



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room - 2nd Floor Norbert Hill Center

November 17, 2021

9:00 a.m.

This Legislative Operating Committee meeting will be closed to the public in accordance with Oneida Business Committee resolution BC-08-03-21-A, *Setting Public Gathering Guidelines During Public Health State of Emergency - COVID-19*.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

1. November 3, 2021 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Oneida Personnel Policies and Procedures Emergency Amendments (pg. 4)
2. Furlough Law Amendments (pg. 81)

IV. New Submissions

1. Tribal Sovereignty in Data Research (pg. 114)

V. Additions

VI. Administrative Updates

1. Legislative Operating Committee Fiscal Year 2021 Fourth Quarter Report (pg. 128)

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
November 3, 2021
9:00 a.m.

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

Others Present: Clorissa N. Santiago, Kristen Hooker, Carmen Vanlanen, Brooke Doxtator, Lawrence Barton, Carl Artman, Rhiannon Metoxen (Microsoft Teams), Justin Nishimoto (Microsoft Teams), Michelle Braaten (Microsoft Teams), Jonas Hill (Microsoft Teams), Eric Boulanger (Microsoft Teams), Debra Powless (Microsoft Teams), Keith Doxtator (Microsoft Teams)

I. Call to Order and Approval of the Agenda

David P. Jordan called the November 3, 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. October 20, 2021 LOC Meeting Minutes

Motion by Marie Summers to approve the October 20, 2021 LOC meeting minutes and forward to the Business Committee for consideration; seconded by Kirby Metoxen. Motion carried unanimously.

III. Current Business

1. Oneida General Welfare Law

Motion by Jennifer Webster to approve the updated draft, legislative analysis, and the fiscal impact statement request memorandum and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by November 18, 2021; seconded by Kirby Metoxen. Motion carried unanimously.

2. Budget Management and Control Law Emergency Amendment

Motion by Jennifer Webster to approve the Budget Management and Control law emergency amendments extensions packet and forward to the Oneida Business Committee for consideration; seconded by Daniel Guzman King. Motion carried unanimously.

Motion by Kirby Metoxen to approve the draft of proposed amendments to the Budget Management and Control law and direct that a legislative analysis be developed; seconded by Jennifer Webster. Motion carried unanimously.



3. Oneida Nation Gaming Ordinance Emergency Amendments

Motion by Jennifer Webster to approve the Oneida Nation Gaming Ordinance emergency amendments extension packet and forward to the Oneida Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.

IV. New Submissions

1. Elder Assistance Program Law

Motion by Marie Summers to add the Elder Assistance Program law to the Active Files List with David Jordan as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

V. Additions

VI. Administrative Items

VII. Executive Session

VIII. Adjourn

Motion by Marie Summers to adjourn at 9:30 a.m.; seconded by Daniel Guzman King. Motion carried unanimously.



Legislative Operating Committee
November 17, 2021

Oneida Personnel Policies and Procedures Emergency Amendments

Submission Date: 8/18/21	Public Meeting: n/a
LOC Sponsor: Marie Summers	Emergency Enacted: n/a

Summary: *This item was carried over from last term. This request for amendments to the Oneida Personnel Policies and Procedures was added to the AFL in February 2019. The purpose of the Oneida Personnel Policies and Procedures is to provide the various procedures and policies governing employee related matters including recruitment, selection, compensation and benefits, employee relations, safety and health, rules and regulations, recordkeeping, and privacy and confidentiality. The Nation's Human Resources Department requested amendments to the Oneida Personnel Policies and Procedures to address investigative enforcement. Amendments are being sought to delegate authority to investigators to put employees on investigative leave (as opposed to just the supervisor of the employee), and discipline employees. An amendment was also sought so that if terminated, an employee would be ineligible for employment with the Nation, but may request forgiveness after five (5) years. This item was added to the AFL in conjunctions with a request for amendments to the Investigative Leave Policy and the Workplace Violence law. On April 10, 2019, the Oneida Business Committee directed the LOC to complete the legislative process to remove section IV(A)(5)(n) regarding Trade Back for Cash from the Personnel Policies and Procedures. On August 18, 2021, the Legislative Operating Committee considered a request for amendments to the Oneida Personnel Policies and Procedures from the Human Resources Department to address the selection policy in an effort to update the Personnel Policies & Procedures using current interpretations, language and technology to improve minimize the time to hire employees from post to hire in a tight labor market. The Legislative Operating Committee determined these amendments should be pursued on an emergency basis for the immediate preservation of the general welfare of the Reservation population.*

10/7/20 LOC: Motion by Jennifer Webster to add the Oneida Personnel Policies and Procedures Amendments to the Active Files List with Marie Summers as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

8/18/21 LOC: Motion by Marie Summers to accept the information provided in the request [*request for amendments to the Oneida Personnel Policies and Procedures to address the revision of the HRD Manager Title*] as FYI; seconded by Kirby Metoxen. Motion carried unanimously.

Motion by Marie Summers to accept for emergency LOC process [*request for amendments to the Oneida Personnel Policies and Procedures to address the selection process*] with Marie Summers as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

9/13/21: *Work Meeting.* Present: David P. Jordan, Daniel Guzman King, Clorissa N. Santiago, Carmen Vanlanen, Geraldine Danforth, Todd Vandenheuvell, Barbara Kolitsch, Josh Cottrell, Nic Reynolds, Wendy Alvarez, Kristal Hill, Matt Denny, Rhiannon Metoxen, Melinda K. Danforth, Rita Reiter. This was a work meeting held through Microsoft Teams. The purpose


of this work meeting was to review and discuss the proposed emergency amendments to the Oneida Personnel Policies and Procedures submitted by the HRD Department.

- 9/15/21:** *Work Meeting.* Present: David P. Jordan, Daniel Guzman King, Jennifer Webster, Kirby Metoxen, Marie Summers, Clorissa N. Santiago, Carmen Vanlanen, Rhiannon Metoxen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the proposed emergency amendments to the Oneida Personnel Policies and Procedures submitted by the HRD Department.
- 10/12/21:** *Work Meeting.* Present: David P. Jordan, Daniel Guzman King, Jennifer Webster, Marie Summers, Clorissa N. Santiago, Carmen Vanlanen, Rhiannon Metoxen, Kristal Hill, Todd Vandenheuvel, Josh Cottrell, Nic Reynolds, Wendy Alvarez, Matt Denny, Melinda K. Danforth, Rita Reiter. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss with HRD the LOC's proposed emergency amendments to the Oneida Personnel Policies and Procedures.
- 10/18/21:** *Work Meeting.* Present: David P. Jordan, Daniel Guzman King, Jennifer Webster, Marie Summers, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill, Todd Vandenheuvel, Josh Cottrell, Wendy Alvarez, Matt Denny, Rita Reiter. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to continue reviewing and discussing with HRD the LOC's proposed emergency amendments to the Oneida Personnel Policies and Procedures.
- 10/21/21:** *Work Meeting.* Present: Clorissa N. Santiago, Carmen Vanlanen, Wendy Alvarez. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to work on clarifying the internal job posting section of the Personnel Policies and Procedures.
- 10/25/21:** *Work Meeting.* Present: Daniel Guzman King, Jennifer Webster, Marie Summers, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill, Todd Vandenheuvel, Josh Cottrell, Wendy Alvarez, Dana Thyssen, Lucy Neville, Nic Reynolds. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review an updated draft of the proposed emergency amendments to the Oneida Personnel Policies and Procedures.
- 11/4/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Jennifer Webster, Marie Summers, Lisa Liggins, Brandon Yellowbird Stevens, Tehassi Hill, Cristina Danforth, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill, Rhiannon Metoxen, Todd Vandenheuvel, Lucy Neville, Nic Reynolds, Rita Reiter, and Matthew Denny. This was a work meeting held through Microsoft Teams. The purpose of this work meeting with the officers of the Oneida Business Committee and Human Resources Department was to discuss the potential for emergency amendments to the Oneida Personnel Policies and Procedures and whether the emergency legislation standard provided in the LPA has been met.
- 11/9/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristen Hooker, Carmen Vanlanen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the updated proposed emergency amendments.

Next Steps:

- Approve Oneida Personnel Policies and Procedures emergency amendments adoption packet and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson 
DATE: November 24, 2021
RE: Oneida Personnel Policies and Procedures Emergency Amendments

Please find the following attached backup documentation for your consideration of the emergency amendments to the Oneida Personnel Policies and Procedures:

1. Resolution: Emergency Amendments to the Oneida Personnel Policies and Procedures – Selection Policy
2. Statement of Effect: Emergency Amendments to the Oneida Personnel Policies and Procedures – Selection Policy
3. Oneida Personnel Policies and Procedures Emergency Amendments Legislative Analysis
4. Oneida Personnel Policies and Procedures (Redline)
5. Oneida Personnel Policies and Procedures (Clean)

Overview

Emergency amendments to the Oneida Personnel Policies and Procedures are being sought to improve the Nation's hiring capacity and service delivery in the tight labor markets that have resulted from the COVID-19 pandemic. The emergency amendments to the Oneida Personnel Policies and Procedures will:

- Require that all applications for employment with the Nation be submitted online;
- Eliminate the requirement that a position vacancy be posted twice with the first posting open to enrolled members of the Nation only and the second posting open to the general public;
- Require that applicants who are enrolled members of the Oneida Nation be screened and interviewed prior to any other applicants;
- Allow for a supervisor to choose between the next two (2) ranked applicants if the first choice refuses the position offer;
- Require an employee who is transferred to continue serving in their present position until a replacement can be found, for a period up to thirty (30) days;
- Remove the requirement that an employee completes one (1) year of service to the Nation before being eligible for a transfer;
- Clarify that an employee shall be required to undergo an original probation period for three (3) months after being hired, transferred, or reassigned to a new position;
- Remove the provision that provided probationary employees be paid at five percent (5%) below the posted pay rate for the position; and
- Make other revisions throughout Section III of the Oneida Personnel Policies and Procedures to simplify and clarify language to make the hiring selection process more efficient.

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding the COVID-19 pandemic which declared a Public Health State of Emergency for the Nation until April 12, 2020 and set into place the necessary authority for action to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. The Public Health State of Emergency has since been extended until November 25, 2021, by the Oneida Business Committee through the adoption of resolutions BC-03-28-20-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, BC-03-10-21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, and BC-09-22-21-A.

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

The emergency amendments to the Oneida Personnel Policies and Procedures are necessary for the preservation of the general welfare of the Reservation population. The emergency amendments simplify the Nation’s hiring selection procedures so they are more effective so that the Nation can improve its hiring capacity and service delivery during increasingly tight labor markets that have resulted from the COVID-19 pandemic.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of these amendments would be contrary to public interest. The process and requirements of the Legislative Procedures Act cannot be completed in time to allow the Nation the ability to adequately address its hiring selection procedures in the tight labor markets resulting from the COVID-19 pandemic.

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

Requested Action

Approve the Resolution: Emergency Amendments to the Oneida Personnel Policies and Procedures – Selection Policy

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution

Emergency Amendments to the Oneida Personnel Policies and Procedures – Selection Policy

- 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 Oneida Personnel Policies and Procedures (“the Law”) sets forth the Nation’s various
- 10 employment related policies and procedures; and
- 11
- 12 **WHEREAS,** Section III of the Oneida Personnel Policies and Procedures specifically governs the hiring
- 13 selection policy for employment with the Nation; and
- 14
- 15 **WHEREAS,** on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of*
- 16 *Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for
- 17 the Nation until April 12, 2020, and set into place the necessary authority for action to be
- 18 taken and allows the Nation to seek reimbursement of emergency management actions
- 19 that may result in unexpected expenses; and
- 20
- 21 **WHEREAS,** the Nation’s Public Health State of Emergency has since been extended by the Oneida
- 22 Business Committee until November 25, 2021, through the adoption of the following
- 23 resolutions: BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-
- 24 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,
- 25 BC-02-10-21-A, BC-03-10-21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, and
- 26 BC-09-22-21-A; and
- 27
- 28 **WHEREAS,** the COVID-19 pandemic interrupted many business operations and had vast effects on
- 29 employment throughout the country; and
- 30
- 31 **WHEREAS,** emergency amendments to the Law are being sought to improve the Nation’s hiring
- 32 capacity and service delivery in the tight labor markets that have resulted from the COVID-
- 33 19 pandemic; and
- 34
- 35 **WHEREAS,** the emergency amendments to the Law will require that all applications for employment
- 36 with the Nation be submitted online; and
- 37
- 38 **WHEREAS,** the emergency amendments to the Law will eliminate the requirement that a position
- 39 vacancy be posted twice with the first posting open to enrolled members of the Nation only
- 40 and the second posting open to the general public; and
- 41

WHEREAS, the emergency amendments to the Law will require that applicants who are enrolled members of the Oneida Nation be screened and interviewed prior to any other applicants; and

WHEREAS, the emergency amendments to the Law will allow for a supervisor to choose between the next two (2) ranked applicants if the first choice refuses the position offer; and

WHEREAS, the emergency amendments to the Law will require an employee who is transferred to continue serving in their present position until a replacement can be found, for a period up to thirty (30) days; and

WHEREAS, the emergency amendments to the Law will remove the requirement that an employee completes one (1) year of service to the Nation before being eligible for a transfer; and

WHEREAS, the emergency amendments to the Law will clarify that an employee shall be required to undergo an original probation period for three (3) months after being hired, transferred, or reassigned to a new position; and

WHEREAS, the emergency amendments to the Law will remove the provision that provided probationary employees be paid at five percent (5%) below the posted pay rate for the position; and

WHEREAS, the emergency amendments to the Law will make other revisions throughout Section III of the Law to simplify and clarify language to make the hiring selection process more efficient; and

WHEREAS, the Legislative Procedures Act authorizes the Oneida Business Committee to enact legislation on an emergency basis when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the adoption of the legislation is required sooner than would be possible under the Legislative Procedures Act; and

WHEREAS, the emergency adoption of amendments to this Law are necessary for the preservation of the general welfare of the Reservation population in order to simplify the Nation's hiring selection procedures so they are more effective so that the Nation can improve its hiring capacity and service delivery during increasingly tight labor markets that have resulted from the COVID-19 pandemic; and

WHEREAS, observance of the requirements under the Legislative Procedures Act for adoption of the emergency amendments to this Law would be contrary to public interest and the process and requirements of the Legislative Procedures Act cannot be completed in time to allow the Nation the ability to adequately address its hiring selection procedures in the tight labor markets resulting from the COVID-19 pandemic; and

WHEREAS, adoption of emergency amendments to this Law would remain in effect for a period of six (6) months, renewable by the Oneida Business Committee for an additional six (6) month term; and

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

NOW THEREFORE BE IT RESOLVED, the Oneida Business Committee hereby adopts the emergency amendments to the Oneida Personnel Policies and Procedures effective immediately.



Statement of Effect

Emergency Amendments to the Oneida Personnel Policies and Procedures – Selection Policy

Summary

This resolution adopts emergency amendments to the Oneida Personnel Policies and Procedures.

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

Date: November 10, 2021

Analysis by the Legislative Reference Office

This resolution adopts emergency amendments to the Oneida Personnel Policies and Procedures (“the Law”). The Law sets forth the Nation’s various employment related policies and procedures, with Section III specifically governing the hiring selection policy or employment with the Nation.

The emergency amendments to the Law will:

- Require that all applications for employment with the Nation be submitted online;
- Eliminate the requirement that a position vacancy be posted twice with the first posting open to enrolled members of the Nation only and the second posting open to the general public;
- Require that applicants who are enrolled members of the Oneida Nation be screened and interviewed prior to any other applicants;
- Allow for a supervisor to choose between the next two (2) ranked applicants if the first choice refuses the position offer;
- Require an employee who is transferred to continue serving in their present position until a replacement can be found, for a period up to thirty (30) days;
- Remove the requirement that an employee completes one (1) year of service to the Nation before being eligible for a transfer;
- Clarify that an employee shall be required to undergo an original probation period for three (3) months after being hired, transferred, or reassigned to a new position;
- Remove the provision that provided probationary employees be paid at five percent (5%) below the posted pay rate for the position; and
- Make other revisions throughout Section III of the Oneida Personnel Policies and Procedures to simplify and clarify language to make the hiring selection process more efficient.

The Legislative Procedures Act (“the LPA”) was adopted by the General Tribal Council for the purpose of providing a process for the adoption or amendment of laws of the Nation. [1 O.C. 109.1-1]. The 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]. A public meeting and fiscal impact statement are not required for emergency legislation. [1 O.C. 109.8-1(b) and 109.9-5(a)].

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 November 25, 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, BC-03-10-21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, and BC-09-22-21-A. [3 O.C. 302.8-2]. The COVID-19 pandemic interrupted many business operations and had vast effects on employment throughout the country.

The resolution provides that the emergency amendments to this Law are necessary for the preservation of the general welfare of the Reservation population in order to simplify and clarify the Nation’s hiring selection procedures so they are more effective so that the Nation can improve its hiring capacity and service delivery during increasingly tight labor markets that have resulted from the COVID-19 pandemic.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of this Law would be contrary to public interest and the process and requirements of the LPA cannot be completed in time to allow the Nation the ability to adequately address its hiring selection procedures in the tight labor markets resulting from the COVID-19 pandemic.

The adoption of emergency amendments to this Law will take effect immediately upon adoption by the Oneida Business Committee. The emergency amendments to the Law 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 ONEIDA PERSONNEL POLICIES AND PROCEDURES LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> Update the Nation's Personnel Policies and Procedures using current interpretations, language, and technology to minimize the time to hire employees from post to hire in a tight labor market; Remove language stating that knowledge of Oneida culture can be attained only by membership (or eligibility for membership) in the Oneida Nation; Add language to state that the Personnel Commission is directed to comply with the Oneida Personnel Commission Bylaws; Update the applications policy to require all applications for employment vacancies to be submitted online; Change the guidelines for advertising position vacancies to require one posting for position vacancies open to both enrolled Oneida members and the general public; Add guidelines for screening to require applicants who are enrolled members of the Oneida Nation to be screened and interviewed prior to any other applicants; Include a definition for "conflict of interest"; Add language to clarify that no applicant interview shall take place without an HRD Representative present; Revise the selection policy to provide the supervisor with the next two (2) ranked candidates should the supervisor's first choice refuse the offer; Revise the selection policy to remove requirement of offering chosen candidates the position within five (5) days; Remove the section regarding bidding for internal job postings; and Remove the wage deduction for probationary employees.
Purpose	To provide for the Nation's employee related policies and procedures including recruitment, selection, compensation and benefits, employee relations, safety and health, program and enterprise rules and regulations, and record keeping.
Affected Entities	Oneida Nation employees
Public Meeting	A public meeting is not required for emergency legislation [1 O.C. 109.8-1(b) and 109.9-5(a)].
Fiscal Impact	A fiscal impact statement is not required for emergency legislation [1 O.C. 109.9-5(a)].
Expiration of Emergency Legislation	Emergency legislation expires six (6) months after adoption and may be renewed for an additional six (6) month period.

SECTION 2. LEGISLATIVE DEVELOPMENT

A. **Background.** The Oneida Personnel Policies and Procedures provides the Nation's employee related policies and procedures including recruitment, selection, compensation and benefits, employee relations, safety and health, program and enterprise rules and regulations, and record keeping.

B. **Request for Emergency Amendments.** On August 18, 2021, the Legislative Operating Committee considered a request for amendments to the Oneida Personnel Policies and Procedures from the Human Resources Department to address the selection policy in an effort to update the Personnel Policies & Procedures using current interpretations, language and technology to improve minimize the time to hire employees from post to hire in a tight labor market. The Legislative Operating Committee determined these amendments should be pursued on an emergency basis for the immediate preservation of the general welfare of the Reservation population.

SECTION 3. CONSULTATION AND OUTREACH

- Representatives from the following departments or entities participated in the development of this Law and legislative analysis:
 - Human Resources Department
- The Legislative Operating Committee has held the following work meetings specific to the proposed emergency amendments to this Law:
 - 9/13/21 – LOC work meeting with the Human Resources Department
 - 9/15/21 – LOC work meeting
 - 10/12/21 – LOC work meeting with the Human Resources Department
 - 10/18/21 – LOC work meeting with the Human Resources Department
 - 10/21/21 – Work meeting with representatives from the LRO and Human Resources Department
 - 10/25/21 – LOC work meeting with the Human Resources Department
 - 11/4/21 – LOC work meeting with the officers of the Oneida Business Committee and the Human Resources Department
 - 11/9/21 – LOC work meeting

SECTION 4. PROCESS

A. These amendments are being considered on an emergency basis. The Oneida Business Committee may temporarily enact an emergency law where legislation is necessary for the immediate preservation of public health, safety, or general welfare of the Reservation population and enactment or amendment of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].

- The emergency adoption of amendments to this Law are necessary for the preservation of the general welfare of the Reservation population in order to simplify the Nation's hiring selection procedures so they are more effective so that the Nation can improve its hiring capacity and service delivery during increasingly tight labor markets that have resulted from the COVID-19 pandemic.
- Observance of the requirements under the Legislative Procedures Act for adoption of the emergency amendments to this Law would be contrary to public interest and the process and requirements of the Legislative Procedures Act cannot be completed in time to allow the Nation the ability to adequately address its hiring selection procedures in the tight labor markets resulting from the COVID-19 pandemic.

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

- C. The Legislative Procedures Act does not require a public meeting or fiscal impact statement when considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact statement will eventually be required when considering permanent adoption of this Law.
- D. On August 18, 2021, the Legislative Operating Committee considered a request for amendments to the Oneida Personnel Policies and Procedures from the Human Resources Department to address the selection policy in an effort to update the Personnel Policies and Procedures using current interpretations, language and technology to improve minimize the time to hire employees from post to hire in a tight labor market.

SECTION 5. CONTENTS OF THE LEGISLATION

- A. **Oneida Preference and Indian Preference Statement of Policy.** The proposed amendments alter the language of the Oneida Preference and Indian Preference Statement of Policy to state that a highly desirable employment characteristic is knowledge of Oneida culture [Section III(A)]. Previously, this section stated that knowledge of Oneida culture can be attained only by membership (or eligibility for membership) in the Oneida Nation [Section III(A)].
- *Effect:* Language stating that knowledge of Oneida culture can only be attained by membership (or eligibility for membership) is removed due to the belief that knowledge of the Oneida culture may be attained in other ways.
- B. **Hiring Guidelines.** The proposed emergency amendments add language to state that the Personnel Commission is directed to comply with the Oneida Personnel Commission Bylaws [Section III(B)(2)(b)(1)(a)(iii)].
- *Effect:* The Personnel Commission will comply with the Oneida Personnel Commission Bylaws to represent the Oneida Community-at-large in the selection of employees of the Nation.
- C. **Applications.** The proposed emergency amendments update the policy for applications to require all applications to be submitted online [Section III(B)(3)(d)(2)]. Previously, hand-delivered applications were accepted at the HRD Office until 4:30 p.m. on the deadline date [Section III(B)(3)(d)(2)].
- *Effect:* Applications for employment vacancies will only be accepted online in order to minimize the time to hire employees from post to hire in a tight labor market.
- D. **Advertising.** The proposed emergency amendments change the guidelines for advertising position vacancies so that there is one posting for position vacancies open to both enrolled Oneida members and the general public [Section III(B)(2)(e)(2)]. Previously, there were two separate postings; the first post was limited to enrolled Oneida members and was required to be posted for a minimum of seven (7) calendar days, and the second post was open to the general public and was required to be posted for a minimum of ten (10) days [Section III(B)(2)(e)].
- *Effect.* Only one (1) posting for tribal members and the general public will be required for position vacancies, unless the position is required to be filled by an enrolled member of the Oneida Nation. This will reduce the time that position vacancies are required to be posted, thus minimizing the time to hire employees from post to hire in a tight labor market. Position vacancies will now be posted for a minimum of seven (7) calendar days to the general public, rather than seven (7) calendar days for enrolled Oneida members and an additional ten (10) calendar days for the general public.
- E. **Screening.** The proposed emergency amendments add guidelines for screening so that applicants who are enrolled members of the Oneida Nation shall be screened and interviewed prior to any other applicants. If the screening and interviewing of the applicants who are enrolled members of the

Oneida Nation did not result in the position vacancy being filled, then all other applicants may be screened and interviewed [Section III(B)(2)(f)(1)].

- *Effect.* Applicants who are enrolled members of the Oneida Nation will be given priority over the general public to be screened and interviewed for vacant positions.

F. Definition for “Conflict of Interest”. The proposed emergency amendments include a definition for “conflict of interest”, as defined in the Conflict of Interest law. Conflict of interest is defined as: a) Any interest, real or apparent, whether it be personal, financial, political, or otherwise, held by an elected official, officer, political appointee, employee, consultant, or appointed or elected member. b) Immediate family members, friends or associates, or any other person with whom they have contact, that conflicts with any right of the Nation to property, information. c) Any other right to own and operate activities free from undisclosed competition or other violation of such rights of the Nation. d) This is not an all-inclusive list [Section III(B)(2)(f)(3)].

