

72 **WHEREAS,** the emergency adoption of the amendments to the Law are necessary for the preservation  
73 of the public health, safety, and general welfare of the Reservation population to protect  
74 the Reservation population against the public health crisis that is the COVID-19 pandemic  
75 since the elimination of the requirement to hold the caucus while allowing individuals to be  
76 placed on the ballot through the submission of an application, in conjunction with the  
77 elimination to obtain at least ten (10) signatures from qualified voters, will eliminate any  
78 unnecessary contact between individuals which could spread the COVID-19, while also  
79 ensuring that the July 2021 Special Election can occur without interruption; and  
80

81 **WHEREAS,** observance of the requirements under the Legislative Procedures Act for adoption of these  
82 amendments would be contrary to public interest since the caucus for the 2021 Special  
83 Election is scheduled for May 8, 2021, and the process and requirements of the Legislative  
84 Procedures Act cannot be completed in time to ensure that the Special Election could still  
85 occur on July 10, 2021, without violating the Law; and  
86

87 **WHEREAS,** the Legislative Procedures Act does not require a public meeting or fiscal impact statement  
88 when considering emergency legislation; and  
89

90 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts emergency  
91 amendments to the Election Law effective immediately.



**Statement of Effect**  
*Emergency Amendments to the Election Law*

**Summary**

This resolution adopts emergency amendments to the Election law in response to the COVID-19 pandemic's effect on the 2021 Special Election.

*Submitted by: Clorissa N. Santiago, Staff Attorney, Legislative Reference Office*  
*Date: April 16, 2021*

**Analysis by the Legislative Reference Office**

This resolution adopts emergency amendments to the Election law (“the Law”). The purpose of the Law is to govern the procedures for the conduct of orderly elections of the Nation. [1 O.C. 102.1-1]. The emergency amendments to the Law will:

- Eliminate the caucus from the election process [1 O.C. 102.6-1];
- Require an individual to submit an application in order to have his or her name placed on a ballot for an election [1 O.C. 102.6-1];
- Eliminate the requirement for an individual to obtain at least ten (10) signatures of qualified voters when submitting an application to be placed on the ballot [1 O.C. 102.6-1];
- Require that all applications be submitted to the Business Committee Support Office by the close of business on the application deadline established by the Oneida Election Board [1 O.C. 102.6-1(c)];
- Reduce the number of Oneida Election Board members who are required to sign the election totals on machine counted ballots from six (6) to three (3) [1 O.C. 102.10-2];
- Clarify that elections shall be held at an Oneida Nation facility instead of just in an Oneida Nation facility [1 O.C. 102.9-2]; and
- Eliminate the requirement that referendum questions be submitted in writing at the caucus, and instead allow for referendum questions to be submitted in writing to the Business Committee Support Office by the deadline established by the Oneida Election Board. [1 O.C. 102.12-9(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].

On March 12, 2020, in accordance with the Emergency Management law, 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]. The Oneida Business Committee has extended this Public Health State of Emergency until May 12, 2021, through the adoption of the following resolutions: BC-03-26-20-A, BC-05-06-20-A, BC-



06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-21-D. [3 O.C. 302.8-2].

On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer at Home*” declaration which prohibits all public gatherings of any number of people and orders all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. On April 21, 2020, the COVID-19 Core Decision Making Team issued an “*Updated Safer at Home*” declaration which allowed for gaming and golf operations to resume. Then on May 19, 2020, the COVID-19 Core Decision Making Team issued a “*Safer at Home Declaration, Amendment, Open for Business*” which directs that individuals within the Oneida Reservation should continue to stay at home, businesses can re-open under certain safer business practices, and social distancing should be practiced by all persons. On June 10, 2020, the COVID-19 Team issued a “*Stay Safer at Home*” declaration which lessened the restrictions of the “*Safer at Home Declaration, Amendment, Open for Business*” while still providing guidance and some restrictions. Then on July 17, 2020, the “*Safe Re-opening Governmental Offices*” declaration was issued which provides guidance on how buildings will be safely re-opened to the public.

The resolution provides that the emergency amendments to this Law are necessary for the preservation of the public health, safety, and general welfare of the Reservation population. The emergency amendments are needed to protect the Reservation population against the public health crisis that is the COVID-19 pandemic. The elimination of the requirement to hold the caucus while allowing individuals to be placed on the ballot through the submission of an application, in conjunction with the elimination to obtain at least ten (10) signatures from qualified voters, will eliminate any unnecessary contact between individuals which could spread the COVID-19 virus, while also ensuring that the July 2021 Special Election can occur without interruption.

Additionally, the resolution provides that observance of the requirements under the LPA for adoption of this amendment would be contrary to public interest. The caucus is scheduled to be held on May 8, 2021. The Law currently requires that the caucus occur at least forty-five (45) days before a special election. The 2021 Special Election is scheduled to be held on July 10, 2021. Therefore, the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the 2021 Special Election could occur uninterrupted without violating the caucus procedures currently contained in the Law.

The emergency amendments to the Law will take effect immediately upon adoption by the Oneida Business Committee and will remain effective for six (6) months. The LPA provides the possibility to extend the emergency amendments 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.



Onʌyoteʔa·ká· Tho Ni· Yót Tsiʔ ʌyethiyataláko Tsiʔ Kayanlʌhsla  
*People of the Standing Stone how it is we will appoint them the kind of laws we have*

## EMERGENCY AMENDMENTS TO ELECTION LAW LEGISLATIVE ANALYSIS

### SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Proposed Amendments</b>	<ul style="list-style-type: none"> <li>▪ Eliminate the caucus from the election process;</li> <li>▪ Require an individual to submit an application in order to have his or her name placed on a ballot for an election;</li> <li>▪ Eliminate the requirement for an individual to obtain at least ten (10) signatures of qualified voters when submitting an application to be placed on the ballot;</li> <li>▪ Require that all applications be submitted to the Business Committee Support Office by the application deadline established by the Election Board;</li> <li>▪ Reduces the number of Oneida Election Board members who are required to sign the election totals on machine counted ballots from six (6) to three (3);</li> <li>▪ Clarify that elections shall be held at an Oneida Nation facility instead of just in an Oneida Nation facility; and</li> <li>▪ Eliminate the requirement that referendum questions be submitted in writing at the caucus, and instead allow for referendum questions to be submitted in writing to the Business Committee Support Office by the deadline established by the Election Board.</li> </ul>
<b>Purpose</b>	To govern the procedures for the conduct of orderly elections of the Nation [1 O.C. 102.1-1]
<b>Affected Entities</b>	Oneida Election Board, Business Committee Support Office, Oneida Business Committee, Oneida Nation Judiciary, Oneida Land Claims Commission, Oneida Land Commission, Oneida Nation Commission on Aging, Oneida Nation School Board, Oneida Trust Enrollment Committee, Oneida Legal Resource Center.
<b>Related Legislation</b>	Boards, Committees, and Commissions law, Emergency Management and Homeland Security law.
<b>Public Meeting</b>	A public meeting is not required for emergency legislation [1 O.C. 109.8-1(b) and 109.9-5(a)].
<b>Fiscal Impact</b>	A fiscal impact statement is not required for emergency legislation [1 O.C. 109.9-5(a)].
<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.

### SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A. Background.** The Election law was first adopted on June 19, 1993, and most recently amended by the
- 3 General Tribal Council on April 23, 2017. The Law governs the procedures for the conduct of orderly
- 4 elections of the Nation. [1 O.C. 102.1-1].

5 **B. 2021 Special Election.** The caucus for the 2021 Special Election is scheduled to be held on May 8,  
6 2021, with the Special Election occurring on July 10, 2021. The 2021 Special Election ballot would  
7 include the following positions:

- 8     ▪ Oneida Election Board.
  - 9         ▪ Three (3) vacancies – three (3) year term.
- 10    ▪ Oneida Land Claims Commission.
  - 11         ▪ Two (2) vacancies for terms ending 2023 – three (3) year term.
  - 12         ▪ Two (2) vacancies for terms ending 2024 – three (3) year term.
- 13    ▪ Oneida Land Commission;
  - 14         ▪ Three (3) vacancies – three (3) year term.
- 15    ▪ Oneida Nation Commission on Aging.
  - 16         ▪ Three (3) vacancies for terms ending in 2023 – three (3) year term.
  - 17         ▪ Three (3) vacancies for terms ending in 2024 – three (3) year term
- 18    ▪ Oneida Nation School Board.
  - 19         ▪ Two (2) vacancies for parent/guardian positions - three (3) year term.
  - 20         ▪ Two (2) vacancies for community-at-large positions - three (3) year term
- 21    ▪ Oneida Trust Enrollment Committee.
  - 22         ▪ Three (3) vacancies – three (3) year term.
- 23    ▪ Legal Resource Center.
  - 24         ▪ One (1) vacancy for advocate - four (4) year term.
- 25    ▪ Oneida Judiciary Court of Appeals:
  - 26         ▪ One (1) vacancy for Appellate Court Judge term ending 2023 - six (6) year term.

27 **C. COVID-19 Pandemic.** The world is currently facing a pandemic of COVID-19. The COVID-19  
28 outbreak originated in Wuhan, China and has spread to many other countries throughout the world,  
29 including the United States. The COVID-19 pandemic has resulted in high rates of infection and  
30 mortality, as well as vast economic impacts including effects on the stock market and the closing of all  
31 non-essential businesses.

- 32     ▪ *Declaration of a Public Health State of Emergency.*
  - 33         ▪ On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State*  
34         *of Emergency*” regarding COVID-19 which declared the Public Health State of Emergency  
35         for the Nation until April 12, 2020, and set into place the necessary authority should action  
36         need to be taken and allowed the Nation to seek reimbursement of emergency management  
37         actions that may result in unexpected expenses.
  - 38         ▪ The Public Health State of Emergency has since been extended until May 12, 2021, by the  
39         Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-05-  
40         06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-  
41         20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-  
42         21-D.
- 43     ▪ *COVID-19 Core Decision Making Team.*
  - 44         ▪ On March 17, 2020, the Oneida Business Committee adopted emergency amendments to  
45         the Emergency Management and Homeland Security law to create and delegate authority  
46         to a COVID-19 Core Decision Making Team (“COVID-19 Team”). [BC-03-17-20-E - 3  
47         O.C. 302.10].

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- 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. [BC-03-17-20-E - 3 O.C. 302.10-2].
  - These declarations remain in effect for the duration of the Public Health State of Emergency. [BC-03-17-20-E - 3 O.C. 302.10-3].
  - On March 10, 2021, the Oneida Business Committee adopted permanent amendments to the Emergency Management and Homeland Security law, now known as the Emergency Management law, through the adoption of resolution BC-03-10-21-A which incorporated an emergency core decision time with the authority to make emergency declarations on a permanent basis/
  - *COVID-19 Core Decision Making Team Declarations: Safer at Home.*
    - On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer at Home*” declaration which ordered all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. This declaration prohibited all public gatherings of any number of people.
    - On April 21, 2020, the COVID-19 Core Decision Making Team issued an “*Updated Safer at Home*” declaration which allowed for gaming and golf operations to resume.
    - On May 19, 2020, the COVID-19 Core Decision Making Team issued a “*Safer at Home Declaration, Amendment, Open for Business*” which directs that individuals within the Oneida Reservation should continue to stay at home, businesses can re-open under certain safer business practices, and social distancing should be practiced by all persons.
    - On June 10, 2020, the COVID-19 Core Decision Making Team issued a “*Stay Safer at Home*” declaration which lessened the restrictions of the “*Safer at Home Declaration, Amendment, Open for Business*” while still providing guidance and some restrictions. This declaration prohibits all public and private gatherings of more than twenty (20) people that are not part of a single household or living unit.
    - On July 17, 2020, the COVID-19 Team issued a “*Safe Re-Opening Governmental Offices*” which sets minimum standards for the safe re-opening of a building or recall of employees to work.
  - *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the Legislative Procedures Act.*
    - On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which suspended the Legislative Procedures Act’s requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period.
- D.** At the March 24, 2021, Oneida Business Committee meeting the Oneida Election Board provided a memo which requested that the Oneida Business Committee make emergency amendments to the Election law due to the Nation’s Public Health State of Emergency. The Oneida Election Board

92 provided that the 2021 Special Election caucus was scheduled for May 8, 2021, but the Nation’s Public  
93 Health State of Emergency would be effective until at least May 12, 2021. Due to the Public Health  
94 State of Emergency and corresponding emergency declarations, such as the “*Stay Safer at Home*”  
95 declaration which prohibits all public and private gatherings of more than twenty (20) people that are  
96 not part of a single household or living unit, the membership is advised to stay home and social distance.  
97 In an effort to avoid large gatherings of members where COVID-19 could be easily spread, the Oneida  
98 Election Board identified that conducting a caucus or requiring applicants to obtain ten (10) signatures  
99 through the petition process would unnecessarily spread COVID-19 by encouraging contact between  
100 individuals. The Oneida Election Board is seeking emergency amendments to the Election law to  
101 address these issues in a similar fashion to emergency amendments that were made to the Election law  
102 during the 2020 General Election through the adoption of resolutions BC-03-17-20-B, BC-05-13-20-  
103 H, and BC-06-24-20-B.

### 104 105 **SECTION 3. CONSULTATION AND OUTREACH**

- 106 A. Representatives from the following departments or entities participated in the development of this Law  
107 and legislative analysis:
- 108     ▪ Oneida Election Board.
- 109 B. The following laws were reviewed in the drafting of this analysis:
- 110     ▪ Oneida Nation Constitution and Bylaws;
  - 111     ▪ Emergency Management law;
  - 112     ▪ Boards, Committees, and Commissions law.

### 113 114 **SECTION 4. PROCESS**

- 115 A. These amendments are being considered on an emergency basis. The Oneida Business Committee may  
116 temporarily enact emergency legislation “where legislation is necessary for the immediate preservation  
117 of public health, safety, or general welfare of the Reservation population and enactment or amendment  
118 of legislation is required sooner than would be possible under this law” [1 O.C. 109.9-5].
- 119     ▪ Emergency amendments are being pursued for the immediate preservation of the public health,  
120 safety, and general welfare of the Reservation population against the public health crisis that is the  
121 COVID-19 pandemic. Chairman Tehassi Hill declared a Public Health State of Emergency for the  
122 Nation on March 12, 2020, which has since been extended until May 12, 2021. Due to the Public  
123 Health State of Emergency and corresponding emergency declarations, such as the “*Stay Safer at*  
124 *Home*” declaration which prohibits all public and private gatherings of more than twenty (20)  
125 people that are not part of a single household or living unit, the membership is advised to stay home  
126 and social distance. In an effort to avoid large gatherings of members where COVID-19 could be  
127 easily spread, the Oneida Election Board identified that conducting a caucus or requiring applicants  
128 to obtain ten (10) signatures through the petition process would unnecessarily spread COVID-19  
129 by encouraging contact between individuals.
  - 130     ▪ Observance of the requirements under the Legislative Procedures Act for the adoption of these  
131 amendments would be contrary to public interest. The caucus is scheduled to be held on May 8,  
132 2021. Therefore, the process and requirements of the Legislative Procedures Act cannot be  
133 completed in time to ensure that the caucus can be removed from the Law, without violating the  
134 caucus procedures contained in the Law.

- 135 **B.** Emergency amendments typically expire six (6) months after adoption, with one (1) opportunity for a  
136 six (6) month extension of the emergency amendments. [1 O.C. 109.9-5(b)].
- 137 **C.** The Legislative Procedures Act does not require a public meeting or fiscal impact statement when  
138 considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact  
139 statement will eventually be required if permanent adoption of these amendments is considered.
- 140 **D.** The Legislative Operating Committee added these emergency amendments to the Active Files List on  
141 April 7, 2021.

142

## 143 **SECTION 5. CONTENTS OF THE LEGISLATION**

144 **A. *Elimination of the Caucus.*** The proposed amendments eliminate the caucus from the election process.  
145 Previously, the Law required that the Election Board call a caucus at least ninety (90) days before a  
146 general election was held, or forty-five (45) days before any other election. [GTC-04-23-17-A - 1 O.C.  
147 102.6-1]. At the caucus individuals could nominate potential candidates on the floor, and those potential  
148 candidates that were present during the caucus would then accept or decline the nomination. [GTC-04-  
149 23-17-A - 1 O.C. 102.6-2]. If an individual was nominated during the caucus but not present to accept  
150 the nomination, that individual could follow the petition process to get his or her name on the ballot.  
151 Now, with the elimination of the caucus from the election process, an individual who is interested in  
152 having his or her name on the ballot has to apply to be on the ballot by submitting the designated  
153 application form to the Business Committee Support Office by the application deadline established by  
154 the Oneida Election Board. [1 O.C. 102.5-4, 102.6-1].

155 **▪ *Effect.*** The proposed emergency amendment would allow for the 2021 Special Election to occur  
156 as scheduled. The elimination of the requirement to hold the caucus while allowing individuals to  
157 be placed on the ballot through the submission of an application will eliminate any unnecessary  
158 contact between individuals which could spread the COVID-19, while also ensuring that the 2021  
159 Special Election can occur without interruption.

160 **B. *Application to be Placed on the Ballot.*** The proposed amendments require that an individual submit  
161 an application in order to be placed on the ballot. [1 O.C. 102.6-1]. The application form consists of  
162 information that satisfies the minimum requirements for eligible candidates as described in section  
163 102.5-2 of the Law and is required to be submitted to the Business Committee Support Office the  
164 application deadline established by the Oneida Election Board. [1 O.C. 102.6-1(b)-(c)]. Previously, if  
165 an individual was not present at the caucus to accept a nomination, or was not nominated at the caucus,  
166 the individual could file a petition to have his or her name placed on the ballot. [GTC-04-23-17-A - 1  
167 O.C. 102.6-3]. The petitioner was required to submit the petition form along with no less than ten (10)  
168 signatures of qualified voters, which would be verified by the Oneida Trust Enrollment Department,  
169 prior to the close of business at least five (5) business days after the caucus. [GTC-04-23-17-A - 1 O.C.  
170 102.6-3].

171 **▪ *Effect.*** The proposed amendment makes the application process the sole way for an individual to  
172 have his or her name placed on the ballot for an election. The requirement to obtain at least ten (10)  
173 signatures of qualified voters was eliminated in an effort to eliminate any unnecessary contact  
174 between individuals which could spread COVID-19. Because the requirement to obtain signatures  
175 was eliminated from the Law, so was the requirement that the Oneida Trust Enrollment Department  
176 verify the signatures. Since there is no caucus, the deadline to submit an application to be placed  
177 on the ballot was revised from five (5) days after the caucus to the application deadline established  
178 by the Oneida Election Board. The Oneida Election Board intends to allow applications to be

179 submitted to the Business Committee Support Office the week of May 10, 2021 through May 14,  
180 2021. The combinations of these changes along with the elimination of the caucus should ensure  
181 that the 2021 Special Election can occur in July as scheduled while still protecting the health and  
182 safety of the people of the Nation.

183 **C. Location of the Election.** The proposed emergency amendment to the Election law provides that  
184 elections shall be held at an Oneida Nation facility(s) as determined by the Election Board. [1 O.C.  
185 102.9-2]. Previously, the Election law provided that elections shall be held in an Oneida Nation  
186 facility(s) as determined by the Election Board.

187 ■ *Effect.* The proposed emergency amendment would provide additional flexibility for the Oneida  
188 Election Board to utilize outdoor space of an Oneida Nation facility if determined necessary.

189 **D. Election Board Members Signature on Machine Counted Ballots.** The proposed amendments lower  
190 the number of Oneida Election Board members that are required sign the election totals, which includes  
191 the tape signed by the members of the Nation before the polls were opened, from six (6) to three (3).  
192 [1 O.C. 102.10-2].

193 ■ *Effect.* Requiring less Oneida Election Board members to be present at the polling place to sign  
194 the election totals help reduce unnecessary contact between individuals which could spread  
195 COVID-19.

196 **E. Submission of Referendum Questions.** The proposed amendments provide that referendum questions  
197 regarding issues directing affecting the Nation or general membership are to be presented to the  
198 Nation's Secretary, or designated agent, in writing, during normal business hours, 7:00 a.m. until 4:30  
199 p.m. Monday through Friday by the deadline established by the Election Board. [1 O.C. 102.12-9(c)].  
200 The proposed amendments also provide that no mailed, internal Nation mail delivery, faxed or other  
201 delivery method of referendum questions shall be accepted. [1 O.C. 102.12-9(c)]. Previously, the Law  
202 provided that referendum questions were to be presented to the Nation's Secretary, in writing, at the  
203 caucus prior to election.

204 ■ *Effect.* The proposed emergency amendments to the Law will ensure that there is still a process for  
205 members of the Nation to submit referendum questions to the 2021 Special Election even though  
206 the caucus will be eliminated from the election process. Due to the cancellation of the caucus, the  
207 Oneida Election Board intends to set the referendum question deadline as May 14, 2021, and allow  
208 referendum questions to be submitted in writing to the Business Committee Support Office during  
209 the week of the week of May 10, 2021 through May 14, 2021.

210

## 211 **SECTION 6. EXISTING LEGISLATION**

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

214 ■ *Boards, Committees, and Commissions law.* The Boards, Committees, and Commission law  
215 governs boards, committees, and commissions of the Nation, including the procedures regarding  
216 the appointment and election of persons to boards, committees and commissions, creation of  
217 bylaws, maintenance of official records, compensation, and other items related to boards,  
218 committees and commissions. [1 O.C. 105.1-1].

219 ■ The Boards, Committees, and Commissions law provides that all elected positions shall be  
220 nominated at a caucus called by the Oneida Election Board, or petition for ballot placement,  
221 in accordance with the Nation's laws and/or policies governing elections, except where an  
222 entity's bylaws allow for a vacancy to be filled by appointment. [1 O.C. 105.8-1].

- 223           ▪ The emergency amendments will eliminate the caucus from the election process, leaving  
224           application for ballot placement as the only method to be elected to an entity, except where  
225           an entity’s bylaws allow for a vacancy to be filled by appointment.
- 226       ▪ *Emergency Management law.* The Emergency Management law provides for the development and  
227       execution of plans for the protection of residents, property, and the environment in an emergency  
228       or disaster; and provides for the direction of emergency management, response, and recovery on  
229       the Reservation; as well as coordination with other agencies, victims, businesses, and organizations;  
230       and establishes the use of the National Incident Management System; and designates authority and  
231       responsibilities for public health preparedness. [3 O.C. 302.1-1].
- 232           ▪ The Emergency Management law provides that the Oneida Business Committee shall be  
233           responsible for proclaiming or ratifying the existence of an emergency. [3 O.C. 302.8-1]. A  
234           public health emergency is defined as the occurrence or imminent threat of an illness or health  
235           condition which:
- 236                   (1) is a quarantinable disease, or is believed to be caused by bioterrorism or a biological  
237                   agent; and
- 238                   (2) poses a high probability of any of the following:
- 239                           (A) a large number of deaths or serious or long-term disability among humans; or  
240                           (B) widespread exposure to a biological, chemical, or radiological agent that  
241                           creates a significant risk of substantial future harm to a large number of people.  
242                           [3 O.C. 302.3-1(p)].
- 243           ▪ No proclamation of an emergency by the Oneida Business Committee may last for longer  
244           than sixty (60) days, unless the proclamation of emergency is extended by the Oneida  
245           Business Committee. [3 O.C. 302.8-2].
- 246           ▪ Chairman Tehassi Hill’s March 12, 2020, “*Declaration of Public Health State of*  
247           *Emergency*” and subsequent extensions conform with the requirements of the Emergency  
248           Management law.
- 249       ▪ *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal  
250       Council on January 7, 2013, for the purpose of providing a standard process for the adoption or  
251       amendments of laws of the Nation which includes taking into account comments from members of  
252       the Nation and input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].
- 253           ▪ The Legislative Procedures Act provides a process for the adoption of emergency  
254           legislation when the legislation is necessary for the immediate preservation of the public  
255           health, safety, or general welfare of the Reservation population and the enactment or  
256           amendment of legislation is required sooner than would be possible under this law. [1 O.C.  
257           109.9-5].
- 258                   ▪ The Legislative Operating Committee is responsible for first reviewing the  
259                   emergency legislation and for forwarding the legislation to the Oneida Business  
260                   Committee for consideration. [1 O.C. 109.9-5(a)].
- 261                   ▪ The proposed emergency legislation is required to have a legislative analysis  
262                   completed and attached prior to being sent to the Oneida Business Committee for  
263                   consideration. [1 O.C. 109.9-5(a)].
- 264                           • A legislative analysis is a plain language analysis describing the important  
265                           features of the legislation being considered and factual information to  
266                           enable the Legislative Operating Committee to make informed decisions



267 regarding legislation. A legislative analysis includes a statement of the  
268 legislation's terms and substance; intent of the legislation; a description of  
269 the subject(s) involved, including any conflicts with Oneida or other law,  
270 key issues, potential impacts of the legislation and policy considerations.  
271 [1 O.C. 109.3-1(g)].

- 272 ▪ Emergency legislation does not require a fiscal impact statement to be completed  
273 or a public comment period to be held. [1 O.C. 109.9-5(a)].
- 274 ▪ Upon the determination that an emergency exists the Oneida Business Committee  
275 can adopt emergency legislation. The emergency legislation becomes effective  
276 immediately upon its approval by the Oneida Business Committee. [1 O.C. 109.9-  
277 5(b)].
- 278 ▪ Emergency legislation remains in effect for a period of up to six (6) months, with  
279 an opportunity for a one-time emergency law extension of up to six (6) months. [1  
280 O.C. 109.9-5(b)].
- 281 ▪ Emergency amendments to this Law would conform with the requirements of the  
282 Legislative Procedures Act.

283

## 284 **SECTION 7. OTHER CONSIDERATIONS**

285 **A. *Deadline for Permanent Adoption of Amendments.*** The emergency amendments will expire six (6)  
286 months after adoption or until the 2020 General Election is concluded, whichever is sooner. The  
287 emergency amendments may be renewed for an additional six (6) month period.

- 288 ▪ *Conclusion:* The Legislative Operating Committee will need to consider the development and  
289 adoption of permanent amendments to this Law within the next six (6) to twelve (12) months.

290 **B. *Fiscal Impact.*** A fiscal impact statement is not required for emergency legislation.

- 291 ▪ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except  
292 emergency legislation [1 O.C. 109.6-1].

293

**Title 1. Government and Finances - Chapter 102**

**ELECTION**

**Onayote'a'ká· Tho Ni· Yót Tsi? Ayethiyataláko Tsi? Kayanl'hsla**

*People of the Standing Stone how it is we will appoint them the kind of laws we have*

102.1. Purpose and Policy	102.8. Registration of Voters
102.2. Adoption, Amendment, Repeal	102.9. Election Process
102.3. Definitions	102.10. Tabulating and Securing Ballots
102.4. Election Board	102.11. Election Outcome and Ties
102.5. Candidate Eligibility	102.12. Elections
102.6. Selection of Candidates	102.13. Oneida Nation Constitution and By-law Amendments
102.7. Notice of Polling Places	

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**102.1. Purpose and Policy**

102.1-1. It is the policy of the Nation that this law shall govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities ~~such as caucuses and nominations.~~ Because of the desire for orderly and easily understood elections, there has not been an allowance made for write-in candidates on ballots.

102.1-2. This law defines the duties and responsibilities of the Election Board members and other persons employed by the Oneida Nation in the conduct of elections. It is intended to govern all procedures used in the election process.

**102.2. Adoption, Amendment, Repeal**

102.2-1. This law was adopted by the Oneida General Tribal Council by resolution GTC 07-06-98-A and amended by resolutions GTC-01-04-10-A, BC-02-25-15-C ~~and~~, GTC-04-23-17-A, ~~and~~ emergency amended by resolution BC- - - -.

102.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act. Actions of the Election Board regarding amendments to this law and policies adopted regarding implementation of this law are to be presented to the Business Committee who shall then adopt or forward action(s) to the General Tribal Council for adoption.

102.2-3. 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.

102.2-4. 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.

102.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**102.3. Definitions**

102.3-1. 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.

102.3-2. "Alternate" shall mean an individual appointed by the Business Committee to serve on the Election Board during an election and until election results have been certified.

102.3-3. "Applicant" shall mean a potential candidate who has not yet been officially approved for acceptance on a ballot.

102.3-4. "Business day" shall mean Monday through Friday, 8:00 a.m. – 4:30 p.m., excluding holidays of the Nation.

102.3-5. "Campaigning" shall mean all efforts designed to influence members of the Nation to support or reject a particular candidate of the Nation including, without limitation, advertising, rallying, public speaking, or other communications with members of the Nation.

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38 102.3-6. “Candidate” shall mean ~~a petitioner or nominee~~an applicant for an elected position whose  
 39 name is placed on the ballot by the Election Board after successful application.

40 102.3-7. “Clerk” shall mean the election official who identifies proper registration for the purpose  
 41 of determining voter eligibility.

42 102.3-8. “Close of business” shall mean 4:30 p.m. Monday through Friday.

43 102.3-9. “Conflict of Interest” shall mean any interest, whether it be personal, financial, political  
 44 or otherwise, in which a Nation elected official, employee, consultant, appointed or elected,  
 45 member of any board, committee or commission, or their immediate relatives, friends or  
 46 associates, or any other person with whom they have contact, that conflicts with any right of the  
 47 Nation to property, information, or any other right to own and operate its enterprises, free from  
 48 undisclosed competition or other violation of such rights of the Oneida Nation, or as defined in  
 49 any law or policy of the Nation.

50 102.3-10. “Election” shall mean every primary and election.

51 102.3-11. “General election” shall mean the election held every three (3) years in July to elect the  
 52 Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members of the  
 53 Business Committee and may include contests for elected boards, committees and commissions  
 54 positions.

55 102.3-12. “Judge” shall mean the election official who informs and advises the Chairperson of  
 56 discrepancies, complaints and controversy regarding voter eligibility.

57 102.3-13. “Judiciary” means the judicial system that was established by Oneida General Tribal  
 58 Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of  
 59 the Nation.

60 102.3-14. “Lot drawing” shall mean the equal chance method used to select a candidate as the  
 61 winner of an elected position, in the case of a tie between two (2) or more candidates.

62 102.3-15. “Nation” means the Oneida Nation.

63 102.3-16. “Nation’s newspaper” shall mean the Kalihwisaks, or any other newspaper operated by  
 64 the Nation for the benefit of transmitting news to members of the Nation, which is designated by  
 65 the Election Board as a source for election related news.

66 102.3-17. “Oneida Police Officer” shall mean an enrolled member of the Oneida Nation who is a  
 67 police officer on any police force.

68 102.3-18. “Private property” shall mean any lot of land not owned by the Nation, a residential  
 69 dwelling or a privately owned business within the boundaries of the Reservation.

70 102.3-19. “Prominent locations” shall mean the polling places, main doors of the Norbert Hill  
 71 Center, main doors of the Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida  
 72 Community Health Center, the SEOTS building and all One-Stop locations.

73 102.3-20. “Qualified voter” shall mean an enrolled member of the Nation who is eighteen (18)  
 74 years of age or older.

75 102.3-21. “Rejected Ballots” shall mean those ballots which are rejected by the vote tabulating  
 76 machine.

77 102.3-22. “Spoiled Ballot” shall mean a ballot which contains a voter error or is otherwise marred  
 78 and is not tabulated.

79 102.3-23. “Teller” shall mean the election official in charge of collecting and storing of all ballots.

80  
 81  
 82 **102.4. Election Board**

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83 *Section A. Establishment, Composition and Election*84 102.4-1. An Election Board is hereby created for the purpose of carrying out the provisions of this  
85 law and Article III, Sections 2 and 3 of the Oneida Nation Constitution.86 102.4-2. The Election Board shall consist of nine (9) elected members. All members shall be  
87 elected to terms of three (3) years, not to exceed two (2) consecutive terms.88 102.4-3. *Recusal.* An Election Board member shall recuse himself/herself from participating as an  
89 Election Board member in any pre-election, election day, or post-election activities while he or  
90 she is a ~~petitioner~~, an applicant or candidate in any election or there is otherwise a conflict of  
91 interest.92 102.4-4. *Removal.* Removal of members shall be pursuant to the Oneida Removal Law. A member  
93 who is removed from the Election Board shall be ineligible to serve on the Board for three (3)  
94 years from the time he or she is removed from the Election Board.95 102.4-5. *Vacancies.* Any vacancy in an unexpired term shall be filled by appointment by the  
96 Business Committee for the balance of the unexpired term. The filling of a vacancy may be timed  
97 to correspond with the pre-election activities and the needs of the Election Board.

98 102.4-6. The Election Board shall identify tellers, judges and clerks in advance of an election.

99 102.4-7. The Business Committee may appoint or reappoint a sufficient number of alternates to  
100 the Election Board, as recommended by the Election Board, to assist with election day and pre-  
101 election activities.102 102.4-8. The Election Board shall choose a Chairperson from amongst themselves as set out in  
103 the By-laws of the Election Board, to preside over the meetings. This selection shall be carried  
104 out at the first meeting of the Election Board following an election. The Chairperson shall then  
105 ask the Election Board to select a Vice-Chairperson and Secretary.

106

107 *Section B. Duties of the Election Board*108 102.4-9. The Election Board shall have the following duties, along with other responsibilities listed  
109 throughout this law.

- 110 (a) The Election Board shall be in charge of all registration and election procedures; and
- 
- 111 (b) Upon completion of an election, the Election Board shall make a final report on the
- 
- 112 election results as set out in this law.

113

114 *Section C. Specific Duties of Officers and Election Board Members*115 102.4-10. Specific duties of the Chairperson and other Election Board members, in addition to  
116 being present at all Election Board meetings and assisting the handicapped through the voting  
117 process, are as set out herein:118 (a) Chairperson: Shall preside over meetings of the Election Board; shall select the hearing  
119 body for applicants found to be ineligible in accordance with 102.5-6 in the event of an  
120 appeal; shall oversee the conduct of the election; shall dismiss the alternates and Trust  
121 Enrollment Department personnel when their election day duties are complete; and shall  
122 post and report election results.

123 (b) Vice-Chairperson: Shall preside over all meetings in the absence of the Chairperson.

124 (c) Secretary: Shall keep a record of the meetings and make them available to the Nation's  
125 Secretary, other Election Board members and the public as required in the Open Records  
126 and Open Meetings Law.

127 (d) Clerks: Shall implement the requirements of identifying and registering all voters and

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128 determining voter eligibility. Clerks shall work in conjunction with the Trust Enrollment  
 129 Department personnel in the registration process, and assist the Chairperson as directed in  
 130 conducting the election. Clerks cannot be currently employed by the Trust Enrollment  
 131 Department.

132 (e) Tellers: Shall collect and keep safe all ballots, until the election is complete, as  
 133 determined by this law. Shall assist the Chairperson in conducting the election.

134 (f) Judges: Shall inform and advise the Chairperson of all aspects of the election conducted  
 135 under this law. In case of disputes among Election Board members, or between members  
 136 of the Nation and Election Board members, or any controversy regarding voter eligibility,  
 137 the Judge(s) shall assist the Chairperson in making a determination. The Judge(s) shall  
 138 also ensure that all ballots of voters whose eligibility may be in question, remain  
 139 confidential.

#### 141 *Section D. Compensation Rates*

142 102.4-11. Election Board members are to be compensated at an hourly rate when conducting  
 143 elections as provided for in the Election Board's bylaws as approved by the Business Committee.  
 144 The Election Board shall have a budget, approved through the Nation's budgeting process.

145 102.4-12. The Trust Enrollment Department personnel and Oneida Police Officer(s) shall be  
 146 compensated at their regular rate of pay out of their respective budgets.

### 148 **102.5. Candidate Eligibility**

#### 149 *Section A. Requirements*

150 102.5-1. In addition to any specific requirements and/or exceptions set out in duly adopted by-  
 151 laws or other documents, all applicants shall meet the minimum requirements set out in this section  
 152 in order to become a candidate.

153 102.5-2. Minimum Requirements. In order to be eligible to be a candidate, applicants shall:

154 (a) be an enrolled member of the Nation, as verified by membership rolls of the Nation.

155 (b) be a qualified voter on the day of the election.

156 (c) provide proof of physical residency as required for the position for which they have  
 157 ~~been nominated or for which they have petitioned.~~applied. Proof of residency may be  
 158 through one (1) or more of the following:

159 (1) a valid Wisconsin driver's license;

160 (2) a bill or pay check stub showing name and physical address of the candidate  
 161 from the prior or current month;

162 (3) another form of proof that identifies the candidate and that the candidate has  
 163 physically resided at the address and identifies that address as the primary  
 164 residence.

165 102.5-3. No applicant may have a conflict of interest with the position for which they are being  
 166 considered, provided that any conflict of interest which may be eliminated within thirty (30)  
 167 calendar days of being elected shall not be considered as a bar to ~~nomination or~~ election.

168 102.5-4. Applications ~~and petitions where the applicant was not nominated during caucus~~ shall be  
 169 filed by presenting the information to the Nation's Secretary, or designated agent, during normal  
 170 business hours, 8:00 a.m. to 4:30 p.m. Monday through Friday, ~~within five (5) business days~~  
 171 ~~after~~by the caucus application deadline established by the Election Board No mailed, internal  
 172 Nation mail delivery, faxed or other delivery method shall be accepted.

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173 102.5-5. The names of the candidates and the positions sought shall be a public record and made  
 174 available to the public upon the determination of eligibility by the Election Board or the Board's  
 175 designated agent.

176

177 *Section B. Eligibility Review*

178 102.5-6. Applicants found to be ineligible shall have two (2) business days to request an appeal.  
 179 At least four (4) Election Board members shall constitute a hearing body. The Chairperson shall  
 180 select the hearing body. The hearing shall be held within two (2) business days of receipt of the  
 181 appeal. The applicant shall be notified by phone of time and place of the hearing. The decision  
 182 of the hearing body shall be sent via certified mail or hand delivery within two (2) business days  
 183 of the hearing. Any appeal from a decision of the Election Board hearing body shall be to the  
 184 Judiciary on an accelerated schedule.

185 102.5-7. The Election Board shall be responsible for reviewing the qualifications of applicants to  
 186 verify eligibility. Any applicant found to be ineligible for a ~~nominated or petitioned for~~ position  
 187 shall be notified by certified mail return receipt requested. The notice shall provide the following  
 188 information:

- 189 (a) Position for which they were considered  
 190 (b) Qualification of the position and citation of the source. (Copies of source may be  
 191 attached.)  
 192 (c) A brief summary explaining why the applicant was found to be ineligible.  
 193 (d) That the applicant has two (2) business days from notification to make an appeal.  
 194 Appeals must be filed at the location designated on the notice by hand delivery. The  
 195 location designated shall be on the Reservation. No mailed, internal Nation mail, faxed or  
 196 other delivery method will be accepted.