- *Effect.* The definition for “conflict of interest” is added, as defined in the Conflict of Interest Law.

G. Applicant Interviews. The proposed emergency amendments add language to state that no interview shall take place without an HRD Representative present [Section III(B)(2)(g)(2)].

- *Effect.* Interviews will not take place without an HRD Representative present to ensure all procedures are followed.

H. Selection. The proposed emergency amendments change the language of the selection policy to state that the HRD Office will notify and offer the position to the selected candidate, and should the supervisor’s first choice refuse the offer, the HRD Office will provide the supervisor with the next two ranked candidates to choose from [Section III(B)(h)(1)(c)]. The proposed emergency amendments also remove the requirement to list all newly hired employees in the HR newsletter. Previously, the policy stated that the HRD Office will notify the selected candidate and offer the candidate the job within five (5) working days of the selection decision by the supervisor, and should the supervisor’s first choice refuse the offer, the HRD Office will offer the job to the second ranked candidate [Section III(B)(h)(1)(c)]. All newly hired employees were listed in the HR newsletter [Section III(B)(h)(4)].

- *Effect.* The HRD Office will not be required to offer the chosen candidate the job within five (5) working days of the selection decision by the supervisor. Should the supervisor’s first choice refuse the offer, the HRD Office will provide the supervisor with the next two ranked candidates rather than automatically offering the job to the second ranked candidate.

I. Bidding. The proposed emergency amendments remove the section regarding bidding for internal job postings. Previously, Oneida Nation employees could bid for transfers by notifying their immediate supervisor and submitting an Application Form to the HRD Office [Section III(C)(a)(3)].

- *Effect.* Employees will not be able to bid for transfers.

J. Interim Position Reassignments. The proposed emergency amendments add a section regarding interim position reassignments. Interim position reassignments may be processed to fill a position in which the previous employee is in the appeals process, on a leave of absence, or for a vacant position [Section III(C)(2)(c)(1)].

- *Effect:* Supervisors may fill vacant positions through interim position reassignments.

K. Status as a Probationary Employee. The proposed emergency amendments eliminate the wage deduction for probationary employees. The proposed amendments also eliminate the section stating that employees who are terminated during the probation period will receive credit for accrued vacation/personal days in their final paycheck. Previously, employees were paid at five percent (5%) below the posted pay rate for the position during their probationary period [Section III(D)(b)(a)]. New

employees hired under a negotiated salary received a salary one step below the agreed upon salary during the probationary period [Section III(D)(b)(a)(1)]. Employees who were terminated during their probationary period received credit for accrued vacation/personal days during their final paycheck [Section III(D)(3)(b)].

- *Effect.* Employees will receive their full wage during their probationary period. Employees that are terminated during their probationary period will not receive credit for accrued vacation/personal days in their final paycheck.

L. Minor Drafting Changes. Minor drafting and formatting changes have been made throughout the Personnel Policies and Procedures including the following:

- References to “American Indian Nation” were changed to “federally recognized tribe”;
- The section on conflict of interest and nepotism was moved to later in the document;
- Some references to the “HRD Manager” were changed to “HR Representative”;
- Internal HR information that was not needed for an employee manual was removed;
- Some references to “will” were changed to “shall”;
- A reference to “tribal employees” were changed to “employees of the Nation”;
- Inquiries to job applications were updated so that they would be responded to with an application and/or resume rather than an application form;
- The section on advertising was reformatted;
- Some references to “candidates” were changed to “applicants”; and
- References to “transferred or promoted” were changed to “job reassigned”.

SECTION 6. EXISTING LEGISLATION

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

- *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal Council on January 7, 2013, for the purpose of providing a standard process for the adoption of laws of the Nation which includes taking into account comments from members of the Nation and input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].
 - The Legislative Procedures Act provides a process for the adoption of emergency legislation when the legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population and the enactment or amendment of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].
 - The Legislative Operating Committee is responsible for first reviewing the emergency legislation and for forwarding the legislation to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].
 - The proposed emergency legislation is required to have a legislative analysis completed and attached prior to being sent to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].
 - a. A legislative analysis is a plain language analysis describing the important features of the legislation being considered and factual information to enable the Legislative Operating Committee to make informed decisions regarding legislation. A legislative analysis includes a statement of the legislation’s terms and substance; intent of

the legislation; a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations. [1 O.C. 109.3-1(g)].

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

SECTION 7. OTHER CONSIDERATIONS

A. *Deadline for Permanent Adoption of Legislation.* The adoption of emergency amendments to the Oneida Personnel Policies and Procedures will expire six (6) months after adoption. The emergency legislation may be renewed for an additional six (6) month period.

- *Conclusion:* The Legislative Operating Committee will need to determine if the adoption of these amendments is necessary on a permanent basis, and if so, develop the permanent amendments to this Law within the next six (6) to twelve (12) months.

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

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



ONEIDA NATION PERSONNEL POLICIES AND PROCEDURES MANUAL

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SECTION I – INTRODUCTION

Welcome to the Oneida Nation. We are pleased to have you join us as a partner on a team of individuals dedicated to providing quality service that enhances the quality of life of the Oneida community. The role you play in your position is important to the overall effort required by your department to meet the goals and objectives of the Oneida Nation. We encourage you to take advantage of the opportunities presented to you, as an employee, to grow and develop both personally and professionally.

The purpose of this "Employee Manual" is to provide you with a ready source of information about employee related Oneida Nation policies and procedures. Although we have tried to make this manual as comprehensive as possible; it does not, and cannot, include policies which address every situation that may arise. The Oneida Nation reserves the right to modify, alter, change or cancel existing policies and procedures or adopt new procedures and policies at any time.

The policies and procedures set forth in this manual apply to all employees. As an employee of the Oneida Nation, you are required to know and abide by these policies and procedures. Oneida Nation departments may have specific and additional procedures enhancing the general policies stated in this manual. Each employee is expected to learn his/her department's procedures and comply with them. In the event of any conflict between policies in this manual and departmental procedure, the policies in this manual supersede. Each employee is also expected to conform to the professional standards of his/her occupation. Questions regarding this manual, or any employee related policies, should be directed to your supervisor, department head, or to the Human Resources Department at (920) 496-7900.

The Oneida Nation is proud to have you on our staff and we look forward to a fulfilling and successful team relationship.

SECTION II - RECRUITING

A. RECRUITING

1. Recruiting Strategy

- a. The Oneida Nation shall implement a Recruiting Strategy to increase the potential for hiring the best-qualified and most capable employees possible.
 - 1) The Recruiting Strategy shall target, as the first priority, applicants in accordance with the Oneida and Indian Preference Policy.
 - 2) The Recruiting Strategy shall have a nationwide focus and will use:
 - a) The Kalihwisaks (national distribution);
 - b) The Oneida Higher Education Office's network of post-secondary school students;
 - c) Local and regional media and public employment agencies.

2. Applicant Pool

- a. The Oneida Nation shall establish and maintain an Applicant Pool consisting of individuals who have expressed an interest in working for the Oneida Nation.
 - 1) The Applicant Pool will consist of files containing:
 - a) An Oneida Nation Application Form;
 - b) A summary of career goals and job preferences.
 - 2) The Applicant Pool will be regularly reviewed to:
 - a) Update individual files;
 - b) Remove files where indicated.
 - 3) The Applicant Pool will be cross-referenced by job preferences.
 - a) Notices of job vacancies and an Application Form will be sent to all Applicant Pool members as appropriate.
 - 4) All Applicant Pool members shall have the right to review and update their file upon request.
 - 5) Applicant Pool members shall be apprised of the Nation's Indian Preference Policy.

B. LABOR POOLS

1. Supervisors that wish to establish a job classification as a Labor Pool Position will work with the HRD to establish the job classification.
2. Each Labor Pool Position shall be advertised as on-going recruitment pool. The HRD shall maintain an updated list of qualified candidates for each Labor Pool Position.
3. The HRD will accept all job applications and verify that each applicant is qualified according to the established job description. All qualified applicants will then be placed in a pool according to the Nation's Oneida and Indian Preference Policy and the date the application was received. All applicants will be notified of acceptance into or rejection from the pool.
 - a. **PRESCREENING OF LABOR POOL POSITIONS** [\(HR Interpretation 11-13-12\)](#) Applicants who were previously employed by the Oneida Nation and were terminated for reasons of misconduct or performance issues will be screened out for a period of twelve (12) months following the date of discharge.
4. The HRD will keep an updated list of qualified applicants for each job position.
5. When a vacancy occurs in a Labor Pool Position, the supervisor will notify the HRD of the position to be filled. The HRD Office shall then refer the top three (3) applicants to the

124 immediate supervisor. The top three applicants shall be based first on the Oneida and
 125 Indian Preference Policy and, second, the date an application was received. The
 126 immediate supervisor will notify the HRD of their selection and the HRD will then offer
 127 the position to the applicant. After the position is filled, all ranked candidates will move
 128 up on the list. [\(HR Interpretation 7-11-13\)](#)

- 129 6. If the applicant refuses the position, the HRD Office will then offer it to the next applicant
 130 until the position is filled.
- 131 7. If the applicant refuses the job, the applicant may withdraw from the Labor Pool or, if he
 132 or she declines to withdraw from the Labor Pool, the date of refusal will be considered
 133 the date the application was received and the applicant will be placed in the Labor Pool
 134 list according to B.3.
- 135 8. Indian (Oneida) Preference will be adhered to in all hiring decisions.

136 137 C. EMERGENCY/TEMPORARY POSITIONS

- 138 1. The HRD will periodically recruit individuals who are interested in filling temporary
 139 positions which consist of the following classifications:
 140 a. Emergency/Temp
 141 b. Limited Term
 142 c. Seasonal
 143 d. Substitute/Relief
 144 e. Youth Worker
 145 f. Student/Intern
- 146 2. Creation of Positions
 147 a. Creation of positions in the above Temporary Employee Classifications will require
 148 that these positions be budgeted for the current fiscal year, or proof through
 149 documentation that the budget is adequate to incorporate these positions.
 150 b. The positions must be developed in conjunction with the HRD; assuring that all
 151 Policies and Procedures are adhered to. Creation of temporary classification requires
 152 the approval of the Director, Area Manager, and HRD Manager, or elected official of
 153 the Oneida Nation.
 154 c. All newly created temporary positions must be processed through the Wage and
 155 Salary system before a position can be filled with a temporary employee.
- 156 3. Recruitment/Selection
 157 a. Recruitment/selection of applicants for all temporary positions requires a completed
 158 Temporary Personnel Requisition form with an updated job description attached.
 159 b. The HRD will provide a list of qualified candidates according to the job descriptions
 160 to the immediate supervisor. The immediate supervisor will select from the approved
 161 list adhering to Indian Preference.
 162 c. The HRD will contact the selected candidate and offer the position, following the
 163 proper procedures to put the incumbent on payroll.
 164 d. The selected candidate will sign a statement accepting conditions of temporary
 165 employment, and length of employment where applicable.
 166 e. Temporary employees will be paid within the Grade in which the job is classified and
 167 salary will be negotiated within the first three (3) steps of respective grade.
 168 1) Any negotiated salary beyond step three will require written justification and
 169 approval from the respective General Manager. [\(H.R. Interpretation, 12-8-16\)](#)
 170 f. Temporary employees are welcome to apply for any regular position within the
 171 Nation that becomes available during the term of their employment.
 172 g. Temporary employees that are terminated due to documented cause will have the
 173 right to the appeal process as outlined in the Personnel Policies and Procedures.

- 174 h. All temporary employees are subject to lay-off based upon department job needs
175 and budgets. [\(HR Interpretation – 11-25-13\)](#)
176 i. Supervisors are required to do proficient planning within their respective span of
177 control; as such they must also enforce separation dates and will be monitored by
178 HRD for compliance.
179 j. Supervisors must select the most appropriate category of classification for the job.
180 1) Moving from one classification to another is prohibited.
- 181 4. Benefits
- 182 a. The following employee classifications will be eligible for benefits as defined in the
183 section of the Personnel Policies and Procedures as medical, dental, vacation and
184 personal accrual, holiday pay, premium pay.
185 1) Limited Term
186 2) Seasonal
- 187 b. The following employee classifications will be eligible for benefits as defined in this
188 section of the Personnel Policies and Procedures as Mandatory Benefits and Holiday
189 pay.
190 1) Emergency/Temporary
191 2) Substitute/Relief
192 3) Seasonal Worker (only during their first season)
- 193 c. The following employee classifications will be eligible for benefits as defined in this
194 section of the Personnel Policies and Procedures as Mandatory Benefits.
195 1) Youth Worker
196 2) Student/Intern
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SECTION III – SELECTION POLICY

A. ONEIDA PREFERENCE AND INDIAN PREFERENCE STATEMENT OF POLICY

Federal policy since 1834 accords hiring preference to Indians. The purpose of this preference is threefold: 1) to give Indians a greater participation in self-government; 2) to further the Government's trust obligation; and 3) to increase the positive effect of having Indians administer matters that affect Indian tribal life. [\(GTC Resolution – 5-23-11-A\)](#)

More recently, legislation such as the Civil Rights Act (1964) and the Education Amendments of 1972 (passed after the Equal Employment Opportunity Act) continued to specifically provide for preferential hiring of Indians by Indian Nations.

As an employer, the Nation seeks to employ individuals who possess the skills, abilities and background to meet the employment needs of the Nation.

As a sovereign Indian Nation and a unique cultural group, the Oneida Nation has determined that a highly desirable employment characteristic is knowledge of Oneida culture ~~that can be attained only by membership (or eligibility for membership) in the Oneida Nation.~~ Further, the Nation recognizes the unique, shared culture of Native American Indians and has determined that a desirable employment characteristic is status as a member ~~of an American Indian Nation~~ or descendant of a federally recognized tribe. At a minimum, the Nation has determined that some knowledge of Indian culture is a desirable employment characteristic.

Accordingly, the Oneida Nation establishes the following policy in regard to Indian Preference for selecting employees to provide services that meet the needs of the Oneida people. ~~This Indian Preference policy shall be specific to staffing decisions made under the Personnel Policies and Procedures and shall not be construed to have an application outside of these policies and procedures.~~

The Oneida Nation is an equal employment opportunity employer and follows non-discriminatory policies and procedures in personnel decisions. [\(HR Interpretation 5-19-14\)](#)
~~However, the~~ The Oneida Nation exists to serve the needs of the Oneida people and therefore accords Oneida Preference to enrolled members of the Oneida Nation ~~Members~~ where such preference is not otherwise prohibited. All General Managers and top administrative positions, as defined by HRD in a standard operating procedure, shall be held by enrolled ~~Tribal~~ members of the Oneida Nation. In all other instances, the Nation applies the following priorities of Indian Preference in staffing decisions:

- 1 Enrolled members of the Oneida ~~Tribal member~~ Nation;
- 2 ~~Oneida Indians~~ Individuals eligible for enrollment in the Oneida Nation;
- 3 Documented first generation descendants of the Oneida ~~descendant~~ Nation;
- ~~4 Other Native American Indian;~~
- 4 Members or descendants of a federally recognized tribe;
- 5 Other (non-Indian). [\(HR Interpretation – 6-24-11\)](#)

This policy ~~will~~shall apply in decisions where the basic requirements for employment are met.

B. HIRING PROCEDURE

1 Statement of Policy

- a. The Oneida Nation is an equal employment opportunity employer and follows nondiscriminatory policies in hiring.
- b. The Oneida Nation is a firm advocate of the 1964 Civil Rights Act (as amended) and the 1968 Indian Civil Rights Act (as amended) and will make every effort to ensure compliance with each Act; however:
- c. The Oneida Nation follows the principles of Indian Preference in the implementation of hiring practices (see the Oneida Preference and Indian Preference Statement of Policy).

2. ~~The members~~Hiring Guidelines

~~d. All Supervisors~~ of the ~~Personnel Commission and all~~ Oneida Nation ~~employees who supervise other Oneida Nation employees~~ shall undergo periodic training in EEO and ~~Tribal~~ laws, rules, and regulations. —

~~1) Training will be knowledge and skills based~~

~~2) All Personnel Commission members and Tribal supervisors will undergo periodic re-training in EEO and Tribal laws, rules and regulations~~

~~e.a. No person shall be recommended for a position if a conflict of interest or nepotism is created. Nepotism is created by the following relationships: (HR~~

~~Interpretation 08-13-12)~~ Nation.

a) Father ————— i) Father in-law

b) Mother ————— j) Mother in-law

c) Husband ————— k) Brother in-law

d) Wife ————— l) Sister in-law

e) Brother ————— m) Son-in-law

f) Sister ————— n) Daughter in-law

g) Son ————— o) Grandparent

h) Daughter ————— p) Grandchild

3. ~~Hiring Procedures~~

a. ~~HRD Office Responsibilities~~

~~1) Unless specifically noted, the HRD Office will have responsibility for implementing the policies and procedures guiding the selection of Tribal employees.~~

b. Personnel Commission Role

1) The Oneida Nation established the Personnel Commission to represent the Oneida Community-at-large in the selection of ~~tribal~~ employees of the Nation.

a) The Personnel Commission is directed to:

i. Seek out the best-matched applicants for each available position;

- 306 ii. Consider only job-related factors (such as education, experience, past job
 307 performance, skills and abilities, and compatibility with the position and
 308 potential co-workers) when selecting candidates; and
 309 iii. Comply with the Oneida Personnel Commission Bylaws.
- 310 c. Identification of Vacancies and Development of Job Position Descriptions (Work Standard,
 311 11-16-11)
- 312 1) Supervisors may inform the HRD Office of pending vacancies as soon as they are
 313 identified.
- 314 2) For new and existing positions, the HRD Manager (or designate), Representative,
 315 the supervisor and the Area Manager (at his/her/their option) will/shall review the
 316 job position description to ensure compliance with:
 317 a) The Nation's job employment structure; and
 318 b) The needs and requirements of the job.
- 319 3) For new positions, the HRD Manager, the appropriate Area Manager, and the
 320 supervisor shall develop the job description. (HR Interpretation, 12-8-16)
 321 a) The new job description shall conform to the Oneida Nation job structure.
 322 b) The new job description will be reviewed by the General Manager position.
- 323 4) All job position descriptions shall contain/follow the following information:
 324 a) Job title, division/department, location, supervisor's title;
 325 b) Posting date, application deadline, preferred starting date, date of job,
 326 description review;
 327 c) Pay level (grade, step, hourly rate);
 328 d) A brief job summary;
 329 e) Duties and responsibilities;
 330 f) Qualifications;
 331 g) Inquiry address;
- 332 h) 3) Statement of compliance with EEO and Indian Preference policies outlined
 333 structure.
- 334 d. Applications
- 335 1) All inquiries for job position vacancies will/shall be responded to with an Oneida
 336 Nation Application Form which will consist of: application.
 337 a) Job vacancy title;
 338 b) Applicant biographical data;
 339 c) A request for a resume (where applicable).
- 340 2) The Application Form shall be accompanied by a Statement of Policy regarding
 341 Oneida Preference and Indian Preference.
- 342 2) Hand-delivered applications will be accepted at the HRD Office until 4:30 p.m. on
 343 the deadline date; mailed All applications shall be submitted online.
- 344 3) All applications must be postmarked on or before the deadline date.
- 345 4) 3) All applications will/shall be acknowledged.
- 346 e. Advertising
- 347 1) Position vacancies will/shall be advertised as widely as possible including.
 348 Advertising efforts may include, but not be limited to the following:

- 349 a) The Kalihwisaks;
- 350 b) The Oneida Nation website;
- 351 c) Oneida Nation social media platforms;
- 352 d) Electronic communications or alerts;
- 353 e) Mailings;
- 354 ~~b)f)~~ Statewide, through print and electronic media and public employment
- 355 agencies;
- 356 ~~e)g)~~ Through targeted recruiting efforts including:
- 357 ~~i. Major metropolitan areas (i.e. Milwaukee, Chicago, Minneapolis, etc.)~~
- 358 ~~ii.~~ The Bureau of Indian Affairs;
- 359 ~~iii.~~ ii. The Oneida Higher Education Office.
- 360 ~~d)h)~~ Other postings targeted toward special recruiting categories (such as
- 361 professions) shall be carried out at the discretion of ~~the~~ HRD ~~Office~~ with the
- 362 advice and consent of the affected department.
- 363 ~~2) Unless otherwise prohibited by external grant source or federal law, the first~~
- 364 ~~posting for a~~ A position vacancy shall be ~~limited to enrolled Oneida members~~
- 365 ~~and shall be~~ posted for a minimum of seven (7) calendar days.
- 366 ~~3)2) The second posting for a position vacancy shall be posted for a minimum of ten~~
- 367 ~~(10) calendar days~~ and shall be open to the general public, unless the position
- 368 ~~must~~ is required to be filled by an enrolled Oneida Nation member. ~~—(HR~~
- 369 ~~Interpretation 8-9-11)~~
- 370 ~~4)3)~~ All vacancies requiring re-posting shall be referred back to B-2.c (Identification of
- 371 Vacancies and Development of ~~Job~~ Position description) to begin the re-posting
- 372 process.
- 373 f. Screening ~~of Applicants~~ ~~(HR Interpretation 11-16-12)~~ ~~(HR Interpretation 10-22-12)~~
- 374 1) Applicants who are enrolled members of the Oneida Nation shall be screened
- 375 and interviewed prior to any other applicants. If the screening and interviewing
- 376 of the applicants who are enrolled members of the Oneida Nation did not result
- 377 in the position vacancy being filled, then all other applicants may be screened
- 378 and interviewed.
- 379 ~~1)2)~~ A Screening Committee consisting of the HRD ~~Manager (or~~
- 380 ~~designate), Representative,~~ the position supervisor, the Area Manager (at
- 381 ~~his/her~~ their option), and a member of the Personnel Commission shall be
- 382 convened to conduct the screening of applicants. The Screening process ~~will~~ shall
- 383 begin as soon as practical following the closing of the position. ~~This~~ The
- 384 Screening Committee ~~will~~ shall:
- 385 a) Verify that all applications ~~are complete, are accurate and~~ were submitted on
- 386 time.
- 387 ~~i.b)~~ Applications that are incomplete, ~~inaccurate,~~ or were not submitted on or
- 388 before the posted deadline date may be screened out.
- 389 ~~b)c)~~ Analyze the job position description to establish screening criteria. These
- 390 criteria ~~will~~ shall include qualifications listed on the job position description

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determined by the supervisor and ~~Area Manager~~HRD Representative to be essential to the ~~job~~position. (T.O.E. WS - 5-6-13)

~~c) Screen verified applications~~

d) ~~Recommend~~and identify a list of applicants to be interviewed.

~~2) The HRD Office shall notify screened out~~Ensure there are no applicants ~~within five (5) working days after the initial screening and reserve these applications in the general recruiting pool.~~

~~3) The HRD Office will arrange~~ineligible for ~~interviews~~employment with the ~~listed~~candidates.

~~g. Candidate Interviews~~

~~1)e) An Interview Committee will be convened and will consist of the members of the Screening Committee except that the HRD Manager will be replaced~~Nation due to termination or resignation in accordance with a second member of the Personnel Commission. The Interview Committee will:the applicable standard operating procedure developed by HRD.

~~3) Construct~~No person shall be recommended for a position if nepotism is created. Nepotism is created by the following relationships that are created by birth, marriage, or through another legally recognized means:

a) Spouse;

b) Child;

c) Parent;

d) Sibling;

e) Grandparent;

f) Great-grandparent;

g) Grandchild; and

h) Guardian.

~~4) No person shall be recommended for a position if a conflict of interest is created.~~Conflict of interest is defined as:

a) any interest, real or apparent, whether it be personal, financial, political, or otherwise, in which an elected official, officer, political appointee, employee, contractor, or appointed or elected member, or their immediate family members, friends or associates, or any other person with whom they have contact, have that conflicts with any right of the Nation to property, information, or any other right to own and operate activities free from undisclosed competition or other violation of such rights of the Nation.

b) any financial or familial interest an elected official, officer, political appointee, employee, contractor, or appointed or elected member or their immediate family members may have in any transaction between the Nation and an outside party

~~a)5)~~The HRD Representative and supervisor shall construct an interview format consisting of:

~~i-a)~~A set of questions related to the screening criteria qualifications; and

433 ii.b) An interview rating scale designed to objectively evaluate each
434 ~~candidate's~~applicant's qualifications.

435 6) The HRD Office shall arrange for interviews with the listed applicants.

436 g. Applicant Interviews

437 b)1) An Interview ~~candidates~~Committee shall be convened consisting of the
438 members of the Screening Committee and a second member of the Personnel
439 Commission. The Interview Committee shall interview applicants and evaluate
440 each individually.

441 2) No interview shall take place without an HRD Representative present.

442 2)3) The HRD ~~Manager (or designee) will~~Representative shall total the
443 evaluation rating scale to rank order of the ~~candidates~~applicants.

444 h. Selection (HR Interpretation - Disqualification of Applicant 10-24-13)

445 1) The supervisor shall select one of the top two (2) ~~candidates~~applicants as ranked
446 through the rating scale. (HR Interpretation - 10-17-12)

447 a) The supervisor may conduct an additional ~~personal~~follow-up interview with
448 the top two (2) ~~candidates~~applicants.

449 b) The selection decision shall be governed by the Oneida Preference and
450 Indian Preference Policy. (HR Interpretation - 6-6-11)

451 c) The HRD Office ~~will~~shall notify ~~the selected candidate~~ and offer the
452 ~~candidate the job within five (5) working days of the selection decision by~~
453 ~~the supervisor.~~position to the selected applicant.

454 i. Should the supervisor's first choice refuse the offer, the HRD Office ~~will~~
455 ~~offer~~shall provide the ~~job to supervisor with~~ the ~~second~~next two (2)
456 ranked ~~candidate~~applicants to choose from.

457 2)ii. Should ~~both of the top two ranked candidates~~(2) chosen applicants
458 refuse the ~~job~~position offer, the supervisor may:

459 a)1. Repeat the hiring selection process outlined in B.2.h.1. above with
460 the remaining candidates; or

461 b)2. Re-post the position.

462 3)2) The HRD Office ~~will~~shall notify those ~~candidates~~applicants interviewed but not
463 selected of the decision ~~to hire the best qualified candidate.~~

464 4) ~~All newly hired employees will be listed in the HR newsletter.~~

465 TRANSFERS AND PROMOTIONS POLICY

466 C. INTERNAL POSITION POSTING - The Oneida Nation encourages ~~transfers and~~
467 promotionsmovement within and among units in order to make the best possible use of
468 human resources to meet the Oneida ~~Nation~~Nation's goals and objectives. Supervisors and
469 employees are encouraged to work together to create an environment in which employees
470 constantly strive to improve their skills and abilities and ~~mangers~~managers constantly seek
471 to provide challenging and rewarding work experiences.

472 1. Procedure

473 a. Internal Position Posting ~~and Bidding~~

- 475 1) Open positions as determined by a supervisor and ~~his/her~~their Area Manager
 476 ~~will~~may be posted internally for a position transfer for a minimum of five (5)
 477 working days. ~~This internal posting will be concurrent with the external (public)~~
 478 ~~posting of positions.~~
 479 a) ~~Positions will be posted in prominent locations in each Oneida Nation~~
 480 ~~building~~
 481 2) ~~Oneida Nation employees may bid for transfers by notifying their immediate~~
 482 ~~supervisor and submitting an Application Form to the HRD Office.~~
 483 a) ~~The HRD Manager will inform all affected Area Managers of each transfer~~
 484 ~~bid.~~
 485 3)2) At the end of the five (5) day minimum internal posting period, the HRD
 486 ~~Manager will~~ Representative shall schedule a ~~conference~~screening with the
 487 open position's supervisor and the Area Manager. ~~(at their option).~~
 488 a) ~~The conference committee will consist of the supervisor, the Area Manager~~
 489 ~~and the HRD Manager (or designate) acting as this Committee will:~~
 490 i. ~~Establish selection criteria; and~~
 491 ii. ~~Review each bid.~~
 492 b) ~~The Committee may select the best qualified applicant but is not required to~~
 493 ~~choose an applicant to fill the open position from those employees who~~
 494 ~~have submitted an application for a transfer or promotion.~~
 495 c) ~~If the Committee does not fill the position from the transfer/promotion~~
 496 ~~process, the process will continue through the full advertising, screening and~~
 497 ~~interview steps.~~
 498 i. ~~Any decision will be governed by the Indian Preference Policy.~~
 499 4)3) Employees who are transferred ~~or promoted will~~ shall not lose any benefits;
 500 however:
 501 a) An employee may be required to continue serving in ~~his/her~~their present
 502 position until a replacement can be found; for a period up to thirty (30) days.
 503 b) An employee who is transferred to a position lower on the Oneida Nation
 504 ~~Job~~Position Structure ~~will~~shall be paid at the grade level corresponding to
 505 the new position;.
 506 c) ~~An employee must have completed one year of service to the Nation before~~
 507 ~~being eligible for a promotion or transfer (requests~~Requests for transfers for
 508 documented medical conditions will be handled on a case-by-case basis
 509 and only when in the best interests of both the employee and the Nation);.
 510 d) ~~The newly transferred or promoted employee shall be required to complete~~
 511 ~~a three (3) month probation period (all~~ All conditions of the Nation's
 512 Original Probation Policy shall apply).
 513 b. ~~Applicant Pool Process~~
 514 1) ~~New and vacant positions will be advertised through the Tribal Applicant Pool.~~
 515 2) ~~The job description will be sent to persons whose applications are maintained in~~
 516 ~~the Applicant Pool.~~

- 517 a) ~~The Tribal Applicant Pool will consist of open (unspecified) applications from~~
 518 ~~Tribal members who wish to be considered for employment by the Nation.~~
 519 b)d) ~~Advertising through the Tribal Applicant Pool will follow the format and~~
 520 ~~time conditions set forth in the Hiring Policy during that period.~~

521 2. Reassignments

522 a. Title Reassignments

- 523 1) Title Reassignments may be made by supervisors to:
 524 a) More accurately describe or define an existing job position; or
 525 b) Make minor adjustments in jobs positions within a unit or operating division.
 526 2) Title Reassignments may be made at any time with the approval of the Area
 527 Manager and HRD Manager Representative.

528 b. Job Position Reassignments

- 529 1) Job Position Reassignments may be made by supervisors to make more efficient
 530 and effective use of human resources.
 531 2) Job Position Reassignments may be supervisor-initiated or employee-initiated but
 532 must be made in the best interests of the operating unit.
 533 3) Job Position Reassignments may be made at any time with the approval of the
 534 Area Manager and ~~after a review of each affected job by the Personnel~~
 535 ~~Evaluation Committee~~ HRD Manager.

536 c. ~~Interim Job Reassignments~~ (Work Standard 7-11-13)

538 c. Interim Position Reassignments.

- 539 1) Interim position reassignments may be processed to fill a position in which the
 540 previous employee is in the appeals process, on a leave of absence, or for a
 541 vacant position.

542 D. ORIGINAL PROBATION

- 543 1. ~~The first three (3) months after an employee's starting date~~ after being hired,
 544 transferred, or reassigned shall be considered a period of probation. At the end of six
 545 (6) weeks, the employee's performance shall be reviewed with him/her/them by the
 546 supervisor by completing an employee evaluation.
 547 a. ~~At the end of the three-month probation period, a second performance evaluation~~
 548 ~~will~~ shall be conducted. This evaluation ~~will~~ shall recommend the end of probation and regular
 549 status for the employee, an extension of probation, or termination for cause.

552 2.1. Status as a Probationary Employee

- 553 a. ~~Probationary employees will be paid at five percent (5%) below the posted pay rate~~
 554 ~~for the position.~~
 555 1) ~~New employees hired under a negotiated salary will receive a salary one step~~
 556 ~~below the agreed upon salary during the probationary period.~~
 557 b.a. ~~Probationary employees will~~ shall accrue vacation ~~and~~ and personal days during the
 558 probation period and ~~will~~ shall receive holiday pay.

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~~c.b.~~ Probationary employees may be terminated for cause at any time during the probation period. Cause must consist of a violation of policies or the documented inability of the employee to perform the duties and responsibilities of the position.

~~This termination is subject to appeal.~~ (BC Action 3-20-92)

~~3. Completion of Probation Period~~

~~a. Satisfactory completion of probation will result in the employee receiving the regular salary for the position.~~

~~b. Employees who are terminated during the probation period will receive credit for accrued vacation/personal days in their final paycheck.~~

~~c. Extensions of probation periods will not affect accrual of or use of benefits as explained under D.2.~~

SECTION IV - COMPENSATION AND BENEFITS

A. SALARY

1. Oneida Nation Job and Salary Structure

- a. An ongoing plan will be instituted based on standard employee grades and step levels to assure that a uniform approach is taken to establish equitable salary and wage levels.
- b. Employee performance evaluations will be a resource in determining whether an employee receives an increase in pay for the upcoming year. An overall satisfactory rating must be attained in order to be granted an increase in pay.
- c. Merit increase shall be granted upon the recommendation of the supervisor, the Area Manager, the HRD Manager and the General Manager.

2. Workday [\(Work Standard, 10-17-12\)](#)

- a. The regular Tribal workday is from 8:00 a.m. to 4:30 p.m. with an hour for lunch. The exception to these hours occurs only if the program/enterprise hours must vary for the purpose of providing service (such as retail hours beyond 4:30 p.m.). Shifts will be developed as needed, and the shift hours will then become the regular workday for assigned employees for that program/enterprise.
- b. Employees are expected to be at work each scheduled work day.
 - 1) Employees who do not report for work because of inclement weather or unforeseen circumstances will not be paid for that day. Employees may elect to use personal day(s) to cover this absence. [\(W.S. Closures Multiple/Individual Depts.7-28-2017\)](#)
[\(W.S. Closures Non-Critical Departments/Divisions 7-28-2017\)](#)
 - 2) In case of an unavoidable delay or absence, the supervisor must be notified no later than thirty (30) minutes after the scheduled starting time. Employees are encouraged to notify their supervisor before their scheduled starting time.
 - i. Employees failing to report to their assigned jobs or failing to call in within the thirty (30) minute time allowed will be subject to disciplinary action.
 - ii. Permission to leave early must be obtained by the employee from his/her supervisor.

3. Overtime

- a. Any and all overtime will be kept to a minimum and must be approved by the Supervisor and Area Manager.
 - 1) In the case of potential overtime that may occur at night, on holidays or on weekends, supervisors will delegate this authority to a specific employee and outline specific situations and actions that warrant overtime.
- b. All overtime must be reported to the supervisor for evaluation.
- c. Overtime will be approved only if the program or enterprise budget is capable of paying it.

- 641 d. Overtime will be approved only for hours worked in excess of forty (40) hours per
 642 week. Personal/vacation days and holidays will not count toward the forty (40) hour
 643 requirements.
- 644 e. Tribal employees are expected to work overtime if required. Time and one-half will
 645 be paid for this overtime.
- 646 f. Exempt employees are not eligible for overtime.
- 647 1) The HRD Office will maintain a list of exempt employees.
- 648 4. Holidays ([Work Standard, 11-7-14](#))
- 649 a. Tribal holidays consist of the following:
- 650 1) One-half Day Christmas Eve
- 651 2) Christmas Day
- 652 3) New Year's Day
- 653 4) Memorial Day
- 654 5) Veteran's Day
- 655 6) Independence Day
- 656 7) Labor Day
- 657 8) Thanksgiving Day
- 658 9) Indian Day (day after Thanksgiving)
- 659 10) One-half day Good Friday
- 660 11) Code Talker's Day (Oneida Day, Friday prior to Memorial Day)
- 661 ([BC Resolution – 12-11-13A](#))
- 662 b. To be eligible for a paid holiday, employees must work the preceding and following
 663 scheduled work days (except for employees who are on a prescheduled work leave
 664 or an approved extended sick leave.) Employees who are granted a sick day directly
 665 prior to a holiday must certify that they were capable of working the holiday in order
 666 to qualify for a paid holiday.
- 667 c. All regular employees will be given holiday pay for the maximum pay of eight (8)
 668 hours per day.
- 669 d. Holidays falling on a Saturday will be observed the preceding Friday; holidays falling
 670 on a Sunday will be observed on the following Monday. ([2019 Holiday Observance Calendar](#))
 671 ([2018 Holiday Observance Calendar](#))
- 672 e. The Oneida Nation acknowledges its responsibility to make a reasonable
 673 accommodation to employees who wish time off to observe religious holidays.
 674 Requests for such time off will be granted where possible, based on the scheduling
 675 and staffing needs of affected departments. Employees wishing to take time off work
 676 for religious observances should inform their supervisor as early as possible.
 677 Employees may use personal time for such requests if eligible; otherwise the time off
 678 will be treated as unpaid leave.
- 679 5. Vacation/Personal Days
- 680 a. Every Oneida Nation employee, except temporary employees, shall be allowed
 681 personal and vacation days with pay to the extent that personal days and vacation
 682 are accumulated.

- b. The amount of personal and vacations days shall be determined by continuous service for the Nation. A "lay-off" from Oneida Nation employment shall not be considered an interruption in continuous service where the lay-off is in accordance with the Nation's Layoff Policy, nor shall a preapproved leave of absence. [\(HR Interpretation, 3-6-12\)](#)
- c. Except as provided for in section g, the accrual of personal days shall be as follows: [\(BC Resolution – 4-11-13-F\)](#)
- 1) 0-3 years of service - 6 days per year;
 - 2) 4-7 years of service - 8 days per year;
 - 3) 8-14 years of service - 10 days per year;
 - 4) 15+ years of service - 12 days per year;
- d. Except as provided for in section g, the accrual of vacation days shall be as follows:
- 1) 0-3 years of service - 12 days per year
 - 2) 4-7 years of service - 15 days per year;
 - 3) 8-15 years of service - 20 days per year;
 - 4) 15+ years of service - 25 days per year.
- e. Part-time employees accrue personal and vacation days for time actually worked at a ratio of a full-time employee.
- f. Service is defined as working for Programs/Enterprises which are contracted by the Nation or specifically sponsored by the Nation.
- g. Vacation and personal days shall be capped at 280 hrs. An employee shall cease to accrue vacation and personal hours when he or she has reached 280 total hours. Supervisors shall notify their employees when said employees have accumulated 200 total hours of vacation and personal time. [\(GTC Resolution, 7-2-12A\)](#)
- 1) An employee may trade back accumulated vacation and personal hours in accordance with Section IV.A.5.n. below. [\(GTC Resolution, 5-23-11-B\)](#)
- h. Upon termination from Oneida Nation employment, employees will be paid for any unused personal and/or vacation days.
- 1) Employees who have used the Oneida Nation-sponsored loan program will be required to honor the terms of the loan agreement.
- i. Personal Days can be used for any reason so long as the request is approved by the employee's supervisor at least twenty-four (24) hours in advance (unless the absence is due to illness or unforeseen circumstances).
- 1) In the case of illness or unforeseen circumstance, the supervisor shall be notified no later than fifteen (15) minutes before the scheduled starting time.
 - 2) Programs and enterprises may institute stricter standards of notification. These standards will be submitted to and approved by the Personnel Department.
- j. An employee shall notify his/her supervisor of an intent to use personal days in the following ways:
- 1) Three (3) to five (5) days - one (1) week advance notification
 - 2) Six (6) days or more - two (2) weeks advance notification.

- 724 k. An employee shall notify his/her supervisor one (1) day in advance if he/she will take
 725 off one (1) or two (2) days of vacation. Programs and enterprises may institute
 726 stricter standards of notification.
- 727 1) Three (3) to five (5) days of vacation require a one (1) week advance notification.
 728 2) Six (6) or more days of vacation require at least two (2) weeks advance
 729 notification.
- 730 l. The burden shall be on the supervisor to show that a denial of a personal day or a
 731 vacation day is based upon interference with the business of the Nation.
- 732 m. Personal or Vacation Days can be taken when an employee is on probation. [\(GTC](#)
 733 [Resolution 5-23-11-B, HR Interpretation 5-8-17\)](#)
- 734 n. Trade-back for Cash - Each fiscal year, the Oneida Business Committee shall analyze
 735 fiscal conditions to determine whether employees may trade back personal and/or
 736 vacation hours for cash that fiscal year.
- 737 1) If the Oneida Business Committee approves trade-back for cash, they shall also
 738 determine whether (i) and/or (ii) applies: [\(See Revision\)](#)
- 739 i. All employees will have the opportunity to trade-back hours one time that
 740 year.
- 741 1. By August 15, each employee who has accumulated twenty-four (24)
 742 hours or more of vacation and/or personal days may opt to trade in
 743 his/her hours for cash.
- 744 2. Employees will receive their trade back on or before September 30 of
 745 that year.
- 746 ii. Only those employees who are unable to utilize their personal and/or
 747 vacation time due to working conditions, such as a shortage in staffing, as
 748 determined by the HRD Manager or designee, will have the opportunity to
 749 trade back hours on a quarterly basis.
- 750 1. Employees will receive their trade back within sixty (60) days after
 751 opting to trade back hours.
- 752 2) When trade-back for cash is approved by the Oneida Business Committee, the
 753 following standards shall apply:
- 754 i. Employees must decide which status (vacation or personal or both) from
 755 which their trade back will be drawn.
- 756 ii. Employees may not trade for cash more than eighty (80) hours in one year.
 757 [\(GTC Resolution, 5-23-11-B\)](#)
- 758 o. Additional Duties Compensation
- 759 p. Travel Time Compensation [\(Work Standard , 3-20-13\)](#)
- 760
- 761 B. INSURANCES [\(see separate publication\)](#) for information on Oneida Nation Insurance plans.
- 762
- 763 C. RETIREMENT PLAN [\(See separate publication for information on Tribal Retirement Plan\).](#)
 764 [\(Separating Employees WS 5-6-13\)](#)
- 765 D. LEAVES
- 766 1. Meeting Attendance

- 767 a. Approval for attending any meetings inside normal working hours must be approved
 768 in advance by the employee's immediate supervisor. [\(BC Action, 5-16-89\)](#)
 769 b. Employees who receive stipends or honoraria in excess of \$50.00 for attending
 770 meetings during working hours will forfeit the amount in excess of \$50.00 from their
 771 regular paycheck. Stipends for travel or per diem will not be deducted if
 772 accompanied by receipts for such expenses.
 773 c. Stipends or honoraria for intra-tribal meetings during normal working hours will
 774 results in the employee's paycheck being reduced by the full amount of the stipend.
 775 2. Funeral Leave [\(Work Standard, 8-2-11\)](#)
 776 a. All regular employees will be given a three (3) day leave without loss of pay for
 777 funeral services for immediate family. Immediate family includes:
 778 Husband Mother Brother Great-grandparent
 779 Wife Father Sister Great-grandchildren
 780 Mother-in-law Son Grandparent Spouse's great-grandparents
 781 Father-in-law Daughter Grandchild Spouse's grandparents
 782 Daughter-in-law Sister-in-law Brother-in-law
 783 b. Three (3) day leave for other persons will be given only if the employee is responsible
 784 for making funeral arrangements, subject to prior approval of supervisor.
 785 c. All other funeral leave will be limited to no more than one (1) day with pay subject to
 786 the notification and approval of the immediate supervisor. [\(Mgmt Directive, 12-17-2009\)](#)
 787 3. Leave of Absence [\(Work Standard, 6-10-14\)](#)
 788 a. A leave of absence without pay may be granted to employees for a justifiable reason
 789 (including caring for a child, spouse or parent with a serious health condition) and
 790 when in the best interest of the Nation.
 791 1) Leaves of absence will not exceed three (3) months.
 792 i. All leaves of absence must be approved by the Supervisor, Area Manager,
 793 HRD Manager and General Manager. [\(HR Interpretation, 12-8-16\)](#)
 794 ii. Requests must be documented and submitted to the supervisor with as much
 795 advance notice as possible.
 796 iii. Disposition of requests will be made on the basis of staffing requirements.
 797 2) Upon returning, the employee will be reinstated in the former position with full
 798 status and benefits. Holiday, vacation, and sick leave will not be accrued during
 799 the leave of absence.
 800 3) No later than fifteen (15) working days prior to the expiration of the leave period
 801 the employee must give notice in writing of his/her intent to return to the
 802 position. Notice must be presented to the supervisor.
 803 i. Failure to provide written notice will be interpreted to mean that the
 804 employee does not intend to return following the leave. The position will be
 805 posted and filled through the selection process. [\(HR Interpretation, 11-21-11\)](#)
 806 4. Maternity Leave
 807 a. Maternity leave will be granted for a period of six (6) weeks without pay.
 808 1) An employee may elect to cover any portion of this time by using accumulated
 809 sick days.

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- 2) Any maternity-related absences for longer than six (6) weeks must be taken as a medical leave of absence.
5. Military Leave
- a. In addition to the following provisions, the Nation's Military Service Protection Act shall govern Military Leave.
- b. A Military Leave of Absence is afforded employees entering active duty without accumulation of holiday, vacation or personal time during the period of leave. Any accumulated benefits prior to leave will be maintained for the employee.
- c. Time off for inactive duty training, examinations to determine fitness for duty and funeral honors duty shall be afforded to employees without the accumulation or loss of holiday, vacation or personal time. An employee will receive pay from the Nation for any hours work that the employee was required to miss due to reservist training.
- 1) Any pay received for performing any of the above duties shall be deducted from the employee's pay. [\(GTC Resolution, 1-26-08A\)](#)
6. Jury Duty
- a. During a period of jury duty, an employee will receive pay from the Nation for any hours of work missed due to jury duty.
- 1) Jury duty pay will be deducted from the employee's paycheck when determining the amount of pay
- 2) No overtime will be allowed in determining employee pay while serving on jury duty.
7. Educational Leave [\(BC Action, 5-4-90\)](#)
- a. A leave of absence for education purposes will not exceed one (1) year.
8. Parent Policy Leave [\(BC Action, 3-2-94A\)](#) [\(Parental Leave Policy, 11-3-17\)](#)
- a. Employees who are parents, guardians, or those individuals specifically referred to as "immediate family" as defined in Section IV, page 6 of these Personnel Policies and Procedures which includes husband, wife, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, grandparent and grandchild may request to participate in their child(ren)'s educationally sanctioned events not to exceed four (4) hours per employee per month
- 1) These four (4) hours shall not accumulate.
- b. Approval to utilize the four (4) hours must be obtained from the supervisor.
- 1) An employee shall request his/her supervisor to utilize this leave with a minimum of twenty-four (24) hours' notice.
- 2) The Supervisor may request verification of
- i. Guardianship of the child(ren) and/or
- ii. The attendance of the employee at their child(ren)'s educationally sanctioned event.
- c. The burden shall be on the supervisor to show that a denial of the Parent Policy Leave which is based upon interference with the business of the Nation.
- d. This leave shall not be paid as overtime. The supervisor may have the option to use flex time to cover this time off to attend their child(ren)'s educationally sanctioned events.

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- e. All employees, except Emergency/Temporary, Youth Workers, Student Interns, and Seasonal Workers during their first season, and Substitute Reliefs are eligible to participate in this benefit.

SECTION V – EMPLOYEE RELATIONS

A. ORIENTATION POLICY

The Oneida Nation reflects the unique culture and character of our Nation. The Oneida Nation recognizes that this may present special problems and difficulties for a new employee. The Nation therefore provides an Orientation Program designed to ease the new employee's transition into a job and enable the new employee to become effective and productive as quickly as possible.

1. Orientation Program Outline

- a. Overview
- b. Tribal Government and Procedures
- c. Key Policies and Procedures
- d. Benefits
- e. Safety, Health and Security
- f. Departmental Orientation

2. Responsibilities

- a. The HRD Office will administer the General Orientation Program
 - 1) The HRD Office will assist Divisions in administering Departmental Orientation Programs.
- b. The HRD Office will develop and establish an Employee Mentor Program with each Division.
 - 1) Employee Mentors will be responsible for conducting the Departmental Orientation.
 - 2) Employee Mentors will assist new employees throughout their probation period as a source of references and referrals.
- c. The HRD Office will annually review the General Orientation Program and each Departmental Orientation Program to:
 - 1) Evaluate the effectiveness of each Program,
 - 2) Modify programs as necessary.
 - 3) Requirements
 - a) The HRD Office will provide a copy of the Employee Policy and Procedures Manual to new employees before (if possible) the scheduled starting date.
 - b) The General Orientation Program will be completed in appropriate stages within the first month of the new employee's starting date.
 - i. The Departmental Orientation will be completed within the first week of the starting date.
 - c) The HRD Office will administer a NEW Employee Reporting Form to provide information for the purposes of maintaining a Nation-wide skills assessment inventory and a management succession plan.