197

198 *Section C. Campaign Financing*

199 102.5-8. Contributions:

- 200 (a) Solicitation of Contributions by Candidates.  
 201 (1) Candidates shall only accept contributions from individuals who are members  
 202 of the Nation or individuals related by blood or marriage to the candidate.  
 203 Candidates may not accept contributions from any business, whether sole  
 204 proprietorship, partnership, corporation, or other business entity.  
 205 (2) Candidates shall not solicit or accept contributions in any office or  
 206 business/facility of the Nation.  
 207 (b) Fines. Violation of the contribution restrictions shall result in a fine imposed by the  
 208 Election Board in an amount specified in a resolution adopted by the Business Committee.

209 102.5-9. Campaign Signs and Campaigning:

- 210 (a) Placement of campaign signs:  
 211 (1) Campaign signs shall not be posted or erected on any property of the Nation  
 212 except for private property with the owner/tenant's permission.  
 213 (2) No campaign sign shall exceed sixteen (16) square feet in area. A maximum  
 214 of seven (7) such signs may be placed on a building or on a lot.  
 215 (3) No campaign sign shall project beyond the property line into the public right  
 216 of way.  
 217 (b) Removal of campaign signs. All campaign signs shall be removed within five (5)



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- 218 business days after an election.
- 219 (c) Employees of the Nation shall not engage in campaigning for offices of the Nation
- 220 during work hours. The Nation's employees shall be subject to disciplinary action under
- 221 the personnel policies and procedures for political campaigning during work hours.
- 222 (d) Enforcement. The Zoning Administrator shall cause to be removed any campaign
- 223 signs that are not in compliance with this law, in accordance with the Zoning and Shoreland
- 224 Protection Law.
- 225 (e) Fines. Violation of the campaign sign restrictions shall result in a fine imposed by the
- 226 Election Board in an amount specified in a resolution adopted by the Business Committee.
- 227

*Section D. Candidate Withdrawal*

228

229 102.5-10 Any candidate may withdraw his or her name from a ballot if submitted in writing by

230 the candidate prior to submission of the ballot for printing to any Election Board member,

231 excluding alternates.

232 102.5-11 After printing of the ballot, any candidate may withdraw his or her name from the

233 election by submitting in writing a statement indicating they are withdrawing from the election

234 prior to the opening of the polls to any Election Board member, excluding alternates. This

235 statement shall be posted alongside any sample ballot printed prior to the election in the newspaper

236 or any posting at the polling places.

237 102.5-12. Candidates withdrawing after opening of the polls shall request, in writing to the

238 Election Board members in charge of the polling place, to be removed from the ballot. The written

239 statement shall be posted next to any posted sample ballot.

240 102.5-13. Candidates withdrawing by any method listed herein shall be denied any position from

241 which they have withdrawn regardless of the number of votes cast for that candidate. A written

242 statement shall be considered the only necessary evidence of withdrawal and acceptance of denial

243 of any position withdrawn from.

244 102.5-14. *Candidate Withdrawal After Winning an Election.*

245 (a) In the event a candidate declines an office after winning an election, the Election Board

246 shall declare the next highest vote recipient the winner. This procedure shall be repeated

247 as necessary until a winner is declared.

248 (b) If all vote recipients decline or are otherwise unable to be declared the winner, then a

249 Special Election shall be held.

250

**2.6. Selection of Candidates***Section A. Setting of Caucus*

252 ~~102.6-1. The Election Board shall be responsible for calling a caucus before any election is held.~~

253 ~~The caucus for the general election shall be held at least ninety (90) calendar days prior to the~~

254 ~~election date. Caucuses for other elections shall be held at least forty five (45) calendar days prior~~

255 ~~to the election date. In a general election year, caucuses shall be combined so that candidates for~~

256 ~~the Business Committee and elected boards, committees and commissions are nominated at the~~

257 ~~same caucus.~~

258

259 ~~102.6-2. The procedures for the caucus shall be as follows:~~

260 ~~(a) Candidates shall be nominated from the floor.~~

261 ~~(b) Candidates present at the caucus will accept/decline their nomination at the caucus.~~

262 ~~Candidates nominated at the caucus, but not present to accept the nomination, shall be~~

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263 ~~required to follow the petition process.~~

264 ~~(e) Nominations shall consist of the following positions: Chairperson, Vice Chairperson,~~  
 265 ~~Treasurer, Secretary, Council Member and other elected positions as required by laws~~  
 266 ~~or creating documents of a board, committee, or commission.~~

267  
 268 *Section B. Petition*

269 ~~102.6-3.~~ Any eligible member of the Nation may ~~petition~~apply to be placed on a ballot according  
 270 to the following procedures:

271 ~~(a) Each petitioner, not nominated at caucus, shall file a petition containing endorsee's~~  
 272 ~~original signatures; photocopies shall not be accepted.~~

273 ~~(b) Petitioners~~(a) Applicants shall use an official ~~petition~~ form as designated by this  
 274 law which may be obtained in the Office of the Nation's Secretary ~~or from the mailing~~  
 275 ~~for that caucus.~~

276 ~~(e)~~ The ~~petition~~ form shall consist of ~~each endorsee's:~~

277 ~~(1) printed name and address;~~

278 ~~(2) date of birth;~~

279 ~~(3) Oneida Nation Enrollment Number; and~~

280 ~~(4) signature.~~

281 ~~(d) Petitioners shall obtain not less than ten (10) signatures of qualified voters as~~  
 282 ~~defined under information that satisfies the minimum requirements for eligible~~  
 283 ~~candidates, as described in section 102.5-2 of this law.~~

284 ~~(e) Petitions~~(c) Applications shall be presented to the Nation's Secretary, or  
 285 designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday,  
 286 but no later than prior to close of business ~~five (5) business days after~~on the  
 287 ~~caucus.~~application deadline established by the Election Board. The location to drop-  
 288 off ~~petitions~~applications shall be ~~identified in the mailing identifying the caucus~~  
 289 ~~date.~~Business Committee Support Office.

290 ~~(f)~~ The Nation's Secretary shall forward all ~~petitions~~applications to the Election  
 291 Board Chairperson the next business day following the close of ~~petition~~ submissions.

292 ~~(g) The Election Board shall have the Trust Enrollment Department verify all~~  
 293 ~~signatures contained on the petition.~~

294 ~~102.6-4~~2. A person who runs for a position on the Oneida Business Committee, or a position on  
 295 a judicial court or commission, shall not run for more than one (1) elective office or seat per  
 296 election.

297  
 298 **102.7. Notice of Polling Places**

299 102.7-1. The Election Board shall post a notice in the prominent locations, stating the location of  
 300 the polling places and the time the polls will be open. This notice shall also be posted in an easily  
 301 visible position, close to the entrance of the Nation's businesses/facilities.

302 102.7-2. Polling information shall be posted no less than ten (10) calendar days prior to the  
 303 election, and shall remain posted until the poll closes on the day of the election.

304 102.7-3. Except for a Special Election, notice for the election shall be mailed to all Nation  
 305 members, stating the time and place of the election and a sample of the ballot, no less than ten (10)  
 306 calendar days prior to the election, through a mass mailing. The Trust Enrollment Department  
 307 shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior



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308 to the requested mailing.

309 102.7-4. Notice of the election shall be placed in the Nation's newspaper.

310

311 **102.8. Registration of Voters**

312 *Section A. Requirements*

313 102.8-1. *Registration of Voters.* All enrolled members of the Nation, who are eighteen (18) years  
314 of age or over, are qualified voters of such election(s) as defined in Article III, Section 2 of the  
315 Oneida Nation Constitution.

316

317 *Section B. Identification of Voters*

318 102.8-2. All voters must present one of the following picture identifications in order to be able to  
319 vote:

320 (a) Oneida Nation I.D.

321 (b) Drivers License.

322 (c) Other I.D. with name and photo.

323

324 *Section C. Registration Procedures*

325 102.8-3. Voters shall physically register, on the day of the election, at the polls.

326 102.8-4. Trust Enrollment Department personnel shall be responsible for verifying enrollment  
327 with the Nation. Conduct of Trust Enrollment Department personnel is governed by the Election  
328 Officials during the voting period.

329 102.8-5. Every person who intends to vote must sign his/her name on an official Voter Registration  
330 Form containing the voter's following information:

331 (a) name and maiden name (if any);

332 (b) current address;

333 (c) date of birth; and

334 (d) enrollment number.

335

336 *Section D. Qualification/Verification of Voter Eligibility*

337 102.8-6. Should a question or dispute arise as to the eligibility of a voter being qualified to vote,  
338 the Judges of the Election Officials appointed by the Election Board Chairperson shall meet with  
339 the Trust Enrollment Department personnel who are registering voters, to decide the voting  
340 member's eligibility currently being questioned and shall make such decisions from the facts  
341 available, whether the applicant is, in fact, qualified/verifiable under the Oneida Nation  
342 Constitution, Article III Section 2, to vote in the Nation's elections.

343 102.8-7. Any voter denied eligibility shall be allowed to vote, provided that the ballot shall be  
344 placed in an envelope, initialed by two (2) Election Officials, sealed and numbered. The name of  
345 the voter shall be written next to a numbered list which corresponds to the numbered and sealed  
346 envelope. The voter shall be required to mail a written appeal to the Election Board at P.O. Box  
347 413, Oneida, Wisconsin, 54155, postmarked within two (2) business days of the election if they  
348 desire to challenge the decision made by the Election Officials. The Election Board shall make a  
349 final decision, within five (5) business days of receiving the appeal and shall report this decision  
350 in the final report sent to the Oneida Business Committee.

351

352 **102.9. Election Process**

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353 *Section A. Polling Places and Times*

354 102.9-1. In accordance with Article III, Section 5 of the Oneida Nation Constitution, elections  
 355 shall be held in the month of July on a date set by the General Tribal Council. The General Tribal  
 356 Council shall set the election date at the January annual meeting, or at the first GTC meeting held  
 357 during a given year. Special Elections shall be set in accordance with 102.12-6.

358 102.9-2. Elections shall be held ~~in~~at an Oneida Nation facility(s) as determined by the Election  
 359 Board.

360 102.9-3. Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All voters in line  
 361 to vote at 7:00 p.m. shall be allowed to vote.

362 (a) If a ballot counting machine is used, the ballot counting machine shall be prepared  
 363 prior to 7:00 a.m. on the day of the election. The Judges shall open the polls only after four

364 (4) members of the Nation verify, through signature on the tape, the ballot box is empty  
 365 and the ballot counting machine printer tape has a zero (0) total count.

366 102.9-4. At least one (1) Oneida Police Officer shall be present during the time the polls are open,  
 367 and until the counting of ballots is completed, and tentative results posted.

368 102.9-5. The Election Board shall provide a voting area sufficiently isolated for each voter such  
 369 that there is an area with at least two sides and a back enclosure.

370 102.9-6. No campaigning of any type shall be conducted within two hundred eighty (280) feet of  
 371 the voting area, excluding private property.

372 102.9-7. No one causing a disturbance shall be allowed in the voting area.

373 102.9-8. Election Board members may restrict the voting area to qualified voters only. This  
 374 restriction is in the interest of maintaining security of the ballots and voting process.

375  
 376 *Section B. Ballot Box*

377 102.9-9. All ballots being votes, shall be placed in a receptacle clearly marked "Ballot Box" and  
 378 shall be locked until counting at the close of polls. Provided that, with electronic ballot counting,  
 379 the ballots may be placed within the ballot counting machine as they are received.

380  
 381 *Section C. Spoiled Ballots*

382 102.9-10. If a voter spoils his/her ballot, he/she shall be given a new ballot.

383 102.9-11. The spoiled ballot shall be marked "VOID" and initialed by two (2) Election Officials  
 384 and placed in an envelope marked as "Spoiled Ballots."

385 102.9-12. The Spoiled Ballot envelopes shall be retained and secured for no less than fifteen (15)  
 386 calendar days following finalization of any challenge of the election, at the Records Management  
 387 Department.

388  
 389 *Section D. Rejected Ballots*

390 102.9-13. Rejected Ballots are to be placed in a specially marked container and sealed.

391 (a) Computer rejected ballots shall be reviewed by the Election Officials to verify the  
 392 authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final  
 393 computer total, provided that, a new ballot was not received as set out in sections 102.9-10  
 394 through 102.9-12.

395 (b) Ballots rejected, either during the computer process or during a manual counting, shall  
 396 be reviewed by the Election Officials to verify that they are authentic. If the Election  
 397 Officials determine that the ballot is not an official ballot, or that it is an illegal ballot, the

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398 ballot shall be designated ‘void,’ and placed in a sealed container marked “Void Ballots.”

399

400 **102.10. Tabulating and Securing Ballots**401 *Section A. Machine Counted Ballots*

402 102.10-1. When ballots are counted by machine, at the close of polls the Judges shall generate  
403 from the ballot counting machine copies of the election totals from the votes cast.

404 102.10-2. At least ~~six (6)~~*three (3)* Election Board members shall sign the election totals, which  
405 shall include the tape signed by the members of the Nation before the polls were opened per section  
406 102.9-3(a).

407

408 *Section B. Manually Counted Ballots*

409 102.10-3. When ballots are manually counted, at the close of polls the Judges shall unlock the  
410 ballot box and remove the ballots.

411 102.10-4. If the ballots need to be counted at a location other than the polling site, the ballots shall  
412 be secured in a sealed container for transportation to the ballot counting location. The sealed  
413 ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election  
414 Officials for counting/tallying of ballots.

415 102.10-5. The sealed ballots shall be opened at the time of counting by the Election Officials and  
416 witnessed/monitored by an Oneida Police Officer.

417 102.10-6. Ballots must be counted by two different Election Officials until two final tallies are  
418 equal in back to back counting. Final tallies shall be verified by the Election Judges.

419

420 *Section C. Securing Ballots*

421 102.10-7. The Judges shall place together all ballots counted and secure them together so that they  
422 cannot be untied or tampered with without breaking the seal. The secured ballots, and the election  
423 totals with the signed tape, if applicable, shall then be secured by the Judges in a sealed container  
424 in such a manner that the container cannot be opened without breaking the seals or locks, or  
425 destroying the container. The Oneida Police Officer shall then deliver, on the day of the election,  
426 the sealed container to the Records Management Department for retaining.

427

428 **102.11. Election Outcome and Ties**429 *Section A. Election Results Announcement*

430 102.11-1. The tentative results of an election shall be announced and posted by the Election Board  
431 within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain  
432 the following statement:

433 *"The election results posted here are tentative results. Final election results are forwarded*  
434 *by the Oneida Election Board to the Oneida Business Committee via a Final Report after*  
435 *time has lapsed for recount requests, or challenges or after all -recounts or challenges*  
436 *have been completed, whichever is longer"*

437 102.11-2. The Election Board shall post, in the prominent locations, and publish in the Nation’s  
438 newspaper, the tentative results of an election.

439

440 *Section B. Tie*

441 102.11-3. In the event of a tie for any office, and where the breaking of a tie is necessary to  
442 determine the outcome of an election, the Election Board shall conduct an automatic recount of

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443 the votes for each candidate receiving the same number of votes. Any recount conducted shall be  
 444 the only recount allowed for the tied candidates.

445 102.11-4. For Business Committee positions, a run-off election between the candidates with the  
 446 same number of votes shall be held if there remains a tie after the recount. Said run-off election  
 447 shall be held within twenty-one (21) calendar days after the recount. For all other positions, if  
 448 there remains a tie after the recount, the Election Board shall decide the winner of the tied positions  
 449 at least two (2) business days after, but no more than five (5) business days after the recount  
 450 through a lot drawing, which shall be open to the public.

451 (a) The Election Board shall notify each of the tied candidates and the public of the date,  
 452 time, and place of the drawing at least one (1) business day before the drawing. Notice to  
 453 the tied candidates shall be in writing. Notice to the public shall be posted by the Election  
 454 Board in the prominent locations.

455 (b) On the date and at the time and place the drawing was noticed, the Election Board  
 456 Chairperson shall clearly write the name of each tied candidate on separate pieces of paper  
 457 in front of any witnesses present. The pieces of paper shall be the same, or approximately  
 458 the same, color, size, and type. The papers shall be folded in half and placed in a container  
 459 selected by the Election Board Chairperson.

460 (c) The Election Board Chairperson shall designate an uninterested party to draw a name  
 461 from the container. The candidate whose name is drawn from the container first shall be  
 462 declared the winner. An Election Board member other than the Chairperson shall remove  
 463 the remaining pieces of paper from the container and show them to the witnesses present.

464

465 *Section C. Recount Procedures*

466 102.11-5. A candidate may request the Election Board to complete a recount, provided the margin  
 467 between the requesting candidate's vote total and vote total for the unofficial winner was within  
 468 two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is  
 469 greater. A candidate requests a recount by hand delivering a written request to the office of the  
 470 Nation's Secretary, or noticed designated agent, within five (5) business days after the election.  
 471 Requests shall be limited to one (1) request per candidate. The Nation's Secretary shall contact  
 472 the Election Board Chairperson by the next business day after the request for recounts.

473 102.11-6. The Election Board shall respond by the close of business on the fifth (5<sup>th</sup>) day after the  
 474 request regarding the results of the recount. Provided that, no recount request need be honored  
 475 where there have been two (2) recounts completed as a result of a request either as a recount of the  
 476 whole election results, or of that sub-section.

477 102.11-7. All recounts shall be conducted manually with, if possible, the original Election  
 478 Officials and Oneida Police Officer present, regardless of the original type of counting process.  
 479 Manual recounts may, at the discretion of the Election Officials, be of the total election results, or  
 480 of the challenged sub-section of the election results.

481 102.11-8. The Oneida Police Officer shall be responsible for picking up the locked, sealed  
 482 container with the ballots from the Records Management Department and transporting it to the  
 483 ballot recounting location.

484 102.11-9. A recount shall be conducted by a quorum of the Election Board, including at least three  
 485 (3) of the original Election Officials. The locked, sealed ballots shall be opened by the Election  
 486 Board Chairperson and an Oneida Police Officer shall witness the recount.

487 102.11-10. Recounting of ballots may be performed manually or by computer. All ballots shall be

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488 counted until two (2) final tallies are equal in back to back counting and the total count of ballots  
 489 reconciles with the total count from the ballot counting machine. Sub-sections of candidates may  
 490 be recounted in lieu of a full recount.

491 (a) Manually counted ballots shall be recounted by the Election Board. Ballots shall be  
 492 counted twice by different persons and certified by the Judges.

493 (b) Computer counted ballots shall be recounted twice and certified by the Judges. Prior  
 494 to using an electronic ballot counting device, it shall be certified as correct either by the  
 495 maker, lessor of the machine, or Election Board.

496

497 *Section D. Challenges and Declaration of Results*

498 102.11-11. *Challenges.* Any qualified voter may challenge the results of an election by filing a  
 499 complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall  
 500 hear and decide a challenge to any election within two (2) business days after the challenge is filed.  
 501 Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after  
 502 the issuance of the lower body's decision and decided within two (2) business days after the appeal  
 503 is filed.

504 (a) The person challenging the election results shall prove by clear and convincing  
 505 evidence that the Election Law was violated or an unfair election was conducted, and that  
 506 the outcome of the election would have been different but for the violation.

507 (b) If the Judiciary invalidates the election results, a Special Election shall be ordered by  
 508 the Judiciary for the office(s) affected to be held on a date set by the Judiciary for as soon  
 509 as the Election Law allows for a Special Election.

510 102.11-12. *The Final Report.* The Election Board shall forward a Final Report to the Nation's  
 511 Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges  
 512 have been completed, whichever is longer. The Final Report shall consist of the following  
 513 information:

514 (a) Total number of persons voting.

515 (b) Total votes cast for each candidate by subsection of the ballot.

516 (c) List of any ties and final results of those ties, including the method of resolution.

517 (d) List of candidates elected and position elected to.

518 (e) Number of spoiled ballots.

519 (f) Cost of the election, including the compensation paid to each Election Board member.

520 102.11-13. *Declaration of Results.* The Business Committee shall declare the official results of  
 521 the election and send notices regarding when the swearing in of newly elected officials shall take  
 522 place within ten (10) business days after receipt of the Final Report.

523 102.11-14. Candidates elected to the Business Committee shall resign from any salaried position  
 524 effective prior to taking a Business Committee oath of office

525 102.11-15. Except in the event of an emergency, as determined by the Business Committee,  
 526 newly elected officials shall be sworn into office no later than thirty (30) calendar days after the  
 527 official results of an election are declared by the Business Committee.

528 (a) If a newly elected official is not sworn in within thirty (30) calendar days, the seat shall  
 529 be considered vacant and the Election Board shall declare the next highest vote recipient  
 530 the winner. This procedure shall be repeated as necessary until a winner is declared.

531 (b) If all vote recipients decline or are otherwise unable to be declared the winner, then a  
 532 Special Election shall be held.

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533 102.11-16. The Election Board shall send notice to the Records Management Department to  
 534 destroy the ballots thirty (30) calendar days after the election or after the final declaration of official  
 535 election results occurs, whichever is longer.  
 536

537 **102.12. Elections**

538 *Section A. Primary Elections; Business Committee*

539 102.12-1. When a primary is required under 102.12-2, it shall be held on a Saturday at least sixty  
 540 (60) calendar days prior to the election.

541 102.12-2. There shall be a primary election for Business Committee positions whenever there are  
 542 three (3) or more candidates for any officer positions or sixteen (16) or more candidates for the at-  
 543 large council member positions.

544 (a) The two (2) candidates receiving the highest number of votes cast for each officer  
 545 position shall be placed on the ballot.

546 (b) The fifteen (15) candidates receiving the highest number of votes cast for the at-large  
 547 council member positions shall be placed on the ballot.

548 (c) Any position where a tie exists to determine the candidates to be placed on the ballot  
 549 shall include all candidates where the tie exists.

550 102.12-3. The Election Board shall cancel the primary election if the Business Committee  
 551 positions did not draw the requisite number of candidates for a primary ~~by the petitioning deadline~~  
 552 ~~set for the primary.~~

553 102.12-4. In the event a candidate withdraws or is unable to run for office after being declared a  
 554 winner in the primary, the Election Board shall declare the next highest primary vote recipient the  
 555 primary winner. This procedure shall be repeated as necessary until the ballot is full or until there  
 556 are no available candidates. If the ballot has already been printed, the procedures for notifying the  
 557 Oneida public in section 102.5-11 and 102.5-12 shall be followed, including the requirement to  
 558 print a notice in the Nation's newspaper if ~~time lines~~ timelines allow.  
 559

560 *Section B. Special Elections*

561 102.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as  
 562 defined in this law, may be placed on the same ballot as the subject matter of an election.

563 102.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business  
 564 Committee as recommended by the Election Board or as ordered by the Judiciary in connection  
 565 with an election challenge.

566 102.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent  
 567 locations, and placed in the Nation's newspaper not less than ten (10) calendar days prior to the  
 568 Special Election.

569 102.12-8. In the event of an emergency, the Election Board may reschedule the election, provided  
 570 that no less than twenty-four (24) hours notice of the rescheduled election date is given to the  
 571 voters, by posting notices in the prominent locations.  
 572

573 *Section C. Referendums*

574 102.12-9. Registered voters may indicate opinions on any development, law or resolution,  
 575 proposed, enacted, or directed by the Business Committee, or General Tribal Council, in a special  
 576 referendum election.

577 (a) Referendum elections in which a majority of the qualified voters who cast votes shall



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578 be binding on the Business Committee to present the issue for action/decision at General  
579 Tribal Council.

580 (b) Referendum requests may appear on the next called for election.

581 (c) Referendum questions ~~are to be presented to the Nation's Secretary, in writing, at the~~  
582 ~~caucus prior to election,~~ regarding issues directly affecting the Nation or general  
583 membership. are to be presented to the Nation's Secretary, or designated agent, in writing,  
584 during normal business hours, 8:00 a.m. until 4:30 p.m. Monday through Friday by the  
585 deadline established by the Election Board. No mailed, internal Nation mail delivery, faxed  
586 or other delivery method shall be accepted.

587  
588 *Section D. Initiation of Special Elections*

589 102.12-10. Special Elections may be initiated by a request or directive of the General Tribal  
590 Council or the Oneida Business Committee.

591 102.12-11. Special Election may be requested by a member of the Nation to the Business  
592 Committee or General Tribal Council.

593 102.12-12. All Special Elections shall follow rules established for all other elections. This includes  
594 positions for all Boards, Committees and Commissions.

595  
596 **102.13. Oneida Nation Constitution and By-law Amendments**

597 102.13-1. Pursuant to Article VI of the Oneida Nation Constitution, amendments to the Oneida  
598 Nation Constitution and By-laws may be initiated by the Oneida Business Committee or a petition  
599 of qualified voters. The requirements for the Oneida Business Committee's initiation of  
600 Constitutional amendments are as provided in the Constitution and as further detailed in the  
601 supporting standard operating procedures which the Oneida Business Committee shall adopt.  
602 Qualified voters may petition to amend the Oneida Nation Constitution and By-laws by submitting  
603 a petition to the Office of the Nation's Secretary which includes the full text of the proposed  
604 amendments and signatures that are equal in number to at least ten percent (10%) of all members  
605 qualified to vote.

606 (a) Qualified voters may request a petition form from the Office of the Nation's Secretary.

607 (b) When a petition form is requested, the Nation's Secretary, or his or her designee, shall  
608 direct the Trust Enrollment Department to calculate the number of signatures currently  
609 required for a petition submittal, which shall be ten percent (10%) of all members qualified  
610 to vote on the date the petition form is requested from the Office of the Nation's Secretary.  
611 When the Nation's Secretary receives the calculation from the Trust Enrollment  
612 Department, the Nation's Secretary shall provide the requester with the petition form and  
613 the number of signatures that are currently required.

614 (c) Such petitions shall be circulated with all supporting materials and submitted a  
615 minimum of ninety (90) days prior to the election at which the proposed amendment is to  
616 be voted upon. If a petition includes supporting materials in addition to the petition form,  
617 each qualified voter signing the petition shall also acknowledge that the supporting  
618 materials were available for review at the time he or she signed the petition by initialing  
619 where required on the petition form.

620 (d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment  
621 Department for verification of signatures and to the Election Board to provide notice that  
622 the petition may need to be placed on an upcoming ballot.

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623 (e) If the petition is verified by the Trust Enrollment Department to contain signatures from  
 624 at least ten percent (10%) of all qualified voters, the Election Board shall make an official  
 625 announcement of the proposed amendments to the Oneida Nation Constitution at least sixty  
 626 (60) days prior to the election at which the proposed amendments are to be voted on.

627 102.13-2. The Election Board shall place any proposed amendments to the Oneida Nation  
 628 Constitution that meet the requirements contained in 102.13-1 on the ballot at the next general  
 629 election. Provided that, the Oneida Business Committee or General Tribal Council may order a  
 630 special election be held to consider the proposed amendments. In such circumstances, the Election  
 631 Board shall place any proposed amendments to the Oneida Nation Constitution on the ballot at the  
 632 next special election.

633 102.13-3. The Election Board shall publish any proposed amendments by publishing a sample  
 634 ballot no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust  
 635 Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty  
 636 (20) calendar days prior to the requested mailing. Copies of such publications shall be prominently  
 637 posted in each polling place and at administrative offices of the Nation and shall also be published  
 638 in official Oneida media outlets, which the Oneida Business Committee shall identify by  
 639 resolution. For the purposes of this section, Oneida administrative offices means the location  
 640 where the Oneida Business Committee conducts business.

641 102.13-4. The Election Board shall ensure that the ballot contains a statement of the purpose of  
 642 the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall  
 643 ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a  
 644 true and impartial statement and is written in such a manner that does not create prejudice for or  
 645 against the proposed amendment.

646 102.13-5. Pursuant to Article VI, Section 3 of the Oneida Nation Constitution, proposed  
 647 amendments that are approved by sixty-five percent (65%) of the qualified voters that vote on that  
 648 amendment shall become part of the Constitution and By-laws, and shall abrogate or amend  
 649 existing provisions of the Constitution and By-laws at the end of thirty (30) days after submission  
 650 of the final election report.

651 102.13-6. If two (2) or more amendments approved by the voters at the same election conflict, the  
 652 amendment receiving the highest affirmation vote prevails.

653  
 654  
 655 *End.*

~~656~~

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658 Adopted - June 19, 1993

659 Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

660 Presented for Adoption of 1997 Revisions - GTC-7-6-98-A

661 Amended- October 11, 2008 (General Tribal Council Meeting)

662 Amended-GTC-01-04-10-A

663 Amended – BC-02-25-15-C

664 Amended – GTC-04-23-17-A

665 Emergency Amended – BC-03-17-20-B

666 Emergency Amended – BC-05-13-20-H

667 Emergency Amended – BC-06-24-20-B (Expired at Conclusion of 2020 General Election)

668 Emergency Amended – BC- - - -

669



**Title 1. Government and Finances - Chapter 102****ELECTION****Onayote'a·ká· Tho Ni· Yót Tsi? Ayethiyataláko Tsi? Kayanl'hsla***People of the Standing Stone how it is we will appoint them the kind of laws we have*

102.1. Purpose and Policy	102.8. Registration of Voters
102.2. Adoption, Amendment, Repeal	102.9. Election Process
102.3. Definitions	102.10. Tabulating and Securing Ballots
102.4. Election Board	102.11. Election Outcome and Ties
102.5. Candidate Eligibility	102.12. Elections
102.6. Selection of Candidates	102.13. Oneida Nation Constitution and By-law Amendments
102.7. Notice of Polling Places	

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**1 102.1. Purpose and Policy**

2 102.1-1. It is the policy of the Nation that this law shall govern the procedures for the conduct of  
3 orderly elections of the Nation, including pre-election activities. Because of the desire for orderly  
4 and easily understood elections, there has not been an allowance made for write-in candidates on  
5 ballots.

6 102.1-2. This law defines the duties and responsibilities of the Election Board members and other  
7 persons employed by the Oneida Nation in the conduct of elections. It is intended to govern all  
8 procedures used in the election process.

9

**10 102.2. Adoption, Amendment, Repeal**

11 102.2-1. This law was adopted by the Oneida General Tribal Council by resolution GTC 07-06-  
12 98-A and amended by resolutions GTC-01-04-10-A, BC-02-25-15-C, GTC-04-23-17-A, and  
13 emergency amended by resolution BC-\_\_-\_\_-\_\_-\_\_.

14 102.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to  
15 the procedures set out in the Legislative Procedures Act. Actions of the Election Board regarding  
16 amendments to this law and policies adopted regarding implementation of this law are to be  
17 presented to the Business Committee who shall then adopt or forward action(s) to the General  
18 Tribal Council for adoption.

19 102.2-3. Should a provision of this law or the application thereof to any person or circumstances  
20 be held as invalid, such invalidity shall not affect other provisions of this law which are considered  
21 to have legal force without the invalid portions.

22 102.2-4. In the event of a conflict between a provision of this law and a provision of another law,  
23 the provisions of this law shall control.

24 102.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

25

**26 102.3. Definitions**

27 102.3-1. This section shall govern the definitions of words and phrases used within this law. All  
28 words not defined herein shall be used in their ordinary and everyday sense.

29 102.3-2. "Alternate" shall mean an individual appointed by the Business Committee to serve on  
30 the Election Board during an election and until election results have been certified.

31 102.3-3. "Applicant" shall mean a potential candidate who has not yet been officially approved for  
32 acceptance on a ballot.

33 102.3-4. "Business day" shall mean Monday through Friday, 8:00 a.m. – 4:30 p.m., excluding  
34 holidays of the Nation.

35 102.3-5. "Campaigning" shall mean all efforts designed to influence members of the Nation to  
36 support or reject a particular candidate of the Nation including, without limitation, advertising,  
37 rallying, public speaking, or other communications with members of the Nation.

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38 102.3-6. "Candidate" shall mean an applicant for an elected position whose name is placed on the  
39 ballot by the Election Board after successful application.

40 102.3-7. "Clerk" shall mean the election official who identifies proper registration for the purpose  
41 of determining voter eligibility.

42 102.3-8. "Close of business" shall mean 4:30 p.m. Monday through Friday.

43 102.3-9. "Conflict of Interest" shall mean any interest, whether it be personal, financial, political  
44 or otherwise, in which a Nation elected official, employee, consultant, appointed or elected,  
45 member of any board, committee or commission, or their immediate relatives, friends or  
46 associates, or any other person with whom they have contact, that conflicts with any right of the  
47 Nation to property, information, or any other right to own and operate its enterprises, free from  
48 undisclosed competition or other violation of such rights of the Oneida Nation, or as defined in  
49 any law or policy of the Nation.

50 102.3-10. "Election" shall mean every primary and election.

51 102.3-11. "General election" shall mean the election held every three (3) years in July to elect the  
52 Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members of the  
53 Business Committee and may include contests for elected boards, committees and commissions  
54 positions.

55 102.3-12. "Judge" shall mean the election official who informs and advises the Chairperson of  
56 discrepancies, complaints and controversy regarding voter eligibility.

57 102.3-13. "Judiciary" means the judicial system that was established by Oneida General Tribal  
58 Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of  
59 the Nation.

60 102.3-14. "Lot drawing" shall mean the equal chance method used to select a candidate as the  
61 winner of an elected position, in the case of a tie between two (2) or more candidates.

62 102.3-15. "Nation" means the Oneida Nation.

63 102.3-16. "Nation's newspaper" shall mean the Kalihwisaks, or any other newspaper operated by  
64 the Nation for the benefit of transmitting news to members of the Nation, which is designated by  
65 the Election Board as a source for election related news.

66 102.3-17. "Oneida Police Officer" shall mean an enrolled member of the Oneida Nation who is a  
67 police officer on any police force.

68 102.3-18. "Private property" shall mean any lot of land not owned by the Nation, a residential  
69 dwelling or a privately owned business within the boundaries of the Reservation.

70 102.3-19. "Prominent locations" shall mean the polling places, main doors of the Norbert Hill  
71 Center, main doors of the Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida  
72 Community Health Center, the SEOTS building and all One-Stop locations.

73 102.3-20. "Qualified voter" shall mean an enrolled member of the Nation who is eighteen (18)  
74 years of age or older.

75 102.3-21. "Rejected Ballots" shall mean those ballots which are rejected by the vote tabulating  
76 machine.

77 102.3-22. "Spoiled Ballot" shall mean a ballot which contains a voter error or is otherwise marred  
78 and is not tabulated.

79 102.3-23. "Teller" shall mean the election official in charge of collecting and storing of all ballots.

80

81

82 **102.4. Election Board**

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83 *Section A. Establishment, Composition and Election*

84 102.4-1. An Election Board is hereby created for the purpose of carrying out the provisions of this  
85 law and Article III, Sections 2 and 3 of the Oneida Nation Constitution.

86 102.4-2. The Election Board shall consist of nine (9) elected members. All members shall be  
87 elected to terms of three (3) years, not to exceed two (2) consecutive terms.

88 102.4-3. *Recusal.* An Election Board member shall recuse himself/herself from participating as an  
89 Election Board member in any pre-election, election day, or post-election activities while he or  
90 she is an applicant or candidate in any election or there is otherwise a conflict of interest.

91 102.4-4. *Removal.* Removal of members shall be pursuant to the Oneida Removal Law. A member  
92 who is removed from the Election Board shall be ineligible to serve on the Board for three (3)  
93 years from the time he or she is removed from the Election Board.

94 102.4-5. *Vacancies.* Any vacancy in an unexpired term shall be filled by appointment by the  
95 Business Committee for the balance of the unexpired term. The filling of a vacancy may be timed  
96 to correspond with the pre-election activities and the needs of the Election Board.

97 102.4-6. The Election Board shall identify tellers, judges and clerks in advance of an election.

98 102.4-7. The Business Committee may appoint or reappoint a sufficient number of alternates to  
99 the Election Board, as recommended by the Election Board, to assist with election day and pre-  
100 election activities.

101 102.4-8. The Election Board shall choose a Chairperson from amongst themselves as set out in  
102 the By-laws of the Election Board, to preside over the meetings. This selection shall be carried  
103 out at the first meeting of the Election Board following an election. The Chairperson shall then  
104 ask the Election Board to select a Vice-Chairperson and Secretary.

105  
106 *Section B. Duties of the Election Board*

107 102.4-9. The Election Board shall have the following duties, along with other responsibilities listed  
108 throughout this law.

- 109 (a) The Election Board shall be in charge of all registration and election procedures; and  
110 (b) Upon completion of an election, the Election Board shall make a final report on the  
111 election results as set out in this law.

112  
113 *Section C. Specific Duties of Officers and Election Board Members*

114 102.4-10. Specific duties of the Chairperson and other Election Board members, in addition to  
115 being present at all Election Board meetings and assisting the handicapped through the voting  
116 process, are as set out herein:

117 (a) Chairperson: Shall preside over meetings of the Election Board; shall select the hearing  
118 body for applicants found to be ineligible in accordance with 102.5-6 in the event of an  
119 appeal; shall oversee the conduct of the election; shall dismiss the alternates and Trust  
120 Enrollment Department personnel when their election day duties are complete; and shall  
121 post and report election results.

122 (b) Vice-Chairperson: Shall preside over all meetings in the absence of the Chairperson.

123 (c) Secretary: Shall keep a record of the meetings and make them available to the Nation's  
124 Secretary, other Election Board members and the public as required in the Open Records  
125 and Open Meetings Law.

126 (d) Clerks: Shall implement the requirements of identifying and registering all voters and  
127 determining voter eligibility. Clerks shall work in conjunction with the Trust Enrollment

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128 Department personnel in the registration process, and assist the Chairperson as directed in  
 129 conducting the election. Clerks cannot be currently employed by the Trust Enrollment  
 130 Department.

131 (e) Tellers: Shall collect and keep safe all ballots, until the election is complete, as  
 132 determined by this law. Shall assist the Chairperson in conducting the election.

133 (f) Judges: Shall inform and advise the Chairperson of all aspects of the election conducted  
 134 under this law. In case of disputes among Election Board members, or between members  
 135 of the Nation and Election Board members, or any controversy regarding voter eligibility,  
 136 the Judge(s) shall assist the Chairperson in making a determination. The Judge(s) shall  
 137 also ensure that all ballots of voters whose eligibility may be in question, remain  
 138 confidential.

139

140 *Section D. Compensation Rates*

141 102.4-11. Election Board members are to be compensated at an hourly rate when conducting  
 142 elections as provided for in the Election Board's bylaws as approved by the Business Committee.  
 143 The Election Board shall have a budget, approved through the Nation's budgeting process.

144 102.4-12. The Trust Enrollment Department personnel and Oneida Police Officer(s) shall be  
 145 compensated at their regular rate of pay out of their respective budgets.