899 B. EVALUATIONS

- 900 1. Evaluation reports will be used in determining all promotions, transfers and salary
901 adjustments.
- 902 2. Annual evaluation reports for each employee will be submitted to the HRD Office by
903 August 1 of each year. [\(Work Standard, 6-23-15\)](#)
- 904 a. Evaluation reports will be retained in each employee's personnel file.
- 905 3. All Oneida Nation employees will be evaluated at least once a year.
- 906 a. Employee performance evaluations will be conducted by each employee's immediate
907 supervisor. The Business Committee will conduct the performance evaluation of the
908 General Manager. [\(HR Interpretation, 12-8-16\)](#)
- 909 b. The supervisor will discuss the evaluation with each employee. The evaluation will
910 then be signed by the employee and the supervisor and forwarded to the HRD
911 Office.
- 912 4. Satisfactory evaluations may result in the employee receiving an increase in pay within
913 their grade level provided that the employee has not attained the highest step within the
914 grade.
- 915 a. Unsatisfactory evaluations will result in probation status for the employee. The
916 supervisor shall provide documentation to the Area Manager and to the employee
917 detailing the deficiency(s). A repeat evaluation will be conducted three (3) months
918 after the unsatisfactory evaluation. This second evaluation will result in the
919 employee:
- 920 1) Being removed from probation and receiving a salary increase if the second
921 evaluation results in an overall satisfactory rating; or
- 922 2) Receiving appropriate disciplinary actions if the second evaluation also results in
923 an unsatisfactory rating.
- 924 b. Employees may appeal unsatisfactory evaluations to the HRD Manager. The HRD
925 Manager will consult with the supervisor and the employee to negotiate an
926 appropriate resolution [\(Work Standard, 12-8-16\)](#)
- 927

928 C. CAREER DEVELOPMENT

- 929 1. Oneida Nation employees are encouraged to develop their skills and abilities by
930 pursuing education at a local educational institution. [\(BC Action, 9-9-92\)](#)
- 931 a. Oneida Nation employees must provide a general Career Development Plan to the
932 supervisor listing the goals and objectives of the training and education to be
933 undertaken.
- 934 2. Oneida Nation employees may be eligible for assistance for one (1) course per semester.
935 The employee must attempt to arrange to take the class outside his/her normal working
936 hours.
- 937 a. Where a class conflicts with the employee's work schedule, the needs of the Tribal
938 unit take precedence; however, the supervisor shall attempt to accommodate the
939 employee's request.
- 940 b. In no case shall the accommodation exceed actual class hours plus reasonable travel
941 time.
- 942 c. Employees must obtain the approval of their immediate supervisor to take a course
943 on work time.
- 944 3. The supervisor's approval and estimated cost must be submitted to the HRD Office, the
945 Area Manager and the General Manager. [\(HR Interpretation, 12-8-16\)](#)
- 946 4. The cost of the books, tuition and fees for the course shall be paid by the Nation through
947 funds budgeted in programs or through the Higher Education program.

- a. Reimbursement for books, tuition and fees is contingent upon the employee receiving at least a C (2.0 on a 4.0 point scale).
- b. Employees who receive less than the required grade point will be required to reimburse the program for whatever costs were incurred.

D. COMPLAINTS, DISCIPLINARY ACTIONS, AND GRIEVANCES

Disciplinary procedures provide a systematic process for handling problem employees. Disciplinary procedures serve to correct unacceptable behavior and to protect the Nation. Grievance procedures provide a systematic process for hearing and evaluating job related disputes. Grievance procedures serve to protect employees from inconsistent and unfair treatment. In all cases of grievance and discipline, supervisors are enjoined to use common sense, discretion and judicious good sense to resolve complaints between employees, exercise disciplinary prerogatives, and handle grievances.

[\(HR Interpretation, 2-4-13\)](#) [\(HR Interpretation, 1-29-14\)](#)

1. Complaints

- a. Should an employee have a disagreement with another employee, he/she may lodge an informal (verbal) or formal (written) complaint with the employee's supervisor.
- b. The supervisor will investigate the complaint and attempt to resolve the disagreement.
- c. If the employee lodging the complaint is dissatisfied with the attempted resolution, he/she may ask the Area Manager to attempt a resolution.
- d. There is no further appeal of this process.

2. Disciplinary Actions

- a. Disciplinary actions will be initiated by an immediate supervisor for the purpose of correcting unacceptable work performance. The supervisor will always discuss the action with the employee being disciplined to ensure that the employee:
 - 1) Understands the reason for the disciplinary action;
 - 2) Understands the expected work performance in light of the disciplinary action;
 - 3) Understands the consequences of continued unacceptable behavior.
- b. A supervisor shall initiate disciplinary actions commensurate with the seriousness of the unsatisfactory performance. A supervisor must consider each disciplinary action in progressive order and justify a deviance from that recommended progression.
- c. The actions listed below are examples of unacceptable work performance and do not constitute a comprehensive or exhaustive list. The actions in parentheses are guidelines for a supervisor to use in administering disciplinary actions. (W = written warning; S = suspension; T = termination):

1) Work Performance

- a) Insubordination (including disobedience) or failure/refusal to carry out assignments or instructions. (W/S/T)
- b) Loafing, loitering, sleeping or engaging in personal business. (W/S/T)
- c) Unauthorized disclosure of confidential information or records. (S/T)
- d) Falsifying records or giving false information to departments and/or employees responsible for Recordkeeping. (S/T)
- e) Failure to provide accurate and complete information where such information is required by an authorized person. (S/T)
- f) Failure to comply with health, safety and sanitation requirements, rules and regulations. (W/S/T)
- g) Negligence in the performance of assigned duties. (W/S/T)

2) Attendance and Punctuality

- 998 a) Failure to report promptly and observe work schedules (such as starting time,
999 quitting time, rest and meal breaks) without the specific approval of the
1000 supervisor. (W/S/T)
- 1001 b) A pattern of unexcused or excessive absenteeism and/or tardiness. (W/S/T)
- 1002 3) Use of Property
- 1003 a) Unauthorized or improper use of Oneida Nation property or equipment (for
1004 example, Oneida Nation vehicles, telephone, mail services, etc.) (W/S/T)
- 1005 b) Unauthorized possession, removal or willful destruction of Oneida Nation or
1006 another employee's property (including improper use of possession of
1007 uniforms, identification cards, badges, permits or weapons). (Willful
1008 destruction of property may subject the violator to applicable liability laws.)
1009 (T)
- 1010 c) Unauthorized use, lending, borrowing or duplicating of Oneida Nation keys.
1011 (T)
- 1012 d) Unauthorized entry of Oneida Nation property, including unauthorized entry
1013 outside of assigned hours of work or entry into restricted areas without prior
1014 supervisory approval. (S/T)
- 1015 e) Theft or property shall include theft, embezzlement, cheating, defrauding,
1016 pilfering, robbery, extortion, racketeering, swindling or any of these actions,
1017 or conspiracy to commit such actions with Oneida Nation employees or other
1018 persons against the Nation, its guests, employee, members, customers and/or
1019 clients while on or about Tribal premises. (S/T) [\(BC Action, 12-2-88\)](#)
- 1020 4) Personal Actions and Appearance
- 1021 a) Threatening, attempting, or doing bodily harm to another person. (T)
- 1022 b) Intimidating, interfering with or using abusive language toward customers,
1023 clients, co-workers or others. (S/T)
- 1024 c) Making false or malicious statements concerning other employees,
1025 supervisors or program heads. (W/S/T)
- 1026 d) Use of alcohol or illegal controlled substances during work hours. (S/T)
1027 [\(GTC Resolution, 01-05-09A\)](#)
- 1028 e) Reporting for work under the influence of alcohol or illegal controlled
1029 substances. (S/T) [\(GTC Resolution, 01-05-09A\)](#)
- 1030 f) Failure to immediately report any work-related injuries to the immediate
1031 supervisor. (W/S)
- 1032 g) Direct involvement in political campaigning during scheduled work hours.
1033 Violations include:
- 1034 i. Use of Oneida Nation employment title in Oneida Nation campaign
1035 activities. (W/S/T)
- 1036 1. Political materials include: leaflets, brochures, etc. which solicit support
1037 for candidates for office.
- 1038 2. Resolutions or petitions which propose that a political action be
1039 initiated.
- 1040 3. Leaflets, newsletters, or other written materials the purpose of which
1041 is to espouse political views or opinions.
- 1042 h) The acceptance of gifts or gratuities for personal gain in the course of official
1043 duties. (Customers are allowed to tip Bingo workers, Oneida Tobacco
1044 Enterprise workers, and Museum Workers.) (W/S/T)
- 1045 i) Inappropriate dress or personal hygiene which adversely affects the proper
1046 performance of duties or constitutes a health or safety hazard. (W/S)
- 1047 j) Failure to exercise proper judgment. (W/S/T)

- k) Failure to be courteous in dealing with fellow employees or the general public. (W/S/T)
- l) Any of the following acts by employees: Arson, bribery, perjury, obstruction or interference with an investigation authorized by the Oneida Nation. (S/T) [\(BC Action, 12-2-88\)](#)
- m) The use, possession, selling or purchasing of, or attempt to sell or purchase alcohol, and/or controlled substances on or about Oneida Nation premises. (S/T) [\(BC Action, 12-2-88\)](#)
- n) Any violation of duly adopted Oneida Nation ordinances. (W/S/T) [\(BC Action, 12-2-88\)](#)

5) Sexual Harassment Policy

It is the Oneida Nation's Policy that all employees have a right to work in an environment free of discrimination which includes freedom from harassment, more specifically sexual harassment. The Oneida Nation considers sexual harassment, in whatever form, in the workplace to be a serious violation of an individual's dignity and personal rights. In all matters, where complaint of sexual harassment is lodged against an employee, the Oneida Nation has a duty and obligation to conduct a thorough investigation using discretion, good judgment and the principles and practice of strict confidentiality. If sexual harassment has been committed, the progressive disciplinary process is as follows (W/S/T).

Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submissions to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

a) Sexual Harassment (W/S/T)

i. Procedure

- a. Should an employee have a complaint, he/she should file a formal (written) complaint with the Human Resources Department.
- b. The Human Resources Department is obligated to investigate the complaint which is to be held in the strictest confidence. This investigation shall be done within five (5) working days from receiving the formal written complaint.
- c. After investigating the complaint and the Human Resources Department finds cause to take disciplinary action due to sexual harassment violation, the employee will be disciplined accordingly by their supervisor. This disciplinary action shall be initiated within five (5) working days from the date the supervisor receives the report from the Human Resource Department. [\(BC Actions, 7-16-93\)](#)

- 3. Accumulated Disciplinary Actions Warranting Termination [\(HR Interpretation, 1-29-14\)](#) (Provided that the Drug and Alcohol Free Workplace Policy shall govern disciplinary actions warranting termination for drug and alcohol related violations.) [\(GTC Resolution, 01-05-09A\)](#)

- 1096 a. The accumulation of three (3) upheld warning notices within any twelve (12) month
 1097 period. (T)
 1098 b. The accumulation of two (2) upheld suspensions within any twelve (12) month
 1099 period. (T)
 1100 c. The accumulation of three (3) of any combination of upheld warning notices and/or
 1101 upheld suspensions within any twelve (12) month period. (T)
 1102 4. Substance Abuse Disciplinary Procedure - Section was deleted. ([GTC Resolution, 01-05-09-A](#))
 1103 [Click here](#) for Drug and Alcohol Free Workplace Policy.
 1104 5. Disciplinary Procedure ([Disciplinary Flowchart](#))
 1105 The following procedure shall be adhered to whenever disciplinary action is taken.
 1106 a. Supervisor becomes aware of unsatisfactory work performance or violation.
 1107 1) Supervisor investigates through a meeting with the employees and determines
 1108 whether disciplinary action is warranted.
 1109 b. If disciplinary action is warranted, within five (5) working days the supervisor will fill
 1110 out the five (5) part disciplinary action form stating the behavior for which the action
 1111 is being taken, the time and date of its occurrence, and the specific policy section
 1112 under which action is being taken.
 1113 c. The form will be discussed with the employee and a corrective action will be
 1114 identified.
 1115 d. The employee being disciplined will sign the form.
 1116 1) Should an employee being disciplined refuse to discuss the action with his/her
 1117 supervisor, the supervisor shall so note this, with date of refusal, on the form and
 1118 distribute as in 5.e.
 1119 e. Copies will be given to the employee, the HRD Manager, the supervisor, the Area
 1120 Manager and General Manager within twenty-four (24) hours of the conference with
 1121 the employee. ([HR Interpretation, 12-8-16](#))
 1122 f. Should a disciplinary action result in the suspension or termination of an employee,
 1123 the following guidelines shall apply:
 1124 1) The supervisor shall consult with the HRD Manager to mutually determine the
 1125 length of the suspension.
 1126 a) Suspensions will be limited to a maximum of three (3) weeks.
 1127 b) Suspension/terminations that are overturned in the appeal process shall
 1128 result in the employee receiving back pay for the days he/she was
 1129 suspended/terminated.
 1130 6. Grievance ([Grievance Flowchart](#))
 1131 An employee who receives a disciplinary action which he/she believes is unfair may
 1132 grieve the action. The Grievance process (including appeals of disciplinary action) shall
 1133 be conducted with utmost consideration for due process (within the time limits set forth
 1134 herein) but will allow and account for recognized Tribal holidays and unforeseen
 1135 circumstances (such as illnesses, deaths in the immediate family of principals, etc.). The
 1136 HRD office will make every attempt to ensure that grievance procedures are concluded
 1137 within forty-five (45) working days; however, extensions granted for reasonable
 1138 unforeseen circumstances (as determined by the HRD Manager) may extend the process
 1139 The Grievance process will be governed by the following guidelines: ([HR Interpretation, 8-19-](#)
 1140 [2011](#)) ([HR Interpretation, 1-29-2014](#))
 1141 a. For all disciplinary actions, regardless of severity:
 1142 1) The employee (petitioner) must file an appeal in writing.

- 1143 a) The employee may seek the assistance of a spokesperson or advocate at any
 1144 time after the disciplinary action has been issued in order to aid in the
 1145 resolution of the grievance process.
 1146 b) The appeal must be filed with the Area Manager and the HRD Manager (or
 1147 designee) within ten (10) working days from the day the employee receives
 1148 the disciplinary action.
 1149 2) The Area Manager, for all disciplinary action investigations, will have ten (10)
 1150 working days from the receipt of the employee's appeal to complete the
 1151 investigation. One extension of no more than five (5) working days may be
 1152 requested of and granted by the HRD Manager (or designee) at his or her
 1153 discretion.
 1154 3) The Area Manager will do one of the following:
 1155 a) Uphold the disciplinary action; or
 1156 b) Modify the disciplinary action; or
 1157 c) Overturn the disciplinary action. If a suspension or termination is overturned,
 1158 the employee (petitioner) shall be reinstated with full back pay.
 1159 4) The Area Manager will file a decision with the employee and the HRD Manager
 1160 (or designee) and will include a reason for the decision, an explanation of the
 1161 decision and the action to be taken as a result of it.
 1162 b. Filing a Complaint [\(BC Resolution, 3-18-19\)](#)
 1163 1) An employee may appeal the Area Manager's decision to the Oneida Personnel
 1164 Commission by filing a complaint with the Human Resources Department on
 1165 behalf of the Oneida Personnel Commission.
 1166 a) The employee shall file the appeal within ten (10) working days from the
 1167 employee's receipt of the Area Manager's decision
 1168 2) The Human Resources Department shall notify the Human Resources
 1169 Department Manager of receipt of the appeal within one (1) business day of
 1170 receipt of the appeal.
 1171 c. Collection of Information
 1172 1) The Human Resources Department shall collect all information the Area Manager
 1173 used in making the decision to uphold the disciplinary action.
 1174 d. Review of the Complaint
 1175 1) The Human Resources Department shall provide the information obtained to the
 1176 Oneida Personnel Commission members selected to serve as the hearing body
 1177 for the complaint, and the Oneida Personnel Commissioners shall review all the
 1178 information submitted by the Petitioner and the Human Resources Department
 1179 to determine if one or both conditions exist;
 1180 a) The decision of the Area Manager is clearly against the weight of the
 1181 evidence; and/or
 1182 b) Procedural irregularities were exhibited during the appeal process that were
 1183 harmful to one of the parties to the grievance.
 1184 2) If Oneida Personnel Commission members selected to serve as the hearing body
 1185 for the complaint find one or both conditions exist, the Human Resources
 1186 Department shall convene the Oneida Personnel Commission to hear the
 1187 grievance.
 1188 3) If the Oneida Personnel Commission members find that neither condition exists,
 1189 the Oneida Personnel Commission will deny the appeal for a hearing and affirm
 1190 the decision of the Area Manager.
 1191 e. Convening a Hearing

- 1) The Human Resources Department shall schedule a time and location for the grievance hearing and shall confirm the participation of the Oneida Personnel Commission members selected to serve as the hearing body for the complaint.
 - 2) The Human Resources Department shall send notice of the hearing to the petitioner, respondent, and Oneida Personnel Commission members at least five (5) working days prior to the hearing date.
 - 3) The Human Resources Department shall provide copies of all information on the subject case upon which the disciplinary action was upheld to the members of the Oneida Personnel Commission at least two (2) working days prior to the appeal date.
 - 4) The Human Resources Department shall allow the petitioner and respondent access to this information in the Human Resources Department Office at least two (2) days prior to the appeal date.
- f. Hearing Procedure
- 1) The order of presentation for the hearing shall be:
 - a) Petitioner's opening statement;
 - b) Respondent's opening statement;
 - c) The Petitioner's case;
 - d) The Respondent's case;
 - e) Petitioner's closing statement
 - f) Respondent's closing statement
 - 2) The petitioner shall have the right to be represented by an advocate, at his or her own expense. The respondent and/or area manager who is party to the grievance action shall have access to an advocate for consultation and/or representation. Should the petitioner engage outside professional legal representation, the respondent and/or area manager shall have access to the professional legal representation.
 - a) Should the petitioner and his or her representative both fail to appear for any scheduled hearing without justifiable cause, the decision of the Area Manager shall be upheld, and the grievance dismissed.
 - b) Should the respondent and his/her representative both fail to appear for any scheduled hearing without justifiable cause, the decision of the Area Manager shall be overturned.
 - 3) If new evidence which was previously unavailable is introduced at any point during the hearing process, the Oneida Personnel Commission hearing shall be suspended, and the case will be remanded to the Area Manager for reconsideration.
 - a) The Area Manager shall reconsider the decision in light of the new evidence and issue a decision within three (3) working days.
 - b) This procedure may be invoked only once.
 - c) Thereafter, the appeal process shall continue to a conclusion based on the information originally presented and the newly introduced evidence.
 - i. If the Area Manager overturns his or her decision, the case would not come back for a hearing.
 - ii. If the Area Manager affirms his or her decision, then the case will come back to the Oneida Personnel Commission to complete the hearing.
 - 4) The Oneida Personnel Commission's decision shall be based solely on the information presented to them before the appeal hearing, the record of the prior proceedings, and any new evidence if introduced appropriately.
 - 5) The Oneida Personnel Commission may:

- 1242 a) Uphold the disciplinary action; or
1243 b) Overturn the disciplinary action and:
1244 i. Reinstatement the employee (petitioner) with full back pay for any lost time; or
1245 ii. Reinstatement the employee (petitioner) without back pay.
1246 6) The Oneida Personnel Commission shall provide notification of the final decision
1247 within five (5) working days following the hearing. Notification of the final
1248 decision shall include;
1249 a) The final decision;
1250 b) The reason(s) for the final decision; and
1251 c) The action to be taken as a result of the final decision.
1252 7) The Human Resources Department shall keep records of the hearing, and
1253 provide copies of administrative advocacy rules, procedural rules, and time line
1254 rules to interested parties.

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1291 **SECTION VI – SAFETY AND HEALTH**

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1293 A. POLICY

1294 The personal safety and health of each employee, customer and client of the Oneida Nation is
1295 of primary importance. The prevention of injuries and illnesses is of such importance that it will
1296 take precedence over operating productivity whenever necessary.
1297

1298 The Oneida Nation will maintain a safety and health program conforming to the best practices
1299 available. To be successful, this program will work to develop the proper attitudes toward on-
1300 the-job injury and illness prevention on the part of supervisors and employees. This program will
1301 strive to develop a high level of cooperation in all safety and health matters between supervisors
1302 and employees and among employees.
1303

1304 The objective of this program is a safe and healthy environment that will reduce the number of
1305 job-related injuries and illnesses to an absolute minimum. The Nation's goal is zero
1306 accidents and illnesses.
1307

1308 B. PROCEDURES

1309 The Oneida Nation Safety Committee will adopt and enforce through the Personnel
1310 Department procedures related to the education of the Nation's work force in matters
1311 of safety and health. These procedures will include all education and prevention
1312 activities, assessments and evaluations, and reporting.
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SECTION VII – PROGRAM/ENTERPRISE RULES & REGULATIONS

- A. Enterprises and programs may establish internal rules and regulations to facilitate the administration of Oneida Nation Personnel Policies and Procedures.
1. In no case will these internal rules and/or regulations conflict with or take the place of Oneida Nation Personnel Policies and Procedures.
 2. Enterprises and programs which establish internal rules and regulations will file a copy of the rules and regulations with the Personnel Department.

SECTION VIII – RECORDKEEPING

A. PERSONNEL OFFICE

1. Basic records to be retained include:
 - a. Reference Data
 - b. Job Descriptions
 - c. Resumes and Applications
 - d. Interview notes/selection information
 - e. Resignations
 - f. Employee tax exemption claims
 - g. Disciplinary action information
 - h. Performance evaluations
 - i. Insurance coverage/changes
 - j. Transfers
2. The Personnel Office shall keep and maintain a complete record of each employee throughout his/her term of employment.
 - a. Oneida Nation employees shall have access to their employment file.
 - b. Employment files kept by the Personnel Office shall be considered confidential information. Release of any information to a third party must have the consent of the employee in writing.

B. ACCOUNTING DEPARTMENT

1. Basic records to be retained include:
 - a. Attendance records
 - b. Employee Time Sheets
 - c. Earnings - in the form of computer printouts
 - d. Travel - in the form of complete travel authorization forms.
 - 1) Time sheets and travel reports shall be filled out by every employee for pay period, collected by the program head, and forwarded to the Department.
2. The Accounting Department shall retain all records for a period of seven (7) years. [\(BC Action, 10-14-09B\)](#)

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SECTION IX – PRIVACY AND CONFIDENTIALITY OF EMPLOYEE RECORDS

The Human Resources Department of the Oneida Nation collects information from employees in order to make decisions regarding personnel actions including hiring, transfers and promotions, training, compensation and benefits, disciplinary actions and other job opportunities. This information is maintained by the Human Resources Department in individual files for as long as the person is an employee of the Oneida Nation.

A. STATEMENT OF POLICY

As a general rule, the Oneida Nation considers all information contained in these files to be private and confidential. No information of any type shall be released to any person or agent of any organization without the written consent of the employee except under the conditions outlined herein.

B. EMPLOYEE ACCESS

In addition, the Oneida Nation recognizes that the information contained in each employee's file is personal and that the lives of its employees are subject to changes. Therefore, the Oneida Nation provides for employee access to his/her personnel file. Employees are allowed to review their file and submit a statement of amendment should their review uncover any inaccurate, obsolete or irrelevant information. Should any information come into dispute, an employee's statement of dispute will be accessed into the file.

C. RELEASE OF INFORMATION TO THIRD PARTIES

The Oneida Nation is obligated by law to release certain information to outside parties. Such parties include the State of Wisconsin's Unemployment Compensation Department and its Workers Compensation Division and the United States Social Security Administration. Any additional information released to a third party by the Human Resources Department related to employee records shall consist of summary information and will not include any identifying personal information. (Such information may be total numbers of males and females in the workforce, mean, median and average age of the workforce, etc.)

The Oneida Nation will release personal information on employees when a request is accompanied by a written release signed by the employee. The Human Resources Department will make every effort to validate this request by contacting the employee. In no case shall the Oneida Nation release personal information from an employee's file without this consent.



ONEIDA NATION PERSONNEL POLICIES AND PROCEDURES MANUAL

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SECTION I – INTRODUCTION

Welcome to the Oneida Nation. We are pleased to have you join us as a partner on a team of individuals dedicated to providing quality service that enhances the quality of life of the Oneida community. The role you play in your position is important to the overall effort required by your department to meet the goals and objectives of the Oneida Nation. We encourage you to take advantage of the opportunities presented to you, as an employee, to grow and develop both personally and professionally.

The purpose of this "Employee Manual" is to provide you with a ready source of information about employee related Oneida Nation policies and procedures. Although we have tried to make this manual as comprehensive as possible; it does not, and cannot, include policies which address every situation that may arise. The Oneida Nation reserves the right to modify, alter, change or cancel existing policies and procedures or adopt new procedures and policies at any time.

The policies and procedures set forth in this manual apply to all employees. As an employee of the Oneida Nation, you are required to know and abide by these policies and procedures. Oneida Nation departments may have specific and additional procedures enhancing the general policies stated in this manual. Each employee is expected to learn his/her department's procedures and comply with them. In the event of any conflict between policies in this manual and departmental procedure, the policies in this manual supersede. Each employee is also expected to conform to the professional standards of his/her occupation. Questions regarding this manual, or any employee related policies, should be directed to your supervisor, department head, or to the Human Resources Department at (920) 496-7900.

The Oneida Nation is proud to have you on our staff and we look forward to a fulfilling and successful team relationship.

SECTION II - RECRUITING

A. RECRUITING

1. Recruiting Strategy

- a. The Oneida Nation shall implement a Recruiting Strategy to increase the potential for hiring the best-qualified and most capable employees possible.
 - 1) The Recruiting Strategy shall target, as the first priority, applicants in accordance with the Oneida and Indian Preference Policy.
 - 2) The Recruiting Strategy shall have a nationwide focus and will use:
 - a) The Kalihwisaks (national distribution);
 - b) The Oneida Higher Education Office's network of post-secondary school students;
 - c) Local and regional media and public employment agencies.