146

147 **102.5. Candidate Eligibility**148 *Section A. Requirements*

149 102.5-1. In addition to any specific requirements and/or exceptions set out in duly adopted by-  
 150 laws or other documents, all applicants shall meet the minimum requirements set out in this section  
 151 in order to become a candidate.

152 102.5-2. Minimum Requirements. In order to be eligible to be a candidate, applicants shall:

153 (a) be an enrolled member of the Nation, as verified by membership rolls of the Nation.

154 (b) be a qualified voter on the day of the election.

155 (c) provide proof of physical residency as required for the position for which they have  
 156 applied. Proof of residency may be through one (1) or more of the following:

157 (1) a valid Wisconsin driver's license;

158 (2) a bill or pay check stub showing name and physical address of the candidate  
 159 from the prior or current month;

160 (3) another form of proof that identifies the candidate and that the candidate has  
 161 physically resided at the address and identifies that address as the primary  
 162 residence.

163 102.5-3. No applicant may have a conflict of interest with the position for which they are being  
 164 considered, provided that any conflict of interest which may be eliminated within thirty (30)  
 165 calendar days of being elected shall not be considered as a bar to election.

166 102.5-4. Applications shall be filed by presenting the information to the Nation's Secretary, or  
 167 designated agent, during normal business hours, 8:00 a.m. to 4:30 p.m. Monday through Friday,  
 168 by the application deadline established by the Election Board. No mailed, internal Nation mail  
 169 delivery, faxed or other delivery method shall be accepted.

170 102.5-5. The names of the candidates and the positions sought shall be a public record and made  
 171 available to the public upon the determination of eligibility by the Election Board or the Board's  
 172 designated agent.

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*Section B. Eligibility Review*

102.5-6. Applicants found to be ineligible shall have two (2) business days to request an appeal. At least four (4) Election Board members shall constitute a hearing body. The Chairperson shall select the hearing body. The hearing shall be held within two (2) business days of receipt of the appeal. The applicant shall be notified by phone of time and place of the hearing. The decision of the hearing body shall be sent via certified mail or hand delivery within two (2) business days of the hearing. Any appeal from a decision of the Election Board hearing body shall be to the Judiciary on an accelerated schedule.

102.5-7. The Election Board shall be responsible for reviewing the qualifications of applicants to verify eligibility. Any applicant found to be ineligible for a position shall be notified by certified mail return receipt requested. The notice shall provide the following information:

- (a) Position for which they were considered
- (b) Qualification of the position and citation of the source. (Copies of source may be attached.)
- (c) A brief summary explaining why the applicant was found to be ineligible.
- (d) That the applicant has two (2) business days from notification to make an appeal. Appeals must be filed at the location designated on the notice by hand delivery. The location designated shall be on the Reservation. No mailed, internal Nation mail, faxed or other delivery method will be accepted.

*Section C. Campaign Financing*

102.5-8. Contributions:

- (a) Solicitation of Contributions by Candidates.
  - (1) Candidates shall only accept contributions from individuals who are members of the Nation or individuals related by blood or marriage to the candidate. Candidates may not accept contributions from any business, whether sole proprietorship, partnership, corporation, or other business entity.
  - (2) Candidates shall not solicit or accept contributions in any office or business/facility of the Nation.
- (b) Fines. Violation of the contribution restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

102.5-9. Campaign Signs and Campaigning:

- (a) Placement of campaign signs:
  - (1) Campaign signs shall not be posted or erected on any property of the Nation except for private property with the owner/tenant's permission.
  - (2) No campaign sign shall exceed sixteen (16) square feet in area. A maximum of seven (7) such signs may be placed on a building or on a lot.
  - (3) No campaign sign shall project beyond the property line into the public right of way.
- (b) Removal of campaign signs. All campaign signs shall be removed within five (5) business days after an election.
- (c) Employees of the Nation shall not engage in campaigning for offices of the Nation during work hours. The Nation's employees shall be subject to disciplinary action under the personnel policies and procedures for political campaigning during work hours.

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218 (d) Enforcement. The Zoning Administrator shall cause to be removed any campaign  
 219 signs that are not in compliance with this law, in accordance with the Zoning and Shoreland  
 220 Protection Law.

221 (e) Fines. Violation of the campaign sign restrictions shall result in a fine imposed by the  
 222 Election Board in an amount specified in a resolution adopted by the Business Committee.  
 223

224 *Section D. Candidate Withdrawal*

225 102.5-10 Any candidate may withdraw his or her name from a ballot if submitted in writing by  
 226 the candidate prior to submission of the ballot for printing to any Election Board member,  
 227 excluding alternates.

228 102.5-11 After printing of the ballot, any candidate may withdraw his or her name from the  
 229 election by submitting in writing a statement indicating they are withdrawing from the election  
 230 prior to the opening of the polls to any Election Board member, excluding alternates. This  
 231 statement shall be posted alongside any sample ballot printed prior to the election in the newspaper  
 232 or any posting at the polling places.

233 102.5-12. Candidates withdrawing after opening of the polls shall request, in writing to the  
 234 Election Board members in charge of the polling place, to be removed from the ballot. The written  
 235 statement shall be posted next to any posted sample ballot.

236 102.5-13. Candidates withdrawing by any method listed herein shall be denied any position from  
 237 which they have withdrawn regardless of the number of votes cast for that candidate. A written  
 238 statement shall be considered the only necessary evidence of withdrawal and acceptance of denial  
 239 of any position withdrawn from.

240 102.5-14. *Candidate Withdrawal After Winning an Election.*

241 (a) In the event a candidate declines an office after winning an election, the Election Board  
 242 shall declare the next highest vote recipient the winner. This procedure shall be repeated  
 243 as necessary until a winner is declared.

244 (b) If all vote recipients decline or are otherwise unable to be declared the winner, then a  
 245 Special Election shall be held.  
 246

247 **2.6. Selection of Candidates**

248 102.6-1. Any eligible member of the Nation may apply to be placed on a ballot according to the  
 249 following procedures:

250 (a) Applicants shall use an official form as designated by this law which may be  
 251 obtained in the Office of the Nation's Secretary.

252 (b) The form shall consist of information that satisfies the minimum requirements for  
 253 eligible candidates, as described in section 102.5-2 of this law.

254 (c) Applications shall be presented to the Nation's Secretary, or designated agent,  
 255 during normal business hours, 8:00 to 4:30 Monday through Friday, but no later than  
 256 prior to close of business on the application deadline established by the Election Board.  
 257 The location to drop-off applications shall be the Business Committee Support Office.

258 (d) The Nation's Secretary shall forward all applications to the Election Board  
 259 Chairperson the next business day following the close of submissions.

260 102.6-2. A person who runs for a position on the Oneida Business Committee, or a position on a  
 261 judicial court or commission, shall not run for more than one (1) elective office or seat per election.  
 262

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263 **102.7. Notice of Polling Places**

264 102.7-1. The Election Board shall post a notice in the prominent locations, stating the location of  
265 the polling places and the time the polls will be open. This notice shall also be posted in an easily  
266 visible position, close to the entrance of the Nation's businesses/facilities.

267 102.7-2. Polling information shall be posted no less than ten (10) calendar days prior to the  
268 election, and shall remain posted until the poll closes on the day of the election.

269 102.7-3. Except for a Special Election, notice for the election shall be mailed to all Nation  
270 members, stating the time and place of the election and a sample of the ballot, no less than ten (10)  
271 calendar days prior to the election, through a mass mailing. The Trust Enrollment Department  
272 shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior  
273 to the requested mailing.

274 102.7-4. Notice of the election shall be placed in the Nation's newspaper.  
275

276 **102.8. Registration of Voters**

277 *Section A. Requirements*

278 102.8-1. *Registration of Voters.* All enrolled members of the Nation, who are eighteen (18) years  
279 of age or over, are qualified voters of such election(s) as defined in Article III, Section 2 of the  
280 Oneida Nation Constitution.  
281

282 *Section B. Identification of Voters*

283 102.8-2. All voters must present one of the following picture identifications in order to be able to  
284 vote:

- 285 (a) Oneida Nation I.D.  
286 (b) Drivers License.  
287 (c) Other I.D. with name and photo.  
288

289 *Section C. Registration Procedures*

290 102.8-3. Voters shall physically register, on the day of the election, at the polls.

291 102.8-4. Trust Enrollment Department personnel shall be responsible for verifying enrollment  
292 with the Nation. Conduct of Trust Enrollment Department personnel is governed by the Election  
293 Officials during the voting period.

294 102.8-5. Every person who intends to vote must sign his/her name on an official Voter Registration  
295 Form containing the voter's following information:

- 296 (a) name and maiden name (if any);  
297 (b) current address;  
298 (c) date of birth; and  
299 (d) enrollment number.  
300

301 *Section D. Qualification/Verification of Voter Eligibility*

302 102.8-6. Should a question or dispute arise as to the eligibility of a voter being qualified to vote,  
303 the Judges of the Election Officials appointed by the Election Board Chairperson shall meet with  
304 the Trust Enrollment Department personnel who are registering voters, to decide the voting  
305 member's eligibility currently being questioned and shall make such decisions from the facts  
306 available, whether the applicant is, in fact, qualified/verifiable under the Oneida Nation  
307 Constitution, Article III Section 2, to vote in the Nation's elections.

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308 102.8-7. Any voter denied eligibility shall be allowed to vote, provided that the ballot shall be  
 309 placed in an envelope, initialed by two (2) Election Officials, sealed and numbered. The name of  
 310 the voter shall be written next to a numbered list which corresponds to the numbered and sealed  
 311 envelope. The voter shall be required to mail a written appeal to the Election Board at P.O. Box  
 312 413, Oneida, Wisconsin, 54155, postmarked within two (2) business days of the election if they  
 313 desire to challenge the decision made by the Election Officials. The Election Board shall make a  
 314 final decision, within five (5) business days of receiving the appeal and shall report this decision  
 315 in the final report sent to the Oneida Business Committee.

316

**102.9. Election Process***Section A. Polling Places and Times*

317  
 318  
 319 102.9-1. In accordance with Article III, Section 5 of the Oneida Nation Constitution, elections  
 320 shall be held in the month of July on a date set by the General Tribal Council. The General Tribal  
 321 Council shall set the election date at the January annual meeting, or at the first GTC meeting held  
 322 during a given year. Special Elections shall be set in accordance with 102.12-6.

323 102.9-2. Elections shall be held at an Oneida Nation facility(s) as determined by the Election  
 324 Board.

325 102.9-3. Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All voters in line  
 326 to vote at 7:00 p.m. shall be allowed to vote.

327 (a) If a ballot counting machine is used, the ballot counting machine shall be prepared  
 328 prior to 7:00 a.m. on the day of the election. The Judges shall open the polls only after four  
 329 (4) members of the Nation verify, through signature on the tape, the ballot box is empty  
 330 and the ballot counting machine printer tape has a zero (0) total count.

331 102.9-4. At least one (1) Oneida Police Officer shall be present during the time the polls are open,  
 332 and until the counting of ballots is completed, and tentative results posted.

333 102.9-5. The Election Board shall provide a voting area sufficiently isolated for each voter such  
 334 that there is an area with at least two sides and a back enclosure.

335 102.9-6. No campaigning of any type shall be conducted within two hundred eighty (280) feet of  
 336 the voting area, excluding private property.

337 102.9-7. No one causing a disturbance shall be allowed in the voting area.

338 102.9-8. Election Board members may restrict the voting area to qualified voters only. This  
 339 restriction is in the interest of maintaining security of the ballots and voting process.

340

*Section B. Ballot Box*

341  
 342 102.9-9. All ballots being votes, shall be placed in a receptacle clearly marked "Ballot Box" and  
 343 shall be locked until counting at the close of polls. Provided that, with electronic ballot counting,  
 344 the ballots may be placed within the ballot counting machine as they are received.

345

*Section C. Spoiled Ballots*

346  
 347 102.9-10. If a voter spoils his/her ballot, he/she shall be given a new ballot.

348 102.9-11. The spoiled ballot shall be marked "VOID" and initialed by two (2) Election Officials  
 349 and placed in an envelope marked as "Spoiled Ballots."

350 102.9-12. The Spoiled Ballot envelopes shall be retained and secured for no less than fifteen (15)  
 351 calendar days following finalization of any challenge of the election, at the Records Management  
 352 Department.



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*Section D. Rejected Ballots*

102.9-13. Rejected Ballots are to be placed in a specially marked container and sealed.

(a) Computer rejected ballots shall be reviewed by the Election Officials to verify the authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final computer total, provided that, a new ballot was not received as set out in sections 102.9-10 through 102.9-12.

(b) Ballots rejected, either during the computer process or during a manual counting, shall be reviewed by the Election Officials to verify that they are authentic. If the Election Officials determine that the ballot is not an official ballot, or that it is an illegal ballot, the ballot shall be designated 'void,' and placed in a sealed container marked "Void Ballots."

**102.10. Tabulating and Securing Ballots**

*Section A. Machine Counted Ballots*

102.10-1. When ballots are counted by machine, at the close of polls the Judges shall generate from the ballot counting machine copies of the election totals from the votes cast.

102.10-2. At least three (3) Election Board members shall sign the election totals, which shall include the tape signed by the members of the Nation before the polls were opened per section 102.9-3(a).

*Section B. Manually Counted Ballots*

102.10-3. When ballots are manually counted, at the close of polls the Judges shall unlock the ballot box and remove the ballots.

102.10-4. If the ballots need to be counted at a location other than the polling site, the ballots shall be secured in a sealed container for transportation to the ballot counting location. The sealed ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election Officials for counting/tallying of ballots.

102.10-5. The sealed ballots shall be opened at the time of counting by the Election Officials and witnessed/monitored by an Oneida Police Officer.

102.10-6. Ballots must be counted by two different Election Officials until two final tallies are equal in back to back counting. Final tallies shall be verified by the Election Judges.

*Section C. Securing Ballots*

102.10-7. The Judges shall place together all ballots counted and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots, and the election totals with the signed tape, if applicable, shall then be secured by the Judges in a sealed container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The Oneida Police Officer shall then deliver, on the day of the election, the sealed container to the Records Management Department for retaining.

**102.11. Election Outcome and Ties**

*Section A. Election Results Announcement*

102.11-1. The tentative results of an election shall be announced and posted by the Election Board within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain the following statement:

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398 *"The election results posted here are tentative results. Final election results are forwarded*  
 399 *by the Oneida Election Board to the Oneida Business Committee via a Final Report after*  
 400 *time has lapsed for recount requests, or challenges or after all recounts or challenges have*  
 401 *been completed, whichever is longer"*

402 102.11-2. The Election Board shall post, in the prominent locations, and publish in the Nation's  
 403 newspaper, the tentative results of an election.

404

405 *Section B. Tie*

406 102.11-3. In the event of a tie for any office, and where the breaking of a tie is necessary to  
 407 determine the outcome of an election, the Election Board shall conduct an automatic recount of  
 408 the votes for each candidate receiving the same number of votes. Any recount conducted shall be  
 409 the only recount allowed for the tied candidates.

410 102.11-4. For Business Committee positions, a run-off election between the candidates with the  
 411 same number of votes shall be held if there remains a tie after the recount. Said run-off election  
 412 shall be held within twenty-one (21) calendar days after the recount. For all other positions, if  
 413 there remains a tie after the recount, the Election Board shall decide the winner of the tied positions  
 414 at least two (2) business days after, but no more than five (5) business days after the recount  
 415 through a lot drawing, which shall be open to the public.

416 (a) The Election Board shall notify each of the tied candidates and the public of the date,  
 417 time, and place of the drawing at least one (1) business day before the drawing. Notice to  
 418 the tied candidates shall be in writing. Notice to the public shall be posted by the Election  
 419 Board in the prominent locations.

420 (b) On the date and at the time and place the drawing was noticed, the Election Board  
 421 Chairperson shall clearly write the name of each tied candidate on separate pieces of paper  
 422 in front of any witnesses present. The pieces of paper shall be the same, or approximately  
 423 the same, color, size, and type. The papers shall be folded in half and placed in a container  
 424 selected by the Election Board Chairperson.

425 (c) The Election Board Chairperson shall designate an uninterested party to draw a name  
 426 from the container. The candidate whose name is drawn from the container first shall be  
 427 declared the winner. An Election Board member other than the Chairperson shall remove  
 428 the remaining pieces of paper from the container and show them to the witnesses present.

429

430 *Section C. Recount Procedures*

431 102.11-5. A candidate may request the Election Board to complete a recount, provided the margin  
 432 between the requesting candidate's vote total and vote total for the unofficial winner was within  
 433 two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is  
 434 greater. A candidate requests a recount by hand delivering a written request to the office of the  
 435 Nation's Secretary, or noticed designated agent, within five (5) business days after the election.  
 436 Requests shall be limited to one (1) request per candidate. The Nation's Secretary shall contact  
 437 the Election Board Chairperson by the next business day after the request for recounts.

438 102.11-6. The Election Board shall respond by the close of business on the fifth (5<sup>th</sup>) day after the  
 439 request regarding the results of the recount. Provided that, no recount request need be honored  
 440 where there have been two (2) recounts completed as a result of a request either as a recount of the  
 441 whole election results, or of that sub-section.

442 102.11-7. All recounts shall be conducted manually with, if possible, the original Election

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443 Officials and Oneida Police Officer present, regardless of the original type of counting process.  
444 Manual recounts may, at the discretion of the Election Officials, be of the total election results, or  
445 of the challenged sub-section of the election results.

446 102.11-8. The Oneida Police Officer shall be responsible for picking up the locked, sealed  
447 container with the ballots from the Records Management Department and transporting it to the  
448 ballot recounting location.

449 102.11-9. A recount shall be conducted by a quorum of the Election Board, including at least three  
450 (3) of the original Election Officials. The locked, sealed ballots shall be opened by the Election  
451 Board Chairperson and an Oneida Police Officer shall witness the recount.

452 102.11-10. Recounting of ballots may be performed manually or by computer. All ballots shall be  
453 counted until two (2) final tallies are equal in back to back counting and the total count of ballots  
454 reconciles with the total count from the ballot counting machine. Sub-sections of candidates may  
455 be recounted in lieu of a full recount.

456 (a) Manually counted ballots shall be recounted by the Election Board. Ballots shall be  
457 counted twice by different persons and certified by the Judges.

458 (b) Computer counted ballots shall be recounted twice and certified by the Judges. Prior  
459 to using an electronic ballot counting device, it shall be certified as correct either by the  
460 maker, lessor of the machine, or Election Board.

461

462 *Section D. Challenges and Declaration of Results*

463 102.11-11. *Challenges.* Any qualified voter may challenge the results of an election by filing a  
464 complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall  
465 hear and decide a challenge to any election within two (2) business days after the challenge is filed.  
466 Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after  
467 the issuance of the lower body's decision and decided within two (2) business days after the appeal  
468 is filed.

469 (a) The person challenging the election results shall prove by clear and convincing  
470 evidence that the Election Law was violated or an unfair election was conducted, and that  
471 the outcome of the election would have been different but for the violation.

472 (b) If the Judiciary invalidates the election results, a Special Election shall be ordered by  
473 the Judiciary for the office(s) affected to be held on a date set by the Judiciary for as soon  
474 as the Election Law allows for a Special Election.

475 102.11-12. *The Final Report.* The Election Board shall forward a Final Report to the Nation's  
476 Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges  
477 have been completed, whichever is longer. The Final Report shall consist of the following  
478 information:

479 (a) Total number of persons voting.

480 (b) Total votes cast for each candidate by subsection of the ballot.

481 (c) List of any ties and final results of those ties, including the method of resolution.

482 (d) List of candidates elected and position elected to.

483 (e) Number of spoiled ballots.

484 (f) Cost of the election, including the compensation paid to each Election Board member.

485 102.11-13. *Declaration of Results.* The Business Committee shall declare the official results of  
486 the election and send notices regarding when the swearing in of newly elected officials shall take  
487 place within ten (10) business days after receipt of the Final Report.

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488 102.11-14. Candidates elected to the Business Committee shall resign from any salaried position  
 489 effective prior to taking a Business Committee oath of office

490 102.11-15. Except in the event of an emergency, as determined by the Business Committee,  
 491 newly elected officials shall be sworn into office no later than thirty (30) calendar days after the  
 492 official results of an election are declared by the Business Committee.

493 (a) If a newly elected official is not sworn in within thirty (30) calendar days, the seat shall  
 494 be considered vacant and the Election Board shall declare the next highest vote recipient  
 495 the winner. This procedure shall be repeated as necessary until a winner is declared.

496 (b) If all vote recipients decline or are otherwise unable to be declared the winner, then a  
 497 Special Election shall be held.

498 102.11-16. The Election Board shall send notice to the Records Management Department to  
 499 destroy the ballots thirty (30) calendar days after the election or after the final declaration of official  
 500 election results occurs, whichever is longer.

501

502 **102.12. Elections**503 *Section A. Primary Elections; Business Committee*

504 102.12-1. When a primary is required under 102.12-2, it shall be held on a Saturday at least sixty  
 505 (60) calendar days prior to the election.

506 102.12-2. There shall be a primary election for Business Committee positions whenever there are  
 507 three (3) or more candidates for any officer positions or sixteen (16) or more candidates for the at-  
 508 large council member positions.

509 (a) The two (2) candidates receiving the highest number of votes cast for each officer  
 510 position shall be placed on the ballot.

511 (b) The fifteen (15) candidates receiving the highest number of votes cast for the at-large  
 512 council member positions shall be placed on the ballot.

513 (c) Any position where a tie exists to determine the candidates to be placed on the ballot  
 514 shall include all candidates where the tie exists.

515 102.12-3. The Election Board shall cancel the primary election if the Business Committee  
 516 positions did not draw the requisite number of candidates for a primary.

517 102.12-4. In the event a candidate withdraws or is unable to run for office after being declared a  
 518 winner in the primary, the Election Board shall declare the next highest primary vote recipient the  
 519 primary winner. This procedure shall be repeated as necessary until the ballot is full or until there  
 520 are no available candidates. If the ballot has already been printed, the procedures for notifying the  
 521 Oneida public in section 102.5-11 and 102.5-12 shall be followed, including the requirement to  
 522 print a notice in the Nation's newspaper if timelines allow.

523

524 *Section B. Special Elections*

525 102.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as  
 526 defined in this law, may be placed on the same ballot as the subject matter of an election.

527 102.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business  
 528 Committee as recommended by the Election Board or as ordered by the Judiciary in connection  
 529 with an election challenge.

530 102.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent  
 531 locations, and placed in the Nation's newspaper not less than ten (10) calendar days prior to the  
 532 Special Election.

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533 102.12-8. In the event of an emergency, the Election Board may reschedule the election, provided  
534 that no less than twenty-four (24) hours notice of the rescheduled election date is given to the  
535 voters, by posting notices in the prominent locations.  
536

537 *Section C. Referendums*

538 102.12-9. Registered voters may indicate opinions on any development, law or resolution,  
539 proposed, enacted, or directed by the Business Committee, or General Tribal Council, in a special  
540 referendum election.

541 (a) Referendum elections in which a majority of the qualified voters who cast votes shall  
542 be binding on the Business Committee to present the issue for action/decision at General  
543 Tribal Council.

544 (b) Referendum requests may appear on the next called for election.

545 (c) Referendum questions regarding issues directly affecting the Nation or general  
546 membership are to be presented to the Nation's Secretary, or designated agent, in writing,  
547 during normal business hours, 8:00 a.m. until 4:30 p.m. Monday through Friday by the  
548 deadline established by the Election Board. No mailed, internal Nation mail delivery, faxed  
549 or other delivery method shall be accepted.  
550

551 *Section D. Initiation of Special Elections*

552 102.12-10. Special Elections may be initiated by a request or directive of the General Tribal  
553 Council or the Oneida Business Committee.

554 102.12-11. Special Election may be requested by a member of the Nation to the Business  
555 Committee or General Tribal Council.

556 102.12-12. All Special Elections shall follow rules established for all other elections. This includes  
557 positions for all Boards, Committees and Commissions.  
558

559 **102.13. Oneida Nation Constitution and By-law Amendments**

560 102.13-1. Pursuant to Article VI of the Oneida Nation Constitution, amendments to the Oneida  
561 Nation Constitution and By-laws may be initiated by the Oneida Business Committee or a petition  
562 of qualified voters. The requirements for the Oneida Business Committee's initiation of  
563 Constitutional amendments are as provided in the Constitution and as further detailed in the  
564 supporting standard operating procedures which the Oneida Business Committee shall adopt.  
565 Qualified voters may petition to amend the Oneida Nation Constitution and By-laws by submitting  
566 a petition to the Office of the Nation's Secretary which includes the full text of the proposed  
567 amendments and signatures that are equal in number to at least ten percent (10%) of all members  
568 qualified to vote.

569 (a) Qualified voters may request a petition form from the Office of the Nation's Secretary.

570 (b) When a petition form is requested, the Nation's Secretary, or his or her designee, shall  
571 direct the Trust Enrollment Department to calculate the number of signatures currently  
572 required for a petition submittal, which shall be ten percent (10%) of all members qualified  
573 to vote on the date the petition form is requested from the Office of the Nation's Secretary.  
574 When the Nation's Secretary receives the calculation from the Trust Enrollment  
575 Department, the Nation's Secretary shall provide the requester with the petition form and  
576 the number of signatures that are currently required.

577 (c) Such petitions shall be circulated with all supporting materials and submitted a

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578 minimum of ninety (90) days prior to the election at which the proposed amendment is to  
 579 be voted upon. If a petition includes supporting materials in addition to the petition form,  
 580 each qualified voter signing the petition shall also acknowledge that the supporting  
 581 materials were available for review at the time he or she signed the petition by initialing  
 582 where required on the petition form.

583 (d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment  
 584 Department for verification of signatures and to the Election Board to provide notice that  
 585 the petition may need to be placed on an upcoming ballot.

586 (e) If the petition is verified by the Trust Enrollment Department to contain signatures from  
 587 at least ten percent (10%) of all qualified voters, the Election Board shall make an official  
 588 announcement of the proposed amendments to the Oneida Nation Constitution at least sixty

589 (60) days prior to the election at which the proposed amendments are to be voted on.

590 102.13-2. The Election Board shall place any proposed amendments to the Oneida Nation  
 591 Constitution that meet the requirements contained in 102.13-1 on the ballot at the next general  
 592 election. Provided that, the Oneida Business Committee or General Tribal Council may order a  
 593 special election be held to consider the proposed amendments. In such circumstances, the Election  
 594 Board shall place any proposed amendments to the Oneida Nation Constitution on the ballot at the  
 595 next special election.

596 102.13-3. The Election Board shall publish any proposed amendments by publishing a sample  
 597 ballot no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust  
 598 Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty  
 599 (20) calendar days prior to the requested mailing. Copies of such publications shall be prominently  
 600 posted in each polling place and at administrative offices of the Nation and shall also be published  
 601 in official Oneida media outlets, which the Oneida Business Committee shall identify by  
 602 resolution. For the purposes of this section, Oneida administrative offices means the location  
 603 where the Oneida Business Committee conducts business.

604 102.13-4. The Election Board shall ensure that the ballot contains a statement of the purpose of  
 605 the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall  
 606 ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a  
 607 true and impartial statement and is written in such a manner that does not create prejudice for or  
 608 against the proposed amendment.

609 102.13-5. Pursuant to Article VI, Section 3 of the Oneida Nation Constitution, proposed  
 610 amendments that are approved by sixty-five percent (65%) of the qualified voters that vote on that  
 611 amendment shall become part of the Constitution and By-laws, and shall abrogate or amend  
 612 existing provisions of the Constitution and By-laws at the end of thirty (30) days after submission  
 613 of the final election report.

614 102.13-6. If two (2) or more amendments approved by the voters at the same election conflict, the  
 615 amendment receiving the highest affirmation vote prevails.

616  
 617  
 618 *End.*

~~619~~

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621 Adopted - June 19, 1993

622 Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

623 Presented for Adoption of 1997 Revisions - GTC-7-6-98-A

624 Amended- October 11, 2008 (General Tribal Council Meeting)

625 Amended-GTC-01-04-10-A

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- 626 Amended – BC-02-25-15-C
- 627 Amended – GTC-04-23-17-A
- 628 Emergency Amended – BC-03-17-20-B
- 629 Emergency Amended – BC-05-13-20-H
- 630 Emergency Amended – BC-06-24-20-B (Expired at Conclusion of 2020 General Election)
- 631 Emergency Amended – BC-\_\_-\_\_-\_\_-\_\_
- 632



## Legislative Operating Committee April 21, 2021

# Public Peace Law

<b>Submission Date:</b> 12/7/16	<b>Public Meeting:</b> n/a
<b>LOC Sponsor:</b> Jennifer Webster	<b>Emergency Enacted:</b> n/a

**Summary:** *The item was carried over from the last two terms. On October 26, 2016, the Oneida Police Commission, in its quarterly report to the Oneida Business Committee, made a recommendation to develop a Public Peace law in an effort to exercise the Nation’s sovereignty and jurisdiction. This recommendation was made based on input received during a community meeting held in Site 2 by the Oneida Police Department and Oneida Housing Authority due to a homicide investigation. The Oneida Business Committee then forwarded this request to the LOC who placed this item on the Active Files List in December 2016. The purpose of developing a Public Peace law would be to address trespassing, damage to property, noise nuisances, loitering, etc.*

**10/7/20 LOC:** Motion by Jennifer Webster to add the Public Peace Law to the Active Files List with Jennifer Webster as the sponsor; seconded by Marie Summers. Motion carried unanimously.

**12/16/20:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Joel Maxam, Renita Hernandez, Scott Denny, Brandon Yellowbird Stevens, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to begin discussing issues that are currently affecting neighborhoods in the Nation so that they can be addressed in the Public Peace law.

**1/15/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Renita Hernandez, Leslie Doxtator, Brandon Yellowbird Stevens, Krystal John, Michelle Hill, Lisa Rauschenbach, Jennifer Garcia, James Petitjean, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss the potential relationship between the enforcement of the Public Peace law and the enforcement of leases.

**1/28/21:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss a plan for moving this item forward through the legislative process.

**2/11/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen, Kristen Hooker. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the first draft of the Public Peace law.

**3/17/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Renita Hernandez, Brandon Yellowbird Stevens, Kelly McAndrews, Krystal John, Michelle Hill, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work



meeting was to review and discuss the first draft of the Public Peace law with the larger work team.

**4/7/21:**

*Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Renita Hernandez, Leslie Doxtator, Brandon Yellowbird Stevens, Kelly McAndrews, Michelle Hill, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the updated draft of the Public Peace law with the larger work team so that the law can move forward for a legislative analysis to be completed.

**Next Steps:**

- Approve the Public Peace law draft and legislative analysis.

**Title 3. Health & Public Safety - Chapter 309**  
**PUBLIC PEACE**

309.1. Purpose and Policy  
309.2. Adoption, Amendment, Repeal  
309.3. Definitions  
309.4. Jurisdiction and Authority  
309.5. Civil Infractions Against Property  
309.6. Civil Infractions Against the Peace

309.7. Civil Infractions Against Government  
309.8. Civil Infractions Against the Person  
309.9. Civil Infractions Involving Alcohol, Tobacco, and Drugs  
309.10. Civil Infractions Affecting Health and Safety  
309.11. Enforcement and Penalties

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**309.1. Purpose and Policy**

309.1-1. *Purpose.* The purpose of this law is to set forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation.

309.1-2. *Policy.* It is the policy of the Nation to promote peace and order within the boundaries of the Reservation while also providing an orderly process for addressing civil infractions that occur.

**309.2. Adoption, Amendment, Repeal**

309.2-1. This law was adopted by the Oneida Business Committee by resolution BC-\_\_-\_\_-\_\_-\_\_.

309.2-2. 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.

309.2-3. 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.

309.2-4. 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.

309.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**309.3. Definitions**

309.3-1. 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) “Adult at risk” means any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

(b) “Alcohol beverage” means a fermented malt beverage and any intoxicating liquor.

(c) “Bodily harm” means physical pain or injury, illness, or any impairment of physical condition.

(d) “Child” means a person who has not attained the age of eighteen (18) years.

(e) “Cigarette” means any roll for smoking made wholly or in part of tobacco, irrespective of size, shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

(f) “Drug paraphernalia” means any equipment, product, object or container used or intended for use to cultivate, plant, maintain, manufacture, package or store a prohibited

38 drug or inject, ingest, inhale or otherwise introduce an prohibited drug into the human body,  
39 regardless of the material composition of the instrument used for such purposes.

40 (g) “Elder at risk” means any person age fifty-five (55) or older who has experienced, is  
41 currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial  
42 exploitation.

43 (h) “Electronic cigarette” means device that enables a person to ingest nicotine, or other  
44 chemicals or substances, by inhaling a vaporized liquid and shall include the cartridges and  
45 other products used to refill the device. “Electronic cigarette” shall not include any device  
46 that is prescribed by a healthcare professional.

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

48 (j) “Gang” means an association of three (3) or more individuals whose members  
49 collectively identify themselves by adopting a group identity which they use to create an  
50 atmosphere of fear or intimidation frequently by employing one (1) or more of the  
51 following: a common name, slogan, identifying sign, symbol, tattoo, or other physical  
52 marking, style or color of clothing, hairstyle, hand sign or graffiti.

53 (k) “Intoxication” means not having the normal use of mental or physical faculties by  
54 reason of the introduction of an alcohol beverage or a prohibited drug, or any other  
55 substance into the body.

56 (l) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was  
57 established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later  
58 authorized to administer the judicial authorities and responsibilities of the Nation by  
59 Oneida General Tribal Council resolution GTC-03-19-17-A.

60 (m) “Liter” means all rubbish, waste materials refuse, garbage, trash debris, or other  
61 foreign substances, solid, liquid, or every form, size, and kind.

62 (n) “Merchant” means a person who deals in goods of the kind or otherwise by his or her  
63 occupation holds himself or herself out as having knowledge or skill peculiar to the  
64 practices or goods involved in the transaction or to whom such knowledge or skill may be  
65 attributed by his or her employment of an agent or broker or other intermediary who by his  
66 or her occupation holds himself or herself out as having such knowledge or skill.

67 (o) “Nation” means the Oneida Nation.

68 (p) “Official” means any person who is elected or appointed to serve a position for the  
69 Nation, including, but not limited to, a position on a board, committee, commission, or  
70 office of the Nation, including the Oneida Business Committee and Judiciary.

71 (q) “Pecuniary loss” means a loss of money, or of something by which money or of value  
72 may be acquired.

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

78 (s) “Recklessly” mean a person acts recklessly, or is reckless, with respect to circumstance  
79 surrounding his or her conduct, or the result of his or her conduct when he or she is aware  
80 of, but consciously disregards a substantial and unjustifiable risk that the circumstances  
81 exist or the result will occur. The risk must be of such a nature and degree that its disregard  
82 constitutes a gross deviation from the standard of care that an ordinary person would  
83 exercise under all the circumstances as viewed from the person’s standpoint.

84 (t) "Reservation" means all land within the exterior boundaries of the Reservation of the  
85 Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any  
86 lands added thereto pursuant to federal law.

87 (u) "Sexual harassment" means unwelcome sexual advances, requests for sexual favors,  
88 or other verbal or physical conduct of a sexual nature, submission to which is made a term  
89 or condition of a person's exercise or enjoyment of any right, privilege, power, or  
90 immunity, either explicitly or implicitly.

91 (v) "Theft detection device" means any tag or other device that is used to prevent or detect  
92 theft and that is attached to merchandise held for resale by a merchant or to property of a  
93 merchant.

94 (w) "Theft detection device remover" means any tool or device used, designed for use or  
95 primarily intended for use in removing a theft detection device from merchandise held for  
96 resale by a merchant or property of a merchant.

97 (x) "Theft detection shielding device" means any laminated or coated bag or device  
98 designed to shield merchandise held for resale by a merchant or property of a merchant  
99 from being detected by an electronic or magnetic theft alarm sensor.

100 (y) "Tobacco products" means cigars; cheroots; stogies; periques; granulated, plug cut,  
101 crimp cut, ready-rubbed and other smoking tobacco; snuff, including moist snuff; snuff  
102 flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts;  
103 refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of  
104 tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or  
105 otherwise, or both for chewing and smoking.

106 (z) "Trial Court" means the Trial Court of the Oneida Nation Judiciary.

107 (aa) "Weapon" means guns, switchblade knives, knives with blades longer than three (3)  
108 inches that are not being used for food preparation, electric weapons, billy clubs, and any  
109 other similar instrument or device.

#### 111 **309.4. Jurisdiction and Authority**

112 309.4-1. *Jurisdiction of the Court.* The Trial Court shall have jurisdiction over any action brought  
113 under this law.

114 309.4-2. *Standard of Proof.* All matters to be decided by the Trial Court shall be proven by clear  
115 and convincing evidence.

116 309.4-3. *Authority of the Oneida Police Department.* The Oneida Police Department shall have  
117 the authority to:

118 (a) investigate complaints involving civil infractions under this law; and

119 (b) issue citations for violations of this law.

120 309.4-4. *General Prohibition of Civil Infractions.* No person shall commit a civil infraction under  
121 this law.

#### 123 **309.5. Civil Infractions Against Property**

124 309.5-1. *Damage to Property.* A person commits the civil infraction of damage to property if he  
125 or she, without the consent of the owner:

126 (a) damages or destroys the property of the owner;

127 (b) tampers with property of the owner and causes pecuniary loss or substantial  
128 inconvenience to the owner or a third person;

129 (c) makes markings, including inscriptions, slogans, drawings, or paintings on the property  
130 of the owner; and/or

- 131 (d) alters, defaces, or damages in any way property owned by the Nation.  
132 309.5-2. *Reckless Damage or Destruction.* A person commits the civil infraction of reckless  
133 damage or destruction if without the consent of the owner he or she recklessly damages or destroys  
134 the property of the owner.  
135 309.5-3. *Trespass.* A person commits the civil infraction of trespass if he or she:  
136 (a) enters or remains on private property or property of the Nation without consent and he  
137 or she:  
138 (1) had notice that the entry was forbidden; or  
139 (2) received notice or order to depart but failed to do so.  
140 (b) *Notice.* Notice or an order to depart may be given by:  
141 (1) written or verbal communication given to the intruder by an Oneida Police  
142 Department officer, the owner of the property, or a person authorized to act on  
143 behalf of the owner;  
144 (2) written notice posted on or about the property in a manner reasonably likely to  
145 come to the attention of potential intruders; or  
146 (3) fences, barricades, or other devices manifestly designed to enclose the property  
147 and to exclude potential intruders.  
148 309.5-4. *Theft.* A person commits the civil infraction of theft is he or she:  
149 (a) obtains, exercises control over, or conceals anything of value of another without the  
150 consent of the owner; or  
151 (b) having lawfully obtained possession for temporary use of the property, deliberately  
152 and without consent, fails to return or reveal the whereabouts of said property to the owner,  
153 his or her representative or the person from which he or she has received it with the intent  
154 to permanently deprive the owner of its use and benefit.  
155 309.5-5. *Retail Theft.* A person commits the civil infraction of retail theft if he or she without the  
156 merchant's consent and with intent to deprive the merchant permanently of possession or the full  
157 purchase price of the merchandise or property:  
158 (a) intentionally alters indicia of price or value of merchandise held for resale by a  
159 merchant or property of a merchant;  
160 (b) intentionally takes and carries away merchandise held for resale by a merchant or  
161 property of a merchant;  
162 (c) intentionally transfers merchandise held for resale by a merchant or property of a  
163 merchant;  
164 (d) intentionally conceals merchandise held for resale by a merchant or property of a  
165 merchant;  
166 (e) intentionally retains possession of merchandise held for resale by a merchant or  
167 property of a merchant;  
168 (f) while anywhere in the merchant's premises, intentionally removes a theft detection  
169 device from merchandise held for resale by a merchant or property of a merchant;  
170 (g) uses, or possesses with intent to use, a theft detection shielding device to shield  
171 merchandise held for resale by a merchant or property of merchant from being detected by  
172 an electronic or magnetic theft alarm sensor; and/or  
173 (h) uses, or possesses with intent to use, a theft detection device remover to remove a theft  
174 detection device from merchandise held for resale by a merchant or property of a merchant.  
175 309.5-6. *Loitering.* A person commits the civil infraction of loitering if he or she loiters or prowls  
176 in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that  
177 warrant alarm for the safety of persons or property in the vicinity.

178 (a) Among the circumstances which may be considered in determining whether such alarm  
179 is warranted is the fact that the person:

- 180 (1) takes flight upon appearance of an Oneida Police Department Officer;
- 181 (2) refuses to identify himself or herself or manifestly endeavors to conceal himself  
182 or herself or any object; or
- 183 (3) refuses to leave the premises after being requested to move by an Oneida Police  
184 Department officer or by any person in authority at such place.

185 309.5-7. *Fraud*. A person commits the civil infraction of fraud if, to obtain property, money, gain,  
186 advantage, interest, asset, or services for himself or herself or another he or she:

- 187 (a) makes a materially false or misleading statement which he or she knows to be untrue  
188 or makes a remark with reckless disregard to the accuracy of the statement;
- 189 (b) withholds information by misrepresentation or deceit; or
- 190 (c) with intent to defraud or harm another, he or she destroys, removes, conceals, alters,  
191 substitutes or otherwise impairs the verity, legibility, or availability of a writing.

192 309.5-8. *Negligent Handling of Burning Material*. A person commits the civil infraction of  
193 negligent handling of burning material if he or she handles burning material in a highly negligent  
194 manner in which the person should realize that a substantial and unreasonable risk of serious  
195 damage to another person or another's property is created.

### 197 **309.6. Civil Infractions Against the Peace**

198 309.6-1. *Disorderly Conduct*. A person commits the civil infraction of disorderly conduct if he  
199 or she engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise  
200 disorderly conduct under circumstances in which the conduct tends to cause or provoke a  
201 disturbance. A civil infraction of disorderly conduct may include, but is not limited to, the  
202 following behaviors:

- 203 (a) fights with another person within the boundaries of the Reservation;
- 204 (b) discharges a firearm and/or air gun that are prohibited;
- 205 (c) makes or causes to be made any loud, disturbing or unnecessary sounds or noises which  
206 may annoy or disturb a person of ordinary sensibilities;
- 207 (d) abuses or threatens a person on property of the Nation in an obviously offensive  
208 manner;
- 209 (e) lies or sleeps on any street, alley or sidewalk, or in any other property of the Nation, or  
210 upon private property that he or she has no right to occupy; or
- 211 (f) uses abusive, indecent, profane, or vulgar language in property of the Nation, and the  
212 language by its very utterance tends to incite an immediate breach of the peace.

213 309.6-2. *Carrying a Prohibited Weapon*. A person commits the civil infraction of carrying a  
214 prohibited weapon if he or she bears or carries on or about his or her person, whether in the open  
215 or concealed, a weapon on any public property of the Nation, including any buildings, gaming or  
216 retail business, facility, construction site, fleet vehicle, or at any event sponsored by the Nation.

- 217 (a) *Exceptions*. An individual shall not be considered to have committed the civil  
218 infraction of carrying a prohibited weapon if he or she is actively engaged in:
  - 219 (1) the performance of the duties of his or her employment which requires a  
220 weapon to be carried, including sworn law enforcement officers or vendors who  
221 transport and/or distribute cash;
  - 222 (2) hunting, fishing, or trapping in accordance with the Nation's laws and rules  
223 governing hunting, fishing, and trapping; or
  - 224 (3) cultural activities or ceremonies.

225 309.6-3. *Gang Related Activity*. A person commits the civil infraction of gang activity if he or  
226 she participates in any activity with a gang which:

- 227 (a) creates an atmosphere of fear and intimidation in the community;
- 228 (b) engages in acts injurious to the public health, safety, or morals of the Nation; and/or
- 229 (c) engages in gang-focused illegal activity either individually or collectively.

230 309.6-4. *Throwing or Shooting Projectiles*. A person commits the civil infraction of throwing or  
231 shooting projectiles if he or she throws or shoots any object, stone, snowball, or other projectile  
232 by hand or by any other means, at any person, or at or into any building, street, sidewalk, alley,  
233 highway, park, playground or other public place.

234 309.6-5. *Obstructing Streets and Sidewalks*. A person commits the civil infraction of obstructing  
235 streets and sidewalks if he or she stands, sits, loafs, loiters, engages in any sport of exercise, or  
236 uses or maintains a motor vehicle on any public street, sidewalk, bridge, or public ground within  
237 the Reservation in such manner as to:

- 238 (a) prevent or obstruct the free passage of pedestrian or vehicular traffic;
- 239 (b) prevent or hinder free ingress to or egress from any place of business or amusement or
- 240 any church, public building or meeting place; or
- 241 (c) prevent the Nation from utilizing a snowplow or other maintenance equipment or
- 242 vehicles.

243 309.6-6. *Nuisance*. A person commits the civil infraction of nuisance whenever he or she engages  
244 in a thing, act, occupation, condition or use of property which shall continue for such length of  
245 time as to:

- 246 (a) substantially annoy, injure or endanger the comfort, health, repose or safety of the
- 247 public;
- 248 (b) in any way render the public insecure in life or in the use of property; and/or
- 249 (c) greatly offend the public morals or decency.

250 309.6-7. *Maintaining a Chronic Nuisance House*. A person commits the civil infraction of  
251 maintaining a chronic nuisance house if he or she has three (3) or more police contacts occurring  
252 during a twelve (12) month period at the premises that he or she owns or occupies through a lease  
253 or rental agreement.

254 309.6-8. *Interfering with Lawful Arrest or Resisting Arrest*. A person commits the civil infraction  
255 of interfering with lawful arrest or resisting arrest if by force, violence or other means, he or she:

- 256 (a) interferes, hinders or resists any Oneida Police Department officer in the performance
- 257 of his or her official duties;
- 258 (b) flees from any Oneida Police Department officer who is attempting to lawfully arrest
- 259 or detain him or her; or
- 260 (c) assists another to avoid a lawful arrest or harbors a fugitive.

### 261 262 **309.7. Civil Infractions Against Government**

263 309.7-1. *Disrupting a Meeting or Government Function*. A person commits the civil infraction  
264 of disrupting a meeting or government function if he or she:

- 265 (a) conducts himself or herself in a manner intended to prevent or disrupt a lawful meeting
- 266 held in any property owned or controlled by the Nation;
- 267 (b) refuses or fails to leave any property of the Nation upon being requested to do so by
- 268 any official charged with maintaining order in such property of the Nation;
- 269 (c) willfully denies any official, employee or member of the Nation the lawful right of such
- 270 person to enter, to use the facilities, or to leave any property of the Nation;

271 (d) at or in any property of the Nation willingly impedes any official or employee in the  
272 lawful performance of his or her duties or activities through the use of restraint, coercion,  
273 intimidation or by force and violence or threat thereof; and/or

274 (e) at any meeting or session conducted by any official of the Nation, held in any property  
275 of the Nation; through the use of restraint, coercion, intimidation or by force and violence  
276 or threat thereof; willfully impedes, disrupts, or hinders the normal proceedings of such a  
277 meeting or session by any act of intrusion into the chamber or other areas designated for  
278 the use of the body or official to conduct such a meeting.

279 309.7-2. *Breach of Confidentiality.* A person commits the civil infraction of breach of  
280 confidentiality if he or she;

281 (a) makes or disseminates any unauthorized audio or video recording within the designated  
282 meeting area of a General Tribal Council meeting, or executive session portion of a meeting  
283 of the Oneida Business Committee or any other board, committee, or commission of the  
284 Nation; or

285 (b) disseminates any confidential meeting materials of the General Tribal Council, Oneida  
286 Business Committee, or any other board, committee, or commission of the Nation,  
287 including but not limited to, meeting packets and meeting minutes, to any individual not  
288 authorized to access the materials.

289 309.7-3. *Threatening an Official.* A person commits the civil infraction of threatening an official  
290 if he or she threatens to inflict serious injury against an official, a member of the official's family,  
291 or the official's property as a result of any action taken by the official in the course of his or her  
292 duties.

### 294 **309.8. Civil Infractions Against the Person**

295 309.8-1. *Assault.* A person commits the civil infraction of assault if he or she:

296 (a) causes bodily harm to another;

297 (b) threatens another with imminent bodily harm;

298 (c) causes physical contact with another when the person knows or should reasonably  
299 believe that the other person will regard the contact as offensive or provocative;

300 (d) uses or exhibits a weapon during the commission of the assault; or

301 (e) forcibly assaults or intimidates any authorized law enforcement official lawfully  
302 discharging an official duty.

303 309.8-2. *Harassment.* A person commits the civil infraction of harassment if, with intent to harass,  
304 alarm, abuse, or torment another he or she:

305 (a) initiates communication in person, by telephone, in writing, or through any means of  
306 electronic communication and in the course of the communication makes a comment,  
307 request, suggestion or proposal that is obscene or false;

308 (b) threatens, in person, by telephone, in writing, or through any means of electronic  
309 communication in a manner reasonably likely to alarm the person receiving the threat, to  
310 inflict serious injury against the person, a member of his or her family, or his or her  
311 property;

312 (c) conveys, in a manner reasonably likely to alarm the person receiving the report, a false  
313 report, which is known by the conveyer to be false, that another person has suffered death  
314 or serious bodily harm;

315 (d) causes the telephone of another to ring repeatedly or makes repeated telephone  
316 communications anonymously or in a manner reasonably likely to harass, alarm, abuse,  
317 torment, or offend another;



- 318 (e) knowingly permits a telephone or electronic device under his or her control to be used  
319 by a person to commit an infraction under this section; or  
320 (f) intentionally subjects another to sexual harassment.

321 309.8-3. *Abuse of Individuals at Risk.* A person commits the civil infraction of abuse of  
322 individuals at risk if he or she subjects an adult at risk or elder at risk to any of the following:

- 323 (a) physical abuse;  
324 (b) emotional abuse;  
325 (c) sexual abuse;  
326 (d) unreasonable confinement or restraint;  
327 (e) financial exploitation; and/or  
328 (f) deprivation of a basic need for food, shelter, clothing, or personal or health care,  
329 including deprivation resulting from the failure to provide or arrange for a basic need by a  
330 person who has assumed responsibility for meeting the need voluntarily or by contract,  
331 agreement, or court order.

332 309.8-4. *Truancy.* A person commits the civil infraction of truancy if he or she fails without good  
333 cause to ensure that a child he or she is responsible for the care of attends school in accordance  
334 with the rules of the school district in which the child is enrolled.

335

### 336 **309.9. Civil Infractions Involving Alcohol, Tobacco, and Drugs**

337 309.9-1. *Public Intoxication.* A person commits the civil infraction of public intoxication if he or  
338 she appears intoxicated by alcohol beverages and/or prohibited drugs on public property of the  
339 Nation to the degree that the person may endanger himself or herself, or another person.

340 309.9-2. *Unauthorized Alcohol Beverage.* A person commits the civil infraction of unauthorized  
341 alcohol beverage if he or she consumes or possesses any open or unsealed container containing an  
342 alcohol beverage on any public way, in any parking lot held for public use, or on or within the  
343 premises of a public place or on or in any motor vehicle on a public way or in parking lot held out  
344 for public use, unless such person is on the premises of an establishment holding a valid license  
345 for the on premises consumption of alcoholic beverages. No person may possess or consume an  
346 alcohol beverage on school premises or while participating in a school-sponsored activity.

347 309.9-3. *Underage Possession of Alcohol.* A person commits the civil infraction of underage  
348 possession of alcohol if he or she purchases, attempts to purchase, possesses, or consumes an  
349 alcohol beverage prior to reaching the age of twenty-one (21) years unless accompanied by his or  
350 her parent, guardian, or spouse who has attained the legal drinking age.

351 309.9-4. *Furnishing Alcohol Beverages to Minors.* A person commits the civil infraction of  
352 furnishing alcohol beverages to minors if he or she procures for, sells, dispenses or gives away any  
353 alcohol beverages to any person under the age of twenty-one (21) years who is not accompanied  
354 by his or her parent, guardian, or spouse who has attained the legal drinking age.

355 309.9-5. *Underage Possession of Tobacco.* A person commits the civil infraction of underage  
356 possession of tobacco if he or she purchases, attempts to purchase, possesses, or consumes a  
357 cigarette, electronic cigarette, or other tobacco product prior to reaching the age of twenty-one (21)  
358 years.

359 309.9-6. *Furnishing Tobacco to Minors.* A person commits the civil infraction of furnishing  
360 tobacco to minors if he or she procures for, sells, dispenses or gives away a cigarette, electronic  
361 cigarette, or other tobacco product to any person under the age of twenty-one (21) years.

362 309.9-7. *Misrepresentation of Identification Card.* A person commits the civil infraction of  
363 misrepresentation of identification card if he or she:

- 364 (a) intentionally carries an official identification card not legally issued to him or her, an  
365 official identification card obtained under false pretenses or an official identification card  
366 which has been altered or duplicated to convey false information;  
367 (b) makes, alters or duplicates an official identification card purporting to show that he or  
368 she has attained the legal age to purchase and consume alcohol beverages or cigarettes,  
369 electronic cigarettes, or other tobacco products;  
370 (c) presents false information to an issuing officer in applying for an official identification  
371 card; and/or  
372 (d) intentionally carries an official identification card or other documentation showing that  
373 the person has attained the legal age to purchase and consume alcohol beverages or  
374 cigarettes, electronic cigarettes, or other tobacco products, with knowledge that the official  
375 identification card or documentation is false.

376 309.9-8. *Possession of Prohibited Drugs.* A person commits the civil infraction of possession of  
377 prohibited drugs if he or she possesses or consumes a prohibited drug or is in possession of any  
378 drug paraphernalia.

379 309.9-9. *Manufacturing Prohibited Drugs.* A person commits the civil infraction of  
380 manufacturing prohibited drugs if he or she manufactures, sells, or distributes any prohibited drug  
381 or drug paraphernalia.

382 309.9-10. *Maintaining a Drug House.* A person commits the civil infraction of maintaining a  
383 drug house if he or she owns or occupies any premise that is used to facilitate the use, delivery,  
384 distribution or manufacture of a prohibited drug.

385 309.9-11. *Determination of Prohibited Drugs.* An Oneida Police Department officer shall make  
386 the determination as to whether a substance is a prohibited drug using standard law enforcement  
387 field testing practices.

388

### 389 **309.10. Civil Infractions Affecting Health and Safety**

390 309.10-1. *Littering.* A person commits the civil infraction of littering if he or she deposits, throws,  
391 dumps, discards, abandons, leaves any litter on any private property or property of the Nation.

392 309.10-2. *Unsightly Areas.* A person commits the civil infraction of unsightly areas if he or she  
393 allows any scrap, refuse, junk, salvage, rubbish or property within the exterior boundaries of the  
394 Reservation that creates unsightly areas and/or contributes to health and safety hazards.

395 309.10-3. *Depositing Human Waste.* A person commits the civil infraction of depositing human  
396 waste if he or she urinates or defecates upon any public or private property other than into a toilet  
397 or other device designed and intended to be used to ultimately deposit such human waste products  
398 into a septic or sanitary sewer system.

399 309.10-4. *Exposure of a Communicable or Infectious Disease.* A person commits the civil  
400 infraction of exposure of a communicable or infectious disease if he or she is knowingly infected  
401 with a communicable or infectious disease and willfully exposes himself or herself to another  
402 person, which puts that person in danger of contracting the communicable or infectious disease.

403

### 404 **309.11. Enforcement and Penalties**

405 309.11-1. *Issuance of a Citation.* An individual who violates a provision of this law may be  
406 subject to the issuance of a citation by an Oneida Police Department officer.

407 (a) A citation for a violation of this law and/or any orders issued pursuant to this law may  
408 include fines and other penalties, as well as conditional orders made by the Trial Court.

409 (b) A citation for a violation of this law shall be processed in accordance with the  
410 procedure contained in the Nation's laws and policies governing citations.

411 (c) *Notice to the Comprehensive Housing Division.* An Oneida Police Department officer  
412 shall provide notice to the Oneida Law Office attorney assigned to the Comprehensive  
413 Housing Division of any citation issued to an individual located at a property rented or  
414 leased through the Comprehensive Housing Division. Any information or reports shared  
415 by the Oneida Police Department officer with the Oneida Law Office attorney shall remain  
416 confidential as agreed upon between the Oneida Law Office and the Oneida Police  
417 Department Chief of Police.

418 (1) Notwithstanding constraints imposed by any rules promulgated under any laws  
419 of the Nation governing leases, eviction, and/or termination, the Oneida Law Office  
420 attorney is vested with the discretion to resolve any housing related enforcement  
421 occurring in accordance with this law to the mutual benefit of all involved parties.

422 309.11-2. *Penalties.* Upon a finding by the Trial Court that a violation of this law has occurred,  
423 the individual may be subject to the following penalties:

424 (a) *Fines.* An individual may be ordered to pay a fine as a result of a violation of this law.  
425 The Oneida Business Committee shall adopt through resolution a citation schedule which  
426 sets forth specific fine amounts for violations of this law.

427 (1) All fines shall be paid to the Judiciary.

428 (2) Fines shall be paid within ninety (90) days after the order is issued or upheld  
429 on final appeal, whichever is later.

430 (A) The ninety (90) day deadline for payment of fines may be extended if  
431 an alternative payment plan is negotiated by the Oneida Law Office and  
432 approved by the Trial Court.

433 (3) If an individual does not pay his or her fine the Trial Court may seek to collect  
434 the money owed through the Nation's garnishment and/or per capita attachment  
435 process or any other collection process available to the Trial Court.

436 (4) Community service may be substituted for part or all of any fine at the minimum  
437 wage rate of the Nation for each hour of community service.

438 (b) *Community Service.* An individual may be ordered to perform community service.  
439 Community service can be used in lieu of, or in addition to, a fine.

440 (1) All community service assignments shall be approved by the Trial Court. The  
441 Trial Court shall give preference to culturally relevant community service  
442 assignments and/or community service assignments that focus on the betterment of  
443 the individual's community.

444 (2) The Trial Court shall provide the individual a written statement of the terms of  
445 the community service order, and a statement that the community service order is  
446 monitored.

447 (3) The Trial Court's community service order shall specify:

448 (A) how many hours of community service the individual is required to  
449 complete;

450 (B) the time frame in which the hours shall be completed;

451 (C) how the individual shall obtain approval for his or her community  
452 service assignment;

453 (D) how the individual shall report his or her hours; and

454 (E) any other information the Trial Court determines is relevant.

455 (c) *Counseling and/or other Programs.* An individual may be ordered to participate in  
456 counseling and/or any other program relevant and available to the Nation.

- 457 (d) *Restitution*. An individual may be ordered to pay restitution, which may include the  
458 repayment of any improperly received benefit, or any other payment which is intended to  
459 make another whole after suffering losses as a result of the actions of the individual.  
460 (e) Any other penalty as deemed appropriate by the Trial Court.

461  
462 *End.*  
463  
464

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Adopted – BC-\_\_-\_\_-\_\_-\_\_



## PUBLIC PEACE LAW LEGISLATIVE ANALYSIS

### SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Proposed Law</b>	<ul style="list-style-type: none"> <li>▪ Delegate jurisdiction to the Trial Court for any action brought under this law [3 O.C. 309.4-1];</li> <li>▪ Delegate authority to the Oneida Police Department to investigate complaints involving civil infraction under this law and issue citations for violations of this law [3 O.C. 309.4-3];</li> <li>▪ Prohibit a person from committing a civil infraction under this law [3 O.C. 309.4-4];</li> <li>▪ Provide the various civil infractions including:               <ul style="list-style-type: none"> <li>▪ Civil infractions against property [3 O.C. 309.5];</li> <li>▪ Civil infractions against the peace [3 O.C. 309.6];</li> <li>▪ Civil infractions against government [3 O.C. 309.7];</li> <li>▪ Civil infractions against the person [3 O.C. 309.8];</li> <li>▪ Civil infractions involving alcohol, tobacco, and drugs [3 O.C. 309.9]; and</li> <li>▪ Civil Infractions affecting health and safety [3 O.C. 309.10];</li> </ul> </li> <li>▪ Provide that citation for a violation of this law shall be processed in accordance with the procedure contained in the Nation’s laws and policies governing citations [3 O.C. 309.11-1(b)];</li> <li>▪ Require that an Oneida Police Department officer provide notice to the Oneida Law Office attorney assigned to the Comprehensive Housing Division of any citation issued to an individual located at a property rented or leased through the Comprehensive Housing Division, and that the Oneida Law Office attorney is then vested with the discretion to resolve any housing related enforcement occurring in accordance with this law to the mutual benefit of all involved parties, notwithstanding constraints imposed by any rules promulgated under any laws of the Nation governing leasing, eviction, and/or termination [3 O.C. 309.11-1(c)]; and</li> <li>▪ Provide various penalties to be utilized by the Trial Court upon a finding that a violation of this law has occurred, including:               <ul style="list-style-type: none"> <li>▪ Fines [3 O.C. 309.11-2(a)];</li> <li>▪ Community service [3 O.C. 309.11-2(b)];</li> <li>▪ Counseling and/or other programs [3 O.C. 309.11-2(c)];</li> <li>▪ Restitution [3 O.C. 309.11-2(d)]; and/or</li> <li>▪ Any other penalty as deemed appropriate by the Trial Court. [3 O.C. 309.11-2(e)].</li> </ul> </li> </ul>
<b>Purpose</b>	To set forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation. [1 O.C. 309.1-1]
<b>Affected Entities</b>	Oneida Nation Judiciary, Oneida Police Department, Oneida Law Office, Comprehensive Housing Division.
<b>Related Legislation</b>	Citations law, Per Capita law, Garnishment law, Eviction and Termination law, Leasing law
<b>Public Meeting</b>	A public meeting has not yet been held.
<b>Fiscal Impact</b>	A fiscal impact statement has not yet been requested.

## 1 SECTION 2. LEGISLATIVE DEVELOPMENT

- 2 A. *Background.* The request for the Legislative Operating Committee to develop and adopt a Public Peace  
3 law (“the Law”) was originally submitted on December 7, 2016. On October 26, 2016, the Oneida  
4 Police Commission, in its quarterly report to the Oneida Business Committee, made a recommendation  
5 to develop a Public Peace law in an effort to exercise the Nation’s sovereignty and jurisdiction. This  
6 recommendation was made based on input received during a community meeting held in Site 2 by the  
7 Oneida Police Department and Oneida Housing Authority due to a homicide investigation. The Oneida  
8 Business Committee then forwarded this request to the LOC who originally placed this item on the  
9 Active Files List in December 2016. The purpose of developing a Public Peace law would be to address  
10 community issues such as trespassing, damage to property, noise nuisances, and loitering.
- 11 B. On October 7, 2020, the Legislative Operating Committee added the Public Peace law to its Active  
12 Files List with Jennifer Webster as the sponsor. This item had been carried over from the last two (2)  
13 Legislative Operating Committee terms. Since that time, a work group of representatives from the  
14 Oneida Police Department, Oneida Law Office, Tribal Action Plan (TAP), Comprehensive Housing  
15 Division, and the Oneida Business Committee has met to work on the development of the Law.
- 16 C. On November 13, 2020, the LOC received a request from Vice Chairman Brandon Stevens to develop  
17 a Nuisance law on an emergency basis. Vice Chairman Stevens provided that he would like a Nuisance  
18 law developed on an emergency basis to preserve the welfare of the community from homes that are  
19 suspected drug houses. He also provided that currently the Comprehensive Housing Division and the  
20 Oneida Police Department have little authority over some homes on the Reservation, especially  
21 conveyed homes, and he would like to see that changed. The Legislative Operating Committee denied  
22 the request to develop a Nuisance law because the Legislative Operating Committee already had the  
23 development of a Public Peace law on its Active Files List, and the Public Peace law would address the  
24 social issues the request for a Nuisance law identified.

## 25 SECTION 3. CONSULTATION AND OUTREACH

- 26 A. Representatives from the following departments of the Nation participated in the development of this  
27 Law and legislative analysis:  
28 Law and legislative analysis:
- 29 ▪ Oneida Business Committee;
  - 30 ▪ Oneida Law Office;
  - 31 ▪ Oneida Police Department;
  - 32 ▪ Strategic Planner;
  - 33 ▪ Tribal Action Plan (TAP); and
  - 34 ▪ Comprehensive Housing Division.
- 35 B. The following laws of the Nation were reviewed in the drafting of this analysis:
- 36 ▪ Citations law;
  - 37 ▪ Per Capita law;
  - 38 ▪ Garnishment law;
  - 39 ▪ Oneida Judiciary Rules of Civil Procedure;
  - 40 ▪ Real Property law;
  - 41 ▪ Leasing law;
  - 42 ▪ Eviction and Termination law.
- 43 C. The following laws and ordinances from other States, municipalities, and Tribes were reviewed in the  
44 drafting of this law and analysis:

- 45       ▪ Ysleta del Sur Pueblo Peace Code;
- 46       ▪ Stockbridge-Munsee Public Peace and Good Order Ordinance;
- 47       ▪ Saginaw Chippewa Public Nuisance Order;
- 48       ▪ Rincon Band of Luiseno Mission Indians Peace and Security Ordinance;
- 49       ▪ Ho-Chunk Nation Public Nuisance Act;
- 50       ▪ Village of Hobart Peace and Good Order Law;
- 51       ▪ Green Bay Public Peace and Good Order Ordinance;
- 52       ▪ Green Bay Public Nuisance Ordinance;
- 53       ▪ Brown County Offenses Against Public Peace and Safety; and
- 54       ▪ Relevant State of Wisconsin statutes.

55 **D. COVID-19 Pandemic’s Effect on the Legislative Process.** The world is currently facing a pandemic  
56 of COVID-19. The COVID-19 outbreak originated in Wuhan, China and has spread to many other  
57 countries throughout the world, including the United States. The COVID-19 pandemic has resulted in  
58 high rates of infection and mortality, as well as vast economic impacts including effects on the stock  
59 market and the closing of all non-essential businesses. A public meeting for this proposed Law will not  
60 be held due to the COVID-19 pandemic, but the submission of written comments will still be permitted.

- 61       ▪ *Declaration of a Public Health State of Emergency.*
  - 62           ▪ On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State*  
63           *of Emergency*” regarding the COVID-19 pandemic which declared a Public Health State  
64           of Emergency for the Nation until April 12, 2020, and set into place the necessary authority  
65           for action to be taken and allows the Nation to seek reimbursement of emergency  
66           management actions that may result in unexpected expenses.
  - 67           ▪ The Public Health State of Emergency has since been extended until May 12, 2021, by the  
68           Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-05-  
69           06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-  
70           20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-  
71           21-D.
- 72       ▪ *COVID-19 Core Decision Making Team Declarations: Safer at Home.*
  - 73           ▪ On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer*  
74           *at Home*” declaration which ordered all individuals present within the Oneida Reservation  
75           to stay at home or at their place of residence, with certain exceptions allowed. This  
76           declaration prohibited all public gatherings of any number of people.
  - 77           ▪ On April 21, 2020, the COVID-19 Core Decision Making Team issued an “*Updated Safer*  
78           *at Home*” declaration which allowed for gaming and golf operations to resume.
  - 79           ▪ On May 19, 2020, the COVID-19 Core Decision Making Team issued a “*Safer at Home*  
80           *Declaration, Amendment, Open for Business*” which directs that individuals within the  
81           Oneida Reservation should continue to stay at home, businesses can re-open under certain  
82           safer business practices, and social distancing should be practiced by all persons.
  - 83           ▪ On June 10, 2020, the COVID-19 Core Decision Making Team issued a “*Stay Safer at*  
84           *Home*” declaration which lessened the restrictions of the “*Safer at Home Declaration,*  
85           *Amendment, Open for Business*” while still providing guidance and some restrictions. This  
86           declaration prohibits all public and private gatherings of more than twenty (20) people that  
87           are not part of a single household or living unit.

- 88           ▪ On July 17, 2020, the COVID-19 Team issued a “*Safe Re-Opening Governmental Offices*”  
89           which sets minimum standards for the safe re-opening of a building or recall of employees  
90           to work.
- 91       ▪ *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the*  
92       *Legislative Procedures Act.*
- 93           ▪ On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a  
94           “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which  
95           suspended the Legislative Procedures Act's requirement to hold a public meeting during  
96           the public comment period, but allows members of the community to still participate in the  
97           legislative process by submitting written comments, questions, data, or input on proposed  
98           legislation to the Legislative Operating Committee via e-mail during the public comment  
99           period.
- 100          ▪ Although a public meeting will not be held on the proposed Law, a public comment period  
101          will still be held open in accordance with the Legislative Procedures Act and the COVID-  
102          19 Core Decision Making Team’s “*Suspension of Public Meetings under the Legislative*  
103          *Procedures Act*” declaration.

#### 104 105 **SECTION 4. PROCESS**

106 **A.** This Law has followed the process set forth in the Legislative Procedures Act (LPA).

- 107           ▪ On October 7, 2020, the Legislative Operating Committee added the Public Peace law to its  
108           Active Files List.
- 109           ▪ On April 21, 2021, the Legislative Operating Committee will consider the approval of the draft  
110           and legislative analysis for this Law.

111 **B.** At the time this legislative analysis was developed the following work meetings had been held  
112 regarding the development of this Law:

- 113           ▪ December 16, 2020: LOC work meeting held with representatives from the Oneida Police  
114           Department, TAP, Comprehensive Housing Division, and Oneida Business Committee.
- 115           ▪ January 15, 2021: LOC work meeting held with representatives from the Oneida Police  
116           Department, TAP, Comprehensive Housing Division, Oneida Law Office, Oneida Business  
117           Committee, and Strategic Planner.
- 118           ▪ January 28, 2021: LOC work meeting.
- 119           ▪ February 11, 2021: LOC work meeting.
- 120           ▪ March 17, 2021: LOC work meeting held with representatives from the Oneida Police  
121           Department, TAP, Comprehensive Housing Division, Oneida Law Office, and Oneida  
122           Business Committee.
- 123           ▪ April 7, 2021: LOC work meeting held with representatives from the Oneida Police  
124           Department, TAP, Comprehensive Housing Division, Oneida Law Office, and Oneida  
125           Business Committee.

#### 126 127 **SECTION 5. CONTENTS OF THE LEGISLATION**

128 **A. *Intent of the Law.*** The purpose of this law is to set forth community standards and expectations which  
129 preserve the peace, harmony, safety, health, and general welfare of individuals who live within the  
130 boundaries of the Reservation. [3 O.C. 309.1-1]. It is the policy of the Nation to promote peace and  
131 order within the boundaries of the Reservation while also providing an orderly process for addressing



132 civil infractions that occur. [3 O.C. 309.1-2]. The Legislative Operating Committee was motivated to  
133 develop this Law after hearing concerns from fellow Oneida Business Committee councilmembers and  
134 members of the community regarding issues and problems occurring in neighborhoods throughout the  
135 Reservation.

136 **B. *Prohibition of Civil Infractions.*** This Law prohibits a person from committing a civil infraction. [3  
137 O.C. 309.4-4]. The Law then goes on to provide details on what constitutes various civil infractions  
138 and organizes each civil infraction into different categories. The following constitutes the organization  
139 of the civil infractions:

- 140     ▪ *Civil Infractions Against Property [3 O.C. 309.5].*
  - 141         ▪ Damage to Property;
  - 142         ▪ Reckless Damage or Destruction;
  - 143         ▪ Trespass;
  - 144         ▪ Theft;
  - 145         ▪ Retail Theft;
  - 146         ▪ Loitering;
  - 147         ▪ Fraud; and
  - 148         ▪ Negligent Handling of Burning Material.
- 149     ▪ *Civil Infractions Against the Peace [3 O.C. 309.6].*
  - 150         ▪ Disorderly Conduct;
  - 151         ▪ Carrying a Prohibited Weapon;
  - 152         ▪ Gang Related Activity;
  - 153         ▪ Throwing or Shooting Projectiles;
  - 154         ▪ Obstructing Streets and Sidewalks;
  - 155         ▪ Nuisance;
  - 156         ▪ Maintaining a Chronic Nuisance House; and
  - 157         ▪ Interfering with Lawful Arrest or Resisting Arrest.
- 158     ▪ *Civil Infractions Against Government [3 O.C. 309.7].*
  - 159         ▪ Disrupting a Meeting or Government Function;
  - 160         ▪ Breach of Confidentiality; and
  - 161         ▪ Threatening an Official.
- 162     ▪ *Civil Infractions Against the Person [3 O.C. 309.8].*
  - 163         ▪ Assault;
  - 164         ▪ Harassment;
  - 165         ▪ Abuse of Individuals at Risk; and
  - 166         ▪ Truancy.
- 167     ▪ *Civil Infractions Involving Alcohol, Tobacco, and Drugs [3 O.C. 309.9].*
  - 168         ▪ Public Intoxication;
  - 169         ▪ Unauthorized Alcohol Beverage;
  - 170         ▪ Underage Possession of Alcohol;
  - 171         ▪ Furnishing Alcohol Beverages to Minors;
  - 172         ▪ Underage Possession of Tobacco;
  - 173         ▪ Furnishing Tobacco to Minors;
  - 174         ▪ Misrepresentation of Identification Card;
  - 175         ▪ Possession of Prohibited Drugs;

- 176           ▪ Manufacturing Prohibited Drugs;
- 177           ▪ Maintaining a Drug House; and
- 178           ▪ Determination of a Prohibited Drug.
- 179       ▪ *Civil Infractions Affecting Health and Safety [3 O.C. 309.10].*
- 180           ▪ Littering;
- 181           ▪ Unsightly Areas;
- 182           ▪ Depositing Human Waste; and
- 183           ▪ Exposure of a Communicable or Infectious Disease.

184 **C. *Enforcement.*** The Oneida Police Department is delegated the authority to investigate complaints  
185 involving civil infractions under this Law, and to issue citations for violations of this Law. [3 O.C.  
186 309.4-3(a)-(b), 309.11-1]. A citation issued for a violation of this Law is required to be processed in  
187 accordance with the process and procedure contained in the Nation’s Citations law. [3 O.C. 309.11-  
188 1(b)]. Once an Oneida Police Department Officer issues a citation, the Trial Court then has jurisdiction  
189 over any action brought under this law. [3 O.C. 309.4-1]. A citation for a violation of this Law and/or  
190 any orders issued pursuant to this Law may include fines and other penalties, as well as conditional  
191 orders made by the Trial Court. [3 O.C. 309.11-1(a)]. All matters decided by the Trial Court shall be  
192 proven by clear and convincing evidence. [3 O.C. 309.4-2]. The Citations law requires that this standard  
193 of proof be used. [8 O.C. 807.6-2(a)]. Clear and convincing evidence means that the person filing the  
194 complaint must provide evidence indicating that the allegation to be proved is highly probable or  
195 reasonably certain. This is a greater burden than “preponderance of the evidence” standard, which is  
196 the standard used in most civil trials, but a lesser burden than “beyond a reasonable doubt” standard,  
197 which is used for criminal trials. The Trial Court is then responsible for determining that a violation of  
198 this Law has occurred, and if so, imposing a penalty on the individual. [3 O.C. 309.11-2].

199 **D. *Penalties.*** Upon a finding by the Trial Court that a violation of this law has occurred, an individual  
200 may be subject to the following penalties:

- 201       ▪ *Fines.* An individual may be ordered to pay a fine as a result of a violation of this law. The Oneida  
202 Business Committee is given the responsibility to adopt through resolution a citation schedule  
203 which sets forth specific fine amounts for violations of this law. [3 O.C. 309.11-2(a)]. The Law  
204 then goes on to provide details as to who fines should be paid to, and the deadline for paying a fine.  
205 [3 O.C. 309.11-2(a)(1)-(2)]. If an individual does not pay his or her fine within the required  
206 timeframe, the Trial Court may seek to collect the money owed through the Nation’s garnishment  
207 and/or per capita attachment process or any other collection process available to the Trial Court. [3  
208 O.C. 309.11-2(a)(3)].
- 209       ▪ *Community Service.* An individual may be ordered to perform community service, which can be  
210 used in lieu of, or in addition to, a fine. [3 O.C. 309.11-2(b)]. The Law then goes on to provide  
211 how community service assignments will be approved, what information the community service  
212 order is required to contain, and how the community service assignment will be monitored. [3 O.C.  
213 309.11-2(b)(1)-(3)].
- 214       ▪ *Counseling and/or other programs.* An individual may be ordered to participate in counseling  
215 and/or any other program relevant and available to the Nation. [3 O.C. 309.11-2(c)].
- 216       ▪ *Restitution.* An individual may be ordered to pay restitution, which may include the repayment of  
217 any improperly received benefit, or any other payment which is intended to make another whole  
218 after suffering losses as a result of the actions of the individual. [3 O.C. 309.11-2(d)].

219       ▪ *Any other penalty as deemed appropriate by the Trial Court.* The Trial Court is given discretion  
220       and flexibility to utilize any other penalty that may be deemed appropriate based on the facts and  
221       details of each specific case. [3 O.C. 309.11-2(e)].