2. Applicant Pool

- a. The Oneida Nation shall establish and maintain an Applicant Pool consisting of individuals who have expressed an interest in working for the Oneida Nation.
 - 1) The Applicant Pool will consist of files containing:
 - a) An Oneida Nation Application Form;
 - b) A summary of career goals and job preferences.
 - 2) The Applicant Pool will be regularly reviewed to:
 - a) Update individual files;
 - b) Remove files where indicated.
 - 3) The Applicant Pool will be cross-referenced by job preferences.
 - a) Notices of job vacancies and an Application Form will be sent to all Applicant Pool members as appropriate.
 - 4) All Applicant Pool members shall have the right to review and update their file upon request.
 - 5) Applicant Pool members shall be apprised of the Nation's Indian Preference Policy.

B. LABOR POOLS

1. Supervisors that wish to establish a job classification as a Labor Pool Position will work with the HRD to establish the job classification.
2. Each Labor Pool Position shall be advertised as on-going recruitment pool. The HRD shall maintain an updated list of qualified candidates for each Labor Pool Position.
3. The HRD will accept all job applications and verify that each applicant is qualified according to the established job description. All qualified applicants will then be placed in a pool according to the Nation's Oneida and Indian Preference Policy and the date the application was received. All applicants will be notified of acceptance into or rejection from the pool.
 - a. **PRESCREENING OF LABOR POOL POSITIONS** [\(HR Interpretation 11-13-12\)](#) Applicants who were previously employed by the Oneida Nation and were terminated for reasons of misconduct or performance issues will be screened out for a period of twelve (12) months following the date of discharge.
4. The HRD will keep an updated list of qualified applicants for each job position.
5. When a vacancy occurs in a Labor Pool Position, the supervisor will notify the HRD of the position to be filled. The HRD Office shall then refer the top three (3) applicants to the

124 immediate supervisor. The top three applicants shall be based first on the Oneida and
125 Indian Preference Policy and, second, the date an application was received. The
126 immediate supervisor will notify the HRD of their selection and the HRD will then offer
127 the position to the applicant. After the position is filled, all ranked candidates will move
128 up on the list. [\(HR Interpretation 7-11-13\)](#)

- 129 6. If the applicant refuses the position, the HRD Office will then offer it to the next applicant
130 until the position is filled.
- 131 7. If the applicant refuses the job, the applicant may withdraw from the Labor Pool or, if he
132 or she declines to withdraw from the Labor Pool, the date of refusal will be considered
133 the date the application was received and the applicant will be placed in the Labor Pool
134 list according to B.3.
- 135 8. Indian (Oneida) Preference will be adhered to in all hiring decisions.

136 137 C. EMERGENCY/TEMPORARY POSITIONS

- 138 1. The HRD will periodically recruit individuals who are interested in filling temporary
139 positions which consist of the following classifications:
 - 140 a. Emergency/Temp
 - 141 b. Limited Term
 - 142 c. Seasonal
 - 143 d. Substitute/Relief
 - 144 e. Youth Worker
 - 145 f. Student/Intern
- 146 2. Creation of Positions
 - 147 a. Creation of positions in the above Temporary Employee Classifications will require
148 that these positions be budgeted for the current fiscal year, or proof through
149 documentation that the budget is adequate to incorporate these positions.
 - 150 b. The positions must be developed in conjunction with the HRD; assuring that all
151 Policies and Procedures are adhered to. Creation of temporary classification requires
152 the approval of the Director, Area Manager, and HRD Manager, or elected official of
153 the Oneida Nation.
 - 154 c. All newly created temporary positions must be processed through the Wage and
155 Salary system before a position can be filled with a temporary employee.
- 156 3. Recruitment/Selection
 - 157 a. Recruitment/selection of applicants for all temporary positions requires a completed
158 Temporary Personnel Requisition form with an updated job description attached.
 - 159 b. The HRD will provide a list of qualified candidates according to the job descriptions
160 to the immediate supervisor. The immediate supervisor will select from the approved
161 list adhering to Indian Preference.
 - 162 c. The HRD will contact the selected candidate and offer the position, following the
163 proper procedures to put the incumbent on payroll.
 - 164 d. The selected candidate will sign a statement accepting conditions of temporary
165 employment, and length of employment where applicable.
 - 166 e. Temporary employees will be paid within the Grade in which the job is classified and
167 salary will be negotiated within the first three (3) steps of respective grade.
 - 168 1) Any negotiated salary beyond step three will require written justification and
169 approval from the respective General Manager. [\(H.R. Interpretation, 12-8-16\)](#)
 - 170 f. Temporary employees are welcome to apply for any regular position within the
171 Nation that becomes available during the term of their employment.
 - 172 g. Temporary employees that are terminated due to documented cause will have the
173 right to the appeal process as outlined in the Personnel Policies and Procedures.

- 174 h. All temporary employees are subject to lay-off based upon department job needs
175 and budgets. [\(HR Interpretation – 11-25-13\)](#)
176 i. Supervisors are required to do proficient planning within their respective span of
177 control; as such they must also enforce separation dates and will be monitored by
178 HRD for compliance.
179 j. Supervisors must select the most appropriate category of classification for the job.
180 1) Moving from one classification to another is prohibited.
- 181 4. Benefits
- 182 a. The following employee classifications will be eligible for benefits as defined in the
183 section of the Personnel Policies and Procedures as medical, dental, vacation and
184 personal accrual, holiday pay, premium pay.
185 1) Limited Term
186 2) Seasonal
- 187 b. The following employee classifications will be eligible for benefits as defined in this
188 section of the Personnel Policies and Procedures as Mandatory Benefits and Holiday
189 pay.
190 1) Emergency/Temporary
191 2) Substitute/Relief
192 3) Seasonal Worker (only during their first season)
- 193 c. The following employee classifications will be eligible for benefits as defined in this
194 section of the Personnel Policies and Procedures as Mandatory Benefits.
195 1) Youth Worker
196 2) Student/Intern
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SECTION III – SELECTION POLICY

A. ONEIDA PREFERENCE AND INDIAN PREFERENCE STATEMENT OF POLICY

Federal policy since 1834 accords hiring preference to Indians. The purpose of this preference is threefold: 1) to give Indians a greater participation in self-government; 2) to further the Government's trust obligation; and 3) to increase the positive effect of having Indians administer matters that affect Indian tribal life. ([GTC Resolution – 5-23-11-A](#))

More recently, legislation such as the Civil Rights Act (1964) and the Education Amendments of 1972 (passed after the Equal Employment Opportunity Act) continued to specifically provide for preferential hiring of Indians by Indian Nations.

As an employer, the Nation seeks to employ individuals who possess the skills, abilities and background to meet the employment needs of the Nation.

As a sovereign Indian Nation and a unique cultural group, the Oneida Nation has determined that a highly desirable employment characteristic is knowledge of Oneida culture. Further, the Nation recognizes the unique, shared culture of Native American Indians and has determined that a desirable employment characteristic is status as a member or descendant of a federally recognized tribe. At a minimum, the Nation has determined that some knowledge of Indian culture is a desirable employment characteristic.

Accordingly, the Oneida Nation establishes the following policy in regard to Indian Preference for selecting employees to provide services that meet the needs of the Oneida people. This Indian Preference policy shall be specific to staffing decisions made under the Personnel Policies and Procedures and shall not be construed to have an application outside of these policies and procedures.

The Oneida Nation is an equal employment opportunity employer and follows non-discriminatory policies and procedures in personnel decisions. ([HR Interpretation 5-19-14](#)) The Oneida Nation exists to serve the needs of the Oneida people and therefore accords Oneida Preference to enrolled members of the Oneida Nation where such preference is not otherwise prohibited. All General Managers and top administrative positions, as defined by HRD in a standard operating procedure, shall be held by enrolled members of the Oneida Nation. In all other instances, the Nation applies the following priorities of Indian Preference in staffing decisions:

- 1 Enrolled members of the Oneida Nation;
- 2 Individuals eligible for enrollment in the Oneida Nation;
- 3 Documented first generation descendants of the Oneida Nation;
- 4 Members or descendants of a federally recognized tribe;
- 5 Other (non-Indian). ([HR Interpretation – 6-24-11](#))

This policy shall apply in decisions where the basic requirements for employment are met.

B. HIRING PROCEDURE



- 1 Statement of Policy
 - a. The Oneida Nation is an equal employment opportunity employer and follows nondiscriminatory policies in hiring.
 - b. The Oneida Nation is a firm advocate of the 1964 Civil Rights Act (as amended) and the 1968 Indian Civil Rights Act (as amended) and will make every effort to ensure compliance with each Act; however:
 - c. The Oneida Nation follows the principles of Indian Preference in the implementation of hiring practices (see the Oneida Preference and Indian Preference Statement of Policy).
2. Hiring Guidelines
 - a. All Supervisors of the Oneida Nation shall undergo periodic training in EEO and laws, rules, and regulations of the Nation.
 - b. Personnel Commission Role
 - 1) The Oneida Nation established the Personnel Commission to represent the Oneida Community-at-large in the selection of employees of the Nation.
 - a) The Personnel Commission is directed to:
 - i. Seek out the best-matched applicants for each available position;
 - ii. Consider only job-related factors (such as education, experience, past performance, skills and abilities, and compatibility with the position and potential co-workers) when selecting candidates; and
 - iii. Comply with the Oneida Personnel Commission Bylaws.
 - c. Identification of Vacancies and Development of Position Descriptions ([Work Standard, 11-16-11](#))
 - 1) Supervisors may inform the HRD Office of pending vacancies as soon as they are identified.
 - 2) For new and existing positions, the HRD Representative, the supervisor and the Area Manager (at their option) shall review the position description to ensure compliance with:
 - a) The Nation's employment structure; and
 - b) The needs and requirements of the position.
 - 3) All position descriptions shall follow the outlined structure.
 - d. Applications
 - 1) All inquiries for position vacancies shall be responded to with an application.
 - 2) All applications shall be submitted online.
 - 3) All applications shall be acknowledged.
 - e. Advertising
 - 1) Position vacancies shall be advertised as widely as possible. Advertising efforts may include, but not be limited to the following:
 - a) The Kalihwisaks;
 - b) The Oneida Nation website;
 - c) Oneida Nation social media platforms;
 - d) Electronic communications or alerts;
 - e) Mailings;

- 310 f) Statewide, through print and electronic media and public employment
311 agencies;
312 g) Through targeted recruiting efforts including:
313 i. The Bureau of Indian Affairs;
314 ii. The Oneida Higher Education Office.
315 h) Other postings targeted toward special recruiting categories (such as
316 professions) shall be carried out at the discretion of HRD with the advice and
317 consent of the affected department.
- 318 2) A position vacancy shall be posted for a minimum of seven (7) calendar days and
319 shall be open to the general public, unless the position is required to be filled by
320 an enrolled Oneida Nation member.
- 321 3) All vacancies requiring re-posting shall be referred back to B-2.c (Identification of
322 Vacancies and Development of Position description) to begin the re-posting
323 process.
- 324 f. Screening ([HR Interpretation 11-16-12](#)) ([HR Interpretation 10-22-12](#))
- 325 1) Applicants who are enrolled members of the Oneida Nation shall be screened
326 and interviewed prior to any other applicants. If the screening and interviewing
327 of the applicants who are enrolled members of the Oneida Nation did not result
328 in the position vacancy being filled, then all other applicants may be screened
329 and interviewed.
- 330 2) A Screening Committee consisting of the HRD Representative, the position
331 supervisor, the Area Manager (at their option), and a member of the Personnel
332 Commission shall be convened to conduct the screening of applicants. The
333 Screening process shall begin as soon as practical following the closing of the
334 position. The Screening Committee shall:
- 335 a) Verify that all applications were submitted on time.
336 b) Applications that are incomplete or were not submitted on or before the
337 posted deadline date may be screened out.
338 c) Analyze the position description to establish screening criteria. These criteria
339 shall include qualifications listed on the position description determined by
340 the supervisor and HRD Representative to be essential to the position. ([T.O.E.](#)
341 [WS-5-6-13](#))
342 d) Screen and identify a list of applicants to be interviewed.
343 e) Ensure there are no applicants ineligible for employment with the Nation
344 due to termination or resignation in accordance with the applicable
345 standard operating procedure developed by HRD.
- 346 3) No person shall be recommended for a position if nepotism is created. Nepotism
347 is created by the following relationships that are created by birth, marriage, or
348 through another legally recognized means:
- 349 a) Spouse;
350 b) Child;
351 c) Parent;
352 d) Sibling;

- e) Grandparent;
 - f) Great-grandparent;
 - g) Grandchild; and
 - h) Guardian.
- 4) No person shall be recommended for a position if a conflict of interest is created. Conflict of interest is defined as:
- a) any interest, real or apparent, whether it be personal, financial, political, or otherwise, in which an elected official, officer, political appointee, employee, contractor, or appointed or elected member, or their immediate family members, friends or associates, or any other person with whom they have contact, have that conflicts with any right of the Nation to property, information, or any other right to own and operate activities free from undisclosed competition or other violation of such rights of the Nation.
 - b) any financial or familial interest an elected official, officer, political appointee, employee, contractor, or appointed or elected member or their immediate family members may have in any transaction between the Nation and an outside party
- 5) The HRD Representative and supervisor shall construct an interview format consisting of:
- a) A set of questions related to the screening criteria qualifications; and
 - b) An interview rating scale designed to objectively evaluate each applicant's qualifications.
- 6) The HRD Office shall arrange for interviews with the listed applicants.
- g. Applicant Interviews
- 1) An Interview Committee shall be convened consisting of the members of the Screening Committee and a second member of the Personnel Commission. The Interview Committee shall interview applicants and evaluate each individually.
 - 2) No interview shall take place without an HRD Representative present.
 - 3) The HRD Representative shall total the evaluation rating scale to rank order of the applicants.
- h. Selection [\(HR Interpretation - Disqualification of Applicant 10-24-13\)](#)
- 1) The supervisor shall select one of the top two (2) applicants as ranked through the rating scale. [\(HR Interpretation - 10-17-12\)](#)
 - a) The supervisor may conduct an additional follow-up interview with the top two (2) applicants.
 - b) The selection decision shall be governed by the Oneida Preference and Indian Preference Policy. [\(HR Interpretation - 6-6-11\)](#)
 - c) The HRD Office shall notify and offer the position to the selected applicant.
 - i. Should the supervisor's first choice refuse the offer, the HRD Office shall provide the supervisor with the next two (2) ranked applicants to choose from.
 - ii. Should the top two (2) chosen applicants refuse the position offer, the supervisor may:

- 396 1. Repeat the hiring selection process outlined in B.2.h.1. above with
397 the remaining candidates; or
398 2. Re-post the position.
- 399 2) The HRD Office shall notify those applicants interviewed but not selected of the
400 decision.
- 401
- 402 C. INTERNAL POSITION POSTING - The Oneida Nation encourages movement within and
403 among units in order to make the best possible use of human resources to meet the Oneida
404 Nation's goals and objectives. Supervisors and employees are encouraged to work
405 together to create an environment in which employees constantly strive to improve their
406 skills and abilities and managers constantly seek to provide challenging and rewarding
407 work experiences.
- 408 1. Procedure
- 409 a. Internal Position Posting
- 410 1) Open positions as determined by a supervisor and their Area Manager may be
411 posted internally for a position transfer for a minimum of five (5) working days.
- 412 2) At the end of the five (5) day minimum internal posting period, the HRD
413 Representative shall schedule a screening with the open position's supervisor
414 and the Area Manager (at their option).
- 415 3) Employees who are transferred shall not lose any benefits; however:
- 416 a) An employee may be required to continue serving in their present position
417 until a replacement can be found, for a period up to thirty (30) days.
- 418 b) An employee who is transferred to a position lower on the Oneida Nation
419 Position Structure shall be paid at the grade level corresponding to the new
420 position.
- 421 c) Requests for transfers for documented medical conditions will be handled on
422 a case-by-case basis and only when in the best interests of both the
423 employee and the Nation.
- 424 d) The newly transferred employee shall be required to complete a three (3)
425 month probation period. All conditions of the Nation's Original Probation
426 Policy shall apply during that period.
- 427 2. Reassignments
- 428 a. Title Reassignments
- 429 1) Title Reassignments may be made by supervisors to:
- 430 a) More accurately describe or define an existing position; or
431 b) Make minor adjustments in positions within a unit or operating division.
- 432 2) Title Reassignments may be made at any time with the approval of the Area
433 Manager and HRD Representative.
- 434 b. Position Reassignments
- 435 1) Position Reassignments may be made by supervisors to make more efficient and
436 effective use of human resources.
- 437 2) Position Reassignments may be supervisor-initiated or employee-initiated but
438 must be made in the best interests of the operating unit.

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3) Position Reassignments may be made at any time with the approval of the Area Manager and HRD Manager.

c. Interim Position Reassignments.

1) Interim position reassignments may be processed to fill a position in which the previous employee is in the appeals process, on a leave of absence, or for a vacant position.

D. ORIGINAL PROBATION

The first three (3) months after an employee's starting date after being hired, transferred, or reassigned shall be considered a period of probation. At the end of six (6) weeks, the employee's performance shall be reviewed with them by the supervisor by completing an employee evaluation. At the end of the three-month probation period, a second performance evaluation shall be conducted. This evaluation shall recommend the end of probation and regular status for the employee, an extension of probation, or termination for cause.

1. Status as a Probationary Employee

- a. Probationary employees shall accrue vacation and personal days during the probation period and shall receive holiday pay.
- b. Probationary employees may be terminated for cause at any time during the probation period. Cause must consist of a violation of policies or the documented inability of the employee to perform the duties and responsibilities of the position. (BC Action 3-20-92)

SECTION IV - COMPENSATION AND BENEFITS

A. SALARY

1. Oneida Nation Job and Salary Structure

- a. An ongoing plan will be instituted based on standard employee grades and step levels to assure that a uniform approach is taken to establish equitable salary and wage levels.
- b. Employee performance evaluations will be a resource in determining whether an employee receives an increase in pay for the upcoming year. An overall satisfactory rating must be attained in order to be granted an increase in pay.
- c. Merit increase shall be granted upon the recommendation of the supervisor, the Area Manager, the HRD Manager and the General Manager.

2. Workday [\(Work Standard, 10-17-12\)](#)

- a. The regular Tribal workday is from 8:00 a.m. to 4:30 p.m. with an hour for lunch. The exception to these hours occurs only if the program/enterprise hours must vary for the purpose of providing service (such as retail hours beyond 4:30 p.m.). Shifts will be developed as needed, and the shift hours will then become the regular workday for assigned employees for that program/enterprise.
- b. Employees are expected to be at work each scheduled work day.
 - 1) Employees who do not report for work because of inclement weather or unforeseen circumstances will not be paid for that day. Employees may elect to use personal day(s) to cover this absence. [\(W.S. Closures Multiple/Individual Depts.7-28-2017\)](#)
[\(W.S. Closures Non-Critical Departments/Divisions 7-28-2017\)](#)
 - 2) In case of an unavoidable delay or absence, the supervisor must be notified no later than thirty (30) minutes after the scheduled starting time. Employees are encouraged to notify their supervisor before their scheduled starting time.
 - i. Employees failing to report to their assigned jobs or failing to call in within the thirty (30) minute time allowed will be subject to disciplinary action.
 - ii. Permission to leave early must be obtained by the employee from his/her supervisor.

3. Overtime

- 521 a. Any and all overtime will be kept to a minimum and must be approved by the
522 Supervisor and Area Manager.
- 523 1) In the case of potential overtime that may occur at night, on holidays or on
524 weekends, supervisors will delegate this authority to a specific employee and
525 outline specific situations and actions that warrant overtime.
- 526 b. All overtime must be reported to the supervisor for evaluation.
- 527 c. Overtime will be approved only if the program or enterprise budget is capable of
528 paying it.
- 529 d. Overtime will be approved only for hours worked in excess of forty (40) hours per
530 week. Personal/vacation days and holidays will not count toward the forty (40) hour
531 requirements.
- 532 e. Tribal employees are expected to work overtime if required. Time and one-half will
533 be paid for this overtime.
- 534 f. Exempt employees are not eligible for overtime.
- 535 1) The HRD Office will maintain a list of exempt employees.
- 536 4. Holidays [\(Work Standard, 11-7-14\)](#)
- 537 a. Tribal holidays consist of the following:
- 538 1) One-half Day Christmas Eve
539 2) Christmas Day
540 3) New Year's Day
541 4) Memorial Day
542 5) Veteran's Day
543 6) Independence Day
544 7) Labor Day
545 8) Thanksgiving Day
546 9) Indian Day (day after Thanksgiving)
547 10) One-half day Good Friday
548 11) Code Talker's Day (Oneida Day, Friday prior to Memorial Day)
549 [\(BC Resolution – 12-11-13A\)](#)
- 550 b. To be eligible for a paid holiday, employees must work the preceding and following
551 scheduled work days (except for employees who are on a prescheduled work leave
552 or an approved extended sick leave.) Employees who are granted a sick day directly
553 prior to a holiday must certify that they were capable of working the holiday in order
554 to qualify for a paid holiday.
- 555 c. All regular employees will be given holiday pay for the maximum pay of eight (8)
556 hours per day.
- 557 d. Holidays falling on a Saturday will be observed the preceding Friday; holidays falling
558 on a Sunday will be observed on the following Monday. [\(2019 Holiday Observance Calendar\)](#)
559 [\(2018 Holiday Observance Calendar\)](#)
- 560 e. The Oneida Nation acknowledges its responsibility to make a reasonable
561 accommodation to employees who wish time off to observe religious holidays.
562 Requests for such time off will be granted where possible, based on the scheduling
563 and staffing needs of affected departments. Employees wishing to take time off work

- for religious observances should inform their supervisor as early as possible.
Employees may use personal time for such requests if eligible; otherwise the time off will be treated as unpaid leave.
5. Vacation/Personal Days
- a. Every Oneida Nation employee, except temporary employees, shall be allowed personal and vacation days with pay to the extent that personal days and vacation are accumulated.
 - b. The amount of personal and vacations days shall be determined by continuous service for the Nation. A "lay-off" from Oneida Nation employment shall not be considered an interruption in continuous service where the lay-off is in accordance with the Nation's Layoff Policy, nor shall a preapproved leave of absence. [\(HR Interpretation, 3-6-12\)](#)
 - c. Except as provided for in section g, the accrual of personal days shall be as follows: [\(BC Resolution – 4-11-13-F\)](#)
 - 1) 0-3 years of service - 6 days per year;
 - 2) 4-7 years of service - 8 days per year;
 - 3) 8-14 years of service - 10 days per year;
 - 4) 15+ years of service - 12 days per year;
 - d. Except as provided for in section g, the accrual of vacation days shall be as follows:
 - 1) 0-3 years of service - 12 days per year
 - 2) 4-7 years of service - 15 days per year;
 - 3) 8-15 years of service - 20 days per year;
 - 4) 15+ years of service - 25 days per year.
 - e. Part-time employees accrue personal and vacation days for time actually worked at a ratio of a full-time employee.
 - f. Service is defined as working for Programs/Enterprises which are contracted by the Nation or specifically sponsored by the Nation.
 - g. Vacation and personal days shall be capped at 280 hrs. An employee shall cease to accrue vacation and personal hours when he or she has reached 280 total hours. Supervisors shall notify their employees when said employees have accumulated 200 total hours of vacation and personal time. [\(GTC Resolution, 7-2-12A\)](#)
 - 1) An employee may trade back accumulated vacation and personal hours in accordance with Section IV.A.5.n. below. [\(GTC Resolution, 5-23-11-B\)](#)
 - h. Upon termination from Oneida Nation employment, employees will be paid for any unused personal and/or vacation days.
 - 1) Employees who have used the Oneida Nation-sponsored loan program will be required to honor the terms of the loan agreement.
 - i. Personal Days can be used for any reason so long as the request is approved by the employee's supervisor at least twenty-four (24) hours in advance (unless the absence is due to illness or unforeseen circumstances).
 - 1) In the case of illness or unforeseen circumstance, the supervisor shall be notified no later than fifteen (15) minutes before the scheduled starting time.