222 **E. *Interaction with the Comprehensive Housing Division.*** An Oneida Police Department officer is  
223       required to provide notice of a citation to the Oneida Law Office attorney assigned to the  
224       Comprehensive Housing Division if the citation was issued to an individual located at a property rented  
225       or leased through the Comprehensive Housing Division. [3 O.C. 309.11-1(c)]. Any information or  
226       reports shared by the Oneida Police Department officer with the Oneida Law Office attorney shall  
227       remain confidential as agreed upon between the Oneida Law Office and the Oneida Police Department  
228       Chief of Police. *Id.* Notwithstanding constraints imposed by any rules promulgated under any laws of  
229       the Nation governing leases, eviction, and/or termination, the Oneida Law Office attorney is vested  
230       with the discretion to resolve any housing related enforcement occurring in accordance with this law to  
231       the mutual benefit of all involved parties. [3 O.C. 309.11-1(c)(1)]. The purpose of this provision is to  
232       promote communication between the Oneida Police Department and the Comprehensive Housing  
233       Division, and recognize that the Comprehensive Housing Division has its own enforcement  
234       mechanisms, that although separate from the process and procedures contained in this Law, may be  
235       triggered when an individual who they hold lease or rental agreement with violates this Law and  
236       receives a citation. Discretion is given to the Comprehensive Housing Division’s attorney to resolve  
237       housing related enforcement occurring in accordance with this Law despite the confines of any rules  
238       promulgated under relevant housing related laws in an effort to provide more flexibility to the  
239       Comprehensive Housing Division to resolve an issue to the mutual benefit of all parties involved.

240

## 241 **SECTION 6. EXISTING LEGISLATION**

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

243       ▪ *Citations law.* The Citations law provides a consistent process for handling citations of the Nation  
244       in order to ensure equal and fair treatment to all persons who come before the Judiciary to have  
245       their citations resolved. [8 O.C. 807.1-2]. The Citations law provides how a citation action is started  
246       – such as who has the authority to issue a citation, the requirements of the form of the citation, and  
247       how a citation is served and filed; stipulations for the settlement of a citation; and the citation  
248       hearing procedures. [8 O.C. 807].

249               ▪ This Law provides that a citation for a violation of this Law shall be processed in  
250               accordance with the procedure contained in the Nation’s laws and policies governing  
251               citations. [3 O.C. 302.10-2]. The Citations law is the Nation’s law governing citations.

252               ▪ Any citations issued by the Oneida Police Department for a violation of this Law must  
253               comply with the requirements and procedures of the Citations law. [3 O.C. 309.11-  
254               1(b)].

255       ▪ *Garnishment Law.* The Garnishment law allows the Nation to exercise its authority to provide an  
256       effective mechanism for creditors to access an employee’s income for reduction of personal debt.  
257       [2 O.C. 204.1-1]. Garnishment of an individual’s income to collect debt owed to an entity of the  
258       Nation is allowed under the Garnishment law. [2 O.C. 204.6].

259               ▪ If an official is ordered to pay a fine in accordance with this Law and does not pay  
260               according to the deadline, the Trial Court may seek to collect that fine through the  
261               Nation’s garnishment process. [3 O.C. 309.11-2(a)(3)].

- 262       ▪ *Per Capita Law.* The Per Capita law specifies the procedure to be followed in the event that per  
263 capita payments are distributed by the Nation and states the responsibilities of the various Oneida  
264 entities in the distribution or maintenance of any such per capita payments. [1 O.C. 123.1-1]. The  
265 Per Capita law allows per capita payments to be subject to attachment prior to distribution for debt  
266 owed to an Oneida entity. [1 O.C. 123.4-9, 123.4-9(a)(2)].
- 267               ▪ If an official is ordered to pay a fine in accordance with this Law and does not pay  
268 according to the deadline, the Trial Court may seek to collect that fine through the  
269 Nation’s per capita attachment process. [3 O.C. 309.11-2(a)(3)].
- 270       ▪ *Leasing Law.* The Leasing law sets out the Nation’s authority to issue, review, approve and enforce  
271 leases. [6 O.C. 602.1-1]. The Leasing law delegates all powers necessary and proper to the  
272 Comprehensive Housing Division to enforce the lease terms, the Leasing law and any rules  
273 developed pursuant to the Leasing law. [6 O.C. 602.11-1]. If a lessee or other party causes or  
274 threatens to cause immediate and significant harm to the premises, or undertakes criminal activity  
275 thereon, the Comprehensive Housing Division may take appropriate emergency action, which may  
276 include cancelling the lease and/or securing judicial relief. [6 O.C. 602.11-2].
- 277               ▪ If a person commits a civil infraction under this Law, his or her violations of this Law  
278 may be used as a basis of lease enforcement action by the Comprehensive Housing  
279 Division.
- 280       ▪ *Eviction and Termination Law.* The Eviction and Termination law provides consistent procedures  
281 relating to the Nation’s rental and leasing programs for terminating a contract and/or evicting an  
282 occupant which affords the applicant due process and protects all parties involved. [6 O.C. 610.1-  
283 1]. The Eviction and Termination law provides that an owner may terminate the contract prior to  
284 the contract term and evict the occupant if the occupant is alleged to have violated any applicable  
285 law or rule of the Nation, or is alleged to have committed one or more nuisance activities. [6 O.C.  
286 610.5-1(b)-(c)].
- 287               ▪ If a person commits a civil infraction under this Law, his or her violations of this Law  
288 may be used as a basis of eviction or termination of a contract action by the  
289 Comprehensive Housing Division.
- 290

## 291 **SECTION 7. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR OBLIGATIONS**

292 **A. *Effect on Existing Rights.*** An individual who is issued a citation for a violation of this law has due  
293 process protections under the Citations law. The Citations law protects due process rights by:

- 294       ▪ Requiring that all citations be properly noticed and served on the defendant, including a notice of  
295 the defendant’s rights and privileges, hearing dates and information [8 O.C. 807.4-3, 807.4-4];
- 296       ▪ Ensuring that defendants have the right to contest their citations in the Nation’s Judiciary [8 O.C.  
297 807.6-1];
- 298       ▪ Establishing a formal process for stipulations that require defendants to acknowledge that they are  
299 waiving their rights to contest the citation in court and sign a statement that they enter into the  
300 agreement free of duress and coercion [8 O.C. 807.5]; and
- 301       ▪ Providing an opportunity for a defendant to appeal the Trial Court or Family Court’s decision to  
302 the Nation’s Court of Appeals in accordance with the Rules of Appellate Procedure. [8 O.C. 807.6-  
303 3].
- 304
- 305

306 **SECTION 8. ENFORCEMENT AND ACCOUNTABILITY**

- 307 A. **Enforcement.** The Oneida Police Department is delegated enforcement authority under this Law.  
308     ▪ The Oneida Police Department has the authority to investigate complaints involving civil  
309         infractions under this Law, and to issue citations for violations of this Law. [3 O.C. 309.4-3(a)-(b),  
310         309.11-1].
- 311 B. **Citation Schedule Resolution.** The Oneida Business Committee is delegated the authority to adopt  
312         through resolution a citation schedule which sets forth specific fine amounts for violations of this Law.  
313         [3 O.C. 30309.11-2(a)].

314

315 **SECTION 9. OTHER CONSIDERATIONS**

- 316 A. **Public Peace Law Citation Schedule.** This Law provides that the Oneida Business Committee shall  
317         hereby be delegated the authority to adopt through resolution a citation schedule which sets forth  
318         specific fine amounts for violations of this Law. [3 O.C. 309.11-2(a)]. A citation schedule will need to  
319         be developed and adopted.
- 320     ▪ **Conclusion.** The Legislative Operating Committee will need to work with the affected entities to  
321         develop a citation schedule resolution that can be presented to the Oneida Business Committee for  
322         consideration at the time the adoption of this Law is considered.
- 323 B. **Fiscal Impact.** Under the Legislative Procedures Act, a fiscal impact statement is required for all  
324         legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-  
325         10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*  
326         *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete  
327         a fiscal impact statement at various stages of the legislative process, as well as timeframes for  
328         completing the fiscal impact statement.
- 329     ▪ **Conclusion.** The Legislative Operating Committee will need to direct that a fiscal impact statement  
330         be completed for the proposed Law.

331



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



### AGENDA REQUEST FORM

- 1) Request Date: April 14, 2021
- 2) Contact Person(s): Attorney Kristen Hooker  
Dept: Legislative Reference Office  
Phone Number: 920-869-4411 Email: khooker@oneidanation.org
- 3) Agenda Title: Emergency Amendments to the Pardon and Forgiveness Law
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
On 4.14.21, the OBC adopted a motion for the LOC to develop emergency amendments to 126.8 of the Pardon & Forgiveness law to allow a virtual hearing to be scheduled as soon as possible regarding the existing applications to avoid further delay for the 4.28.21 OBC meeting.

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

- 1) Adoption Packet 3) \_\_\_\_\_
- 2) \_\_\_\_\_ 4) \_\_\_\_\_
- 5) Please list any laws, policies or resolutions that might be affected:  
\_\_\_\_\_
- 6) Please list all other departments or person(s) you have brought your concern to:  
\_\_\_\_\_
- 7) Do you consider this request urgent?  Yes  No  
If yes, please indicate why:  
Per the directive of the OBC, this item is supposed to come back to the April 28, 2021 OBC meeting.

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

Signature of Requester: *Kristen Hooker*


*Please send this form and all supporting materials to:*

**LOC@oneidanation.org**  
*or*  
**Legislative Operating Committee (LOC)**  
P.O. Box 365  
Oneida, WI 54155  
Phone 920-869-4376



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 28, 2021  
RE: Pardon and Forgiveness Law Emergency Amendments

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Please find the following attached backup documentation for your consideration of the Pardon and Forgiveness Law Emergency Amendments:

1. Resolution: Emergency Amendments to the Pardon and Forgiveness Law
2. Statement of Effect: Emergency Amendments to the Pardon and Forgiveness Law
3. Pardon and Forgiveness Law Emergency Amendments Legislative Analysis
4. Pardon and Forgiveness Law (Redline)
5. Pardon and Forgiveness Law (Clean)

#### Overview

Emergency amendments to the Pardon and Forgiveness law (“Law”) are being sought to address the impact that the COVID-19 pandemic has had on the ability of the Pardon and Forgiveness Screening Committee (“PFSC”) to process, as well as conduct hearings, on applications for a pardon or forgiveness in a fair and efficient manner as is required under the Law. Currently, the Law only allows for hearings on an application for a pardon or forgiveness to be conducted in-person, at a location to be determined by the PFSC. [1 O.C. 126.8-1]. The emergency amendments to the Law will add an option for the PFSC to conduct its hearings virtually when it deems necessary. [1 O.C. 126.8-1(a)].

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” due to the COVID-19 pandemic 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]. The Oneida Business Committee has extended this Public Health State of Emergency until May 12, 2021, through the adoption of the following resolutions: BC-03-26-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-21-D. [3 O.C. 302.8-2].

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 this Law are necessary for the preservation of the public health, safety, and general welfare of the Reservation population. The emergency amendments are needed to protect the Reservation population against the public health crisis that is the COVID-19 pandemic. By allowing the PFSC to hold hearings on applications for a pardon or forgiveness virtually, instead of just in-person as is currently the only option, it will eliminate any unnecessary contact between individuals which could spread the COVID-19, while still affording individuals the fair and efficient process guaranteed under the Law to seek a pardon or forgiveness from the Nation.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of these amendments would be contrary to public interest. The PFSC was just recently placed back into active status through adoption of resolution BC-11-24-20-C and is trying to fill several vacancies that were not allowed to be posted during the period in which the PFSC was under temporary closure. While in temporary closure status, the PFSC received three (3) applications for a pardon or forgiveness that have yet to be processed or set for hearing. Since the Nation's Public Health State of Emergency does not expire until May 12, 2021, and with applications for a pardon or forgiveness already pending, as well as more submissions likely, the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure applicants receive the fair and efficient avenue required under the Law to seek a pardon or forgiveness without unnecessarily exposing them, and possibly the public, to the risks associated with the COVID-19 virus.

The emergency amendments to the Law will become effective immediately upon adoption by the Oneida Business Committee and will remain effective for six (6) months. There will be one (1) opportunity to extend the emergency amendments for an additional six (6) months. [1 O.C. 109.9-5(b)].

### **Requested Action**

Adopt the Resolution: Emergency Amendments to the Pardon and Forgiveness Law.



# Oneida Nation

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Oneida, WI 54155

## BC Resolution # Emergency Amendments to the Pardon and Forgiveness Law

- 1   **WHEREAS,**   the Oneida Nation is a federally recognized Indian government and a treaty tribe  
2                   recognized by the laws of the United States of America; and  
3
- 4   **WHEREAS,**   the Oneida General Tribal Council is the governing body of the Oneida Nation; and  
5
- 6   **WHEREAS,**   the Oneida Business Committee has been delegated the authority of Article IV, Section 1,  
7                   of the Oneida Tribal Constitution by the Oneida General Tribal Council; and  
8
- 9   **WHEREAS,**   the Pardon and Forgiveness law (“Law”) was adopted and subsequently amended by the  
10                  Oneida Business Committee through resolutions BC-05-25-11-A and BC-01-22-14-B,  
11                  respectively; and  
12
- 13   **WHEREAS,**   the purpose of the Law is to provide a fair, efficient and formal process by which: (1) a  
14                  member of the Nation may receive a pardon for the conviction of a crime; (2) a member of  
15                  the Nation may receive forgiveness for acts that render him or her ineligible for housing or  
16                  other benefits through the Nation; and (3) a member or non-member of the Nation may  
17                  receive forgiveness for acts that render him or her ineligible to be employed with the Nation,  
18                  receive a Nation-issued occupational license, certification or permit, and/or obtain housing  
19                  or other benefits through the Nation; and  
20
- 21   **WHEREAS,**   Section 126.4-1 of the Law establishes a Pardon and Forgiveness Screening Committee  
22                  (“PFSC”) to carry out various responsibilities that include, but are not limited to: processing  
23                  applications for a pardon or forgiveness; conducting, as well as presiding over, hearings  
24                  on the applications; and providing formal, written recommendations to the Oneida Business  
25                  Committee on whether to approve or deny requests for a pardon or forgiveness; and  
26
- 27   **WHEREAS,**   on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of*  
28                  *Emergency*” in response to the COVID-19 outbreak, which declared a Public Health State  
29                  of Emergency for the Nation until April 12, 2020 and set into place the necessary authority  
30                  for the Nation to take action, as well as seek reimbursement of emergency management  
31                  actions that may result in unexpected expenses; and  
32
- 33   **WHEREAS,**   the Nation’s Public Health State of Emergency has since been extended until May 12,  
34                  2021, through the adoption of the following resolutions: BC-03-26-20-A, BC-05-06-20-A,  
35                  BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-  
36                  10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-21-D; and  
37
- 38   **WHEREAS,**   on March 24, 2020, the Nation’s COVID-19 Core Decision Making Team (“COVID-19  
39                  Team”) issued a “*Safer at Home*” declaration which prohibits all public gatherings of any  
40                  number of people and orders all individuals present within the Oneida Reservation to stay  
41                  at home or at their place of residence, with certain exceptions allowed; and  
42
- 43   **WHEREAS,**   on April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-B,  
44                  placing certain of the Nation’s boards, committees and commissions, including the PFSC,

45 in temporary closure status for the remainder of Fiscal Year 2020 and during any continuing  
46 resolution for Fiscal Year 2021; and  
47

48 **WHEREAS,** the April 8, 2020 resolution further directed that the posting of vacancies for those boards,  
49 committees and commissions placed in temporary closure status shall be discontinued for  
50 the remainder of Fiscal Year 2020 and during any continuing resolution for Fiscal Year  
51 2021; and  
52

53 **WHEREAS,** thereafter, the COVID-19 Team modified its March 24, 2020 "*Safer at Home*" declaration  
54 through the issuance of its April 21, 2020 "*Updated Safer at Home*" declaration; May 19,  
55 2020 "*Safer at Home Declaration, Amendment, Open for Business*" declaration; June 10,  
56 2020 "*Stay Safer at Home*" declaration; and July 17, 2020 "*Safe Re-Opening Governmental*  
57 *Offices*" declaration; and  
58

59 **WHEREAS,** on August 12, 2020 the Oneida Business Committee adopted resolution BC-08-12-20-J  
60 titled, *Continuing Resolution for Fiscal Year 2021*, which, per resolution BC-04-08-20-B,  
61 meant that, like the other listed boards, committees and commissions, the PFSC, was to  
62 remain in temporary closure status pending the adoption of a Fiscal Year 2021 budget; and  
63

64 **WHEREAS,** through adoption of resolution BC-11-24-20-C titled, *Continuation of Temporary Closure of*  
65 *Listed Boards, Committees and Commissions for Fiscal Year 2021*, the Oneida Business  
66 Committee decided to continue the temporary closure of those boards, committees and  
67 commissions, regardless of budget adoption, for the entirety of 2021; and  
68

69 **WHEREAS,** the Oneida Business Committee expressly exempted the PFSC from resolution BC-11-24-  
70 20-C's application and the PFSC was soon placed back into active status, with vacancies  
71 for the community-at-large positions being posted shortly thereafter; and  
72

73 **WHEREAS,** while in temporary closure status, three (3) applications for a pardon or forgiveness have  
74 been submitted to the PFSC; however, hearings on those applications have yet to be  
75 conducted; and  
76

77 **WHEREAS,** the Supervisor of the Boards, Committees and Commissions has requested emergency  
78 amendments to the Pardon and Forgiveness law to address the impact COVID-19 has had  
79 on the PFSC's ability to process applications and conduct hearings on those applications  
80 in a fair, efficient and safe manner; and  
81

82 **WHEREAS,** the proposed emergency amendments to the Law will add an option, along with a process,  
83 for the PFSC to conduct hearings on applications for a pardon or forgiveness virtually,  
84 instead of just in-person as is currently the only option allowed for under the Law; and  
85

86 **WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact  
87 legislation on an emergency basis, to be in effect for a period of six (6) months, renewable  
88 for an additional six (6) months; and  
89

90 **WHEREAS,** emergency adoption of legislation is allowed when legislation is necessary for the  
91 immediate preservation of the public health, safety, or general welfare of the Reservation  
92 population, and the amendment of the legislation is required sooner than would be possible  
93 under the Legislative Procedures Act; and  
94

95 **WHEREAS,** the emergency adoption of the amendments to the Law are necessary for the preservation  
96 of the public health, safety and general welfare of the Reservation population to protect the  
97 Reservation population against the public health crisis that is the COVID-19 pandemic by  
98 providing a virtual option that will eliminate unnecessary contact between individuals who  
99 may have been exposed to or could spread the virus, while still affording individuals a fair

100 and efficient process to seek a pardon or forgiveness that may make them a more fulfilled  
101 and productive member of society; and

102  
103 **WHEREAS,** observance of the requirements under the Legislative Procedures Act for adoption of this  
104 amendment would be contrary to public interest since the Nation's Public Health State of  
105 Emergency does not expire until May 12, 2021 and, with applications pending and more  
106 submissions likely, the process and requirements of the Legislative Procedures Act cannot  
107 be completed in time to ensure applicants receive the fair and efficient procedure required  
108 under the Law without unnecessarily exposing them, as well as the public, to the risks  
109 associated with the COVID-19 virus; and

110  
111 **WHEREAS,** the Legislative Procedures Act does not require a public meeting or fiscal impact statement  
112 when considering emergency legislation; and

113  
114 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts emergency  
115 amendments to the Pardon and Forgiveness law effective immediately.



## Statement of Effect

### *Emergency Amendments to the Pardon and Forgiveness Law*

#### *Summary*

This resolution adopts emergency amendments to the Pardon and Forgiveness law (“Law”) to address the effect that the COVID-19 pandemic has had on the Pardon and Forgiveness Screening Committee’s ability to process applications and conduct hearings for a pardon or forgiveness in accordance with the Law.

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

*Date: April 15, 2021*

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

This resolution adopts emergency amendments to the Pardon and Forgiveness law (“Law”). The purpose of the Law is to provide a fair, efficient and formal process by which: (1) a member of the Nation may receive a pardon for the conviction of a crime; (2) a member of the Nation may receive forgiveness for acts that render him or her ineligible for housing or other benefits through the Nation; (3) a member or non-member of the Nation may receive forgiveness for acts that render him or her ineligible to be employed with the Nation, receive a Nation-issued occupational license, certification or permit, and/or obtain housing or other benefits through the Nation. [1 O.C. 126.1-1].

The Nation’s Pardon and Forgiveness Screening Committee (“PFSC”) was established in accordance with the Law to carry out certain of the responsibilities set forth therein, including that the PFSC process the applications for a pardon or forgiveness in an orderly and expeditious manner, as well as conduct and preside over the hearings on said applications. [1 O.C. 126.4-1 and 126.4-2(b) & (d)]. Currently, the Law only allows for hearings on an application for a pardon or forgiveness to be conducted in-person, at a location to be determined by the PFSC. [1 O.C. 126.8-1]. The emergency amendments to the Law will add an option for the PFSC to conduct its hearings virtually when it deems necessary. [1 O.C. 126.8-1(a)].

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].

In early 2020, the world began experiencing the effects of the COVID-19 pandemic. In response to the pandemic, on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*,” per the Emergency Management law, to set into place the necessary authority for the Nation to take action, if necessary, and to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. The Nation’s Public Health State of Emergency has since been extended until May 12, 2021, through adoption

of the following resolutions: BC-03-26-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A and BC-03-10-21-D. [3 O.C. 302.8-2].

On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team (“COVID-19 Team”) issued a “*Safer at Home*” declaration, prohibiting all public gatherings of any number of people and ordering all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed.

On April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-B, which placed certain of the Nation’s boards, committees and commissions, including the PFSC, in temporary closure status for the remainder of Fiscal Year 2020 and during any continuing resolution for Fiscal Year 2021. The resolution further directed that the posting of any vacancies for those boards, committees and commissions be discontinued until their temporary closure status is lifted.

Soon thereafter, the COVID-19 Team modified its March 24, 2020 “*Safer at Home*” declaration through the issuance of its April 21, 2020 “*Updated Safer at Home*” declaration; May 19, 2020 “*Safer at Home Declaration, Amendment, Open for Business*” declaration; June 10, 2020 “*Stay Safer at Home*” declaration; and July 17, 2020 “*Safe Re-opening Governmental Offices*” declaration. And, on August 12, 2020, the Oneida Business Committee adopted resolution BC-08-12-20-J titled, *Continuing Resolution for Fiscal Year 2021*, meaning that, per resolution BC-04-08-20-B, the boards, committees and commissions listed therein, which included the PFSC, were to remain in temporary closure status pending the adoption of a Fiscal Year 2021 budget.

On November 24, 2020, however, the Oneida Business Committee adopted resolution BC-11-24-20-C titled, *Continuation of Temporary Closure of Listed Boards, Committees and Commissions for Fiscal Year 2021*, which continued the temporary closure of those listed boards, committees and commissions, regardless of budget adoption, for the entirety of 2021. The PFSC was expressly exempted from this resolution, and thus, placed back into active status, with vacancies for the community-at-large positions being posted shortly thereafter.

While in temporary closure status, the PFSC received three (3) applications for a pardon or forgiveness that have yet to be processed or set for hearing. The Boards, Committees and Commissions Supervisor has requested emergency amendments to the Law to address the impact COVID-19 has had on the PFSC’s ability to process applications and conduct hearings on those applications in a fair, efficient and safe manner.

The resolution provides that the emergency amendments to this Law are necessary for the preservation of the public health, safety, and general welfare of the Reservation population. The emergency amendments are needed to protect the Reservation population against the public health crisis that is the COVID-19 pandemic. By allowing the PFSC to conduct hearings on applications for a pardon or forgiveness virtually, instead of in-person, it will eliminate unnecessary contact between individuals who may have been exposed to the COVID-19 virus, while still affording individuals a fair and efficient process to seek a pardon or forgiveness.

Additionally, the resolution provides that observance of the requirements under the LPA for adoption of this amendment would be contrary to public interest since the Nation's Public Health State of Emergency does not expire until May 12, 2021 and, with applications pending, as well as more submissions likely, the process and requirements of the LPA cannot be completed in time to ensure applicants receive the fair and efficient procedure required under the Law for seeking a pardon or forgiveness without unnecessarily exposing them, and possibly the public, to the risks associated with the COVID-19 virus.

The emergency amendments to the Law will take effect immediately upon adoption by the Oneida Business Committee and will remain effective for six (6) months. The LPA provides the possibility to extend the emergency amendments 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 PARDON AND FORGIVENESS LAW LEGISLATIVE ANALYSIS

## SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Proposed Amendments</b>	To provide the Pardon and Forgiveness Screening Committee (“PFSC”) with the authority to conduct hearings on applications for a pardon or forgiveness virtually, as opposed to just in-person as is currently the only option afforded to the PFSC under the Pardon and Forgiveness law.
<b>Purpose</b>	To provide a fair, efficient and formal process by which: <ul style="list-style-type: none"> <li>▪ a member of the Nation may receive a pardon for the conviction of a crime;</li> <li>▪ a member of the Nation may receive forgiveness for acts that render him or her ineligible for housing or other benefits through the Nation; and</li> <li>▪ a member or non-member of the Nation may receive forgiveness for acts that render him or her ineligible to be employed with the Nation, receive a Nation-issued occupational license, certification or permit, and/or obtain housing or other benefits through the Nation [1 O.C. 126.1-1].</li> </ul>
<b>Affected Entities</b>	Pardon and Forgiveness Screening Committee; Business Committee Support Office; Applicants seeking a pardon or forgiveness from the Nation.
<b>Related Legislation</b>	Legislative Procedures Act; Boards, Committees and Commissions law; Emergency Management law.
<b>Public Meeting</b>	A public meeting is not required for emergency legislation [1 O.C. 109.8-1(b) and 109.9-5(a)].
<b>Fiscal Impact</b>	A fiscal impact statement is not required for emergency legislation [1 O.C. 109.9-5(a)].
<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. [1 O.C. 109.9-5(b)].

## SECTION 2. LEGISLATIVE DEVELOPMENT

- A. Background.** The Pardon and Forgiveness law (“Law”) was first adopted in 2011, through resolution BC-05-25-11-A, and subsequently amended in 2014, through adoption of resolution BC-01-22-14-B. [1 O.C. 126.2-1]. The purpose of the Law is to provide a fair, efficient and formal process by which:
- A member of the Nation may receive a pardon for the conviction of a crime;
  - A member of the Nation may receive forgiveness for acts that render him or her ineligible for housing or other benefits through the Nation; and
  - A member or non-member of the Nation may receive forgiveness for acts that render him or her ineligible to:
    - Be employed with the Nation;
    - Receive a Nation-issued occupational license, certification or permit; and/or
    - Obtain housing or other benefits through the Nation [1 O.C. 126.1-1(a)].

13 **B. *Pardon and Forgiveness Screening Committee.*** In accordance with the Law, the PFSC was established  
14 to carry out various responsibilities, including, but not limited to, processing applications for a pardon  
15 or forgiveness; conducting, as well as presiding over, hearings on the applications; and providing  
16 formal, written recommendations to the Oneida Business Committee on whether to approve or deny  
17 requests for a pardon or forgiveness. [1 O.C. 126.4-1].

18 **C. *COVID-19 Pandemic.*** The world is currently facing a pandemic of COVID-19. The COVID-19  
19 outbreak originated in Wuhan, China and has spread to many other countries throughout the world,  
20 including the United States. The COVID-19 pandemic has resulted in high rates of infection and  
21 mortality, as well as vast economic impacts including effects on the stock market and the closing of all  
22 non-essential businesses.

23     ▪ *Declaration of a Public Health State of Emergency.*

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

29         ▪ The Public Health State of Emergency has since been extended until May 12, 2021, by the  
30 Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-05-  
31 06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-  
32 20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A and BC-03-10-  
33 21-D.

34     ▪ *COVID-19 Core Decision Making Team.*

35         ▪ On March 17, 2020, the Oneida Business Committee adopted emergency amendments to  
36 the Emergency Management and Homeland Security law to create and delegate authority  
37 to a COVID-19 Core Decision Making Team (“COVID-19 Team”). [BC-03-17-20-E and  
38 3 O.C. 302.10].

39         ▪ When a public health emergency has been declared, the COVID-19 Team has the  
40 authority to declare exceptions to the Nation’s laws, policies, procedures,  
41 regulations, or standard operating procedures during the emergency period which  
42 will be of immediate impact for the purposes of protecting the health, safety, and  
43 general welfare of the Nation’s community, members, and employees. [BC-03-17-  
44 20-E and 3 O.C. 302.10-2].

45         ▪ These declarations remain in effect for the duration of the Public Health State of  
46 Emergency. [BC-03-17-20-E and 3 O.C. 302.10-3].

47         ▪ On March 10, 2021, the Oneida Business Committee adopted permanent  
48 amendments to the Emergency Management and Homeland Security law, now  
49 known as the Emergency Management law, through the adoption of resolution BC-  
50 03-10-21-A which incorporated an emergency core decision time with the  
51 authority to make emergency declarations on a permanent basis.

52     ▪ *COVID-19 Core Decision Making Team Declarations: Safer at Home.*

53         ▪ On March 24, 2020, the Nation’s COVID-19 Team issued a “*Safer at Home*” declaration  
54 which ordered all individuals present within the Oneida Reservation to stay at home or at  
55 their place of residence, with certain exceptions allowed. This declaration prohibited all  
56 public gatherings of any number of people.



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- On April 21, 2020, the COVID-19 Team issued an “*Updated Safer at Home*” declaration which allowed for gaming and golf operations to resume.
  - On May 19, 2020, the COVID-19 Team issued a “*Safer at Home Declaration, Amendment, Open for Business*” which directs that individuals within the Oneida Reservation should continue to stay at home, businesses can re-open under certain safer business practices, and social distancing should be practiced by all persons.
  - On June 10, 2020, the COVID-19 Team issued a “*Stay Safer at Home*” declaration which lessened the restrictions of the “*Safer at Home Declaration, Amendment, Open for Business*” while still providing guidance and some restrictions. This declaration prohibits all public and private gatherings of more than twenty (20) people that are not part of a single household or living unit.
  - On July 17, 2020, the COVID-19 Team issued a “*Safe Re-Opening Governmental Offices*” which sets minimum standards for the safe re-opening of a building or recall of employees to work.
  - *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the Legislative Procedures Act.*
    - On March 27, 2020, the Nation’s COVID-19 Team issued a “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which suspended the Legislative Procedures Act’s requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period.
  - *Temporary Closure of the Nation’s Boards, Committees and Commissions.*
    - On April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-B, which placed certain of the Nation’s boards, committees and commissions, including the PFSC, in temporary closure status for the remainder of Fiscal Year 2020 and during and continuing resolution for Fiscal Year 2021.
    - On August 12, 2020, the Oneida Business Committee adopted resolution BC-08-12-20-J titled, *Continuing Resolution for Fiscal Year 2021.*
      - Per resolution BC-04-08-20-B, the adoption of resolution BC-08-12-20-J meant that, along with the other listed boards, committees and commissions, the PFSC was to remain temporarily closed until adoption of the Fiscal Year 2021 budget.
    - On November 24, 2020, the Oneida Business Committee adopted resolution BC-11-24-20-C titled, *Continuation of Temporary Closure of Listed Boards, Committees and Commissions for Fiscal Year 2021*, which continued the temporary closure of those boards, committees and commission listed in resolution BC-04-08-20-B, regardless of budget adoption, for the entirety of 2021.
      - Resolution BC-11-24-20-C expressly exempted the PFSC from its application and the PFSC was soon placed back into active status, with vacancies for the community-at-large positions being posted shortly thereafter.
    - While in temporary closure status, three (3) applications for a pardon or forgiveness have been submitted to the PFSC; however, hearings on those applications have yet to be conducted.

100 D. At the April 14, 2021, Oneida Business Committee meeting, the Boards, Committees and Commissions  
101 Supervisor submitted a memo which requested that the Oneida Business Committee make emergency  
102 amendments to the Pardon and Forgiveness law, as well as the PFSC’s bylaws, to address the impact  
103 that COVID-19 has had on the PFSC’s ability to process applications and conduct hearings on those  
104 applications in a fair, efficient and safe manner. The Supervisor is seeking emergency amendments that  
105 will allow the PFSC to conduct hearings on applications for a pardon or forgiveness virtually, instead  
106 of in-person as is currently the only option allowed under the Law, so that individuals are afforded the  
107 fair and efficient process for seeking a pardon or forgiveness without being unnecessarily exposed to  
108 the COVID-19 virus.

109 **SECTION 3. CONSULTATION AND OUTREACH**

- 110 A. Representatives from the following departments or entities participated in the development of this Law  
111 and legislative analysis:
- 112     ▪ Oneida Law Office; and
  - 113     ▪ Business Committee Support Office.
- 114 B. The following laws and bylaws were reviewed in the drafting of this analysis:
- 115     ▪ Oneida Nation Constitution and Bylaws;
  - 116     ▪ Legislative Procedures Act;
  - 117     ▪ Boards, Committees and Commissions law;
  - 118     ▪ Emergency Management law.
- 119

120 **SECTION 4. PROCESS**

- 121 A. These amendments are being considered on an emergency basis. The Oneida Business Committee may  
122 temporarily enact emergency legislation “where legislation is necessary for the immediate preservation  
123 of public health, safety, or general welfare of the Reservation population and enactment or amendment  
124 of legislation is required sooner than would be possible under this law” [1 O.C. 109.9-5].
- 125     ▪ Emergency amendments are being pursued for the immediate preservation of the public health,  
126 safety, and general welfare of the Reservation population against the public health crisis that is the  
127 COVID-19 pandemic. Chairman Tehassi Hill declared a Public Health State of Emergency for the  
128 Nation on March 12, 2020, which has since been extended until May 12, 2021. Due to the Public  
129 Health State of Emergency and corresponding emergency declarations, such as the “*Stay Safer at*  
130 *Home*” declaration which prohibits all public and private gatherings of more than twenty (20)  
131 people that are not part of a single household or living unit, the membership is advised to stay home  
132 and social distance. In an effort to avoid gatherings of members where COVID-19 could be easily  
133 spread, the Oneida Business Committee is being asked to adopt emergency amendments to the Law  
134 that will allow the PFSC to conduct its hearings on applications for a pardon or forgiveness  
135 virtually, as opposed to in-person.
  - 136     ▪ Observance of the requirements under the Legislative Procedures Act for the adoption of these  
137 amendments would be contrary to public interest. The PFSC already has three (3) applications  
138 pending that have yet to go to a hearing and will likely receive more submissions now that it is  
139 back in active status. With the Nation’s Public Health State of Emergency extended until May 12,  
140 2021, the process and requirements of the Legislative Procedures Act cannot be completed in time  
141 to ensure applicants receive the fair and efficient procedure required under the Law without

142 unnecessarily exposing them, as well as the public, to the risks associated with the COVID-19  
143 virus.

144 B. Emergency amendments typically expire six (6) months after adoption, with one (1) opportunity for a  
145 six (6) month extension of the emergency amendments. [1 O.C. 109.9-5(b)].

146 C. The Legislative Procedures Act does not require a public meeting or fiscal impact statement when  
147 considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact  
148 statement will eventually be required if permanent adoption of these amendments is considered.

149

## 150 SECTION 5. CONTENTS OF THE LEGISLATION

151 A. *Option for Conducting Virtual Hearings.* The proposed emergency amendments allow for the PFSC  
152 to conduct hearings on applications for a pardon or forgiveness virtually, instead of in-person as is  
153 currently the only option authorized under the Law; provided, the PFSC gives the requisite notice,  
154 which includes an indication of whether the hearing will be held in-person or virtually and, if virtually,  
155 instructions on how to access the virtual platform for purposes of attending the hearing . [1 O.C. 126.8-  
156 2].

157 ■ *Effect.* The proposed emergency amendments will allow applications for a pardon or forgiveness  
158 to be processed in the efficient manner required under the Law but without unnecessarily exposing  
159 individuals, as well as the general public, to the risks associated with coming into contact with the  
160 COVID-19 virus because the PFSC would be authorized to conduct the hearings virtually, instead  
161 of in-person.

162

## 163 SECTION 6. EXISTING LEGISLATION

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

166 ■ *Boards, Committees and Commissions law.* The Boards, Committees and Commissions law  
167 governs the boards, committees and commissions of the Nation, including the procedures regarding  
168 the appointment and election of persons to boards, committees and commissions; creation of  
169 bylaws; maintenance of official records; compensation; and other items related to boards,  
170 committees and commissions. [1 O.C. 105.1-1].

171 ■ The PFSC is a committee of the Nation that was established in accordance with the Law  
172 and is governed by the Boards, Committees and Commissions law. Section 105.10 of the  
173 Boards, Committees and Commissions law, states that all entities of the Nation shall have  
174 bylaws that conform to its requirements. [1 O.C. 105.10-1.]. Currently, the PFSC's bylaws  
175 state that hearings of the PFSC shall be held in accordance with the Pardon and Forgiveness  
176 law. [PFSC Bylaws 3-4]. Thus, the proposed amendments to this Law would not conflict  
177 with the express language of the PFSC's bylaws or the minimal requirements of the Boards,  
178 Committees and Commissions law.

179 ■ *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal  
180 Council on January 7, 2013, for the purpose of providing a standard process for the adoption of  
181 laws of the Nation which includes taking into account comments from members of the Nation and  
182 input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].

183 ■ The Legislative Procedures Act provides a process for the adoption of emergency  
184 legislation when the legislation is necessary for the immediate preservation of the public  
185 health, safety, or general welfare of the Reservation population and the enactment or

186 amendment of legislation is required sooner than would be possible under this law. [1 O.C.  
187 109.9-5].

188 • The Legislative Operating Committee is responsible for first reviewing the  
189 emergency legislation and for forwarding the legislation to the Oneida Business  
190 Committee for consideration. [1 O.C. 109.9-5(a)].

191 • The proposed emergency legislation is required to have a legislative analysis  
192 completed and attached prior to being sent to the Oneida Business Committee for  
193 consideration. [1 O.C. 109.9-5(a)].

194 ○ A legislative analysis is a plain language analysis describing the important  
195 features of the legislation being considered and factual information to  
196 enable the Legislative Operating Committee to make informed decisions  
197 regarding legislation. A legislative analysis includes a statement of the  
198 legislation's terms and substance; intent of the legislation; a description of  
199 the subject(s) involved, including any conflicts with Oneida or other law,  
200 key issues, potential impacts of the legislation and policy considerations.  
201 [1 O.C. 109.3-1(g)].

202 • Emergency legislation does not require a fiscal impact statement to be completed  
203 or a public comment period to be held. [1 O.C. 109.9-5(a)].

204 • Upon the determination that an emergency exists, the Oneida Business Committee  
205 can adopt emergency legislation. The emergency legislation becomes effective  
206 immediately upon its approval by the Oneida Business Committee. [1 O.C. 109.9-  
207 5(b)].

208 • Emergency legislation remains in effect for a period of up to six (6) months, with  
209 an opportunity for a one-time emergency law extension of up to six (6) months. [1  
210 O.C. 109.9-5(b)].

211 ■ Adoption of these proposed emergency amendments would conform with the requirements  
212 of the Legislative Procedures Act.

213 ■ *Emergency Management law.* The Emergency Management law provides for the development and  
214 execution of plans for the protection of residents, property, and the environment in an emergency  
215 or disaster; and provides for the direction of emergency management, response, and recovery on  
216 the Reservation; as well as coordination with other agencies, victims, businesses, and organizations;  
217 and establishes the use of the National Incident Management System; and designates authority and  
218 responsibilities for public health preparedness. [3 O.C. 302.1-1].

219 ■ The Emergency Management law provides that the Oneida Business Committee shall be  
220 responsible for proclaiming or ratifying the existence of an emergency. [3 O.C. 302.8-1]. A  
221 public health emergency is defined as the occurrence or imminent threat of an illness or health  
222 condition which:

223 (1) is a quarantinable disease, or is believed to be caused by bioterrorism or a biological  
224 agent; and

225 (2) poses a high probability of any of the following:

226 (A) a large number of deaths or serious or long-term disability among humans; or

227 (B) widespread exposure to a biological, chemical, or radiological agent that  
228 creates a significant risk of substantial future harm to a large number of people.

229 [3 O.C. 302.3-1(p)].

- 230                   ▪ No proclamation of an emergency by the Oneida Business Committee may last for longer  
231 than sixty (60) days, unless the proclamation of emergency is extended by the Oneida  
232 Business Committee. [3 O.C. 302.8-2].  
233                   ▪ Chairman Tehassi Hill’s March 12, 2020, “*Declaration of Public Health State of*  
234 *Emergency*” and subsequent extensions conform with the requirements of the Emergency  
235 Management law.  
236

## 237 **SECTION 7. OTHER CONSIDERATIONS**

- 238 **A. *Deadline for Permanent Adoption of Amendments.*** The emergency amendments will expire six (6)  
239 months after adoption, with one (1) opportunity for an extension of an additional six (6) month period.  
240                   ▪ *Conclusion:* The Legislative Operating Committee will need to consider the development and  
241 adoption of permanent amendments to this Law within the next six (6) to twelve (12) months.  
242 **B. *Fiscal Impact.*** A fiscal impact statement is not required for emergency legislation.  
243                   ▪ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except  
244 emergency legislation. [1 O.C. 109.6-1].  
245 **C. *PFSC Bylaws.*** Although the emergency amendments to this Law would not directly conflict with the  
246 bylaws of the PFSC, the PFSC may want to consider amending its bylaws to clarify the fact that its  
247 hearings on applications for a pardon or forgiveness may be held virtually, instead of in-person, as  
248 determined by the PFSC.

249

**Title 1. Government and Finances - Chapter 126**  
**PARDON AND FORGIVENESS**  
**Tsi?náhte ʌhutawani·yóne Olihwá·ke**  
*of what they will be free of matter*

126.1. Purpose and Policy	126.6. Pardon and Forgiveness Eligibility and Application
126.2. Adoption, Amendment, Conflicts	126.7. Fees
126.3. Definitions	126.8. Hearings
126.4. Pardon and Forgiveness Screening Committee Responsibilities	126.9. Conditions and Restrictions
126.5. Tribal Secretary's Office Responsibilities	126.10. Oneida Business Committee

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1  
2 **126.1. Purpose and Policy**

3 126.1-1. *Purpose.*

4 (a) The purpose of this Law is to provide a fair, efficient and formal process by which:

5 (1) a Tribal member may receive a pardon for the conviction of a crime(s); or

6 (2) a Tribal member may receive forgiveness for acts that render him or her  
7 ineligible for housing with the Tribe or other Tribal benefits.

8 (3) a Tribal member or non-Tribal member may receive forgiveness for acts that  
9 render him or her ineligible for Tribal employment; an occupational license,  
10 certification or permit issued by the Tribe; housing through the Tribe; or other  
11 Tribal benefit.

12 (b) This Law defines the duties and responsibilities of the Oneida Pardon and Forgiveness  
13 Screening Committee, Oneida Business Committee, Oneida Tribal Secretary's Office, and  
14 other persons involved in the granting or denial of pardons and forgiveness.

15 126.1-2. *Policy.* It is the policy of the Oneida Tribe of Indians of Wisconsin to grant pardons or  
16 forgiveness to individuals upon demonstration of full rehabilitation, trustworthiness and/or  
17 commitment to lawful behavior. Nothing contained herein shall be construed as permitting the  
18 employment of individuals who are otherwise disqualified for employment from certain  
19 occupations under Tribal, State or Federal Law. Receipt of a pardon or forgiveness does not affect  
20 obligations imposed as part of a sentence or conviction in another jurisdiction.

21  
22 **126.2. Adoption, Amendment, Conflicts**

23 126.2-1. This Law was adopted by the Oneida Business Committee by ~~Resolution~~resolution BC-  
24 05-25-11-A ~~and~~, amended by ~~Resolution~~resolution BC-01-22-14-B., ~~and emergency amended by~~  
25 ~~resolution BC- - - - .~~

26 126.2-2. This Law may be amended pursuant to the procedures set out in Tribal law by the Oneida  
27 Business Committee or the Oneida General Tribal Council.

28 126.2-3. Should a provision of this Law or the application thereof to any person or circumstances  
29 be held as invalid, such invalidity shall not affect other provisions of this Law which are considered  
30 to have legal force without the invalid portions.

31 126.2-4. In the event of a conflict between a provision of this Law and a provision of another law,  
32 ordinance, policy, regulation, rule, resolution, or motion, the provisions of this Law shall control.  
33 Provided that, this Law repeals Resolution BC-7-31-02-A: Resolution Adopting a New Oneida  
34 Pardon Ordinance.

35 126.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians  
36 of Wisconsin.

37  
38 **126.3. Definitions**

39 126.3-1. This section shall govern the definitions of words and phrases used within this Law. All  
 40 words not defined herein shall be used in their ordinary and everyday sense.

41 (a) "Applicant" shall mean an individual who is applying for a pardon or forgiveness from  
 42 the Tribe.

43 (b) "Certified mail" shall mean mail sent through either the United States Postal Service  
 44 or the Tribal Inter-Office Certified system that provides proof of delivery and receipt.

45 (c) "Committee" shall mean the Pardon and Forgiveness Screening Committee.

46 (d) "Conditions" shall mean a requirement or prerequisite event or activity.

47 (e) "Conflict of interest" shall mean a conflict between the private interests and the official  
 48 responsibilities of the committee member.

49 (f) "Conviction" shall mean an individual was either found guilty or entered a plea of  
 50 guilty or no contest to charges of a crime in any court of competent jurisdiction.

51 (g) "Court of competent jurisdiction" shall mean any court or forum that has the power  
 52 and authority to properly exercise jurisdiction over a dispute or interpret and/or enforce  
 53 laws.

54 (h) "Crime" shall mean any act, default, or conduct punishable as a felony or a  
 55 misdemeanor.

56 (i) "Forgiveness" shall mean the formal and public act of acknowledging or excusing an  
 57 individual's actions or behavior that makes him or her ineligible for Tribal employment,  
 58 an occupational license, certification or permit issued by the Tribe, housing through the  
 59 Tribe or other Tribal benefit

60 (j) ~~—"Hearing" shall mean a public-publicly noticed hearing, a noticed-public~~  
 61 ~~forum~~conducted either in-person or virtually, in which an applicant hasis afforded an  
 62 opportunity to present a case for obtaining a pardon or forgiveness from the ~~Tribe~~Nation.

63 (k) "Individual" shall mean a Tribal member seeking a pardon for a conviction of a crime,  
 64 a Tribal member seeking forgiveness for an act(s) that makes him or her ineligible for  
 65 housing with the Tribe or other Tribal benefit(s) or anyone seeking forgiveness for an act(s)  
 66 that renders him or her ineligible for employment, an occupational license, certification or  
 67 permit issued by the Tribe.

68 (l) "Family member" shall mean a spouse, child sibling, parent, grandparent, grandchild,  
 69 step-parent, step-child, in-law or legal guardian.

70 (m) "Pardon" shall mean the formal and public act of acknowledging or excusing a Tribal  
 71 member's criminal conviction that makes him or her ineligible for Tribal employment, an  
 72 occupational license, a certification or permit issued by the Tribe, housing through the  
 73 Tribe, or other Tribal benefit.

74 (n) "Prominent locations" shall include, but not be limited to, the following: the Tribal  
 75 newspaper; at least one (1) local newspaper with regular distribution within the Reservation  
 76 boundaries; one (1) regional Indian newspaper; and the Tribe's official website.

77 (o) "Restriction" shall mean a limitation or constraint imposed.

78 (p) "Tribal"~~or~~, "Tribe" and/or "Nation" shall mean the Oneida ~~Tribe of Indians of~~  
 79 ~~Wisconsin~~Nation.

80 (q) "Victim" shall mean a person or entity against whom an offense, either civil or  
 81 criminal, has been committed.

82

#### 83 **126.4. Pardon and Forgiveness Screening Committee Responsibilities**

84 126.4-1. A Committee is hereby created for the purpose of carrying out the provisions of this Law.

85 126.4-2. *Authority.* The Committee shall:

86 (a) promulgate internal standard operating procedures necessary to govern its proceedings;

- 87 (b) ~~\_\_~~ review and process applications for a pardon or forgiveness in an orderly and  
 88 expeditious manner;  
 89 (c) ~~\_\_~~ review an applicant's background investigation report received from the Oneida  
 90 Human Resources Department;  
 91 (d) ~~\_\_~~ conduct and preside over hearings;  
 92 (e) ~~\_\_~~ provide formal, written recommendations to the Oneida Business Committee to  
 93 approve or deny a pardon or forgiveness application; and  
 94 (f) ~~\_\_~~ take other actions reasonably related to the purpose of the Committee.  
 95

### 96 **126.5. Tribal Secretary's Office Responsibilities**

97 126.5-1. The Tribal Secretary's Office shall assist the Committee with carrying out the provisions  
 98 of this Law and assist individuals in applying for a pardon or forgiveness. The Tribal Secretary's  
 99 Office shall:

- 100 (a) ~~\_\_~~ create and implement procedures necessary to process pardon and forgiveness  
 101 applications.  
 102 (b) ~~\_\_~~ accept pardon and forgiveness applications.  
 103 (c) ~~\_\_~~ submit and track requests for a background investigation.  
 104 (d) ~~\_\_~~ forward pardon and forgiveness applications to the Committee when the  
 105 background investigations are complete.  
 106 (e) ~~\_\_~~ maintain a record of all pardon and forgiveness applications filed, every pardon and  
 107 forgiveness request granted or denied, and the reasons for each action.  
 108 (f) ~~\_\_~~ maintain a complete and accurate record of all proceedings, including all  
 109 correspondence, transcripts, documents, evidence, and appearances made in connection  
 110 with the applications.  
 111 (g) ~~\_\_~~ perform other duties in connection with matters under this Law as may be requested  
 112 by the Committee.  
 113

### 114 **126.6. Pardon and Forgiveness Eligibility and Application**

115 126.6-1. *Eligibility.* A Tribal member may receive a pardon for any criminal conviction(s), or a  
 116 forgiveness for an act(s) that renders the Tribal member ineligible for housing with the Tribe or  
 117 other Tribal benefit(s); and any individual may receive forgiveness for an act(s) that renders the  
 118 individual ineligible for Tribal employment, an occupational license, certification or permit issued  
 119 by the Tribe.

- 120 (a) Upon completion of incarceration, parole, probation and/or deferred prosecution,  
 121 Tribal members shall be eligible to apply for a pardon.  
 122 (b) One (1) year after an act is committed, or affirmed through the conclusion of any appeal  
 123 process, an individual shall be eligible to apply for pardon or forgiveness.

124 126.6-2. *Ineligibility.* An individual is ineligible for a pardon or forgiveness if he or she is:

- 125 (a) being investigated for an act and if found to have committed such act, would be  
 126 ineligible for the benefit he or she is seeking; or  
 127 (b) appealing a termination and the termination makes him or her ineligible for the benefit  
 128 he or she is seeking; or  
 129 (c) currently incarcerated, on parole, probation, and/or under a deferred prosecution  
 130 agreement; or  
 131 (d) has any outstanding penalties or fines.

132 126.6-3. *Initiating an Application.* Applications for a pardon or forgiveness may be obtained from  
 133 the Tribal Secretary's Office or on the Tribal website. Completed applications shall be filed with  
 134 the Tribal Secretary's Office in person, during normal Tribal business hours, or sent by certified



135 mail to the Tribal Secretary at P.O. Box 365, Oneida, WI 54155.

136 126.6-4. *Required Application Information.* Each applicant is responsible for submitting all  
137 required materials and authorizations.

138 (a) A completed pardon application shall include the following:

139 (1) a copy of the applicant's Tribal enrollment card.

140 (2) a copy or copies of any discharge papers from incarceration or jail.

141 (3) official verification of any successful completion date of the probation, parole  
142 or deferred prosecution.

143 (4) any necessary releases for investigations and/or background checks.

144 (5) any authorizations from a probation officer to release information.

145 (6) the required non-refundable fee as specified under 126.6.

146 (7) a personal written statement, including the reason(s) for requesting a pardon  
147 and a description and documentation of the applicant's efforts towards self-  
148 improvement.

149 (8) information regarding the conviction(s) for which the applicant is seeking a  
150 pardon, including:

151 (A) date(s) upon which the crime(s) occurred;

152 (B) location(s) where the crime(s) occurred;

153 (C) date(s) of conviction(s); and

154 (D) jurisdiction(s) which imposed the sentence(s).

155 (9) verification of attendance or successful completion of any counseling, therapy,  
156 or rehabilitative programs such as anger management or coping skills classes.

157 (10) letters of reference or support from people well-regarded in the community.  
158 Such letters shall detail the applicant's accomplishments or contributions to the  
159 community or attest to the applicant's rehabilitation and trustworthiness. These  
160 may include, but are not limited to:

161 (A) clergy or other spiritual leaders.

162 (B) employers and/or community members.

163 (C) teachers.

164 (D) organizers of support groups the applicant attends or has attended.

165 (11) any other information relevant to the applicant's conviction(s) or rehabilitation  
166 efforts.

167 (12) proof of payment of all penalties and fines.

168 (b) A completed forgiveness application shall include the following:

169 (1) a copy of the applicant's Tribal enrollment card, if applicable.

170 (2) the applicant's employment record prior to the act, if applicable.

171 (3) the applicant's background records.

172 (4) the act that triggered the applicant's ineligibility.

173 (5) the impact of the act on the Tribe.

174 (6) the length of time since the act.

175 (7) a written statement from the applicant demonstrating remorse for the violation.

176 (8) two (2) letters of recommendation, with no more than one (1) recommendation  
177 coming from a person who is a family member of the applicant.

178 (9) the required non-refundable fee as specified under 126.6.

179 (10) any additional credible and relevant information.

180 (11) proof of payment of all penalties and fines.

181 126.6-5. Failure of the applicant to provide a complete application, or any of the required  
182 information -and/or materials may result in:

- 183 (a) the application being returned with a request for more information; or  
 184 (b) the application being removed from consideration; or  
 185 (c) denial of a pardon or forgiveness.

186 126.6-6. *Applicant Misrepresentations.* Any applicant who misrepresents, omits, or falsifies any  
 187 information on the application or during the pardon process shall be denied a pardon. If a pardon  
 188 is granted and it is later determined that there is misrepresented or false information, or pertinent  
 189 information was purposefully omitted, the Oneida Business Committee shall have the right to  
 190 rescind the pardon.

191  
 192 **126.7. Fees**

193 126.7-1. Each application shall be accompanied by a non-refundable fee as set by the Oneida  
 194 Business Committee in a resolution. Said payment shall be made payable to the Oneida Tribe in  
 195 the form of a:

- 196 (a) money order; or  
 197 (b) cashier's check; or  
 198 (c) intra-tribal purchase document, if a Tribal department or program, such as Social  
 199 Services, will be providing the funds for the application fee.

200  
 201 **126.8. Hearings**

202 126.8-1. ~~*Notice of the*~~ Hearing. ~~The Committee shall conduct quarterly hearings and on~~  
 203 applications for a pardon or forgiveness from the Nation in accordance with this law.

- 204 (a) Hearings may be conducted in person or virtually as determined by the Committee.  
 205 (b) Hearings shall take place at a regularly scheduled time and location or virtual platform,  
 206 as determined by the Committee, and shall be open to the public to the extent permitted by  
 207 governing laws of the Nation.

208 126.8-2. *Hearing Notice.* The Committee shall provide hearing notice as follows:

209 (a) *Applicant.* At least thirty (30) calendar days prior to the hearing, the Committee shall  
 210 provide official hearing notice to the applicant by certified mail, ~~including the~~ the notice  
 211 of which shall include:

- 212 (1) The date;  
 213 (2) The time;  
 214 (3) Whether the hearing will be conducted in-person or virtually; and  
 215 (4) The location of the hearing, at least thirty (30) calendar days prior to or virtual  
 216 platform for the hearing. ~~Notice~~ and, if virtual, instructions on how to access the  
 217 platform.

218 (b) *Public.* The Committee shall ~~also be posted~~ provide public notice of hearings as follows:

219 (1) By posting the notice in prominent locations at least thirty (30) ~~calendar~~ days  
 220 prior to the hearing:

221 (A) If alternate arrangements have been made under section 126.8-2 of this  
 222 law, notice shall be posted in prominent locations with as much advance  
 223 notice as possible and as time permits.

224 (a) ~~Notice~~ (2) By posting notice of the hearings scheduled for the year ~~shall be~~  
 225 posted on the Tribal Nation's website and periodically in the Tribal Nation's  
 226 newspaper.

227 (b) ~~Hearings shall take place at a regularly scheduled time and location to be determined~~  
 228 by the Committee and shall be open to the public.

229 126.8-23. *Alternate Hearing Arrangements.* Applicants who reside out of the State of Wisconsin  
 230 who are unable to attend a hearing may submit a written request by certified mail to the Tribal

231 Secretary's Office for alternate arrangements to appear by video conference and/or to reschedule  
 232 the hearing date. If alternate arrangements are unavailable, the applicant may withdraw the  
 233 application up to three (3) business days prior to the hearing without penalty, and may re-apply for  
 234 a pardon at any time.

235 ~~126.8-34.~~ *Failure of Applicant to Attend Hearing.* -Failure of the applicant to ~~appear~~ attend the  
 236 hearing may result in the Committee postponing making a determination on the application or  
 237 recommending the Oneida Business Committee deny the application.

238 (a)- Applicants with a legitimate reason for failing to ~~appear~~ attend a hearing shall have  
 239 ten (10) calendar days from the date of the missed hearing to provide documentation to the  
 240 Committee. -Such documentation may include, but is not limited to: a Doctor's excuse,  
 241 accident/police report, or funeral notice.

242 ~~126.8-45.~~ *Testimony and Notarized Statements.* The Committee shall obtain oral testimony  
 243 ~~at~~ during the hearing from the applicant, and any victims, witnesses, or other persons supporting or  
 244 opposing the pardon or forgiveness.

245 (a) Victims, witnesses, and other persons unavailable for a scheduled hearing may submit  
 246 a notarized statement for consideration.

247 (b) The Committee may institute recesses and postponements as they see fit.

248 (c) The Committee may ask questions at any time during the hearing.

249 (d) The Committee may require the applicant to provide further documentation.

250 (1) Within five (5) business days of the hearing, the Committee shall send a written  
 251 request by certified mail to the applicant for the additional documentation.

252 (2) The applicant shall submit the documentation to the Tribal Secretary's Office  
 253 within thirty (30) calendar days after receiving the request for the documentation.

254 Failure of the applicant to provide any of the required documentation may result in:

255 (A) the application being removed from consideration; or

256 (B) denial of the application.

257 ~~126.8-56.~~ *Deliberations and Recommendation.* After the hearing, the Committee shall go into  
 258 executive session for deliberations.

259 (a)- The Committee shall consider all information gathered from the hearing, the  
 260 application, the background investigation, and any testimony or notarized statements when  
 261 determining whether to recommend that the application be approved or denied.

262 (1)- The Committee shall be responsible for weighing the appropriateness of  
 263 granting a pardon or forgiveness.

264 (b) *Recommendation.* -After considering the factors provided, the Committee shall make  
 265 a decision and compose a formal, written recommendation for each application, including  
 266 reasons to approve or deny the application within sixty (60) days after the pardon or  
 267 forgiveness hearing. -The recommendation, including any dissenting opinions issued by  
 268 the Committee, shall be forwarded to the Oneida Business Committee within thirty (30)  
 269 calendar days after making a decision, along with the following materials for review:

270 (1) All information from the application and the background investigation;

271 (2) Any notarized statements submitted;

272 (3) A proposed draft resolution; and

273 (4)- An audio recording of the hearing, upon request by an Oneida Business  
 274 Committee member.

275

## 276 **126.9. Conditions and Restrictions**

277 126.9-1. *Pardons.* Certain convictions may affect a Tribal member's rights under state or federal  
 278 law, or result in restrictions being placed on a Tribal member, regardless of whether a Tribal pardon

279 has been granted.

280 (a) *Civil Rights*. A pardon by the Tribe does not guarantee the restoration of all civil rights,  
281 and each recipient of a Tribal pardon is responsible for determining whether the pardon  
282 affects any non-Tribal restrictions or limitations that may be applicable pursuant to the  
283 conviction.

284 (b) *Employment*. Individuals convicted of a crime that is “substantially related” to the care  
285 of another person or animal may be subject to extended or permanent restrictions on  
286 licensing or professional credentials in fields relating to such caretaking. A Tribal pardon  
287 shall not affect these restrictions.

288 (c) *Sex Offender Registry*. Receipt of a Tribal pardon shall in no way affect registration,  
289 tracking or other restrictions or obligations imposed upon sex offenders.

290 (d) *Voting Rights*. Each state, and the federal government are empowered to determine  
291 whether felons may vote in elections, caucuses, referendums or any other venue dependent  
292 on the votes of citizenry. The granting of a Tribal pardon shall not supersede the rights of  
293 these jurisdictions to determine the eligibility of voters.

294 126.9-2. *Other Restrictions*. The Committee’s written recommendation to the Oneida Business  
295 Committee to approve an applicant’s request for a pardon or forgiveness may also recommend the  
296 Oneida Business Committee impose restrictions on the applicant. If the Committee does not  
297 recommend a restriction, the Oneida Business Committee shall have the authority to place  
298 restrictions on the applicant before approving the pardon or forgiveness request. Restrictions shall  
299 specify the time lines attached to them, which may expand over a period of months, years, or  
300 indefinitely.

301 (a) Restrictions shall be clearly defined and may include the following:

302 (1) The applicant is ineligible for a transfer, promotion or job reassignment.

303 (2) The applicant may be prohibited from:

304 (A) Handling cash and/or merchandise.

305 (B) Having Tribal property sign-off authority.

306 (C) Supervising staff.

307 (D) Supervising or caring for children or the elderly.

308 (E) Any other restrictions the Oneida Business Committee determines as  
309 appropriate.

310 (b) When restrictions are imposed for a period of greater than five (5) years, the applicant  
311 may, after five (5) years, apply to have the restrictions modified or lifted. The request to  
312 modify or lift restrictions will follow the same process required to request a pardon.

313 (c) The applicant shall sign a written statement describing each restriction, and time period  
314 of such restriction prior to becoming employed by the Tribe.

315 126.9-3. *Conditions*. The Committee may also recommend that an applicant requesting a pardon  
316 or forgiveness be required to complete conditions before the applicant is granted the pardon or  
317 forgiveness. If the Committee does not recommend a condition, the Oneida Business Committee  
318 shall have the authority to place conditions on the applicant before approving the pardon or  
319 forgiveness request.

320 (a) Conditions shall be clearly defined and may include the following:

321 (1) perform community service hours within a Tribal Department.

322 (2) payment of restitution to the Tribe.

323 (3) any other conditions the Oneida Business Committee determines as  
324 appropriate.

325

326 **126.10. Oneida Business Committee**

327 126.10-1. The Oneida Business Committee shall consider all of the information received by the  
 328 Committee prior to making a determination on whether to issue or deny a pardon or forgiveness  
 329 application. The Oneida Business Committee may accept, reject or modify the Committee's  
 330 recommendation.

331 126.10-2. *Deliberations.* Deliberations by the Oneida Business Committee shall take place in  
 332 executive session. The Oneida Business Committee may request, by written notice, that the  
 333 applicant be present during the deliberations to provide oral testimony or to answer questions. The  
 334 notice shall be provided to the applicant thirty (30) days prior to the deliberations and shall contain  
 335 the time, place and date of the deliberations.

336 126.10-3. *Final Decision.* The Oneida Business Committee shall issue or deny the pardon or  
 337 forgiveness in open session, by resolution, including the reasons therefor and shall include for the  
 338 record a clear indication of any decision and shall list the specific crimes to be pardoned or acts to  
 339 be forgiven. This decision is final and cannot be appealed. Applicants may be eligible to re-apply  
 340 for a pardon or forgiveness one (1) year from the date of the most recent denial of a pardon or  
 341 forgiveness.

342 126.10-4. *Notification.* Notification of the final decision shall be sent to the applicant from the  
 343 Tribal Secretary's office by certified mail or personally served within ten (10) business days  
 344 following the decision. Applicants have a right to documentation of the final decision along with  
 345 the resolution, and the reason(s) for the final decision.

346 126.10-5. *Resolution.* To grant or deny a pardon or forgiveness, a majority vote of the Oneida  
 347 Business Committee is required.

348 126.10-6. *Eligibilities.* Unless otherwise directed by the Oneida Business Committee, a pardon  
 349 or forgiveness may fully or partially restore some Tribal eligibilities lost as a result of a conviction  
 350 or act including:

- 351 (a) employment; and/or
- 352 (b) an occupational license, certificate or permit; and/or
- 353 (c) housing; and/or
- 354 (d) other Tribal benefit.

355  
 356 *End.*

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357  
 358 Adopted – BC-2-19-93-I  
 359 Adopted – BC-11-13-93-B (Oneida Pardon Procedures Policy)  
 360 Adopted – BC-11-24-93-B (Temporary Pardons)  
 361 Adopted – BC-7-31-02-A  
 362 Adopted – BC-05-25-11-A  
 363 Adopted – BC-01-22-14-B  
 364 Emergency Adoption – BC- - - -

**Title 1. Government and Finances - Chapter 126**  
**PARDON AND FORGIVENESS**  
**Tsi?náhte ahutatwani:yóne Olihwá'ke**  
*of what they will be free of matter*

126.1. Purpose and Policy	126.6. Pardon and Forgiveness Eligibility and Application
126.2. Adoption, Amendment, Conflicts	126.7. Fees
126.3. Definitions	126.8. Hearings
126.4. Pardon and Forgiveness Screening Committee Responsibilities	126.9. Conditions and Restrictions
126.5. Tribal Secretary's Office Responsibilities	126.10. Oneida Business Committee

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1  
2 **126.1. Purpose and Policy**  
3 126.1-1. *Purpose.*  
4 (a) The purpose of this Law is to provide a fair, efficient and formal process by which:  
5 (1) a Tribal member may receive a pardon for the conviction of a crime(s); or  
6 (2) a Tribal member may receive forgiveness for acts that render him or her  
7 ineligible for housing with the Tribe or other Tribal benefits.  
8 (3) a Tribal member or non-Tribal member may receive forgiveness for acts that  
9 render him or her ineligible for Tribal employment; an occupational license,  
10 certification or permit issued by the Tribe; housing through the Tribe; or other  
11 Tribal benefit.  
12 (b) This Law defines the duties and responsibilities of the Oneida Pardon and Forgiveness  
13 Screening Committee, Oneida Business Committee, Oneida Tribal Secretary's Office, and  
14 other persons involved in the granting or denial of pardons and forgiveness.  
15 126.1-2. *Policy.* It is the policy of the Oneida Tribe of Indians of Wisconsin to grant pardons or  
16 forgiveness to individuals upon demonstration of full rehabilitation, trustworthiness and/or  
17 commitment to lawful behavior. Nothing contained herein shall be construed as permitting the  
18 employment of individuals who are otherwise disqualified for employment from certain  
19 occupations under Tribal, State or Federal Law. Receipt of a pardon or forgiveness does not affect  
20 obligations imposed as part of a sentence or conviction in another jurisdiction.  
21  
22 **126.2. Adoption, Amendment, Conflicts**  
23 126.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-05-25-11-  
24 A, amended by resolution BC-01-22-14-B, and emergency amended by resolution BC-\_\_-\_\_-\_\_-  
25 \_\_-  
26 126.2-2. This Law may be amended pursuant to the procedures set out in Tribal law by the Oneida  
27 Business Committee or the Oneida General Tribal Council.  
28 126.2-3. Should a provision of this Law or the application thereof to any person or circumstances  
29 be held as invalid, such invalidity shall not affect other provisions of this Law which are considered  
30 to have legal force without the invalid portions.  
31 126.2-4. In the event of a conflict between a provision of this Law and a provision of another law,  
32 ordinance, policy, regulation, rule, resolution, or motion, the provisions of this Law shall control.  
33 Provided that, this Law repeals Resolution BC-7-31-02-A: Resolution Adopting a New Oneida  
34 Pardon Ordinance.  
35 126.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians  
36 of Wisconsin.  
37  
38 **126.3. Definitions**



39 126.3-1. This section shall govern the definitions of words and phrases used within this Law. All  
40 words not defined herein shall be used in their ordinary and everyday sense.

41 (a) "Applicant" shall mean an individual who is applying for a pardon or forgiveness from  
42 the Tribe.

43 (b) "Certified mail" shall mean mail sent through either the United States Postal Service  
44 or the Tribal Inter-Office Certified system that provides proof of delivery and receipt.

45 (c) "Committee" shall mean the Pardon and Forgiveness Screening Committee.

46 (d) "Conditions" shall mean a requirement or prerequisite event or activity.

47 (e) "Conflict of interest" shall mean a conflict between the private interests and the official  
48 responsibilities of the committee member.

49 (f) "Conviction" shall mean an individual was either found guilty or entered a plea of  
50 guilty or no contest to charges of a crime in any court of competent jurisdiction.

51 (g) "Court of competent jurisdiction" shall mean any court or forum that has the power  
52 and authority to properly exercise jurisdiction over a dispute or interpret and/or enforce  
53 laws.

54 (h) "Crime" shall mean any act, default, or conduct punishable as a felony or a  
55 misdemeanor.

56 (i) "Forgiveness" shall mean the formal and public act of acknowledging or excusing an  
57 individual's actions or behavior that makes him or her ineligible for Tribal employment,  
58 an occupational license, certification or permit issued by the Tribe, housing through the  
59 Tribe or other Tribal benefit

60 (j) "Hearing" shall mean a publicly noticed hearing, conducted either in-person or virtually,  
61 in which an applicant is afforded an opportunity to present a case for obtaining a pardon or  
62 forgiveness from the Nation.

63 (k) "Individual" shall mean a Tribal member seeking a pardon for a conviction of a crime,  
64 a Tribal member seeking forgiveness for an act(s) that makes him or her ineligible for  
65 housing with the Tribe or other Tribal benefit(s) or anyone seeking forgiveness for an act(s)  
66 that renders him or her ineligible for employment, an occupational license, certification or  
67 permit issued by the Tribe.

68 (l) "Family member" shall mean a spouse, child sibling, parent, grandparent, grandchild,  
69 step-parent, step-child, in-law or legal guardian.

70 (m) "Pardon" shall mean the formal and public act of acknowledging or excusing a Tribal  
71 member's criminal conviction that makes him or her ineligible for Tribal employment, an  
72 occupational license, a certification or permit issued by the Tribe, housing through the  
73 Tribe, or other Tribal benefit.

74 (n) "Prominent locations" shall include, but not be limited to, the following: the Tribal  
75 newspaper; at least one (1) local newspaper with regular distribution within the Reservation  
76 boundaries; one (1) regional Indian newspaper; and the Tribe's official website.

77 (o) "Restriction" shall mean a limitation or constraint imposed.

78 (p) "Tribal", "Tribe" and/or "Nation" shall mean the Oneida Nation.

79 (q) "Victim" shall mean a person or entity against whom an offense, either civil or  
80 criminal, has been committed.

81

#### 82 **126.4. Pardon and Forgiveness Screening Committee Responsibilities**

83 126.4-1. A Committee is hereby created for the purpose of carrying out the provisions of this Law.

84 126.4-2. *Authority.* The Committee shall:

85 (a) promulgate internal standard operating procedures necessary to govern its proceedings;

86 (b) review and process applications for a pardon or forgiveness in an orderly and

- 87 expeditious manner;
- 88 (c) review an applicant's background investigation report received from the Oneida  
89 Human Resources Department;
- 90 (d) conduct and preside over hearings;
- 91 (e) provide formal, written recommendations to the Oneida Business Committee to  
92 approve or deny a pardon or forgiveness application; and
- 93 (f) take other actions reasonably related to the purpose of the Committee.
- 94

95 **126.5. Tribal Secretary's Office Responsibilities**

96 126.5-1. The Tribal Secretary's Office shall assist the Committee with carrying out the provisions  
97 of this Law and assist individuals in applying for a pardon or forgiveness. The Tribal Secretary's  
98 Office shall:

- 99 (a) create and implement procedures necessary to process pardon and forgiveness  
100 applications.
- 101 (b) accept pardon and forgiveness applications.
- 102 (c) submit and track requests for a background investigation.
- 103 (d) forward pardon and forgiveness applications to the Committee when the background  
104 investigations are complete.
- 105 (e) maintain a record of all pardon and forgiveness applications filed, every pardon and  
106 forgiveness request granted or denied, and the reasons for each action.
- 107 (f) maintain a complete and accurate record of all proceedings, including all  
108 correspondence, transcripts, documents, evidence, and appearances made in connection  
109 with the applications.
- 110 (g) perform other duties in connection with matters under this Law as may be requested by  
111 the Committee.
- 112

113 **126.6. Pardon and Forgiveness Eligibility and Application**

114 126.6-1. *Eligibility.* A Tribal member may receive a pardon for any criminal conviction(s), or a  
115 forgiveness for an act(s) that renders the Tribal member ineligible for housing with the Tribe or  
116 other Tribal benefit(s); and any individual may receive forgiveness for an act(s) that renders the  
117 individual ineligible for Tribal employment, an occupational license, certification or permit issued  
118 by the Tribe.

- 119 (a) Upon completion of incarceration, parole, probation and/or deferred prosecution,  
120 Tribal members shall be eligible to apply for a pardon.
- 121 (b) One (1) year after an act is committed, or affirmed through the conclusion of any appeal  
122 process, an individual shall be eligible to apply for pardon or forgiveness.

123 126.6-2. *Ineligibility.* An individual is ineligible for a pardon or forgiveness if he or she is:

- 124 (a) being investigated for an act and if found to have committed such act, would be  
125 ineligible for the benefit he or she is seeking; or
- 126 (b) appealing a termination and the termination makes him or her ineligible for the benefit  
127 he or she is seeking; or
- 128 (c) currently incarcerated, on parole, probation, and/or under a deferred prosecution  
129 agreement; or
- 130 (d) has any outstanding penalties or fines.

131 126.6-3. *Initiating an Application.* Applications for a pardon or forgiveness may be obtained from  
132 the Tribal Secretary's Office or on the Tribal website. Completed applications shall be filed with  
133 the Tribal Secretary's Office in person, during normal Tribal business hours, or sent by certified  
134 mail to the Tribal Secretary at P.O. Box 365, Oneida, WI 54155.



135 126.6-4. *Required Application Information.* Each applicant is responsible for submitting all  
 136 required materials and authorizations.

137 (a) A completed pardon application shall include the following:

138 (1) a copy of the applicant's Tribal enrollment card.

139 (2) a copy or copies of any discharge papers from incarceration or jail.

140 (3) official verification of any successful completion date of the probation, parole  
 141 or deferred prosecution.

142 (4) any necessary releases for investigations and/or background checks.

143 (5) any authorizations from a probation officer to release information.

144 (6) the required non-refundable fee as specified under 126.6.

145 (7) a personal written statement, including the reason(s) for requesting a pardon  
 146 and a description and documentation of the applicant's efforts towards self-  
 147 improvement.

148 (8) information regarding the conviction(s) for which the applicant is seeking a  
 149 pardon, including:

150 (A) date(s) upon which the crime(s) occurred;

151 (B) location(s) where the crime(s) occurred;

152 (C) date(s) of conviction(s); and

153 (D) jurisdiction(s) which imposed the sentence(s).

154 (9) verification of attendance or successful completion of any counseling, therapy,  
 155 or rehabilitative programs such as anger management or coping skills classes.

156 (10) letters of reference or support from people well-regarded in the community.  
 157 Such letters shall detail the applicant's accomplishments or contributions to the  
 158 community or attest to the applicant's rehabilitation and trustworthiness. These  
 159 may include, but are not limited to:

160 (A) clergy or other spiritual leaders.

161 (B) employers and/or community members.

162 (C) teachers.

163 (D) organizers of support groups the applicant attends or has attended.

164 (11) any other information relevant to the applicant's conviction(s) or rehabilitation  
 165 efforts.

166 (12) proof of payment of all penalties and fines.

167 (b) A completed forgiveness application shall include the following:

168 (1) a copy of the applicant's Tribal enrollment card, if applicable.

169 (2) the applicant's employment record prior to the act, if applicable.

170 (3) the applicant's background records.

171 (4) the act that triggered the applicant's ineligibility.

172 (5) the impact of the act on the Tribe.

173 (6) the length of time since the act.

174 (7) a written statement from the applicant demonstrating remorse for the violation.

175 (8) two (2) letters of recommendation, with no more than one (1) recommendation  
 176 coming from a person who is a family member of the applicant.

177 (9) the required non-refundable fee as specified under 126.6.

178 (10) any additional credible and relevant information.

179 (11) proof of payment of all penalties and fines.

180 126.6-5. Failure of the applicant to provide a complete application, or any of the required  
 181 information and/or materials may result in:

182 (a) the application being returned with a request for more information; or

- 183 (b) the application being removed from consideration; or  
184 (c) denial of a pardon or forgiveness.