- 2) Programs and enterprises may institute stricter standards of notification. These standards will be submitted to and approved by the Personnel Department.
- j. An employee shall notify his/her supervisor of an intent to use personal days in the following ways:
- 1) Three (3) to five (5) days - one (1) week advance notification
 - 2) Six (6) days or more - two (2) weeks advance notification.
- k. An employee shall notify his/her supervisor one (1) day in advance if he/she will take off one (1) or two (2) days of vacation. Programs and enterprises may institute stricter standards of notification.
- 1) Three (3) to five (5) days of vacation require a one (1) week advance notification.
 - 2) Six (6) or more days of vacation require at least two (2) weeks advance notification.
- l. The burden shall be on the supervisor to show that a denial of a personal day or a vacation day is based upon interference with the business of the Nation.
- m. Personal or Vacation Days can be taken when an employee is on probation. [\(GTC Resolution 5-23-11-B, HR Interpretation 5-8-17\)](#)
- n. Trade-back for Cash - Each fiscal year, the Oneida Business Committee shall analyze fiscal conditions to determine whether employees may trade back personal and/or vacation hours for cash that fiscal year.
- 1) If the Oneida Business Committee approves trade-back for cash, they shall also determine whether (i) and/or (ii) applies: [\(See Revision\)](#)
 - i. All employees will have the opportunity to trade-back hours one time that year.
 1. By August 15, each employee who has accumulated twenty-four (24) hours or more of vacation and/or personal days may opt to trade in his/her hours for cash.
 2. Employees will receive their trade back on or before September 30 of that year.
 - ii. Only those employees who are unable to utilize their personal and/or vacation time due to working conditions, such as a shortage in staffing, as determined by the HRD Manager or designee, will have the opportunity to trade back hours on a quarterly basis.
 1. Employees will receive their trade back within sixty (60) days after opting to trade back hours.
 - 2) When trade-back for cash is approved by the Oneida Business Committee, the following standards shall apply:
 - i. Employees must decide which status (vacation or personal or both) from which their trade back will be drawn.
 - ii. Employees may not trade for cash more than eighty (80) hours in one year. [\(GTC Resolution, 5-23-11-B\)](#)
- o. Additional Duties Compensation
- p. Travel Time Compensation [\(Work Standard , 3-20-13\)](#)

- B. INSURANCES ([see separate publication](#)) for information on Oneida Nation Insurance plans.
- C. RETIREMENT PLAN ([See separate publication for information on Tribal Retirement Plan](#)),
([Separating Employees WS 5-6-13](#))
- D. LEAVES
1. Meeting Attendance
 - a. Approval for attending any meetings inside normal working hours must be approved in advance by the employee's immediate supervisor. ([BC Action, 5-16-89](#))
 - b. Employees who receive stipends or honoraria in excess of \$50.00 for attending meetings during working hours will forfeit the amount in excess of \$50.00 from their regular paycheck. Stipends for travel or per diem will not be deducted if accompanied by receipts for such expenses.
 - c. Stipends or honoraria for intra-tribal meetings during normal working hours will results in the employee's paycheck being reduced by the full amount of the stipend.
 2. Funeral Leave ([Work Standard, 8-2-11](#))
 - a. All regular employees will be given a three (3) day leave without loss of pay for funeral services for immediate family. Immediate family includes:

Husband	Mother	Brother	Great-grandparent
Wife	Father	Sister	Great-grandchildren
Mother-in-law	Son	Grandparent	Spouse's great-grandparents
Father-in-law	Daughter	Grandchild	Spouse's grandparents
Daughter-in-law	Sister-in-law	Brother-in-law	
 - b. Three (3) day leave for other persons will be given only if the employee is responsible for making funeral arrangements, subject to prior approval of supervisor.
 - c. All other funeral leave will be limited to no more than one (1) day with pay subject to the notification and approval of the immediate supervisor. ([Mgmt Directive, 12-17-2009](#))
 3. Leave of Absence ([Work Standard, 6-10-14](#))
 - a. A leave of absence without pay may be granted to employees for a justifiable reason (including caring for a child, spouse or parent with a serious health condition) and when in the best interest of the Nation.
 - 1) Leaves of absence will not exceed three (3) months.
 - i. All leaves of absence must be approved by the Supervisor, Area Manager, HRD Manager and General Manager. ([HR Interpretation, 12-8-16](#))
 - ii. Requests must be documented and submitted to the supervisor with as much advance notice as possible.
 - iii. Disposition of requests will be made on the basis of staffing requirements.
 - 2) Upon returning, the employee will be reinstated in the former position with full status and benefits. Holiday, vacation, and sick leave will not be accrued during the leave of absence.
 - 3) No later than fifteen (15) working days prior to the expiration of the leave period the employee must give notice in writing of his/her intent to return to the position. Notice must be presented to the supervisor.

- 691 i. Failure to provide written notice will be interpreted to mean that the
692 employee does not intend to return following the leave. The position will be
693 posted and filled through the selection process. [\(HR Interpretation, 11-21-11\)](#)
- 694 4. Maternity Leave
- 695 a. Maternity leave will be granted for a period of six (6) weeks without pay.
- 696 1) An employee may elect to cover any portion of this time by using accumulated
697 sick days.
- 698 2) Any maternity-related absences for longer than six (6) weeks must be taken as a
699 medical leave of absence.
- 700 5. Military Leave
- 701 a. In addition to the following provisions, the Nation's Military Service Protection Act
702 shall govern Military Leave.
- 703 b. A Military Leave of Absence is afforded employees entering active duty without
704 accumulation of holiday, vacation or personal time during the period of leave. Any
705 accumulated benefits prior to leave will be maintained for the employee.
- 706 c. Time off for inactive duty training, examinations to determine fitness for duty and
707 funeral honors duty shall be afforded to employees without the accumulation or loss
708 of holiday, vacation or personal time. An employee will receive pay from the Nation
709 for any hours work that the employee was required to miss due to reservist training.
- 710 1) Any pay received for performing any of the above duties shall be deducted from
711 the employee's pay. [\(GTC Resolution, 1-26-08A\)](#)
- 712 6. Jury Duty
- 713 a. During a period of jury duty, an employee will receive pay from the Nation for any
714 hours of work missed due to jury duty.
- 715 1) Jury duty pay will be deducted from the employee's paycheck when determining
716 the amount of pay
- 717 2) No overtime will be allowed in determining employee pay while serving on jury
718 duty.
- 719 7. Educational Leave [\(BC Action, 5-4-90\)](#)
- 720 a. A leave of absence for education purposes will not exceed one (1) year.
- 721 8. Parent Policy Leave [\(BC Action, 3-2-94A\)](#) [\(Parental Leave Policy, 11-3-17\)](#)
- 722 a. Employees who are parents, guardians, or those individuals specifically referred to as
723 "immediate family" as defined in Section IV, page 6 of these Personnel Policies and
724 Procedures which includes husband, wife, mother, father, brother, sister, son,
725 daughter, mother-in-law, father-in-law, grandparent and grandchild may request to
726 participate in their child(ren)'s educationally sanctioned events not to exceed four (4)
727 hours per employee per month
- 728 1) These four (4) hours shall not accumulate.
- 729 b. Approval to utilize the four (4) hours must be obtained from the supervisor.
- 730 1) An employee shall request his/her supervisor to utilize this leave with a minimum
731 of twenty-four (24) hours' notice.
- 732 2) The Supervisor may request verification of
- 733 i. Guardianship of the child(ren) and/or

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- ii. The attendance of the employee at their child(ren)'s educationally sanctioned event.
- c. The burden shall be on the supervisor to show that a denial of the Parent Policy Leave which is based upon interference with the business of the Nation.
- d. This leave shall not be paid as overtime. The supervisor may have the option to use flex time to cover this time off to attend their child(ren)'s educationally sanctioned events.
- e. All employees, except Emergency/Temporary, Youth Workers, Student Interns, and Seasonal Workers during their first season, and Substitute Reliefs are eligible to participate in this benefit.

SECTION V – EMPLOYEE RELATIONS

A. ORIENTATION POLICY

The Oneida Nation reflects the unique culture and character of our Nation. The Oneida Nation recognizes that this may present special problems and difficulties for a new employee. The Nation therefore provides an Orientation Program designed to ease the new employee's transition into a job and enable the new employee to become effective and productive as quickly as possible.

1. Orientation Program Outline
 - a. Overview
 - b. Tribal Government and Procedures
 - c. Key Policies and Procedures
 - d. Benefits
 - e. Safety, Health and Security
 - f. Departmental Orientation
2. Responsibilities
 - a. The HRD Office will administer the General Orientation Program
 - 1) The HRD Office will assist Divisions in administering Departmental Orientation Programs.
 - b. The HRD Office will develop and establish an Employee Mentor Program with each Division.
 - 1) Employee Mentors will be responsible for conducting the Departmental Orientation.
 - 2) Employee Mentors will assist new employees throughout their probation period as a source of references and referrals.
 - c. The HRD Office will annually review the General Orientation Program and each Departmental Orientation Program to:
 - 1) Evaluate the effectiveness of each Program,
 - 2) Modify programs as necessary.
 - 3) Requirements
 - a) The HRD Office will provide a copy of the Employee Policy and Procedures Manual to new employees before (if possible) the scheduled starting date.

- b) The General Orientation Program will be completed in appropriate stages within the first month of the new employee's starting date.
 - i. The Departmental Orientation will be completed within the first week of the starting date.
- c) The HRD Office will administer a NEW Employee Reporting Form to provide information for the purposes of maintaining a Nation-wide skills assessment inventory and a management succession plan.

B. EVALUATIONS

1. Evaluation reports will be used in determining all promotions, transfers and salary adjustments.
2. Annual evaluation reports for each employee will be submitted to the HRD Office by August 1 of each year. [\(Work Standard, 6-23-15\)](#)
 - a. Evaluation reports will be retained in each employee's personnel file.
3. All Oneida Nation employees will be evaluated at least once a year.
 - a. Employee performance evaluations will be conducted by each employee's immediate supervisor. The Business Committee will conduct the performance evaluation of the General Manager. [\(HR Interpretation, 12-8-16\)](#)
 - b. The supervisor will discuss the evaluation with each employee. The evaluation will then be signed by the employee and the supervisor and forwarded to the HRD Office.
4. Satisfactory evaluations may result in the employee receiving an increase in pay within their grade level provided that the employee has not attained the highest step within the grade.
 - a. Unsatisfactory evaluations will result in probation status for the employee. The supervisor shall provide documentation to the Area Manager and to the employee detailing the deficiency(s). A repeat evaluation will be conducted three (3) months after the unsatisfactory evaluation. This second evaluation will result in the employee:
 - 1) Being removed from probation and receiving a salary increase if the second evaluation results in an overall satisfactory rating; or
 - 2) Receiving appropriate disciplinary actions if the second evaluation also results in an unsatisfactory rating.
 - b. Employees may appeal unsatisfactory evaluations to the HRD Manager. The HRD Manager will consult with the supervisor and the employee to negotiate an appropriate resolution [\(Work Standard, 12-8-16\)](#)

C. CAREER DEVELOPMENT

1. Oneida Nation employees are encouraged to develop their skills and abilities by pursuing education at a local educational institution. [\(BC Action, 9-9-92\)](#)
 - a. Oneida Nation employees must provide a general Career Development Plan to the supervisor listing the goals and objectives of the training and education to be undertaken.
2. Oneida Nation employees may be eligible for assistance for one (1) course per semester. The employee must attempt to arrange to take the class outside his/her normal working hours.
 - a. Where a class conflicts with the employee's work schedule, the needs of the Tribal unit take precedence; however, the supervisor shall attempt to accommodate the employee's request.

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- b. In no case shall the accommodation exceed actual class hours plus reasonable travel time.
- c. Employees must obtain the approval of their immediate supervisor to take a course on work time.
3. The supervisor's approval and estimated cost must be submitted to the HRD Office, the Area Manager and the General Manager. [\(HR Interpretation, 12-8-16\)](#)
4. The cost of the books, tuition and fees for the course shall be paid by the Nation through funds budgeted in programs or through the Higher Education program.
 - a. Reimbursement for books, tuition and fees is contingent upon the employee receiving at least a C (2.0 on a 4.0 point scale).
 - b. Employees who receive less than the required grade point will be required to reimburse the program for whatever costs were incurred.

D. COMPLAINTS, DISCIPLINARY ACTIONS, AND GRIEVANCES

Disciplinary procedures provide a systematic process for handling problem employees. Disciplinary procedures serve to correct unacceptable behavior and to protect the Nation. Grievance procedures provide a systematic process for hearing and evaluating job related disputes. Grievance procedures serve to protect employees from inconsistent and unfair treatment. In all cases of grievance and discipline, supervisors are enjoined to use common sense, discretion and judicious good sense to resolve complaints between employees, exercise disciplinary prerogatives, and handle grievances.
[\(HR Interpretation, 2-4-13\)](#) [\(HR Interpretation, 1-29-14\)](#)

1. Complaints

- a. Should an employee have a disagreement with another employee, he/she may lodge an informal (verbal) or formal (written) complaint with the employee's supervisor.
- b. The supervisor will investigate the complaint and attempt to resolve the disagreement.
- c. If the employee lodging the complaint is dissatisfied with the attempted resolution, he/she may ask the Area Manager to attempt a resolution.
- d. There is no further appeal of this process.

2. Disciplinary Actions

- a. Disciplinary actions will be initiated by an immediate supervisor for the purpose of correcting unacceptable work performance. The supervisor will always discuss the action with the employee being disciplined to ensure that the employee:
 - 1) Understands the reason for the disciplinary action;
 - 2) Understands the expected work performance in light of the disciplinary action;
 - 3) Understands the consequences of continued unacceptable behavior.
- b. A supervisor shall initiate disciplinary actions commensurate with the seriousness of the unsatisfactory performance. A supervisor must consider each disciplinary action in progressive order and justify a deviance from that recommended progression.
- c. The actions listed below are examples of unacceptable work performance and do not constitute a comprehensive or exhaustive list. The actions in parentheses are guidelines for a supervisor to use in administering disciplinary actions. (W = written warning; S = suspension; T = termination):
 - 1) Work Performance
 - a) Insubordination (including disobedience) or failure/refusal to carry out assignments or instructions. (W/S/T)
 - b) Loafing, loitering, sleeping or engaging in personal business. (W/S/T)
 - c) Unauthorized disclosure of confidential information or records. (S/T)

- 878 d) Falsifying records or giving false information to departments and/or
879 employees responsible for Recordkeeping. (S/T)
880 e) Failure to provide accurate and complete information where such
881 information is required by an authorized person. (S/T)
882 f) Failure to comply with health, safety and sanitation requirements, rules and
883 regulations. (W/S/T)
884 g) Negligence in the performance of assigned duties. (W/S/T)
885 2) Attendance and Punctuality
886 a) Failure to report promptly and observe work schedules (such as starting time,
887 quitting time, rest and meal breaks) without the specific approval of the
888 supervisor. (W/S/T)
889 b) A pattern of unexcused or excessive absenteeism and/or tardiness. (W/S/T)
890 3) Use of Property
891 a) Unauthorized or improper use of Oneida Nation property or equipment (for
892 example, Oneida Nation vehicles, telephone, mail services, etc.) (W/S/T)
893 b) Unauthorized possession, removal or willful destruction of Oneida Nation or
894 another employee's property (including improper use of possession of
895 uniforms, identification cards, badges, permits or weapons). (Willful
896 destruction of property may subject the violator to applicable liability laws.)
897 (T)
898 c) Unauthorized use, lending, borrowing or duplicating of Oneida Nation keys.
899 (T)
900 d) Unauthorized entry of Oneida Nation property, including unauthorized entry
901 outside of assigned hours of work or entry into restricted areas without prior
902 supervisory approval. (S/T)
903 e) Theft or property shall include theft, embezzlement, cheating, defrauding,
904 pilfering, robbery, extortion, racketeering, swindling or any of these actions,
905 or conspiracy to commit such actions with Oneida Nation employees or other
906 persons against the Nation, its guests, employee, members, customers and/or
907 clients while on or about Tribal premises. (S/T) [\(BC Action, 12-2-88\)](#)
908 4) Personal Actions and Appearance
909 a) Threatening, attempting, or doing bodily harm to another person. (T)
910 b) Intimidating, interfering with or using abusive language toward customers,
911 clients, co-workers or others. (S/T)
912 c) Making false or malicious statements concerning other employees,
913 supervisors or program heads. (W/S/T)
914 d) Use of alcohol or illegal controlled substances during work hours. (S/T)
915 [\(GTC Resolution, 01-05-09A\)](#)
916 e) Reporting for work under the influence of alcohol or illegal controlled
917 substances. (S/T) [\(GTC Resolution, 01-05-09A\)](#)
918 f) Failure to immediately report any work-related injuries to the immediate
919 supervisor. (W/S)
920 g) Direct involvement in political campaigning during scheduled work hours.
921 Violations include:
922 i. Use of Oneida Nation employment title in Oneida Nation campaign
923 activities. (W/S/T)
924 1. Political materials include: leaflets, brochures, etc. which solicit support
925 for candidates for office.
926 2. Resolutions or petitions which propose that a political action be
927 initiated.

3. Leaflets, newsletters, or other written materials the purpose of which is to espouse political views or opinions.
- h) The acceptance of gifts or gratuities for personal gain in the course of official duties. (Customers are allowed to tip Bingo workers, Oneida Tobacco Enterprise workers, and Museum Workers.) (W/S/T)
 - i) Inappropriate dress or personal hygiene which adversely affects the proper performance of duties or constitutes a health or safety hazard. (W/S)
 - j) Failure to exercise proper judgment. (W/S/T)
 - k) Failure to be courteous in dealing with fellow employees or the general public. (W/S/T)
 - l) Any of the following acts by employees: Arson, bribery, perjury, obstruction or interference with an investigation authorized by the Oneida Nation. (S/T) [\(BC Action, 12-2-88\)](#)
 - m) The use, possession, selling or purchasing of, or attempt to sell or purchase alcohol, and/or controlled substances on or about Oneida Nation premises. (S/T) [\(BC Action, 12-2-88\)](#)
 - n) Any violation of duly adopted Oneida Nation ordinances. (W/S/T) [\(BC Action, 12-2-88\)](#)
- 5) Sexual Harassment Policy
- It is the Oneida Nation's Policy that all employees have a right to work in an environment free of discrimination which includes freedom from harassment, more specifically sexual harassment. The Oneida Nation considers sexual harassment, in whatever form, in the workplace to be a serious violation of an individual's dignity and personal rights. In all matters, where complaint of sexual harassment is lodged against an employee, the Oneida Nation has a duty and obligation to conduct a thorough investigation using discretion, good judgment and the principles and practice of strict confidentiality. If sexual harassment has been committed, the progressive disciplinary process is as follows (W/S/T).
- Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submissions to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.
- a) Sexual Harassment (W/S/T)
 - i. Procedure
 - a. Should an employee have a complaint, he/she should file a formal (written) complaint with the Human Resources Department.
 - b. The Human Resources Department is obligated to investigate the complaint which is to be held in the strictest confidence. This investigation shall be done within five (5) working days from receiving the formal written complaint.
 - c. After investigating the complaint and the Human Resources Department finds cause to take disciplinary action due to sexual harassment violation, the employee will be disciplined accordingly

- by their supervisor. This disciplinary action shall be initiated within five (5) working days from the date the supervisor receives the report from the Human Resource Department. [\(BC Actions, 7-16-93\)](#)
3. Accumulated Disciplinary Actions Warranting Termination [\(HR Interpretation, 1-29-14\)](#) (Provided that the Drug and Alcohol Free Workplace Policy shall govern disciplinary actions warranting termination for drug and alcohol related violations.) [\(GTC Resolution, 01-05-09A\)](#)
 - a. The accumulation of three (3) upheld warning notices within any twelve (12) month period. (T)
 - b. The accumulation of two (2) upheld suspensions within any twelve (12) month period. (T)
 - c. The accumulation of three (3) of any combination of upheld warning notices and/or upheld suspensions within any twelve (12) month period. (T)
 4. Substance Abuse Disciplinary Procedure - Section was deleted. [\(GTC Resolution, 01-05-09-A\)](#)
[Click here](#) for Drug and Alcohol Free Workplace Policy.
 5. Disciplinary Procedure [\(Disciplinary Flowchart\)](#)
The following procedure shall be adhered to whenever disciplinary action is taken.
 - a. Supervisor becomes aware of unsatisfactory work performance or violation.
 - 1) Supervisor investigates through a meeting with the employees and determines whether disciplinary action is warranted.
 - b. If disciplinary action is warranted, within five (5) working days the supervisor will fill out the five (5) part disciplinary action form stating the behavior for which the action is being taken, the time and date of its occurrence, and the specific policy section under which action is being taken.
 - c. The form will be discussed with the employee and a corrective action will be identified.
 - d. The employee being disciplined will sign the form.
 - 1) Should an employee being disciplined refuse to discuss the action with his/her supervisor, the supervisor shall so note this, with date of refusal, on the form and distribute as in 5.e.
 - e. Copies will be given to the employee, the HRD Manager, the supervisor, the Area Manager and General Manager within twenty-four (24) hours of the conference with the employee. [\(HR Interpretation, 12-8-16\)](#)
 - f. Should a disciplinary action result in the suspension or termination of an employee, the following guidelines shall apply:
 - 1) The supervisor shall consult with the HRD Manager to mutually determine the length of the suspension.
 - a) Suspensions will be limited to a maximum of three (3) weeks.
 - b) Suspension/terminations that are overturned in the appeal process shall result in the employee receiving back pay for the days he/she was suspended/terminated.
 6. Grievance [\(Grievance Flowchart\)](#)
An employee who receives a disciplinary action which he/she believes is unfair may grieve the action. The Grievance process (including appeals of disciplinary action) shall be conducted with utmost consideration for due process (within the time limits set forth herein) but will allow and account for recognized Tribal holidays and unforeseen circumstances (such as illnesses, deaths in the immediate family of principals, etc.). The HRD office will make every attempt to ensure that grievance procedures are concluded within forty-five (45) working days; however, extensions granted for reasonable unforeseen circumstances (as determined by the HRD Manager) may extend the process

The Grievance process will be governed by the following guidelines: ([HR Interpretation, 8-19-2011](#)) ([HR Interpretation, 1-29-2014](#))

- a. For all disciplinary actions, regardless of severity:
 - 1) The employee (petitioner) must file an appeal in writing.
 - a) The employee may seek the assistance of a spokesperson or advocate at any time after the disciplinary action has been issued in order to aid in the resolution of the grievance process.
 - b) The appeal must be filed with the Area Manager and the HRD Manager (or designee) within ten (10) working days from the day the employee receives the disciplinary action.
 - 2) The Area Manager, for all disciplinary action investigations, will have ten (10) working days from the receipt of the employee's appeal to complete the investigation. One extension of no more than five (5) working days may be requested of and granted by the HRD Manager (or designee) at his or her discretion.
 - 3) The Area Manager will do one of the following:
 - a) Uphold the disciplinary action; or
 - b) Modify the disciplinary action; or
 - c) Overturn the disciplinary action. If a suspension or termination is overturned, the employee (petitioner) shall be reinstated with full back pay.
 - 4) The Area Manager will file a decision with the employee and the HRD Manager (or designee) and will include a reason for the decision, an explanation of the decision and the action to be taken as a result of it.
- b. Filing a Complaint ([BC Resolution, 3-18-19](#))
 - 1) An employee may appeal the Area Manager's decision to the Oneida Personnel Commission by filing a complaint with the Human Resources Department on behalf of the Oneida Personnel Commission.
 - a) The employee shall file the appeal within ten (10) working days from the employee's receipt of the Area Manager's decision
 - 2) The Human Resources Department shall notify the Human Resources Department Manager of receipt of the appeal within one (1) business day of receipt of the appeal.
- c. Collection of Information
 - 1) The Human Resources Department shall collect all information the Area Manager used in making the decision to uphold the disciplinary action.
- d. Review of the Complaint
 - 1) The Human Resources Department shall provide the information obtained to the Oneida Personnel Commission members selected to serve as the hearing body for the complaint, and the Oneida Personnel Commissioners shall review all the information submitted by the Petitioner and the Human Resources Department to determine if one or both conditions exist;
 - a) The decision of the Area Manager is clearly against the weight of the evidence; and/or
 - b) Procedural irregularities were exhibited during the appeal process that were harmful to one of the parties to the grievance.
 - 2) If Oneida Personnel Commission members selected to serve as the hearing body for the complaint find one or both conditions exist, the Human Resources Department shall convene the Oneida Personnel Commission to hear the grievance.

- 1076 3) If the Oneida Personnel Commission members find that neither condition exists,
1077 the Oneida Personnel Commission will deny the appeal for a hearing and affirm
1078 the decision of the Area Manager.
- 1079 e. Convening a Hearing
- 1080 1) The Human Resources Department shall schedule a time and location for the
1081 grievance hearing and shall confirm the participation of the Oneida Personnel
1082 Commission members selected to serve as the hearing body for the complaint.
- 1083 2) The Human Resources Department shall send notice of the hearing to the
1084 petitioner, respondent, and Oneida Personnel Commission members at least five
1085 (5) working days prior to the hearing date.
- 1086 3) The Human Resources Department shall provide copies of all information on the
1087 subject case upon which the disciplinary action was upheld to the members of
1088 the Oneida Personnel Commission at least two (2) working days prior to the
1089 appeal date.
- 1090 4) The Human Resources Department shall allow the petitioner and respondent
1091 access to this information in the Human Resources Department Office at least
1092 two (2) days prior to the appeal date.
- 1093 f. Hearing Procedure
- 1094 1) The order of presentation for the hearing shall be:
- 1095 a) Petitioner's opening statement;
- 1096 b) Respondent's opening statement;
- 1097 c) The Petitioner's case;
- 1098 d) The Respondent's case;
- 1099 e) Petitioner's closing statement
- 1100 f) Respondent's closing statement
- 1101 2) The petitioner shall have the right to be represented by an advocate, at his or her
1102 own expense. The respondent and/or area manager who is party to the
1103 grievance action shall have access to an advocate for consultation and/or
1104 representation. Should the petitioner engage outside professional legal
1105 representation, the respondent and/or area manager shall have access to the
1106 professional legal representation.
- 1107 a) Should the petitioner and his or her representative both fail to appear for any
1108 scheduled hearing without justifiable cause, the decision of the Area
1109 Manager shall be upheld, and the grievance dismissed.
- 1110 b) Should the respondent and his/her representative both fail to appear for any
1111 scheduled hearing without justifiable cause, the decision of the Area
1112 Manager shall be overturned.
- 1113 3) If new evidence which was previously unavailable is introduced at any point
1114 during the hearing process, the Oneida Personnel Commission hearing shall be
1115 suspended, and the case will be remanded to the Area Manager for
1116 reconsideration.
- 1117 a) The Area Manager shall reconsider the decision in light of the new evidence
1118 and issue a decision within three (3) working days.
- 1119 b) This procedure may be invoked only once.
- 1120 c) Thereafter, the appeal process shall continue to a conclusion based on the
1121 information originally presented and the newly introduced evidence.
- 1122 i. If the Area Manager overturns his or her decision, the case would not
1123 come back for a hearing.
- 1124 ii. If the Area Manager affirms his or her decision, then the case will come
1125 back to the Oneida Personnel Commission to complete the hearing.

- 1126 4) The Oneida Personnel Commission's decision shall be based solely on the
1127 information presented to them before the appeal hearing, the record of the prior
1128 proceedings, and any new evidence if introduced appropriately.
1129 5) The Oneida Personnel Commission may:
1130 a) Uphold the disciplinary action; or
1131 b) Overturn the disciplinary action and:
1132 i. Reinstatement the employee (petitioner) with full back pay for any lost time; or
1133 ii. Reinstatement the employee (petitioner) without back pay.
1134 6) The Oneida Personnel Commission shall provide notification of the final decision
1135 within five (5) working days following the hearing. Notification of the final
1136 decision shall include;
1137 a) The final decision;
1138 b) The reason(s) for the final decision; and
1139 c) The action to be taken as a result of the final decision.
1140 7) The Human Resources Department shall keep records of the hearing, and
1141 provide copies of administrative advocacy rules, procedural rules, and time line
1142 rules to interested parties.

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SECTION VI – SAFETY AND HEALTH

A. POLICY

The personal safety and health of each employee, customer and client of the Oneida Nation is of primary importance. The prevention of injuries and illnesses is of such importance that it will take precedence over operating productivity whenever necessary.

The Oneida Nation will maintain a safety and health program conforming to the best practices available. To be successful, this program will work to develop the proper attitudes toward on-the-job injury and illness prevention on the part of supervisors and employees. This program will strive to develop a high level of cooperation in all safety and health matters between supervisors and employees and among employees.

The objective of this program is a safe and healthy environment that will reduce the number of job-related injuries and illnesses to an absolute minimum. The Nation's goal is zero accidents and illnesses.

B. PROCEDURES

The Oneida Nation Safety Committee will adopt and enforce through the Personnel Department procedures related to the education of the Nation's work force in matters of safety and health. These procedures will include all education and prevention activities, assessments and evaluations, and reporting.

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SECTION VII – PROGRAM/ENTERPRISE RULES & REGULATIONS

- A. Enterprises and programs may establish internal rules and regulations to facilitate the administration of Oneida Nation Personnel Policies and Procedures.
1. In no case will these internal rules and/or regulations conflict with or take the place of Oneida Nation Personnel Policies and Procedures.
 2. Enterprises and programs which establish internal rules and regulations will file a copy of the rules and regulations with the Personnel Department.

SECTION VIII – RECORDKEEPING

A. PERSONNEL OFFICE

1. Basic records to be retained include:
 - a. Reference Data
 - b. Job Descriptions
 - c. Resumes and Applications
 - d. Interview notes/selection information
 - e. Resignations
 - f. Employee tax exemption claims
 - g. Disciplinary action information
 - h. Performance evaluations
 - i. Insurance coverage/changes
 - j. Transfers
2. The Personnel Office shall keep and maintain a complete record of each employee throughout his/her term of employment.
 - a. Oneida Nation employees shall have access to their employment file.
 - b. Employment files kept by the Personnel Office shall be considered confidential information. Release of any information to a third party must have the consent of the employee in writing.

B. ACCOUNTING DEPARTMENT

1. Basic records to be retained include:
 - a. Attendance records
 - b. Employee Time Sheets
 - c. Earnings - in the form of computer printouts
 - d. Travel - in the form of complete travel authorization forms.
 - 1) Time sheets and travel reports shall be filled out by every employee for pay period, collected by the program head, and forwarded to the Department.
2. The Accounting Department shall retain all records for a period of seven (7) years. [\(BC Action, 10-14-09B\)](#)

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SECTION IX – PRIVACY AND CONFIDENTIALITY OF EMPLOYEE RECORDS

The Human Resources Department of the Oneida Nation collects information from employees in order to make decisions regarding personnel actions including hiring, transfers and promotions, training, compensation and benefits, disciplinary actions and other job opportunities. This information is maintained by the Human Resources Department in individual files for as long as the person is an employee of the Oneida Nation.

A. STATEMENT OF POLICY

As a general rule, the Oneida Nation considers all information contained in these files to be private and confidential. No information of any type shall be released to any person or agent of any organization without the written consent of the employee except under the conditions outlined herein.

B. EMPLOYEE ACCESS

In addition, the Oneida Nation recognizes that the information contained in each employee's file is personal and that the lives of its employees are subject to changes. Therefore, the Oneida Nation provides for employee access to his/her personnel file. Employees are allowed to review their file and submit a statement of amendment should their review uncover any inaccurate, obsolete or irrelevant information. Should any information come into dispute, an employee's statement of dispute will be accessed into the file.

C. RELEASE OF INFORMATION TO THIRD PARTIES

The Oneida Nation is obligated by law to release certain information to outside parties. Such parties include the State of Wisconsin's Unemployment Compensation Department and its Workers Compensation Division and the United States Social Security Administration. Any additional information released to a third party by the Human Resources Department related to employee records shall consist of summary information and will not include any identifying personal information. (Such information may be total numbers of males and females in the workforce, mean, median and average age of the workforce, etc.)

The Oneida Nation will release personal information on employees when a request is accompanied by a written release signed by the employee. The Human Resources Department will make every effort to validate this request by contacting the employee. In no case shall the Oneida Nation release personal information from an employee's file without this consent.



Legislative Operating Committee
November 17, 2021

Amendments to the Furlough Law

Submission Date: 10/7/2020	Public Meeting: Due to the COVID-19 pandemic, public meetings were suspended by declaration of the Nation's COVID-19 Core Decision Making Team. A public comment period was still offered in accordance with the Legislative Procedures Act and held open until 11/11/21.
LOC Sponsor: Marie Summers	Emergency Enacted: n/a Expires: n/a

Summary: *This item was added to the Active Files List on October 7, 2020 per the request of the Legislative Operating Committee to develop amendments to the Nation's Furlough law to incorporate Indian preference into the selection/recall process and to provide clarity regarding certain other furlough procedures that were flagged during the COVID-19 pandemic.*

10/7/20 LOC: Motion by Jennifer Webster to add the Furlough Law Amendments to the Active Files List with Marie Summers as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

10/22/20: *Work Meeting.* Present: Marie Summers and Kristen Hooker. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss the basis for the Councilwoman's request to have amendments to the Furlough law added to the Active Files List. The next step is for the drafting attorney to schedule a meeting with the workgroup that was created during this meeting to discuss the Councilwoman's concerns, as well as any other concerns/suggestions that the workgroup may have.

11/13/20: *Work Meeting.* Present: Eric McLester, Barbara Kolitsch, Geraldine Danforth, Kristen Hooker. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to have a general discussion on needed amendments/updates to the Furlough law. The drafting attorney went through the law line-by-line with the workgroup to flag where they believed changes were needed. The next step is for the drafting attorney to update the draft based on the discussion and schedule a follow-up work meeting with the workgroup for review and further discussion/revision.

1/26/21: *Work Meeting.* Present: Eric McLester, Barbara Kolitsch, Geraldine Danforth, Matt Denny, Wendy Alvarez, Kristen Hooker. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to go through the updated draft of the Furlough law amendments to discuss any areas of concern or in need of further revision before bringing to the Legislative Operating Committee for review/consideration.

2/3/21: *Work Meeting.* Present: David Jordan, Marie Summers, Daniel Guzman-King, Jennifer Webster, Rhiannon Metoxen, Kristal Hill, Clorissa Santiago, Kristen Hooker. This was a work

meeting held through Microsoft Teams. The purpose of the work meeting was to update the LOC on discussions had thus far with the workgroup regarding possible amendments to the Furlough law. The drafting attorney went through the draft line-by-line with the LOC to highlight where the workgroup was proposing amendments and to have the LOC flag additional changes it deems necessary. The next steps are for the drafting attorney to: (1) create a bullet-point of the initial policy decisions the LOC must make before detailed amendments can be developed in alignment therewith; and (2) schedule a follow-up meeting with the workgroup and LOC to afford the LOC an opportunity to hear from the workgroup before making said policy decisions.

2/17/21:

Work Meeting. Present: David Jordan, Jennifer Webster, Kirby Metoxen, Marie Summers, Rhiannon Metoxen, Kristal Hill, Kristen Hooker, Matthew Denny, Lucy Neville, Wendy Alvarez, Geraldine Danforth, Eric McLester (left early). This was a work meeting held through Microsoft Teams. The purpose of the work meeting was to give LOC an opportunity to hear from the workgroup regarding amendments to the Furlough law. The goal of the meeting was to provide the LOC enough information to make certain policy decisions that are necessary to develop amendments to the law in alignment therewith. The next step is for the drafting attorney to compile the information/suggestions provided during the meeting and to present the compilation to the LOC at a future work meeting for further directive.

2/25/21:

Work Meeting. Present: Marie Summers, Kirby Metoxen, Daniel Guzman-King, Jennifer Webster, Kristal Hill, Clorissa Santiago, Kristen Hooker. This was a work meeting held through Microsoft Teams. This work meeting was held in follow-up to the February 17, 2021 work meeting the LOC had with the Workgroup regarding possible amendments to the Furlough law. The purpose of this work meeting was to get directive from the LOC regarding the policy questions that were discussed on February 17th. The next step is for the drafting attorney to update the draft amendments to be consistent with the LOC's directive and to bring the updated draft back to a future LOC meeting for review and further revision.

4/9/21:

Work Meeting. Present: David Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman-King, Rhiannon Metoxen, Kristal Hill, Kristen Hooker. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to start going through the updated draft amendments to the Furlough law with the LOC.

4/13/21:

Work Meeting. Present: David Jordan, Kirby Metoxen, Marie Summers, Jennifer Webster, Daniel Guzman-King, Rhiannon Metoxen, Kristen Hooker. This was a work meeting held through Microsoft Teams. The purpose of this meeting was to finish going through the initial draft amendments to the Furlough law before updating the draft for the LOC's final review and consideration. The next step will be for the LRO attorney to update the draft based on the LOC's decisions/suggestions and to schedule a final meeting with the LOC to review the updated draft before sending it to a workgroup meeting for review and comment.

6/10/21:

Work Meeting. Present: Kirby Metoxen, Marie Summers, Daniel Guzman-King, Jennifer Webster, Rhiannon Metoxen, Kristal Hill, Clorissa Santiago, Kristen Hooker. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to go through the updated draft amendments with the LOC before sending it to the workgroup for review and comment. The next step is for the LRO attorney to update the draft based on the comments and suggestions from the LOC and to then schedule a meeting with the workgroup to provide an opportunity for them to comment and make suggestions for the LOC to consider before approving the draft for the public comment portion of the legislative process.

- 7/8/21:** *Work Meeting.* Present: Barbara Kolitsch, Geraldine Danforth, Wendy Alvarez, Matthew Denny, James Petitjean (left early), Lucy Neville, Jessica Vandekamp, Kristen Hooker. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to review the draft Furlough law amendments with the workgroup to see whether the members had any questions, concerns or suggested changes they wanted the LOC to consider. The next step is for the LRO attorney to update the draft with the workgroup's suggestions and bring it back to a LOC work meeting for consideration and possible approval to move forward with the public comment portion of the legislative process.
- 7/21/21:** *Work Meeting.* Present: David Jordan, Marie Summers, Jennifer Webster, Justin Nishimoto, Kristen Hooker. This was a work meeting held through Microsoft Teams. The purpose of the work meeting was to go through the final draft of the Furlough law amendments and have the LOC consider the comments/suggestions from the workgroup meeting of July 8, 2021. The next steps are for the drafting attorney to: (1) update the draft based on the LOC's decisions during the meeting; (2) draft a legislative analysis on the amendments to the Furlough law; (3) draft the materials for the public meeting notice packet for the LOC to review during its next work meeting; and (4) add the public notice packet for the Furlough law amendments to the next LOC agenda for consideration and possible approval.
- 8/4/21 LOC:** Motion by Marie Summers to approve the Furlough law amendments draft and direct that a legislative analysis be prepared for consideration at the next LOC meeting; seconded by Kirby Metoxen. Motion carried unanimously.
- 8/18/21 LOC:** Motion by Kirby Metoxen to approve the draft amendments to the Furlough law and legislative analysis and defer to a work meeting; Seconded by Daniel Guzman-King. Motion carried unanimously.
- 8/18/21:** *Work Meeting.* Present: David Jordan, Marie Summers, Kirby Metoxen, Daniel Guzman-King, Kristen Hooker, Clorissa Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of the work meeting was to go through the legislative analysis with the LOC and to have the LOC make policy decisions regarding the items listed under the "Other Considerations" section of the analysis. This next step is to have the Legislative Reference Office attorney put together numerous diagrams to assist the LOC with making said policy decisions during a follow-up work meeting.
- 8/26/21:** *Work Meeting.* Present: David Jordan, Marie Summers, Jennifer Webster, Daniel Guzman-King, Kristen Hooker, Clorissa Santiago, Kristen Hooker, Carmen VanLanen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of the work meeting was to finish going through the legislative analysis with the LOC and to have them make certain policy decisions regarding portions of the section governing placement of employees in furlough status that were flagged in the "Consideration" section of the analysis. The next steps are for the drafting attorney to update the legislative analysis, along with the draft, to coincide with the LOC's decisions at the meeting and to prepare the public notice materials for approval of the LOC at an upcoming LOC meeting.
- 9/23/21:** *Work Meeting.* Present: David Jordan, Daniel Guzman-King, Jennifer Webster, Kirby Metoxen, Clorissa Santiago, Kristen Hooker, Carmen Vanlanen, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of the work meeting was to go through the changes that were made to the draft amendments following the LOC work session of August 26, 2021. The next step is for the drafting attorney to prepare the public meeting notice packet on the amendments to the Furlough law for inclusion on the next LOC meeting agenda.

10/6/21 LOC: Motion by Marie Summers to approve the Furlough law amendments public comment period notice and forward the Furlough law amendments to a public comment period to be held open until November 11, 2021; Seconded by Jennifer Webster. Motion carried unanimously.

11/11/21: *Public Comment Period Closes.* The public comment period for the permanent adoption of the amendments to the Furlough law closed on November 11, 2021. No written submissions of comments were received during this public comment period.

Next Steps:

- Accept the public comment period review memorandum.



TO: Legislative Operating Committee (LOC)
FROM: Kristen M. Hooker, Legislative Reference Office, Staff Attorney
DATE: November 17, 2021
RE: Furlough Law Amendments: Public Comment Review

A public comment period for the adoption of amendments to the Nation's Furlough law ("Law") was held open until November 11, 2021. A public meeting for the adoption of amendments to the Law was not held due to the COVID-19 pandemic based on the following.

On March 12, 2020, Chairman Tehassi Hill signed a "*Declaration of Public Health State of Emergency*" in response to the COVID-19 virus, declaring a Public Health State of Emergency for the Nation until April 12, 2020. The declaration set into place the necessary authority for action to be taken and allowed the Nation to seek reimbursement for those emergency management actions that may result in unexpected expenses. The Public Health State of Emergency has since been extended by the Oneida Business Committee until November 25, 2021, through the adoption of resolutions BC-03-28-20-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, BC-03-10-21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, and BC-09-22-21-A.

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.

On August 3, 2021, the Oneida Business Committee adopted resolution BC-08-03-21-A entitled, *Setting Public Gathering Guidelines during Public Health State of Emergency – COVID-19*, which prohibits indoor and outdoor public gatherings when COVID-19 infection rates within Brown or Outagamie Counties exceed "Low" as identified by the Wisconsin Department of Health Services.

In accordance with resolution BC-08-03-21-A, a public meeting was not held due to the infection rates within Brown and Outagamie Counties exceeding "Low" as identified by the Wisconsin Department of Health Services. Instead, on October 6, 2021, the Legislative Operating Committee approved a public comment period to be held open until November 11, 2021, and the Nation's COVID-19 Core Decision Making Team's "*Suspension of Public Meetings under the Legislative Procedures Act*" declaration took effect.

Although the COVID-19 Core Decision Making Team's declaration suspended public meetings and therefore no public meeting was scheduled on the proposed amendments to the Law, members of the community were still given an opportunity to provide written submissions of comments or

questions to the Legislative Operating Committee through e-mail until November 11, 2021. No written comments were received for the proposed amendments to the Furlough law.

Title 2. Employment – Chapter 205

[Oneida Language]

[Translation]

FURLOUGH ~~POLICY~~

205.1. Purpose and Policy
205.2. Adoption, Amendment, Repeal
205.3. Definitions
205.4. ~~Furlough Application~~
205.5. ~~Furlough Plans~~
205.6. ~~Supervisor Responsibilities~~
205.7. ~~Appeal~~

205.5. Furlough Implementation Plan
205.6. Furlough Implementation
205.7. Placing Employees in Furlough Status
205.8. Furloughed Employees
205.9. Recall of Furloughed Employees
205.10. Direct Report Level and Supervisor Responsibilities
205.11. Appeal

205.1. Purpose and Policy

205.1-1. Purpose. The purpose of this ~~Policy~~law is to ~~enable~~:

(a) Enable the ~~Tribe~~Nation to implement a furlough ~~as a tool~~program in response to
~~remedy an operating budget deficit.~~interruption of governmental revenues or operations,
insufficient treasury funds or other emergencies/ unplanned events as determined by the
Oneida Business Committee in accordance with this law;

~~205.1-2. Policy. This Policy shall apply to all employees of the Tribe. To utilize a furlough, a decrease or lapse of revenue or funding and/or any other budget situation warranting an unpaid leave shall be identified.~~

(b) Establish a consistent and equitable process for implementation of a furlough program;
and

(c) Incorporate Indian preference into the furlough program and require that it be applied
in accordance with this law.

205.1-2. Policy. It is the policy of the Nation to have consistent and standard procedures to
address events and/or incidents that impact employees of the Nation. It is further the policy of the
Nation to incorporate and adhere to Indian preference in all aspects of employment within the
Oneida Nation.

205.2. Adoption, Amendment, Repeal

205.2-1. This ~~Policy~~law was adopted by the Oneida Business Committee by resolution BC-11-
10-15-B; and amended by resolution BC- - - -.

205.2-2. This ~~Policy~~law may be amended or repealed by the Oneida Business Committee and/or
the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures
Act.

205.2-3. Should a provision of this ~~Policy~~law or the application thereof to any person or
circumstances be held as invalid, such invalidity shall not affect other provisions of this ~~policy~~law
which are considered to have legal force without the invalid portions.

205.2-4. In the event of a conflict between a provision of this ~~Policy~~law and a provision of
another ~~policy~~law, the provisions of this ~~Policy~~law shall control.

205.2-5. This ~~Policy~~law is adopted under authority of the Constitution of the Oneida ~~Tribe of~~
Indians of Wisconsin Nation.

205.3. Definitions

205.3-1. This section shall govern the definitions of words or phrases as used within this

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~~Policy~~law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) ~~“Direct report level”~~Acts of God means an event or effect that can be neither anticipated nor controlled, including both acts of nature, such as floods and hurricanes, and acts of people, such as riots, strikes, and wars.

(b) ~~“Additional duties”~~ means responsibilities of another position” ~~means~~ within the Nation that is not within an employee’s current scope of work.

(c) ~~“Authorized designee”~~ means an employee identified by a Direct Report Level position to develop or assist in developing a furlough implementation plan when the individual employed in the Direct Report Level position is unavailable or requests such assistance from that employee.

(d) ~~“Critical position”~~ means a position of employment within the Nation that is crucial to governmental functions, including, but not limited to, health, safety, regulatory compliance and/or revenue generation.

(e) ~~“Direct Report Level position”~~ means a position of employment within the Nation that is the highest level in the chain of command under the Oneida Business Committee and who is responsible for a ~~Tribal Department~~department and/or ~~Division~~division of the Nation.

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

(eg) ~~“Furlough”~~ means a temporary, unpaid ~~leave from time off of~~ work for a specified period of time.

~~(d)~~ ~~(h)~~ “Indian” means any person, other than an Oneida citizen, who is a citizen of a federally recognized Indian tribe, other than the Oneida Nation.

(i) ~~“Indian preference”~~ means a preference ~~granted to retain an Oneida member employee over other non-member employees.~~ for Indian people, regardless of tribal affiliation, in all aspects of employment, with Oneida citizens being afforded the highest levels of preference for purposes of this law.

~~(e)-j)~~ “Nation” means the Oneida Nation.

(k) ~~“Oneida citizen”~~ means those persons who are enrolled members of the Nation, eligible for enrollment in the Nation or documented first generation Oneida descendants.

~~(l)~~ “Supervisor” means a ~~person~~an employee of the Nation who directly oversees the work and performance of an employee on a daily basis.

~~(f)~~ ~~“Tribe” or “Tribal”~~ ~~“Temporary employee”~~ means an employee hired by the Nation for a short-term assignment and consists of the following classifications:

(1) Emergency/Temporary;

(2) Limited Term;

(3) Seasonal;

(4) Substitute/Relief;

(5) Youth Worker; and

(6) Student/Intern.

205.4. Application

205.4-1. Unless otherwise stated herein, this law shall apply to all employees of the Nation and all employment decisions of the Nation that are governed, whether in whole or in part, by this law.

205.4-2. Indian Preference. It is the intent of this law, and the policy of the Nation, that no employee who is Indian shall be furloughed so long as an employee, within the same department/division and position, who is non-Indian is still employed.

(a) Title VII of the Civil Rights Act of 1964 allows private and government employers on or near a Federal Trust Indian Reservation to exercise Indian preference in employment.

(b) The Indian Self Determination and Education Act affirms that any tribal employment or contract preference laws adopted by such tribe shall govern.

(c) In accordance with this section and subject to any express exceptions set forth herein, a furlough program shall be administered in a manner that affords preferential treatment to Oneida Tribe of citizens and Indians of Wisconsin in the following order, starting with those employees to be given the highest level of preference when applying the provisions of this law:

(1) Enrolled members of the Oneida Nation;

(2) Oneida citizens eligible for enrollment in the Oneida Nation;

(3) Documented first generation Oneida descendants;

(4) Indians; and

(5) Non-Indians.

205.4-3.

205.4. Equal Opportunity Employer. Notwithstanding section 205.4-2, the Nation is an Equal Opportunity Employer that prohibits the application of this law and/or the implementation of a furlough program in a manner that discriminates based on race, color, religion, sex, pregnancy, age, national origin, citizenship status, veteran status, physical or mental disability, genetic information and/or any other basis protected by the anti-discrimination provisions of Title VII of the Civil Rights Act of 1964.

205.4-4. Training on Indian Preference. The Human Resources Department shall be responsible for introducing new employees of the Nation to the concept of Indian preference, as well as how it applies to the furlough programs set forth herein, during employee orientation. Such introduction shall include, at a minimum, coverage of the following topics:

(a) The history behind Indian preference, including the role that the Bureau of Indian Affairs (“BIA”) had in its development;

(b) The Indian Self-Determination and Education Assistance Act of 1975, as well as the exception to Title VII of the Civil Rights Act of 1964; and

(c) Examples of how Indian preference would apply in the event of a furlough program when deciding which employees of the Nation would be placed in furlough status, as well as the order in which they would be recalled, using methods to include, but not be limited to, hypotheticals and charting.

205.4-5. Prohibitions. Any furlough program of the Nation that is initiated in accordance with this law shall not:

(a) Be used as a means to resolve performance-related problems, grievance issues or to

take the place of disciplinary actions;

(b) Be administered or implemented in violation of this law or any other applicable laws/policies of the Nation; and/or

(c) Be implemented in a manner that requires interdepartmental transfers when applying Indian preference to the processes set forth herein.

205.5. Furlough Implementation Plan

~~205.4-1.~~ 205.5-1. *Implementation Plan.* Within a reasonable time after this law goes into effect, all Direct Report Level positions, or their authorized designees, shall submit a furlough implementation plan to the Human Resources Department for approval.

(a) The Human Resources Department shall create a standard template that Direct Report Level positions and/or authorized designees must use when developing their furlough implementation plan hereunder.