185 126.6-6. *Applicant Misrepresentations.* Any applicant who misrepresents, omits, or falsifies any  
186 information on the application or during the pardon process shall be denied a pardon. If a pardon  
187 is granted and it is later determined that there is misrepresented or false information, or pertinent  
188 information was purposefully omitted, the Oneida Business Committee shall have the right to  
189 rescind the pardon.

190

### 191 **126.7. Fees**

192 126.7-1. Each application shall be accompanied by a non-refundable fee as set by the Oneida  
193 Business Committee in a resolution. Said payment shall be made payable to the Oneida Tribe in  
194 the form of a:

- 195 (a) money order; or  
196 (b) cashier's check; or  
197 (c) intra-tribal purchase document, if a Tribal department or program, such as Social  
198 Services, will be providing the funds for the application fee.

199

### 200 **126.8. Hearings**

201 126.8-1. *Hearing.* The Committee shall conduct quarterly hearings on applications for a pardon  
202 or forgiveness from the Nation in accordance with this law.

- 203 (a) Hearings may be conducted in person or virtually as determined by the Committee.  
204 (b) Hearings shall take place at a regularly scheduled time and location or virtual platform,  
205 as determined by the Committee, and shall be open to the public to the extent permitted by  
206 governing laws of the Nation.

207 126.8-2. *Hearing Notice.* The Committee shall provide hearing notice as follows:

208 (a) *Applicant.* At least thirty (30) calendar days prior to the hearing, the Committee shall  
209 provide official hearing notice to the applicant by certified mail, the notice of which shall  
210 include:

- 211 (1) The date;  
212 (2) The time;  
213 (3) Whether the hearing will be conducted in-person or virtually; and  
214 (4) The location of or virtual platform for the hearing and, if virtual, instructions  
215 on how to access the platform.

216 (b) *Public.* The Committee shall provide public notice of hearings as follows:

217 (1) By posting the notice in prominent locations at least thirty (30) days prior to  
218 the hearing;

219 (A) If alternate arrangements have been made under section 126.8-2 of this  
220 law, notice shall be posted in prominent locations with as much advance  
221 notice as possible and as time permits.

222 (2) By posting notice of the hearings scheduled for the year on the Nation's website  
223 and periodically in the Nation's newspaper.

224 126.8-3. *Alternate Hearing Arrangements.* Applicants who reside out of the State of Wisconsin  
225 who are unable to attend a hearing may submit a written request by certified mail to the Tribal  
226 Secretary's Office for alternate arrangements to appear by video conference and/or to reschedule  
227 the hearing date. If alternate arrangements are unavailable, the applicant may withdraw the  
228 application up to three (3) business days prior to the hearing without penalty, and may re-apply for  
229 a pardon at any time.

230 126.8-4. *Failure to Attend Hearing.* Failure of the applicant to attend the hearing may result in the  
231 Committee postponing making a determination on the application or recommending the Oneida  
232 Business Committee deny the application.

233 (a) Applicants with a legitimate reason for failing to attend a hearing shall have ten (10)  
234 calendar days from the date of the missed hearing to provide documentation to the  
235 Committee. Such documentation may include, but is not limited to, a Doctor's excuse,  
236 accident/police report, or funeral notice.

237 126.8-5. *Testimony and Notarized Statements.* The Committee shall obtain oral testimony during  
238 the hearing from the applicant and any victims, witnesses, or other persons supporting or opposing  
239 the pardon or forgiveness.

240 (a) Victims, witnesses, and other persons unavailable for a scheduled hearing may submit  
241 a notarized statement for consideration.

242 (b) The Committee may institute recesses and postponements as they see fit.

243 (c) The Committee may ask questions at any time during the hearing.

244 (d) The Committee may require the applicant to provide further documentation.

245 (1) Within five (5) business days of the hearing, the Committee shall send a written  
246 request by certified mail to the applicant for the additional documentation.

247 (2) The applicant shall submit the documentation to the Tribal Secretary's Office  
248 within thirty (30) calendar days after receiving the request for the documentation.

249 Failure of the applicant to provide any of the required documentation may result in:

250 (A) the application being removed from consideration; or

251 (B) denial of the application.

252 126.8-6. *Deliberations and Recommendation.* After the hearing, the Committee shall go into  
253 executive session for deliberations.

254 (a) The Committee shall consider all information gathered from the hearing, the  
255 application, the background investigation, and any testimony or notarized statements when  
256 determining whether to recommend that the application be approved or denied.

257 (1) The Committee shall be responsible for weighing the appropriateness of  
258 granting a pardon or forgiveness.

259 (b) *Recommendation.* After considering the factors provided, the Committee shall make a  
260 decision and compose a formal, written recommendation for each application, including  
261 reasons to approve or deny the application within sixty (60) days after the pardon or  
262 forgiveness hearing. The recommendation, including any dissenting opinions issued by the  
263 Committee, shall be forwarded to the Oneida Business Committee within thirty (30)  
264 calendar days after making a decision, along with the following materials for review:

265 (1) All information from the application and the background investigation;

266 (2) Any notarized statements submitted;

267 (3) A proposed draft resolution; and

268 (4) An audio recording of the hearing, upon request by an Oneida Business  
269 Committee member.

270

## 271 **126.9. Conditions and Restrictions**

272 126.9-1. *Pardons.* Certain convictions may affect a Tribal member's rights under state or federal  
273 law, or result in restrictions being placed on a Tribal member, regardless of whether a Tribal pardon  
274 has been granted.

275 (a) *Civil Rights.* A pardon by the Tribe does not guarantee the restoration of all civil rights,  
276 and each recipient of a Tribal pardon is responsible for determining whether the pardon  
277 affects any non-Tribal restrictions or limitations that may be applicable pursuant to the

278 conviction.  
279 (b) *Employment*. Individuals convicted of a crime that is “substantially related” to the care  
280 of another person or animal may be subject to extended or permanent restrictions on  
281 licensing or professional credentials in fields relating to such caretaking. A Tribal pardon  
282 shall not affect these restrictions.

283 (c) *Sex Offender Registry*. Receipt of a Tribal pardon shall in no way affect registration,  
284 tracking or other restrictions or obligations imposed upon sex offenders.

285 (d) *Voting Rights*. Each state, and the federal government are empowered to determine  
286 whether felons may vote in elections, caucuses, referendums or any other venue dependent  
287 on the votes of citizenry. The granting of a Tribal pardon shall not supersede the rights of  
288 these jurisdictions to determine the eligibility of voters.

289 126.9-2. *Other Restrictions*. The Committee’s written recommendation to the Oneida Business  
290 Committee to approve an applicant’s request for a pardon or forgiveness may also recommend the  
291 Oneida Business Committee impose restrictions on the applicant. If the Committee does not  
292 recommend a restriction, the Oneida Business Committee shall have the authority to place  
293 restrictions on the applicant before approving the pardon or forgiveness request. Restrictions shall  
294 specify the time lines attached to them, which may expand over a period of months, years, or  
295 indefinitely.

296 (a) Restrictions shall be clearly defined and may include the following:  
297 (1) The applicant is ineligible for a transfer, promotion or job reassignment.  
298 (2) The applicant may be prohibited from:  
299 (A) Handling cash and/or merchandise.  
300 (B) Having Tribal property sign-off authority.  
301 (C) Supervising staff.  
302 (D) Supervising or caring for children or the elderly.  
303 (E) Any other restrictions the Oneida Business Committee determines as  
304 appropriate.

305 (b) When restrictions are imposed for a period of greater than five (5) years, the applicant  
306 may, after five (5) years, apply to have the restrictions modified or lifted. The request to  
307 modify or lift restrictions will follow the same process required to request a pardon.

308 (c) The applicant shall sign a written statement describing each restriction, and time period  
309 of such restriction prior to becoming employed by the Tribe.

310 126.9-3. *Conditions*. The Committee may also recommend that an applicant requesting a pardon  
311 or forgiveness be required to complete conditions before the applicant is granted the pardon or  
312 forgiveness. If the Committee does not recommend a condition, the Oneida Business Committee  
313 shall have the authority to place conditions on the applicant before approving the pardon or  
314 forgiveness request.

315 (a) Conditions shall be clearly defined and may include the following:  
316 (1) perform community service hours within a Tribal Department.  
317 (2) payment of restitution to the Tribe.  
318 (3) any other conditions the Oneida Business Committee determines as  
319 appropriate.  
320

## 321 **126.10. Oneida Business Committee**

322 126.10-1. The Oneida Business Committee shall consider all of the information received by the  
323 Committee prior to making a determination on whether to issue or deny a pardon or forgiveness  
324 application. The Oneida Business Committee may accept, reject or modify the Committee’s  
325 recommendation.

326 126.10-2. *Deliberations.* Deliberations by the Oneida Business Committee shall take place in  
327 executive session. The Oneida Business Committee may request, by written notice, that the  
328 applicant be present during the deliberations to provide oral testimony or to answer questions. The  
329 notice shall be provided to the applicant thirty (30) days prior to the deliberations and shall contain  
330 the time, place and date of the deliberations.

331 126.10-3. *Final Decision.* The Oneida Business Committee shall issue or deny the pardon or  
332 forgiveness in open session, by resolution, including the reasons therefor and shall include for the  
333 record a clear indication of any decision and shall list the specific crimes to be pardoned or acts to  
334 be forgiven. This decision is final and cannot be appealed. Applicants may be eligible to re-apply  
335 for a pardon or forgiveness one (1) year from the date of the most recent denial of a pardon or  
336 forgiveness.

337 126.10-4. *Notification.* Notification of the final decision shall be sent to the applicant from the  
338 Tribal Secretary's office by certified mail or personally served within ten (10) business days  
339 following the decision. Applicants have a right to documentation of the final decision along with  
340 the resolution, and the reason(s) for the final decision.

341 126.10-5. *Resolution.* To grant or deny a pardon or forgiveness, a majority vote of the Oneida  
342 Business Committee is required.

343 126.10-6. *Eligibilities.* Unless otherwise directed by the Oneida Business Committee, a pardon  
344 or forgiveness may fully or partially restore some Tribal eligibilities lost as a result of a conviction  
345 or act including:

- 346 (a) employment; and/or
- 347 (b) an occupational license, certificate or permit; and/or
- 348 (c) housing; and/or
- 349 (d) other Tribal benefit.

350  
351 *End.*

---

352  
353 Adopted – BC-2-19-93-I  
354 Adopted – BC-11-13-93-B (Oneida Pardon Procedures Policy)  
355 Adopted – BC-11-24-93-B (Temporary Pardons)  
356 Adopted – BC-7-31-02-A  
357 Adopted – BC-05-25-11-A  
358 Adopted – BC-01-22-14-B  
359 Emergency Adoption – BC-\_\_-\_\_-\_\_-\_\_



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



### AGENDA REQUEST FORM

- 1) Request Date: April 14, 2021
- 2) Contact Person(s): Attorney Kristen Hooker  
Dept: Legislative Reference Office  
Phone Number: 920-869-4411 Email: khooker@oneidanation.org
- 3) Agenda Title: Emergency Amendments PFSC Bylaws
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
On 4.14.21, BC motioned LOC to amend PFSC's bylaws 1-5(a) that all alternates, as identified in 1-5(a)(1)(A)-(C) are now members and shall be eligible to make up the 3 person quorum requirement in 3-5, and that such amendments shall remain in place until rescinded by the BC or the bylaws are amended

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

- 1) Adoption Packet Handout
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_
- 4) \_\_\_\_\_

- 5) Please list any laws, policies or resolutions that might be affected:  
\_\_\_\_\_
- 6) Please list all other departments or person(s) you have brought your concern to:  
\_\_\_\_\_
- 7) Do you consider this request urgent?  Yes  No  
If yes, please indicate why:  
Per the directive of the OBC, this item is supposed to come back to the April 28, 2021 OBC meeting.

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

Signature of Requester: Kristen Hooker

*Please send this form and all supporting materials to:*

**LOC@oneidanation.org**  
*or*  
**Legislative Operating Committee (LOC)**  
P.O. Box 365  
Oneida, WI 54155  
Phone 920-869-4376



**\*\*HANDOUT\*\***

## Pardon and Forgiveness Screening Committee Bylaws Amendments Legislative Analysis

### SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Bylaws	<ul style="list-style-type: none"> <li>▪ To comply with the April 14, 2021 directive of the Oneida Business Committee (“OBC”) to have the Legislative Operating Committee develop amendments to section 1-5(a) of the Pardon and Forgiveness Screening Committee’s bylaws which will ensure that the alternates, as identified in section 1-5(a)(1)(A)-(C) of the bylaws, can contribute to the establishment of the three (3) member quorum requirement set forth in section 3-5 of the bylaws to the same degree as the members of the Pardon and Forgiveness Screening Committee (“PFSC”).</li> <li>▪ To update the PFSC’s bylaws to conform and comply with the most recent amendments to the Boards, Committees and Commissions law, which were adopted by the OBC through resolution BC-08-12-20-B.</li> </ul>
Purpose	<ul style="list-style-type: none"> <li>▪ The PFSC was created pursuant to the Nation’s Pardon and Forgiveness law (“Law”) for purposes of carrying out certain provisions of the Law by:               <ul style="list-style-type: none"> <li>• creating internal standard operating procedures necessary to govern its proceedings [1 O.C. 126.4-2(a)];</li> <li>• reviewing and processing applications for a pardon or forgiveness in an orderly and expeditious manner [1 O.C. 126.4-2(b)];</li> <li>• reviewing an applicant’s background investigation report received from the Oneida Human Resources Department [1 O.C. 126.4-2(c)];</li> <li>• conducting and presiding over hearings [1 O.C. 126.4-2(d)];</li> <li>• providing formal, written recommendations to the OBC to approve or deny a pardon and/or forgiveness application [1 O.C. 126.4-2(e)]; and</li> <li>• taking other actions reasonably related to the purpose of the PFSC [1 O.C. 126.4-2(f)].</li> </ul> </li> </ul>
Related Legislation	Oneida Nation Constitution; Legislative Procedures Act; Pardon and Forgiveness law; Boards, Committees and Commissions law; and Open Records Open Meetings law.
Enforcement/Due Process	The Boards, Committees and Commissions law provides the enforcement process for appointed members. Members of the PFSC serve at the discretion of the OBC. Upon the recommendation of a member of the OBC or by majority vote of the PFSC, a member of the PFSC may have his or her appointment terminated by the OBC. A two-thirds majority vote of the OBC shall be required to terminate the appointment of an individual. The OBC’s decision to terminate an appointment is final and not subject to appeal. [1 O.C. 105.7-4].
Public Meeting	Public meetings are not required for bylaws.
Fiscal Impact	A fiscal impact statement is not required for bylaws.

1 **SECTION 2. BACKGROUND**

- 2 A. The PFSC was originally established pursuant to the Oneida Pardon Ordinance, through adoption of  
3 resolution BC-07-31-02-A.
- 4 B. The Oneida Pardon Ordinance was later repealed and replaced with the Pardon and Forgiveness law,  
5 which was adopted and subsequently amended, respectively, by resolutions BC-05-25-11-A and BC-  
6 01-22-14-B.
- 7 C. Emergency amendments to the Law are being brought before the OBC, simultaneous herewith, to allow  
8 for hearings on applications for a pardon or forgiveness to be conducted virtually, instead of just in-  
9 person as is currently the only option authorized under the Law.
- 10 D. Bylaws provide a framework for the operation and management of a board, committee or commission  
11 of the Nation; the government of its members, and the regulation of its affairs. [1 O.C. 105.3-1(d)].
- 12 E. This item came before the Legislative Operating Committee (“LOC”) per motion of the OBC on April  
13 14, 2021, which directed the LOC to develop amendments to section 1-5(a) of the PFSC’s bylaws to  
14 allow for the alternates, identified in subsection 1-5(a)(1), to contribute to the establishment of the three  
15 (3) member quorum requirement set forth in section 3-5 of the bylaws to the same degree as a PFSC  
16 member.

17  
18 **SECTION 3. AMENDMENTS**

19 This section details the material changes to the bylaws from the previously adopted bylaws.

20 **A. Article I. Authority**

- 21     ▪ **Section 1-5(a) – Number of Members.** Per directive of the OBC, the following was added to this  
22 section to make clear that the four (4) alternates, appointed to sit on the PFSC, are considered  
23 members of the PFSC to the same extent as their member counter-parts, especially when it comes  
24 to establishing a quorum under section 3-5 of the PFSC bylaws:

- 25  
26         (1) Unless otherwise stated herein, the four (4) alternates shall be considered  
27 members of the PFSC, with the same responsibilities and powers as PFSC  
28 members, including, but not limited to, the ability to create a quorum and  
29 vote under sections 3-5 and 3-7, below.

- 30             (A) For purposes hereof and absent an express statement to the contrary,  
31 the term “member(s)” shall refer collectively to PFSC members and  
32 alternates. [Proposed Bylaws 1-5(a)(1)(A)].

- 33  
34     ○ **Impact:** As currently written, this section may have been capable of being interpreted  
35 inconsistently. For example, one reader may have interpreted this section to mean that PFSC  
36 alternates had lesser duties or powers than their member counter-parts, while another reader  
37 may have interpreted it in an opposite way. The proposed language will now make clear that  
38 alternates should be treated as members, unless the bylaws expressly state otherwise, and  
39 thus, should be counted for purposes of establishing a quorum under section 3-5 and can vote  
40 with the same weight as a member under section 3-7 of the bylaws.

- 41  
42     ▪ **Section 1-5(c) – Vacancies.** In August of 2020, amendments to the Boards, Committees and  
43 Commissions law were adopted through resolution BC-08-12-20-B. This included an amendment  
44 to section 105.7-1 regarding the involvement of a board, committee or commission in the  
45 appointment of individuals to fill vacancies. As amended, the relevant portion of the section now  
46 reads:

- 47         (1) The entity’s Chairperson may review the application materials and submit  
48 to the Business Committee Support Office a recommendation to the Oneida  
49 Business Committee of an applicant for appointment.

- 50             (A) The recommendation shall be submitted to the Business Committee



51 Support Office in accordance with the submission deadlines for the  
52 Oneida Business Committee meeting in which the appointment is  
53 intended to be made. [1 O.C. 105.7-1(b)(1)(A)].  
54

55 Section 1-5(c) of the PFSC's bylaws was updated to conform to the requirements of the Boards,  
56 Committees and Commissions law for an entity to participate in the appointment of candidates  
57 to fill vacancies.  
58

59 **B. Article II. Officers**

60 ▪ **Section 2-5 – Purchases and Travel.** This section of the proposed bylaws amendments was  
61 updated to conform to the most recent amendments to the Boards, Committees and Commissions  
62 law, which expanded the budgetary sign-off authority of the Business Committee Support Office  
63 over an entity's purchases from just purchases relating to stipends, travel per diem and business  
64 expense reimbursements to all budgetary purchases. [1 O.C. 105.10-3(b)(6)].  
65

66 **C. Article III. Meetings**

67 ▪ **Sections 3-1 and 3-2 – Regular and Emergency Meetings.** This section of the proposed bylaws  
68 amendments was updated to conform to the most recent amendments to the Boards, Committees  
69 and Commissions law, which now allows for meetings of an entity to be held in-person or  
70 virtually, so long as virtual attendance is demonstrated in accordance with the process set forth  
71 therein. [1 O.C. 105.13-3]. Both sections 3-1 and 3-2 had the following language added to it:  
72

73 Meetings of the PFSC may be held/attended in person, by telephone, through  
74 video-conferencing or through other telecommunications so long as presence  
75 of each member is demonstrated consistent with the Boards, Committees and  
76 Commissions law. [Proposed Bylaws 3-1(a) and 3-2].  
77

78 ○ **Impact:** With the onset of the COVID-19 pandemic, the Nation was forced to adjust many of  
79 its customary practices, including the manner in which it holds meetings by hosting them  
80 virtually or with very little access to the public. This provision allows similar flexibility to  
81 the PFSC by allowing for the same so long as the following occurs in compliance with the  
82 Boards, Committees and Commissions law:

- 83 (1) The PFSC demonstrates the presence of its members during a meeting by taking roll  
84 call on the record at both the beginning and end of the meeting; and  
85 (2) If a PFSC member experiences a technological issue during the meeting and it disrupts  
86 the member's presence, he or she notifies the PFSC of the technological issue as soon  
87 as possible. [1 O.C. 105.13-3(c)-(d)].  
88

89 **D. Minor Changes:** Throughout the proposed bylaws amendments, there are minor revisions noted, which  
90 were added for clarity and to ensure conformance with the most recent version of the Nation's Boards,  
91 Committees and Commissions law.  
92

93 **SECTION 4. LEGISLATION RELATED TO THE PFSC**

94 There are no conflicts between the proposed bylaws amendments and the Oneida Code of Laws. Below is  
95 a summary of the laws referenced in and related to the proposed amendments to the Pardon and Forgiveness  
96 Screening Committee's bylaws.  
97

98 **A. Oneida Nation Constitution.** The Constitution of the Oneida Nation contains a provision that allows  
99 for the creation of committees for the proper conduct of tribal business of the Nation. [Oneida Nation

100 *Constitution, Article IV, Section 1(g)*. There are no conflicts between the proposed bylaws amendments  
101 and the Oneida Nation Constitution.  
102

103 **B. Pardon and Forgiveness [1 O.C. Chapter 126].** This Law defines the duties and responsibilities of the  
104 PFSC, OBC, Oneida Nation Secretary’s Office, and other persons involved in the granting or denial of  
105 a pardon or forgiveness thereunder. The PFSC’s bylaws incorporate the powers and responsibilities  
106 delegated the PFSC under the Law. With respect to hearings on applications for a pardon or forgiveness,  
107 the PFSC’s bylaws simply state that said hearings will be conducted in accordance with the Law.  
108 [*Proposed Bylaws 3-4*]. This will allow for adjustments to be made when and if the Law is amended  
109 with respect to the hearing process without the PFSC having to submit further amendments to its bylaws  
110 for OBC consideration. The proposed bylaws amendments comply and are not in conflict with the  
111 Nation’s Pardon and Forgiveness law.  
112

113 **C. Boards, Committees and Commissions [1 O.C. Chapter 105].** This law establishes all requirements  
114 related to elected and appointed boards, committees and commissions of the Nation. In addition, it  
115 governs the process for appointing and/or electing individuals to boards, committees and commissions;  
116 the creation of bylaws; the maintenance of official records; compensation and other items related to  
117 boards, committees and commissions governed thereby.  
118

119 The minimal requirements for what must be addressed in an entity’s bylaws is contained in the Boards,  
120 Committees and Commissions law. [*1 O.C. 105.10-1*]. Likewise, there is a requirement that all existing  
121 entities of the Nation comply with the format detailed in the Boards, Committees and Commissions law  
122 within a reasonable timeframe after the law or amendments to the law are adopted. [*1 O.C. 105.10-*  
123 *1(a)*]. As indicated above, the Boards, Committees and Commissions law was last amended in August  
124 of 2020. In addition to addressing the directive of the Oneida Business Committee with respect to the  
125 characterization of alternates, the proposed bylaws amendments also update the sections that are in  
126 need of revision to comply with the Boards, Committees and Commissions law. The proposed bylaws  
127 amendments comply and are not in conflict with the Nation’s Boards, Committees and Commissions  
128 law.  
129

130 **D. Open Records and Open Meetings [1 O.C. Chapter 107].** This law sets the requirements for how  
131 meetings of the Nation’s governmental bodies shall be conducted and how materials from that meeting  
132 maintained, as well as made available to the public. [*1 O.C. 107.1 and 107.12*]. “Governmental bodies”  
133 encompasses most of the Nation’s boards, committees and commissions, the PFSC included. [*1 O.C.*  
134 *107.31(d)*].  
135

136 Absent an exception, meetings of a governmental body are to be open to the public and the materials  
137 therefrom available for public inspection so long as they constitute a “record” as defined within the  
138 law. [*1 O.C. 107.15 and 107.17*]. In addition, the law provides the minimum requirements for how  
139 notice of a governmental meeting must be provided, as well as accessible, to the public. [*1 O.C. 107.15-*  
140 *1*]. PFSC meetings are open to the public except for the portions of the meeting that meet the exceptions  
141 listed in the Open Records and Open Meetings law for when information is of a personal or sensitive  
142 nature, and thus, the public interest in accessing the information is outweighed by the harm that could  
143 be caused to the subject of the information. [*Proposed Bylaws 3-1*]. Meeting packets and backup  
144 materials are available to all PFSC members [*Proposed Bylaws 3-1(c)*], consistent with the Open  
145 Records and Open Meetings law which states that any requestor has the right to make or receive a copy  
146 of a public record [*1 O.C. 107.7-2*], as well as the Pardon and Forgiveness law which requires that  
147 PFSC hearings be open to the public, while deliberations and recommendations relating to those  
148 hearings are allowed to be held in executive session, outside of the public’s presence [*1 O.C. 126.3-*

149        *I(j)*. The proposed bylaws amendments comply and are not in conflict with the Nation's Open Records  
150        and Open Meetings law.

**\*\*HANDOUT\*\***

**PARDON AND FORGIVENESS SCREENING COMMITTEE BYLAWS**

**Article I. Authority**

1-1. *Name.* The name of this entity shall be the Pardon and Forgiveness Screening Committee and may hereinafter be referred to as the “PFSC.”

1-2. *Establishment.* The PFSC was originally established by the Oneida Pardon Ordinance \_\_\_\_\_ through adoption of resolution BC-07-31-02-A, which was repealed by and \_\_\_\_\_ replaced with the Pardon and Forgiveness law, ~~through adoption of \_\_\_\_\_~~ as adopted by resolution BC-05-25-11-A ~~as, subsequently~~ amended by resolution BC-01-22-14-B, and emergency amended by resolution BC- - - - .

1-3. *Authority.*

(a) *Purpose.* The purpose of the PFSC is to provide a fair, efficient and formal process for considering ~~pardons and requests for a pardon or~~ forgiveness by:

- (1) Promulgating internal standard operating procedures necessary to govern its proceedings;
- (2) Reviewing and processing applications for a pardon or forgiveness in an orderly and expeditious manner;
- (3) Reviewing an applicant’s background investigation report received from the Oneida Human Resources Department;
- (4) Conducting and presiding over hearings to obtain a pardon or forgiveness from the Nation;
- (5) Providing formal, written recommendations to the Oneida Business Committee to approve or deny a pardon or forgiveness application;
- (6) Taking other actions reasonably related to the purpose of the PFSC; and
- (7) Carrying out all other powers and duties delegated by the laws of the Nation, including, but not limited to, the Pardon and Forgiveness law.

(b) The PFSC does not:

- (1) Have authority to enter into contracts; or
- (2) Have authority to create policy or legislative rules.

1-4. *Office.* The Official mailing address of the PFSC shall be:  
Pardon and Forgiveness Screening Committee  
P.O. Box 365  
Oneida, WI 54155

1-5. *Membership.*

~~(a) \_\_\_\_\_~~ (a) ~~Number of Members.~~ The PFSC shall consist of four (4) members and four \_\_\_\_\_ (4) alternates from three (3) representative

46 areas who shall serve a term \_\_\_\_\_ consistent with that of  
47 the Oneida Business Committee’s term of office.

48 (1) \_\_\_\_\_ ~~(4) Unless otherwise stated herein, the four (4)~~  
49 ~~alternates shall be considered members of the PFSC, with the same~~  
50 ~~responsibilities and powers as PFSC members, including, but not~~  
51 ~~limited to, the ability to create a quorum and vote under sections 3-~~  
52 ~~5 and 3-7, below.~~

53 (A) \_\_\_\_\_ ~~For purposes hereof and absent an express statement to the~~  
54 ~~contrary, the term “member(s)” shall refer collectively to~~  
55 ~~PFSC members and alternates.~~

56 (2) \_\_\_\_\_ The three (3) representative areas shall be made up of:

57 (A) One (1) member and one (1) alternate representative from  
58 the Oneida Police Department;

59 (B) One (1) member and one (1) alternate representative from  
60 the Oneida Social Services Department; and

61 (C) Two (2) member and two (2) alternate representatives from  
62 the community-at-large.

63 (i) One (1) member and one (1) alternate representative  
64 of the community-at-large shall be an elder of fifty-  
65 five (55) years of age or older; and

66 (ii) One (1) member and one (1) alternate representative  
67 of the community-at-large shall be twenty-five (25)  
68 years of age or older.

69 (b) \_\_\_\_\_ *Appointment.* PFSC members ~~and alternates~~ shall be appointed by  
70 the \_\_\_\_\_ Oneida Business Committee in accordance  
71 with the Boards, Committees \_\_\_\_\_ and Commissions law. Each  
72 member ~~and alternate~~ shall remain in office as \_\_\_\_\_ follows:

73 (1) If his or her term has expired, until a successor has been sworn in by  
74 the Oneida Business Committee;

75 (2) Until his or her resignation; or

76 (A) \_\_\_\_\_ A member ~~or alternate~~ may resign  
77 any time verbally at a \_\_\_\_\_

78 \_\_\_\_\_ meeting or by delivering written notice to the ~~Oneida~~  
79 \_\_\_\_\_ Business Committee Support

80 Office and PFSC Chairperson \_\_\_\_\_  
81 \_\_\_\_\_ or the Chairperson’s designee. The resignation is

82 effective \_\_\_\_\_ upon  
83 acceptance by motion of a member’s ~~or alternate’s~~

84 \_\_\_\_\_ verbal resignation or upon  
85 delivery of the written notices.

86 (3) Until his or her appointment is terminated in accordance with the  
87 Boards, Committees and Commissions law.

88 (c) *Vacancies.* Vacancies for any reason, whether caused by term expiration,  
89 death, termination or resignation, shall be filled in accordance with the  
90 Boards, Committees and Commissions law for the remainder of the term.

91 ~~\_\_\_\_\_~~(1) The ~~PFSC's~~PFSC Chairperson shall ~~provide review~~  
92 ~~all application materials and submit a recommendation for~~  
93 ~~appointment to~~ the Oneida Business ~~\_\_\_\_\_~~  
94 ~~\_\_\_\_\_~~Committee ~~recommendations on all applications for~~  
95 ~~appointment by \_\_\_\_\_~~in accordance with the  
96 ~~executive session in which the appointment is intended to~~Boards,  
97 ~~\_\_\_\_\_~~Committees and Commissions law.

98 (A) ~~The recommendation of the PFSC Chairperson shall be~~  
99 ~~\_\_\_\_\_~~made ~~determined by a majority vote~~  
100 ~~of the members present at a PFSC meeting of an established~~  
101 ~~quorum.~~

102 (d) *Qualifications.* PFSC members ~~and alternates~~ shall meet the following  
103 ~~\_\_\_\_\_~~qualifications:

104 ~~\_\_\_\_\_~~(1) The PFSC member ~~and~~ ~~\_\_\_\_\_~~/alternate  
105 ~~representative~~representatives from the Oneida ~~\_\_\_\_\_~~  
106 ~~\_\_\_\_\_~~Police Department shall:

107 (A) Be ~~an~~enrolled ~~member~~members of the Oneida Nation; and  
108 ~~\_\_\_\_\_~~(B) Have a ~~\_\_\_\_\_~~written  
109 ~~recommendation~~recommendations from the Chief of Police  
110 for ~~\_\_\_\_\_~~appointment to the PFSC.

111 ~~\_\_\_\_\_~~(2) The PFSC member ~~and~~ ~~\_\_\_\_\_~~/alternate  
112 ~~representative~~representatives from the Oneida ~~\_\_\_\_\_~~  
113 ~~\_\_\_\_\_~~Social Services Division shall:

114 (A) Be ~~an~~enrolled ~~member~~members of the Oneida Nation; and  
115 ~~\_\_\_\_\_~~(B) Have a ~~\_\_\_\_\_~~written ~~recommendation~~  
116 ~~\_\_\_\_\_~~recommendations from the Division Director ~~\_\_\_\_\_~~  
117 ~~\_\_\_\_\_~~for the Governmental Services  
118 Division for appointment to ~~\_\_\_\_\_~~  
119 ~~\_\_\_\_\_~~the PFSC.

120 ~~\_\_\_\_\_~~(3) The PFSC member ~~and~~ ~~\_\_\_\_\_~~/alternate representatives  
121 from the ~~\_\_\_\_\_~~  
122 ~~\_\_\_\_\_~~community-at-large shall:

123 (A) Be ~~an~~enrolled ~~member~~members of the Oneida Nation;

124 (B) Reside in Brown or Outagamie County;

125 ~~\_\_\_\_\_~~(C) For one (1) member and one (1)  
126 alternate, be at least twenty ~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~ five  
127 (25) years of age, and for the other one (1) member and ~~\_\_\_\_\_~~  
128 ~~\_\_\_\_\_~~one (1) alternate, be an elder of fifty-  
129 five (55) years of age ~~\_\_\_\_\_~~  
130 ~~\_\_\_\_\_~~or older; and

131 (D) Pass a background check.

133 1-6. *Termination.* A PFSC member ~~or alternate~~ may have his or her appointment terminated  
134 ~~\_\_\_\_\_~~in accordance with the Boards, Committees and  
135 Commissions law.

136 (a) In addition to any of the causes for termination already identified within the  
137 laws and policies of the Nation, a violation of these bylaws may result in  
138 the PFSC making a recommendation to the Oneida Business Committee for  
139 the termination of a member's ~~or alternate's~~ appointment.

140 ~~\_\_\_\_\_~~(1) Recommendations to the Oneida Business  
141 Committee for \_\_\_\_\_  
142 ~~\_\_\_\_\_~~termination of a PFSC member's ~~or alternate's~~ appointment  
143 must be ~~\_\_\_\_\_~~determined by a majority vote of the  
144 members ~~or their alternates in \_\_\_\_\_~~  
145 ~~\_\_\_\_\_~~attendance present at a PFSC meeting of an established  
146 quorum.  
147

148 1-7. *Trainings and Conferences.* None required.  
149

## 150 **Article II. Officers**

151 2-1. *Officers.* The PFSC shall have two (2) Officers: Chairperson and Vice-Chairperson.  
152

153 2-2. *Responsibilities of the Chairperson.* The responsibilities, duties and limitations of the  
154 PFSC Chairperson shall be as follows:

- 155 (a) Call and preside over all meetings and hearings of the PFSC;  
156 (b) ~~\_\_\_\_\_~~Along with the ~~Oneida~~ Business Committee Support Office, provide  
157 notice ~~of regular meetings, emergency meetings,~~ and hearings of the PFSC  
158 in ~~\_\_\_\_\_~~accordance with the Boards, Committees and Commissions law, the  
159 Pardon ~~\_\_\_\_\_~~and Forgiveness law, and the Open Records and Open  
160 Meetings law;  
161 (c) Forward, or through a designee have forwarded, the notice of meeting  
162 locations, agendas, materials and minutes in accordance with these bylaws  
163 and the Open Records and Open Meetings law;  
164 (d) ~~\_\_\_\_\_~~Along with the ~~Oneida~~ Business Committee Support Office, submit  
165 annual and semi-annual reports to the Oneida General Tribal Council and  
166 submit quarterly reports to the Oneida Business Committee in accordance  
167 with the ~~\_\_\_\_\_~~Boards, Committees and Commissions law;  
168 (e) Attend, or designate a PFSC member to attend, the Oneida Business  
169 Committee meeting in which the PFSC's quarterly report appears on the  
170 agenda;  
171 (f) Draft and sign recommendations of the PFSC;  
172 (g) Submit applicant recommendations to fill vacancies to the Oneida Business  
173 Committee for consideration; and  
174 (h) ~~\_\_\_\_\_~~Perform all other duties as assigned by majority vote of the  
175 members/~~\_\_\_\_\_~~alternates in attendance present at a PFSC meeting of an  
176 established quorum.  
177

178 2-3. *Responsibilities of the Vice-Chairperson.* The responsibilities, duties and limitations of the  
179 PFSC Vice-Chairperson shall be as follows:

180 (a) In the absence or incapacity of the PFSC Chairperson, the PFSC Vice-  
181 Chairperson shall perform the duties of the PFSC Chairperson.

182  
183 2-4. *Selection of Officers.* The PFSC shall elect Officer positions at the first duly called PFSC  
184 meeting.

185 ~~\_\_\_\_\_~~(a) The Officer positions shall be chosen by a majority vote of  
186 the members ~~or \_\_\_\_\_ their \_\_\_\_\_ alternates \_\_\_\_\_ in~~  
187 ~~attendance~~present at ~~the~~a PFSC meeting of an established quorum.

188 (b) The vote shall be made part of the PFSC record.

189 ~~\_\_\_\_\_~~(c) PFSC Officers ~~may~~shall hold ~~only~~no more than one (1)  
190 Officer position ~~at any one (1) time~~per Officer term.

191 (d) PFSC Officers may be dismissed from their Officer position by majority  
192 vote of the members ~~or their alternates in attendance~~present at a PFSC  
193 meeting of ~~\_\_\_\_\_~~an established quorum.

194  
195 2-5. *Purchases and Travel.* The PFSC shall follow the Nation's policies and procedures  
196 regarding purchasing and sign-off authority.

197 (a) Levels of budgetary sign-off authority for the PFSC shall be as set forth  
198 in the manual titled, *Oneida Tribe of Indians of Wisconsin Purchasing*  
199 *Policies and Procedures*, for Area Directors/Enterprise Directors.

200 (1) All PFSC Officers have sign-off authority and two (2) Officers shall  
201 be required to sign-off on all budgetary requests.

202 (A) Upon formal approval of a purchase by the PFSC, the  
203 Business Committee Support Office shall have official  
204 budgetary sign-off authority for the PFSC.

205 (b) The PFSC shall approve a member's request to travel on behalf of the PFSC  
206 by majority vote of the members present at a regular or emergency PFSC  
207 meeting of an established quorum.

208  
209 2-56. *Personnel.* The PFSC shall not have authority to hire personnel for the benefit of the  
210 PFSC.

211 ~~\_\_\_\_\_~~(a) The ~~Oneida~~-Business Committee Support Office shall assist  
212 the PFSC on ~~\_\_\_\_\_~~behalf of the ~~Tribal~~Nation's Secretary  
213 and in accordance with the Pardon and ~~\_\_\_\_\_~~

214 ~~\_\_\_\_\_~~Forgiveness law with fulfilling the following administrative duties  
215 ~~in \_\_\_\_\_~~accordanceconsistent with these  
216 bylaws and the governing law:

217 (1) Keeping minutes of the PFSC meetings;

218 (2) Along with the Chairperson, providing notice of regular meetings,  
219 emergency meetings and hearings of the PFSC;

220 (3) Acting as custodian of the records;

221 (4) Attending to all correspondence and presenting to the PFSC all  
222 official communications received by the PFSC;

223 (5) Along with the Chairperson, submitting annual and semi-annual  
224 reports to the Oneida General Tribal Council and submitting



- 225 quarterly reports to the Oneida Business Committee in accordance  
226 with the Boards, Committees and Commissions law; and  
227 (6) Administering the PFSC budget.

228  
229 ~~2-6. Budgetary Sign-Off Authority and Travel. The PFSC shall follow the Nation's policies and~~  
230 ~~procedures regarding purchasing and sign-off~~  
231 ~~authority.~~

232 ~~(a) Levels of budgetary sign-off authority for the PFSC shall be as set forth~~  
233 ~~in the manual titled, Oneida Tribe of Indians of Wisconsin Purchasing~~  
234 ~~Policies and Procedures, for Area Directors/Enterprise Directors.~~

235 ~~(1) All PFSC Officers have sign-off authority and two (2) Officers shall~~  
236 ~~be required to sign-off on all budgetary requests, except as follows:~~

237 ~~(A) The Oneida Business Committee Support Office shall have~~  
238 ~~sign-off authority over requests for stipends, travel per diem~~  
239 ~~and business expense reimbursement.~~

240 ~~(b) The PFSC shall approve a member's or alternate's request to travel on~~  
241 ~~behalf of the PFSC by majority vote of the members or their alternates~~  
242 ~~present at a regular or emergency PFSC meeting of an established quorum.~~

### 243 244 Article III. Meetings

245 3-1. Regular Meetings. ~~Regular~~ Subject to subsections (a) and (b) of this section 3-1, regular  
246 meetings of the PFSC shall occur on a quarterly basis and be held on the  
247 ~~third~~ Monday of the month each quarter at the Norbert Hill  
248 Center located ~~\_\_\_\_\_~~  
249 ~~in Oneida, Wisconsin, commencing at 10:00 a.m.~~

250 ~~(a)~~ (a) Meetings of the PFSC may be held/attended in person, by  
251 telephone, through video-conferencing or through other  
252 telecommunications so long as the presence of each member is  
253 demonstrated consistent with the Boards, Committees and Commissions  
254 law.

255 (b) The regular meeting date, time and/or place may be reviewed by the PFSC  
256 ~~\_\_\_\_\_~~ from time-to-time and changed as determined necessary by  
257 a majority vote ~~\_\_\_\_\_~~ of the members ~~or their alternates in~~  
258 ~~attendance~~ present at a PFSC meeting of an ~~\_\_\_\_\_~~  
259 ~~\_\_\_\_\_~~ established quorum so long as advance notice is provided to all  
260 members in ~~\_\_\_\_\_~~ writing and, along with the public, in accordance  
261 with the Nation's Open ~~\_\_\_\_\_~~ Records and Open  
262 Meetings law prior to the implementation of a new date, ~~\_\_\_\_\_~~ time  
263 and/or location. ~~\_\_\_\_\_~~

264 ~~(bc)~~ Notice of meeting location, agenda, materials and minutes shall be  
265 forwarded by the Chairperson or the Chairperson's designee to all PFSC  
266 members in writing and, along with the public, in accordance with the  
267 Nation's Open Records and Open Meetings law.

268 ~~(ed)~~ Meetings shall be run in accordance with Robert's Rules of Order or another  
269 method approved by the Oneida Business Committee.

- 270  
271 3-2. *Emergency Meetings.* Emergency meetings shall only be called when time sensitive issues  
272 ~~require immediate action.~~  
273 require immediate action. Emergency meetings may be held/attended in  
274 person, by telephone, through video-conferencing or through other tele-  
275 communications so long as the presence of each member is demonstrated  
276 consistent with the Boards, Committees and Commissions law.  
277 (a) Emergency meetings of the PFSC may be called by the Chairperson or upon  
278 written request of any two (2) PFSC members.  
279 ~~(b) Notice of the meeting location, agenda and materials shall~~  
280 ~~be forwarded by \_\_\_\_\_ the Chairperson or Chairperson’s designee to~~  
281 ~~all PFSC members by \_\_\_\_\_ in~~  
282 writing and by telephone call.  
283 (1) PFSC members, as well as in writing, and, along with the public, in  
284 \_\_\_\_\_ accordance with shall further receive notice of  
285 emergency meetings per the Nation’s Open Records and Open  
286 Meetings law.  
287 (c) Within seventy-two (72) hours after an emergency meeting, the PFSC shall  
288 provide the Nation’s Secretary with notice of the emergency meeting, the  
289 reason for the emergency meeting, and an explanation ~~of~~ as to why the  
290 matter could not wait ~~for~~ until the next regular meeting.  
291  
292 3-3. *Joint Meetings.* Joint meetings between the PFSC and the Oneida Business Committee  
293 shall not be held.  
294  
295 3-4. *Hearings.* Hearings shall be held in accordance with the Pardon and Forgiveness law.  
296  
297 3-5. *Quorum.* A quorum shall consist of at least three (3) PFSC members ~~or their alternates~~  
298 ~~and shall include~~  
299 the Chairperson or Vice-Chairperson.  
300 (a) The alternate will assume the role of the member that he or she is replacing,  
301 including the Chairperson and/or Vice-Chairperson.  
302  
303 3-6. *Order of Business.* The regular meetings of the PFSC shall follow the order of business as  
304 set out herein:  
305 (a) Call to Order  
306 (b) Adopt the Agenda  
307 (c) Approval of Previous Minutes  
308 (d) Old Business  
309 (e) New Business  
310 (f) Executive Session  
311 (g) Adjournment  
312

313 3-7. *Voting.* Decisions of the PFSC shall be by majority vote of the members ~~or their~~  
314 ~~alternates in attendance at a PFSC meeting or hearing of an~~  
315 ~~established~~ quorum present at  
316 a PFSC meeting or hearing of an established quorum.

- 317 (a) The Chairperson, or Vice-Chairperson when presiding in lieu of the Chair-  
318 person, shall not be allowed to vote unless a tie needs to be broken.  
319 (b) E-polls are permissible so long as conducted in accordance with the Boards,  
320 Committees and Commissions law.  
321 (1) The Vice-Chairperson shall serve as the Chairperson's designee for  
322 the responsibility of conducting an e-poll in the Chairperson's  
323 absence or discretion.

#### 324 **Article IV. Expectations**

325 4-1. *Behavior of Members.* PFSC members ~~and alternates~~ are expected to treat each other in  
326 ~~accordance with~~  
327 ~~the Nation's core values of The Good Mind as expressed~~  
328 ~~by Onlayote'a'ka, which includes:~~

- 329  
330 (a) Kahletsyal&sla. The heart felt encouragement of the best in each of us.  
331 (b) Kanolukhwásla. Compassion, caring, identity, and joy of being.  
332 (c) Ka'nikuhli yó. The openness of the good spirit and mind.  
333 (d) Ka'tshatstásla. The strength of belief and vision as a People.  
334 (e) Kalihwi yó. The use of the good words about ourselves, our Nation, and our  
335 future.  
336 (f) TwahwahtsíláyΛ. All of us are family.  
337 (g) YukwatsístayΛ. Our fire, our spirit within each one of us.

338 ~~(1) A failure by a member or alternate to act in~~  
339 ~~accordance with this or~~  
340 ~~any other section of these bylaws and/or any~~  
341 ~~governing laws of the~~  
342 ~~Nation may be cause for:~~

- 343 (A) The PFSC to recommend to the Oneida Business Committee  
344 that it terminate his or her appointment in accordance with  
345 the Boards, Committees and Commissions law; and/or  
346 (B) The PFSC taking disciplinary action against him or her in  
347 accordance with any law or policy of the Nation providing  
348 sanctions and/or penalties for appointed officials.

349 ~~(2) Recommendations to the Oneida Business~~  
350 ~~Committee for~~  
351 ~~termination of a PFSC member's or alternate's appointment~~  
352 ~~must be determined by a majority vote of the~~  
353 ~~members or their alternates in~~  
354 ~~attendance present at a PFSC meeting of an established~~  
355 ~~quorum.~~

357 4-2. *Prohibition of Violence.* Intentionally violent acts committed by a member ~~or alternate~~ of  
358 \_\_\_\_\_ the PFSC that inflicts, attempts to inflict, or threatens  
359 to inflict emotional or \_\_\_\_\_ bodily harm on another person, or  
360 damage to property, during a meeting or \_\_\_\_\_ when  
361 acting in an official capacity are strictly prohibited and grounds for  
362 \_\_\_\_\_ an immediate recommendation for termination of  
363 appointment from the \_\_\_\_\_ PFSC and/or the  
364 imposition of sanctions and/or penalties according to the  
365 \_\_\_\_\_ laws of the Nation as determined by majority vote of  
366 the members ~~or their~~ \_\_\_\_\_ ~~alternates~~ \_\_\_\_\_ ~~in~~  
367 ~~attendance~~ present at a PFSC meeting of an established quorum.

369 4-3. *Drug and Alcohol Use.* Use of alcohol and ~~illegal~~ prohibited drugs by members ~~or alternates~~  
370 of the \_\_\_\_\_ PFSC when \_\_\_\_\_  
371 \_\_\_\_\_ acting in their official capacity is strictly prohibited.

372 \_\_\_\_\_ (a) Prohibited drugs are defined as marijuana, cocaine, opiates,  
373 amphetamines,  
374 \_\_\_\_\_ phencyclidine (PCP), hallucinogens, methaqualone,  
375 barbiturates, narcotics, \_\_\_\_\_ and any other substance  
376 included in Schedules I through V, as defined by \_\_\_\_\_  
377 \_\_\_\_\_ Section 812 ~~of~~, Title 21 of the United States Code. This ~~also~~ includes  
378 \_\_\_\_\_ prescription medication or over-the-counter  
379 medicine used in an \_\_\_\_\_  
380 \_\_\_\_\_ unauthorized or ~~unlawful~~ un-lawful manner.

381  
382 4-4. *Social Media.* PFSC members ~~and alternates~~ shall use social media in accordance with  
383 \_\_\_\_\_ their Oath of Office and the Nation's Social Media  
384 Policy.

385 ~~(a)~~ (a) PFSC members ~~and alternates~~ shall further refrain from posting,  
386 attaching \_\_\_\_\_ or writing ~~anything~~ any-thing relating to PFSC business or  
387 activities on any social \_\_\_\_\_ media outlet.  
388 (1) Posting notices of meetings, public hearings, and/or cancellations on  
389 social media outlets is acceptable.

390  
391 4-5.- *Conflict of Interest.* PFSC members ~~and alternates~~ shall abide by all laws of the Nation  
392 \_\_\_\_\_ ~~governing~~ that govern conflicts of interest. PFSC  
393 members ~~and alternates~~ must submit \_\_\_\_\_ a Conflict of  
394 Interest Disclosure form upon Oath of Office and annually.

## 395 396 **Article V. Stipends and Compensation**

397 5-1. *Stipends.* Stipend eligibility shall be governed by ~~these~~ the bylaws; ~~the~~ Boards,  
398 \_\_\_\_\_ Committees and Commissions law; resolution BC-  
399 ~~05-08-19-B12-20-C~~ titled, \_\_\_\_\_  
400 \_\_\_\_\_ ~~Amending Resolution BC-09-26-18-D~~ Amended Boards,  
401 \_\_\_\_\_ Committees and \_\_\_\_\_

402 ~~\_\_\_\_\_~~ *Commissions Law Stipends*, as may be further amended from time-  
403 to-time ~~\_\_\_\_\_~~ hereafter; and as follows:

- 404 (a) ~~(a)~~ Community-at-large PFSC members and alternates shall be  
405 paid ~~one (1)~~ monthly no more than twelve (12) meeting  
406 stipends per fiscal year; provided:  
407 (1) A quorum was established;  
408 (2) The meeting of the established quorum lasted for a minimum of one  
409 (1) hour; and  
410 (3) The community-at-large member and/or alternate collecting the  
411 stipend; was present for the entire meeting as defined and  
412 demonstrated in accordance with the Boards, Committees and  
413 Commissions law.
- 414 (b) Community-at-large PFSC members and alternates shall be paid a stipend  
415 for conducting an official hearing of the PFSC.
- 416 (c) Member and alternate representatives from the Oneida Police Department  
417 and the Oneida Social Services Department shall not collect stipends despite  
418 their eligibility.  
419

420 5-2. *Compensation.* Besides ~~the~~ travel, per diem and business expense reimbursement  
421 ~~\_\_\_\_\_~~ as authorized by the Boards, Committees and  
422 Commissions law, PFSC ~~\_\_\_\_\_~~  
423 ~~\_\_\_\_\_~~ members and alternates are not eligible for any other type of  
424 compensation ~~\_\_\_\_\_~~ for duties/activities they perform on behalf of  
425 the PFSC.  
426

## 427 **Article VI. Records and Reporting**

428 6-1. *Agenda Items.* Agendas shall be maintained in a format approved by the ~~Oneida~~-Business  
429 ~~\_\_\_\_\_~~ Committee Support Office.  
430

431 6-2. *Minutes.* PFSC minutes shall be typed in a format approved by the ~~Oneida~~-Business  
432 ~~\_\_\_\_\_~~ Committee Support Office to generate the most  
433 informative record of the ~~\_\_\_\_\_~~  
434 ~~\_\_\_\_\_~~ meeting, including, but not limited to, showing a summary of the  
435 action ~~\_\_\_\_\_~~ taken by the PFSC.

- 436 ~~\_\_\_\_\_~~ (a) When minutes are not taken by the ~~Oneida~~-Business Committee  
437 Support ~~\_\_\_\_\_~~ Office or if the PFSC requires  
438 approval of the minutes in advance thereof,  
439 ~~\_\_\_\_\_~~ the PFSC shall submit minutes to the ~~Oneida~~-Business  
440 Committee Support ~~\_\_\_\_\_~~ Office within thirty (30) days of the PFSC's  
441 meeting or receipt of the ~~\_\_\_\_\_~~ minutes for approval.  
442

443 6-3. *Attachments.* Handouts, attachments, memoranda, and the like shall be attached to the  
444 corresponding meeting minutes and agenda.

445 \_\_\_\_\_(a) Agendas, minutes and attachments shall be kept  
446 electronically by the \_\_\_\_\_Oneida Business  
447 Committee Support Office.  
448

449 6-4. *Oneida Business Committee Liaison.* The PFSC shall regularly communicate with the  
450 Oneida Business Committee member who is its designated liaison.

451 (a) The frequency and method of communication shall be as agreed upon by  
452 the PFSC and the liaison, but no less than that required in any law or policy  
453 on reporting developed by the Oneida Business Committee or Oneida  
454 General Tribal Council.

455 (b) The purpose of the liaison relationship is to uphold the ability of the liaison  
456 to act as a support to the PFSC.  
457

458 6-5.- *Audio Recordings.* All meetings and hearings of the PFSC shall be audio recorded by the  
459 \_\_\_\_\_Oneida Business Committee Support Office using a  
460 device supplied by \_\_\_\_\_either  
461 the \_\_\_\_\_Oneida Business Committee Support Office or the PFSC.

462 (a) Audio recordings of the PFSC meetings shall be maintained by the \_\_\_\_\_Oneida  
463 Business Committee Support Office.

464 (b) *Exception.* Audio recordings of executive session portions of a meeting or  
465 hearing shall not be required.  
466

## 467 **Article VII. Amendments**

468 7-1. *Amendments.* Upon written notice, the PFSC may amend these bylaws by a majority vote  
469 of the members ~~or their alternates in attendance~~present at a PFSC meeting  
470 of an \_\_\_\_\_established quorum.

471 \_\_\_\_\_(a) Amendments to these bylaws shall conform to the  
472 requirements of the \_\_\_\_\_Boards, Committees  
473 and Commissions law and any other governing \_\_\_\_\_  
474 \_\_\_\_\_policies of the Nation.

475 (b) Amendments to these bylaws shall be approved by the Oneida Business  
476 Committee prior to implementation.

477 (c) The PFSC shall review these bylaws no less than on an annual basis.  
478  
479

**\*\*HANDOUT\*\***

**PARDON AND FORGIVENESS SCREENING COMMITTEE BYLAWS**

**Article I. Authority**

1-1. *Name.* The name of this entity shall be the Pardon and Forgiveness Screening Committee and may hereinafter be referred to as the “PFSC.”

1-2. *Establishment.* The PFSC was originally established by the Oneida Pardon Ordinance through adoption of resolution BC-07-31-02-A, which was repealed by and replaced with the Pardon and Forgiveness law, as adopted by resolution BC-05-25-11-A, subsequently amended by resolution BC-01-22-14-B, and emergency amended by resolution BC-\_\_-\_\_-\_\_-\_\_.

1-3. *Authority.*

(a) *Purpose.* The purpose of the PFSC is to provide a fair, efficient and formal process for considering requests for a pardon or forgiveness by:

- (1) Promulgating internal standard operating procedures necessary to govern its proceedings;
- (2) Reviewing and processing applications for a pardon or forgiveness in an orderly and expeditious manner;
- (3) Reviewing an applicant’s background investigation report received from the Oneida Human Resources Department;
- (4) Conducting and presiding over hearings to obtain a pardon or forgiveness from the Nation;
- (5) Providing formal, written recommendations to the Oneida Business Committee to approve or deny a pardon or forgiveness application;
- (6) Taking other actions reasonably related to the purpose of the PFSC; and
- (7) Carrying out all other powers and duties delegated by the laws of the Nation, including, but not limited to, the Pardon and Forgiveness law.

(b) The PFSC does not:

- (1) Have authority to enter into contracts; or
- (2) Have authority to create policy or legislative rules.

1-4. *Office.* The Official mailing address of the PFSC shall be:  
Pardon and Forgiveness Screening Committee  
P.O. Box 365  
Oneida, WI 54155

1-5. *Membership.*

(a) *Number of Members.* The PFSC shall consist of four (4) members and four (4) alternates from three (3) representative areas who shall serve a term consistent with that of the Oneida Business Committee’s term of office.

- 46 (1) Unless otherwise stated herein, the four (4) alternates shall be  
47 considered members of the PFSC, with the same responsibilities and  
48 powers as PFSC members, including, but not limited to, the ability  
49 to create a quorum and vote under sections 3-5 and 3-7, below.  
50 (A) For purposes hereof and absent an express statement to the  
51 contrary, the term “member(s)” shall refer collectively to  
52 PFSC members and alternates.  
53 (2) The three (3) representative areas shall be made up of:  
54 (A) One (1) member and one (1) alternate representative from  
55 the Oneida Police Department;  
56 (B) One (1) member and one (1) alternate representative from  
57 the Oneida Social Services Department; and  
58 (C) Two (2) member and two (2) alternate representatives from  
59 the community-at-large.  
60 (i) One (1) member and one (1) alternate representative  
61 of the community-at-large shall be an elder of fifty-  
62 five (55) years of age or older; and  
63 (ii) One (1) member and one (1) alternate representative  
64 of the community-at-large shall be twenty-five (25)  
65 years of age or older.  
66 (b) *Appointment.* PFSC members shall be appointed by the Oneida Business  
67 Committee in accordance with the Boards, Committees and Commissions  
68 law. Each member shall remain in office as follows:  
69 (1) If his or her term has expired, until a successor has been sworn in by  
70 the Oneida Business Committee;  
71 (2) Until his or her resignation; or  
72 (A) A member may resign any time verbally at a meeting or by  
73 delivering written notice to the Business Committee Support  
74 Office and PFSC Chairperson or the Chairperson’s designee.  
75 The resignation is effective upon acceptance by motion of a  
76 member’s verbal resignation or upon delivery of the written  
77 notices.  
78 (3) Until his or her appointment is terminated in accordance with the  
79 Boards, Committees and Commissions law.  
80 (c) *Vacancies.* Vacancies for any reason, whether caused by term expiration,  
81 death, termination or resignation, shall be filled in accordance with the  
82 Boards, Committees and Commissions law for the remainder of the term.  
83 (1) The PFSC Chairperson shall review all application materials and  
84 submit a recommendation for appointment to the Oneida Business  
85 Committee in accordance with the Boards, Committees and  
86 Commissions law.  
87 (A) The recommendation of the PFSC Chairperson shall be  
88 determined by a majority vote of the members present at a  
89 PFSC meeting of an established quorum.  
90 (d) *Qualifications.* PFSC members shall meet the following qualifications:



- 91 (1) The PFSC member/alternate representatives from the Oneida Police  
92 Department shall:  
93 (A) Be enrolled members of the Oneida Nation; and  
94 (B) Have written recommendations from the Chief of Police for  
95 appointment to the PFSC.  
96 (2) The PFSC member/alternate representatives from the Oneida Social  
97 Services Division shall:  
98 (A) Be enrolled members of the Oneida Nation; and  
99 (B) Have written recommendations from the Division Director  
100 for the Governmental Services Division for appointment to  
101 the PFSC.  
102 (3) The PFSC member/alternate representatives from the community-  
103 at-large shall:  
104 (A) Be enrolled members of the Oneida Nation;  
105 (B) Reside in Brown or Outagamie County;  
106 (C) For one (1) member and one (1) alternate, be at least twenty-  
107 five (25) years of age, and for the other one (1) member and  
108 one (1) alternate, be an elder of fifty-five (55) years of age  
109 or older; and  
110 (D) Pass a background check.  
111

- 112 1-6. *Termination.* A PFSC member may have his or her appointment terminated in accordance  
113 with the Boards, Committees and Commissions law.  
114 (a) In addition to any of the causes for termination already identified within the  
115 laws and policies of the Nation, a violation of these bylaws may result in  
116 the PFSC making a recommendation to the Oneida Business Committee for  
117 the termination of a member's appointment.  
118 (1) Recommendations to the Oneida Business Committee for  
119 termination of a PFSC member's appointment must be determined  
120 by a majority vote of the members present at a PFSC meeting of an  
121 established quorum.  
122

- 123 1-7. *Trainings and Conferences.* None required.  
124

## 125 **Article II. Officers**

- 126 2-1. *Officers.* The PFSC shall have two (2) Officers: Chairperson and Vice-Chairperson.  
127

- 128 2-2. *Responsibilities of the Chairperson.* The responsibilities, duties and limitations of the  
129 PFSC Chairperson shall be as follows:

- 130 (a) Call and preside over all meetings and hearings of the PFSC;  
131 (b) Along with the Business Committee Support Office, provide notice of  
132 regular meetings, emergency meetings, and hearings of the PFSC in  
133 accordance with the Boards, Committees and Commissions law, the Pardon  
134 and Forgiveness law, and the Open Records and Open Meetings law;

- 135 (c) Forward, or through a designee have forwarded, the notice of meeting
- 136 locations, agendas, materials and minutes in accordance with these bylaws
- 137 and the Open Records and Open Meetings law;
- 138 (d) Along with the Business Committee Support Office, submit annual and
- 139 semi-annual reports to the Oneida General Tribal Council and submit
- 140 quarterly reports to the Oneida Business Committee in accordance with the
- 141 Boards, Committees and Commissions law;
- 142 (e) Attend, or designate a PFSC member to attend, the Oneida Business
- 143 Committee meeting in which the PFSC's quarterly report appears on the
- 144 agenda;
- 145 (f) Draft and sign recommendations of the PFSC;
- 146 (g) Submit applicant recommendations to fill vacancies to the Oneida Business
- 147 Committee for consideration; and
- 148 (h) Perform all other duties as assigned by majority vote of the members present
- 149 at a PFSC meeting of an established quorum.

150  
151 2-3. *Responsibilities of the Vice-Chairperson.* The responsibilities, duties and limitations of the  
152 PFSC Vice-Chairperson shall be as follows:

- 153 (a) In the absence or incapacity of the PFSC Chairperson, the PFSC Vice-
- 154 Chairperson shall perform the duties of the PFSC Chairperson.

155  
156 2-4. *Selection of Officers.* The PFSC shall elect Officer positions at the first duly called PFSC  
157 meeting.

- 158 (a) The Officer positions shall be chosen by a majority vote of the members
- 159 present at a PFSC meeting of an established quorum.
- 160 (b) The vote shall be made part of the PFSC record.
- 161 (c) PFSC Officers shall hold no more than one (1) Officer position per Officer
- 162 term.
- 163 (d) PFSC Officers may be dismissed from their Officer position by majority
- 164 vote of the members present at a PFSC meeting of an established quorum.

165  
166 2-5. *Purchases and Travel.* The PFSC shall follow the Nation's policies and procedures  
167 regarding purchasing and sign-off authority.

- 168 (a) Levels of budgetary sign-off authority for the PFSC shall be as set forth
- 169 in the manual titled, *Oneida Tribe of Indians of Wisconsin Purchasing*
- 170 *Policies and Procedures*, for Area Directors/Enterprise Directors.

171 (1) All PFSC Officers have sign-off authority and two (2) Officers shall  
172 be required to sign-off on all budgetary requests.

- 173 (A) Upon formal approval of a purchase by the PFSC, the
- 174 Business Committee Support Office shall have official
- 175 budgetary sign-off authority for the PFSC.

- 176 (b) The PFSC shall approve a member's request to travel on behalf of the PFSC
- 177 by majority vote of the members present at a regular or emergency PFSC
- 178 meeting of an established quorum.

179

- 180 2-6. *Personnel.* The PFSC shall not have authority to hire personnel for the benefit of the  
181 PFSC.
- 182 (a) The Business Committee Support Office shall assist the PFSC on behalf of  
183 the Nation’s Secretary and in accordance with the Pardon and Forgiveness  
184 law with fulfilling the following administrative duties consistent with these  
185 bylaws and the governing law:
- 186 (1) Keeping minutes of the PFSC meetings;  
187 (2) Along with the Chairperson, providing notice of regular meetings,  
188 emergency meetings and hearings of the PFSC;  
189 (3) Acting as custodian of the records;  
190 (4) Attending to all correspondence and presenting to the PFSC all  
191 official communications received by the PFSC;  
192 (5) Along with the Chairperson, submitting annual and semi-annual  
193 reports to the Oneida General Tribal Council and submitting  
194 quarterly reports to the Oneida Business Committee in accordance  
195 with the Boards, Committees and Commissions law; and  
196 (6) Administering the PFSC budget.

197  
198 **Article III. Meetings**

- 199 3-1. *Regular Meetings.* Subject to subsections (a) and (b) of this section 3-1, regular meetings  
200 of the PFSC shall occur on a quarterly basis and be held on the third Monday  
201 of the month each quarter at the Norbert Hill Center located in Oneida,  
202 Wisconsin, commencing at 10:00 a.m.
- 203 (a) Meetings of the PFSC may be held/attended in person, by telephone,  
204 through video-conferencing or through other telecommunications so long  
205 as the presence of each member is demonstrated consistent with the Boards,  
206 Committees and Commissions law.
- 207 (b) The regular meeting date, time and/or place may be reviewed by the PFSC  
208 from time-to-time and changed as determined necessary by a majority vote  
209 of the members present at a PFSC meeting of an established quorum so long  
210 as advance notice is provided to all members in writing and, along with the  
211 public, in accordance with the Nation’s Open Records and Open Meetings  
212 law prior to the implementation of a new date, time and/or location.
- 213 (c) Notice of meeting location, agenda, materials and minutes shall be  
214 forwarded by the Chairperson or the Chairperson’s designee to all PFSC  
215 members in writing and, along with the public, in accordance with the  
216 Nation’s Open Records and Open Meetings law.
- 217 (d) Meetings shall be run in accordance with Robert's Rules of Order or another  
218 method approved by the Oneida Business Committee.
- 219
- 220 3-2. *Emergency Meetings.* Emergency meetings shall only be called when time sensitive issues  
221 require immediate action. Emergency meetings may be held/attended in  
222 person, by telephone, through video-conferencing or through other tele-  
223 communications so long as the presence of each member is demonstrated  
224 consistent with the Boards, Committees and Commissions law.

- 225 (a) Emergency meetings of the PFSC may be called by the Chairperson or upon  
226 written request of any two (2) PFSC members.
- 227 (b) Notice of the meeting location, agenda and materials shall be forwarded by  
228 the Chairperson or Chairperson's designee to all PFSC members in writing  
229 and by telephone call.
- 230 (1) PFSC members, as well as the public, shall further receive notice of  
231 emergency meetings per the Nation's Open Records and Open  
232 Meetings law.
- 233 (c) Within seventy-two (72) hours after an emergency meeting, the PFSC shall  
234 provide the Nation's Secretary with notice of the emergency meeting, the  
235 reason for the emergency meeting, and an explanation as to why the matter  
236 could not wait until the next regular meeting.
- 237
- 238 3-3. *Joint Meetings.* Joint meetings between the PFSC and the Oneida Business Committee  
239 shall not be held.
- 240
- 241 3-4. *Hearings.* Hearings shall be held in accordance with the Pardon and Forgiveness law.  
242
- 243 3-5. *Quorum.* A quorum shall consist of at least three (3) PFSC members and shall include  
244 the Chairperson or Vice-Chairperson.
- 245 (a) The alternate will assume the role of the member that he or she is replacing,  
246 including the Chairperson and/or Vice-Chairperson.
- 247
- 248 3-6. *Order of Business.* The regular meetings of the PFSC shall follow the order of business as  
249 set out herein:
- 250 (a) Call to Order  
251 (b) Adopt the Agenda  
252 (c) Approval of Previous Minutes  
253 (d) Old Business  
254 (e) New Business  
255 (f) Executive Session  
256 (g) Adjournment  
257
- 258 3-7. *Voting.* Decisions of the PFSC shall be by majority vote of the members present at  
259 a PFSC meeting or hearing of an established quorum.
- 260 (a) The Chairperson, or Vice-Chairperson when presiding in lieu of the Chair-  
261 person, shall not be allowed to vote unless a tie needs to be broken.
- 262 (b) E-polls are permissible so long as conducted in accordance with the Boards,  
263 Committees and Commissions law.
- 264 (1) The Vice-Chairperson shall serve as the Chairperson's designee for  
265 the responsibility of conducting an e-poll in the Chairperson's  
266 absence or discretion.
- 267

#### 268 **Article IV. Expectations**

- 269 4-1. *Behavior of Members.* PFSC members are expected to treat each other in accordance with

270 the Nation’s core values of The Good Mind as expressed by Onlayote?a’ka,  
271 which includes:

- 272 (a) Kahletsyal&sla. The heart felt encouragement of the best in each of us.
- 273 (b) Kanolukhwásla. Compassion, caring, identity, and joy of being.
- 274 (c) Ka?nikuhli-yó. The openness of the good spirit and mind.
- 275 (d) Ka?tshatstásla. The strength of belief and vision as a People.
- 276 (e) Kalihwi-yó. The use of the good words about ourselves, our Nation, and our  
277 future.
- 278 (f) TwahwahtsílayΛ. All of us are family.
- 279 (g) YukwatsístayΛ. Our fire, our spirit within each one of us.
  - 280 (1) A failure by a member to act in accordance with this or any other  
281 section of these bylaws and/or any governing laws of the Nation may  
282 be cause for:
    - 283 (A) The PFSC to recommend to the Oneida Business Committee  
284 that it terminate his or her appointment in accordance with  
285 the Boards, Committees and Commissions law; and/or
    - 286 (B) The PFSC taking disciplinary action against him or her in  
287 accordance with any law or policy of the Nation providing  
288 sanctions and/or penalties for appointed officials.
  - 289 (2) Recommendations for termination of a member’s appointment must  
290 be determined by a majority vote of the members present at a PFSC  
291 meeting of an established quorum.

292  
293 4-2. *Prohibition of Violence.* Intentionally violent acts committed by a member of the PFSC  
294 that inflicts, attempts to inflict, or threatens to inflict emotional or bodily  
295 harm on another person, or damage to property, during a meeting or when  
296 acting in an official capacity are strictly prohibited and grounds for an  
297 immediate recommendation for termination of appointment from the PFSC  
298 and/or the imposition of sanctions and/or penalties according to the laws of  
299 the Nation as determined by majority vote of the members present at a PFSC  
300 meeting of an established quorum.

301  
302 4-3. *Drug and Alcohol Use.* Use of alcohol and prohibited drugs by members of the PFSC when  
303 acting in their official capacity is strictly prohibited.

- 304 (a) Prohibited drugs are defined as marijuana, cocaine, opiates, amphetamines,  
305 phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics,  
306 and any other substance included in Schedules I through V, as defined by  
307 Section 812, Title 21 of the United States Code. This includes prescription  
308 medication or over-the-counter medicine used in an unauthorized or un-  
309 lawful manner.

310  
311 4-4. *Social Media.* PFSC members shall use social media in accordance with their Oath of  
312 Office and the Nation’s Social Media Policy.

- 313 (a) PFSC members shall further refrain from posting, attaching or writing any-  
314 thing relating to PFSC business or activities on any social media outlet.

315 (1) Posting notices of meetings, public hearings, and/or cancellations on  
316 social media outlets is acceptable.

317  
318 4-5. *Conflict of Interest.* PFSC members shall abide by all laws of the Nation that govern  
319 conflicts of interest. PFSC members must submit a Conflict of Interest  
320 Disclosure form upon Oath of Office and annually.

321  
322 **Article V. Stipends and Compensation**

323 5-1. *Stipends.* Stipend eligibility shall be governed by the bylaws; Boards, Committees  
324 and Commissions law; resolution BC-08-12-20-C titled, *Amended Boards,*  
325 *Committees and Commissions Law Stipends*, as may be further amended  
326 from time-to-time hereafter; and as follows:

327 (a) Community-at-large PFSC members and alternates shall be paid no more  
328 than twelve (12) meeting stipends per fiscal year; provided:

329 (1) A quorum was established;

330 (2) The meeting of the established quorum lasted for a minimum of one  
331 (1) hour; and

332 (3) The community-at-large member and/or alternate collecting the  
333 stipend was present for the entire meeting as defined and  
334 demonstrated in accordance with the Boards, Committees and  
335 Commissions law.

336 (b) Community-at-large PFSC members and alternates shall be paid a stipend  
337 for conducting an official hearing of the PFSC.

338 (c) Member and alternate representatives from the Oneida Police Department  
339 and the Oneida Social Services Department shall not collect stipends despite  
340 their eligibility.

341  
342 5-2. *Compensation.* Besides travel, per diem and business expense reimbursement as authorized  
343 by the Boards, Committees and Commissions law, PFSC members are not  
344 eligible for any other type of compensation for duties/activities they  
345 perform on behalf of the PFSC.

346  
347 **Article VI. Records and Reporting**

348 6-1. *Agenda Items.* Agendas shall be maintained in a format approved by the Business  
349 Committee Support Office.

350  
351 6-2. *Minutes.* PFSC minutes shall be typed in a format approved by the Business  
352 Committee Support Office to generate the most informative record of the  
353 meeting, including, but not limited to, showing a summary of the action  
354 taken by the PFSC.

355 (a) When minutes are not taken by the Business Committee Support Office or  
356 if the PFSC requires approval of the minutes in advance thereof, the PFSC  
357 shall submit minutes to the Business Committee Support Office within  
358 thirty (30) days of the PFSC's meeting or receipt of the minutes for  
359 approval.

360

- 361 6-3. *Attachments.* Handouts, attachments, memoranda, and the like shall be attached to the  
362 corresponding meeting minutes and agenda.  
363 (a) Agendas, minutes and attachments shall be kept electronically by the  
364 Business Committee Support Office.  
365
- 366 6-4. *Oneida Business Committee Liaison.* The PFSC shall regularly communicate with the  
367 Oneida Business Committee member who is its designated liaison.  
368 (a) The frequency and method of communication shall be as agreed upon by  
369 the PFSC and the liaison, but no less than that required in any law or policy  
370 on reporting developed by the Oneida Business Committee or Oneida  
371 General Tribal Council.  
372 (b) The purpose of the liaison relationship is to uphold the ability of the liaison  
373 to act as a support to the PFSC.  
374
- 375 6-5. *Audio Recordings.* All meetings and hearings of the PFSC shall be audio recorded by the  
376 Business Committee Support Office using a device supplied by either the  
377 Business Committee Support Office or the PFSC.  
378 (a) Audio recordings of the PFSC meetings shall be maintained by the Business  
379 Committee Support Office.  
380 (b) *Exception.* Audio recordings of executive session portions of a meeting or  
381 hearing shall not be required.  
382

## 383 **Article VII. Amendments**

- 384 7-1. *Amendments.* Upon written notice, the PFSC may amend these bylaws by a majority vote  
385 of the members present at a PFSC meeting of an established quorum.  
386 (a) Amendments to these bylaws shall conform to the requirements of the  
387 Boards, Committees and Commissions law and any other governing  
388 policies of the Nation.  
389 (b) Amendments to these bylaws shall be approved by the Oneida Business  
390 Committee prior to implementation.  
391 (c) The PFSC shall review these bylaws no less than on an annual basis.  
392  
393



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



## AGENDA REQUEST FORM

- 1) Request Date: 4/14/21
- 2) Contact Person(s): Kristen Hooker  
 Dept: Legislative Reference Office  
 Phone Number: (920) 869-4411 Email: khooker@oneidation.org
- 3) Agenda Title: Petition: L. Elm - Real Property Law Eviction and Termination
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
On April 14, 2021, the Oneida Business Committee adopted a motion to accept the Petition: L. Elm - Real Property Law Eviction and Termination. The Oneida Business Committee then directed that the Legislative Reference Office complete a statement of effect on this petition.

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

- 1) Materials can be found at <https://oneida-nsn.gov/member-login/> 3) \_\_\_\_\_
- 2) \_\_\_\_\_ 4) \_\_\_\_\_
- 5) Please list any laws, policies or resolutions that might be affected:  
Real Property law, Eviction and Termination law
- 6) Please list all other departments or person(s) you have brought your concern to:  
n/a
- 7) Do you consider this request urgent?  Yes  No

If yes, please indicate why:

Oneida Business Committee directed that a status update by the Legislative Reference Office be submitted to the July 9, 2021, OBC meeting agenda.

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

Signature of Requester:

N/A - Directive from Oneida Business Committee

*Please send this form and all supporting materials to:*

**LOC@oneidation.org**  
*or*  
**Legislative Operating Committee (LOC)**  
 P.O. Box 365  
 Oneida, WI 54155  
 Phone 920-869-4376



# April 2021

April 2021

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May 2021

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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Mar 28	29	30	31	Apr 1	2	3
4	5	6	7 8:30am LOC Prep (BC_Conf_Room) - Clorissa 9:00am LOC Meeting (BC_Conf_Room) 1:30pm Public Peace Law	8	9	10
11	12 10:00am Children's Code Amendments Work Meeting (Microsoft Teams Meeting) -	13	14	15	16	17
18	19 2:30pm Budget Management and Control Law Amendments Work Meeting (Microsoft Teams)	20	21 8:30am LOC Prep (BC_Conf_Room) - Clorissa 9:00am LOC Meeting (BC_Conf_Room) 1:30pm Children's	22	23	24
25	26 10:00am Children's Code Amendments Work Meeting - Oneida Family Court (Microsoft	27	28	29 9:00am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	30	May 1