(1) The intent of the standard template shall be to elicit, in advance, information that will allow the Nation to implement a furlough program in as efficient and consistent a manner as possible under the circumstances, the information of which shall include, but not be limited to:

(A) Which positions within their respective department or division may qualify as a critical position;

(B) Which employees within their respective department or division may qualify for Indian preference and the corresponding level of preference that would apply under section 205.4-2 of this law;

(C) Which positions and/or employees within their respective department or division may be exempt from the application of Indian preference and the basis for said exemption;

(D) Whether any employees within their respective department or division may be interested in volunteering to be placed in furlough status in the event a furlough program is implemented; and

(E) Whether any positions within their respective department or division are capable of being adjusted to promote Indian preference when deciding which employees to place in furlough status.

(2) The Human Resources Department shall submit its standard template to the Oneida Business Committee for approval by resolution prior to distributing it to the Direct Report Level positions and/or authorized designees for development in accordance herewith.

(b) The Human Resources Department shall create a Standard Operating Procedure which sets forth how a furlough implementation plan shall be processed under this law once the standard template is approved by the Oneida Business Committee, that shall, at a minimum, address the following:

(1) Distribution of the standard template to the Direct Report Level positions and/or their authorized designees;

(2) The process for Direct Report Level positions and/or authorized designees to follow upon receiving the standard template, including, but not limited to:

(A) How a furlough implementation plan shall be created using the standard

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template;

(B) How a furlough implementation plan shall be submitted to the Human Resources Department for approval; and

(C) The amount of time the Direct Report Level positions and/or their authorized designees have to submit their furlough implementation plans to the Human Resources Department upon receipt of the standard template.

(3) How the Human Resources Department will process furlough implementation plans for approval upon submission by the Direct Report Level positions and/or authorized designees; and

(4) How the Human Resources Department will notify the Direct Report Level positions and/or authorized designees of its decision to approve or reject their furlough implementation plan and, if rejected, the reason for the rejection and the process for resubmitting the furlough implementation plan for reconsideration.

(c) Copies of approved furlough implementation plans shall be retained by the Human Resources Department, as well as the Direct Report Level positions and/or authorized designees, consistent with governing law.

205.5-2. Furlough Implementation Plan Updates. The furlough implementation plan, as well as the standard template upon which it is developed, shall be updated as follows:

(a) *Standard Template.* Within two (2) years of its initial approval by resolution and then every two (2) years thereafter, the Human Resources Department shall review its standard template to assess whether it should be updated to better advance the underlying goals/policies of this section, as well as the law in general.

(1) Updates to the standard template must be approved by the Oneida Business Committee in accordance with section 205.5-1 of this law.

(b) *Implementation Plan.* Within two (2) years of initial approval by the Human Resources Department and then every (2) years thereafter, the Direct Report Level positions and/or authorized designees shall review their furlough implementation plan to assess whether it needs to be updated to account for any relevant changes within their department/division, including, but not limited to, changes in personnel, changes in positions and/or changes to any of the job descriptions attached to a position.

(1) Updates to a furlough implementation plan must be processed and approved in accordance with section 205.5-1 of this law, as well as the Standard Operating Procedure created by the Human Resources Department in accordance therewith.

(c) Nothing in this section shall be interpreted to prohibit an earlier review of the standard template or furlough implementation plan nor the number of times they are reviewed.

205.6. Furlough Implementation

205.6-1. Alternatives to Furlough. Prior to adopting a furlough resolution hereunder, the Oneida Business Committee shall consider whether any reasonable alternative options to implementation of a furlough program exist and, if so, exhaust the option or options in advance of implementation so long as the burden of doing so on the Nation as a whole does not outweigh the benefit to the employees who may be affected by the implementation of a furlough program.

205.6-2. Furlough Resolution. —If the Oneida Business Committee has identified the ~~necessity~~need for a furlough program, a directive by resolution shall be given to the appropriate

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Direct Report Level positions, authorized designees, and any other individual or entity deemed necessary by the Oneida Business Committee.

(a) The resolution shall ~~direct~~include the following:

(1) The basis for implementing the furlough program;

(2) Whether it is being implemented as an administrative or emergency furlough program;

(3) If feasible under the circumstances and to the extent of such feasibility so long as not less than is required under this law for the particular furlough program being implemented, the beginning and ending dates of the furlough program;

(4) If feasible under the circumstances and to the extent of such feasibility, which areas within the Nation will be subject to the furlough program and which positions, if any, are considered critical positions exempt from being placed in furlough status; and

(5) Whether an ad hoc committee will be established pursuant to this section to assist in the implementation of the furlough program.

(b) *Ad Hoc Committee.* The Oneida Business Committee may, in its discretion, establish an ad hoc committee to assist in the implementation of a furlough program by, among other actions, helping to identify which areas of the Nation should be subject to the furlough program and which positions, if any, should be deemed critical, when directed to by the Oneida Business Committee.

(1) The ad hoc committee shall be made up of employees of the Nation, identified by the Oneida Business Committee within the furlough resolution or through a subsequent resolution or motion, who possess an expertise commensurate with the type and severity of the event giving rise to the need for the implementation of a furlough program.

(2) The ad hoc committee shall meet as necessary and at the request of the Oneida Business Committee to~~205.4-2. Implementation of Furlough Plans. Upon the passage of a resolution directing that a furlough be implemented, all Direct Report Level positions shall immediately carry out the furlough plans for his or her respective departments or agencies. An employee shall be furloughed on days that the employee is normally scheduled to work or on holidays recognized by the Tribe, whether the employee is normally scheduled to work or not.~~

carry out its responsibilities per the directive of the Oneida Business Committee and in a manner consistent with this law.

(3) The ad hoc committee shall not be subject to the Boards, Committees and Commissions law and employees shall not be entitled to stipends or any additional form of compensation for serving on an ad hoc committee established hereunder.

(4) The ad hoc committee shall dissolve upon conclusion of the furlough program for which it was established or on an early date as determined by the Oneida Business Committee, subject to the following:

(A) The ad hoc committee shall prepare, as well as present, a close-out report, in accordance with the Oneida Business Committee's directive; and

(B) The ad hoc committee shall forward all materials and records that were used and/or created to carry out its responsibilities hereunder to the Human Resources Department for storage/disposal in accordance with governing

law.

205.6-3. Furlough Programs. A furlough program shall be characterized as either an emergency or an administrative program in the furlough resolution and then carried out in accordance with the portions of this section that apply to such characterization.

(a) In General. The following shall apply to all furlough programs implemented hereunder, regardless of their characterization.

~~(1) 205.4-3. Notice.~~ ~~A supervisor shall give an employee~~ of the implementation of a furlough program shall be provided to employees in writing and, along with information relevant to the furlough program being implemented, include the following:

(A) Fair warning regarding the employee's failure to respond to a notice of recall as set forth in section 205.9-2 of this law; and

(B) A directive that it is the responsibility of the employee to ensure that the Nation has his or her most current contact information.

(2) Written notice shall be sent to employees via the outlet(s) deemed most capable of reaching them in as efficient a manner as possible under the circumstances.

(A) In the event that the Nation develops a formal process to provide mass notifications to employees for events such as the implementation of a furlough program, such process shall be deemed the most capable outlet hereunder and used to provide written notice to employees for purposes hereof.

(b) Emergency Furlough Program. An emergency furlough program may be initiated by the Oneida Business Committee when in the best interest of the Nation due to Acts of God that require immediate curtailment of activities within the organization.

(1) Notice. Employees shall be notified of the Oneida Business Committee's decision to implement an emergency furlough program as far in advance of the program's implementation date as is reasonably possible under the circumstances.

(A) If circumstances do not allow for the Oneida Business Committee to set a specific date upon which the emergency furlough program will end within the furlough resolution, notice of the anticipated end date shall be provided as soon thereafter as is reasonably possible, consistent with section 205.6-3 of this law.

(2) Duration. No emergency furlough program implemented hereunder shall last for longer than twenty-six (26) weeks from the date of implementation, unless extended by the Oneida Business Committee through a subsequent resolution.

(c) Administrative Furlough Program. An administrative furlough program may be initiated by the Oneida Business Committee in response to a foreseeable event that is likely to result in a temporary reduction in revenue/funding or some other organizational issue when the intent is to recall employees back to work once the event has subsided.

(1) Notice. Employees shall be notified of the Oneida Business Committee's decision to implement an administrative furlough program at least five (5) business days prior to a furlough being implemented in advance of the program's implementation date.

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(2) *Duration.* The beginning and ending dates of the administrative furlough program shall be specified within the furlough resolution.

(A) An administrative furlough program shall end on the date specified within the furlough resolution, unless revised or extended by the Oneida Business Committee through a subsequent resolution.

(B) Notice of a revised or extended end date for an administrative furlough program shall be provided as soon as reasonably possible in advance of the original end date, consistent with section 205.6-3 of this law.

(3) If the intent to bring employees back is not present or is improbable at the time employee reductions are deemed necessary, employees shall be selected for layoff, as opposed to placement in furlough status, consistent with the laws and policies of the Nation governing employee layoffs.

205.7. Placing Employees in Furlough Status

205.7-1. This section shall govern the manner in which employees of the Nation are selected to be placed in furlough status following the adoption of a resolution triggering the implementation of a furlough program.

205.7-2. *Critical Positions.* Except as otherwise stated herein, employment positions identified as critical pursuant to this section of the law shall be exempt from placement into furlough status during the specific furlough program for which the position was deemed critical.

(a) Critical positions shall be identified by the Oneida Business Committee, or ad hoc committee upon the Oneida Business Committee's directive and subject to its approval, within the furlough resolution referenced in section 205.6-2 of this law or as soon thereafter as is reasonably possible under the circumstances in a subsequent resolution or motion.

(1) *Amendments.* The Oneida Business Committee, with assistance from the ad hoc committee if so requested, may amend the list of identified critical positions as it deems necessary under the circumstances.

(A) Direct Report Level positions or their authorized designees may submit requests for amendments to the list of identified critical positions under their direction to the Oneida Business Committee for consideration.

(b) *Exception.* The Oneida Business Committee may, when deemed necessary, direct that reductions be made to positions initially identified as critical under this section, through adoption of a subsequent resolution.

(1) Employees within the same critical position who become subject to a reduction hereunder, shall be placed in furlough status pursuant to the order of preference and priority established in section 205.7, and recalled back to work pursuant to the order of preference and priority established in section 205.9, of this law.

205.7-3. *Non-Critical Positions.* Directives from the Oneida Business Committee regarding employee furlough reductions, as set forth in the initial resolution or a subsequent resolution related thereto, shall be carried out by the Direct Reports Level position/authorized designee of the affected department/division in a manner that furthers the policy behind Indian preference to the greatest extent possible without rendering the affected department/division inoperable or unable to reasonably conduct business.

(a) *Placing Employees in Furlough Status.* Unless otherwise stated herein, the following

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order shall be adhered to when placing non-critical position employees within the same department or division in furlough status.

(1) *Temporary Employees.* Temporary employees within a department or division shall be the first category of employees to be placed in furlough status.

(2) *Volunteer Employees.* Following the placement of temporary employees in furlough status, eligible employees who volunteer for said placement shall be the next category of employees to be placed in furlough status, subject to the following:

(A) Employees who volunteer to be placed in furlough status must sign a form, created by the Human Resources Department, confirming that:

(i) They volunteered to be placed in furlough status notwithstanding any preference or eligibility for retention that they may have;

(ii) Their decision to volunteer was not coerced or based on any promises of compensation or other consideration; and

(iii) They understand that they are not guaranteed a recall back to work and, as a result, could be terminated from their employment with the Nation.

(B) Once signed, the employee shall be provided with a copy for his or her position records and the Human Resources Department shall retain the original copy in a manner consistent with the Nation's Open Records and Open Meetings law and/or any other applicable laws of the Nation.

205.4 4. *Continuous Service.* A (C) Employees who volunteer to be placed in furlough status shall retain the rights afforded under, as well as be subject to, the recall process set forth in section 205.9 of this law.

(3) *Indian Preference.* Absent an express exception and after application of sub-sections (1) and (2), above, when the remaining number of employees in the same position within a department or division exceeds the number of said employees to be placed in furlough status, the order of placement shall occur in the following order, beginning with the first category:

(A) Non-Indians;

(B) Indians;

(C) Documented first generation Oneida descendants;

(D) Oneida citizens eligible for enrollment in the Oneida Nation; and

(E) Enrolled members of the Oneida Nation.

(i) *Exceptions for Grant Positions.* Employment positions within the Nation that are funded, in whole or part, by appropriations from outside of the Nation, which prohibit, as a condition of receiving said funds, the application of Indian preference in employment practices, shall be exempt from the requirements of section 205.7-3 of this law.

(ii) *Other Exceptions.* Where it would violate an applicable federal law, including any regulations related thereto, or the terms of an applicable loan, memorandum of understanding, contract or other agreement for which the Nation is a party, the requirements of section 205.7-3 shall not constitute apply.

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(4) *Other Priorities.* If, following application of Indian preference, employees subject to placement in furlough status within the same preference category still remain, priority shall be given to their retention in the following order, beginning with the first category:

(A) *Seniority.* Employees who have served the Nation as a regular status employee without a break in ~~continuous service~~ employment for the longest amount of time shall be afforded the highest level of retention priority.

(B) *Veteran Status.* If employees remain after applying the priority for seniority, employees with veteran status shall be afforded the next level of retention priority over the other employees who remain within the same preference category; and

(C) *Performance Evaluation.* If employees remain after applying the priority for veterans, employees with a more favorable performance evaluation shall be afforded retention priority over the employees with a less favorable performance evaluation who remain within the same preference category.

(i) The most current performance evaluation in existence on the date the Oneida Business Committee adopts the furlough resolution at issue shall be the evaluation that is used when assessing priority hereunder.

205.8. Furloughed Employees

205.8-1. Employees shall not perform any work for the ~~Tribes~~ while furloughed. ~~This includes~~ Nation when off of work due to being placed in furlough status, which includes, but is not limited to, responding to work-related e-mail and ~~voice mail~~ voicemail, as well as traveling on behalf of the ~~Tribes~~ Nation.

~~205.4-5.~~ (a) Employees within the Nation's Gaming Operations who are placed in furlough status, shall continue to adhere to the "Who May Not Play Policy" throughout the furlough period.

205.8-2. *Continuous Employment.* Being placed in furlough status shall not be considered a break in continuous service under the Nation's Personnel Policies and Procedures law or any other governing law of the Nation that contemplates continuous employment therein.

205.8-3. *Unemployment.* ~~Furloughed employees~~ Employees placed in furlough status shall be responsible for contacting the State of Wisconsin Department of Workforce Development to determine if they qualify for unemployment insurance benefits. ~~Eligibility for unemployment insurance benefits is determined by the State of Wisconsin.~~

(a) Eligibility for unemployment insurance benefits shall be determined by the State of Wisconsin.

~~205.8-4-6.~~ *Benefits.* Employees placed in furlough status shall not use or accrue personal or vacation time when on furlough. Employees for the time that they are off of work as a result of said placement.

(a) To the extent feasible and subject to the policy of insurance or contractual agreement

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governing the specific benefit at issue, employees placed in furlough status shall continue to receive other benefits during a furlough for which they were entitled to before the implementation of the furlough program throughout the period of time in which the furlough program is in place.

~~205.4-7.8-5.~~ *Overtime and Additional Duty Pay.* ~~When a furlough~~ Unless otherwise approved by the Oneida Business Committee on a case-by-case basis, when a furlough program is implemented in a department or agency division, no employee in that department or agency division shall be eligible for:

- (a) ~~overtime~~ Overtime during the same pay period that another employee from the same department or agency division is ~~enplaced in~~ placed in furlough status; or
- (b) ~~additional~~ Additional duty pay for performing duties for other employees in his or her department or agency division who ~~are on~~ have been placed in furlough status.

~~205.4-8.~~ 6. Back Pay. ~~Employees on furlough~~ Except as provided for in section 205.11 of this law, employees placed in furlough status shall not be eligible for back pay awards upon their return to work.

205.5 Furlough Plans

~~205.5-1. Furlough Plans.~~ The 205.8-7. Outside Employment. Employees placed in furlough status shall be allowed to obtain outside employment while in furlough status but shall remain subject to the recall provisions of section 205.9 of this law.

- (a) Employees who obtain outside employment shall continue to adhere to any existing policies of the Nation that govern their positions of employment with the Nation, including, but not limited to, employee confidentiality and social media use, while in furlough status.

205.9. Recall of Furloughed Employees

205.9-1. The following shall be adhered to when deciding the order in which employees placed in furlough status are recalled back to work at the end of a furlough program.

- (a) Order for Employee Recall. If every employee placed in furlough status is unable to be recalled back to work at the same time, or at all, the order of employee recall shall be as follows:

(1) Indian Preference. Indian preference shall be applied to the recall process in the following order, with the first category of employees receiving the greatest level of preference:

- (A) Enrolled members of the Oneida Nation;
- (B) Oneida citizens eligible for enrollment in the Oneida Nation;
- (C) Documented first generation Oneida descendants;
- (D) Indians; and
- (E) Non-Indians.

(2) Other Priorities. If, following application of Indian preference, employees subject to placement in furlough status within the same preference category still remain, priority shall be given to the recall of those remaining employees in the following order, beginning with the first category:

- (A) Seniority. Employees who have served the Nation as a regular status employee without a break in employment for the longest amount of time

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shall be given recall priority first;

(B) *Veteran Status*. If employees remain after applying the priority for seniority, the remaining employees with veteran status shall be given recall priority over those with a more favorable performance evaluation; and

(C) *Performance Evaluation*. If employees remain after applying the priority for veterans, the remaining employees with a more favorable performance evaluation shall be given recall priority over those with a less favorable performance evaluation.

(i) The most current performance evaluation in existence on the date the Oneida Business Committee adopts the furlough resolution at issue shall be the evaluation that is used when assigning priority hereunder.

(b) *Volunteers*. Except as stated herein, employees who qualify for Indian preference and volunteered to be placed in furlough status shall retain said preference rights during the recall process, regardless of volunteering, and be recalled consistent therewith.

(1) A volunteer employee in the same Indian preference category as an employee, who did not volunteer to be placed in furlough status and has no other priority over the volunteer employee, shall be recalled before the non-volunteer employee.

205.9-2. Notice of Recall and Responses.

(a) Employees shall be provided with written notice of their recall from placement in furlough status, using a method that can accurately determine the date of the employee's receipt of said notice.

(1) Along with information relevant to the employee's recall back to work, the written notice of recall shall include the language of subsection (b), below, in its entirety.

(b) *Failure to Respond*. A failure to respond to the notice of recall, in the manner indicated, within ten (10) business days of the employee's receipt thereof shall be interpreted to mean that the employee does not intend to return on the date of his or her recall and treated as a resignation of employment by that employee per the governing laws and policies of the Nation.

205.9-3. Separation in Lieu of Recall. Employees placed in furlough status who are not recalled at the end of the furlough program shall be terminated from their employment with the Nation in accordance with the governing laws/policies of the Nation.

205.10. Responsibilities of Direct Report Level ~~positions shall develop~~ furlough plans and Supervisor Positions

205.10-1. Generally. Persons employed in Direct Report Level and supervisory positions with the Nation, along with any of their authorized designees, shall be responsible for familiarizing themselves with this law, including any policies or procedures promulgated thereunder.

(a) Within a reasonable time after this law goes into effect, and then every two (2) years thereafter, the Direct Report Level and supervisory positions, along with any of their authorized designees, who would be subject to one (1) or more of the responsibilities set forth within this law in the event of a furlough program implementation, shall be required

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to attend training on the application of this law, as well as the programs to be implemented hereunder.

(1) The Human Resources Department shall be responsible for the creation and administration of the training required herein.

(b) Failure to adhere to the requirements or processes set forth within this law may result in disciplinary action or other consequences consistent with the Nation's employment laws.

205.10-2. Direct Report Level Positions. Upon the passage of a resolution directing a furlough be implemented, all Direct Report Level positions and/or authorized designees shall immediately carry out the directive consistent with the resolution; this law, including the Standard Operating Procedure created by the Human Resources Department in accordance therewith; and the furlough implementation plan that was approved for their respective departments and agencies, department or division.

205.5-2. The furlough plans shall set forth how each department or agency intends to implement a furlough. The plan shall include, but not be limited to, the following:

(a) an explanation of how employees will be selected;

(1) Temporary employees shall be furloughed first, followed by employees who volunteer to be furloughed. All other employees shall then be eligible to be furloughed.

(b) a tentative schedule for a furlough;

(1) Furloughs shall be scheduled in a way that allows the departments to continue to provide a basic level of service.

(c) the estimated number of employees affected; and

(d) a summary of how the furlough will relieve budgetary shortfalls.

205.5-3. Disciplinary Furlough. Furloughs shall not be used for disciplinary reasons.

205.5-4. Indian Preference. Indian preference may not be used as a consideration in identifying employees to be furloughed.

205.5-5. All furlough plans shall be kept on file with the Human Resources Department.

205.6 Supervisor Responsibilities

205.6-1. Upon notification directive from the appropriate Direct Report Level position that furloughs are necessary, a supervisor shall:

(a) Identify positions and/or authorized designees, supervisors shall be responsible to provide notice to those employees who will be furloughed.

(b) Notify those employees that they will be furloughed and within their furlough dates; respective department or division as required under section 205.6-3 of this law and provide copies of such notice to the Human Resources Department to maintain in accordance with governing law.

(c) Notify the Human Resources Department of the chosen employees and their furlough dates.

(a) Supervisors shall ensure that job descriptions within their respective departments or divisions are accurately maintained and up-to-date.

205.7 Appeal

205.7-1-1. An employee who has been furloughed placed in furlough status under this Policy law

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may only appeal ~~a furlough that is said placement if~~ based on ~~disciplinary reasons~~ a claim that it occurred in violation of this law.

(a) A written appeal must be submitted to the Direct Report Level position and/or authorized designee within ten (10) business days ~~from of~~ the ~~notification~~ employees receipt of the ~~furlough notice under section 205.6 of this law.~~

(b) The burden for showing that the employee was placed in furlough status in violation of this law is ~~based on disciplinary reasons rests~~ on the employee. appealing the placement.

(c) The Direct Report Level position and/or authorized designee may make a decision based on the written appeal alone.

(1) The Direct Report Level position and/or authorized designee shall provide a written decision on the matter to the employee and the ~~supervisor~~ employee's supervisor within ten (10) business days of receiving the written appeal unless for good cause an extension is necessary.

(2) This decision is final and cannot be appealed.

205.711-2. An employee who has been ~~furloughed~~ placed in furlough status does not have any other right to appeal a furlough decision under any ~~Tribal~~ law, policy or the personnel grievance process of the Nation.

End.

Emergency Adoption – BC-10-15-13-A

Emergency Adoption Extension – BC-04-09-14-D

Adoption – BC-11-10-15-B

Adoption – BC- - - -

Title 2. Employment – Chapter 205
[Oneida Language]
[Translation]
FURLOUGH

205.1. Purpose and Policy
205.2. Adoption, Amendment, Repeal
205.3. Definitions
205.4. Application
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205.8. Furloughed Employees
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205.10. Direct Report Level and Supervisor Responsibilities
205.11. Appeal

205.1. Purpose and Policy

205.1-1. *Purpose.* The purpose of this law is to:

- (a) Enable the Nation to implement a furlough program in response to an interruption of governmental revenues or operations, insufficient treasury funds or other emergencies/unplanned events as determined by the Oneida Business Committee in accordance with this law;
- (b) Establish a consistent and equitable process for implementation of a furlough program; and
- (c) Incorporate Indian preference into the furlough program and require that it be applied in accordance with this law.

205.1-2. *Policy.* It is the policy of the Nation to have consistent and standard procedures to address events and/or incidents that impact employees of the Nation. It is further the policy of the Nation to incorporate and adhere to Indian preference in all aspects of employment within the Oneida Nation.

205.2. Adoption, Amendment, Repeal

205.2-1. This law was adopted by the Oneida Business Committee by resolution BC-11-10-15-B and amended by resolution BC-__-__-__-__.

205.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

205.2-3. 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.

205.2-4. 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.

205.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

205.3. Definitions

205.3-1. This section shall govern the definitions of words or phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) “Acts of God” means an event or effect that can be neither anticipated nor controlled, including both acts of nature, such as floods and hurricanes, and acts of people, such as riots, strikes, and wars.
- (b) “Additional duties” means responsibilities of another position within the Nation that is not within an employee’s current scope of work.

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(c) “Authorized designee” means an employee identified by a Direct Report Level position to develop or assist in developing a furlough implementation plan when the individual employed in the Direct Report Level position is unavailable or requests such assistance from that employee.

(d) “Critical position” means a position of employment within the Nation that is crucial to governmental functions, including, but not limited to, health, safety, regulatory compliance and/or revenue generation.

(e) “Direct Report Level position” means a position of employment within the Nation that is the highest level in the chain of command under the Oneida Business Committee and is responsible for a department and/or division of the Nation.

(f) “Employee” means any individual employed by the Nation, including, but not limited to, employees of any program or enterprise of the Nation, political appointees, temporary employees, and employees on probationary status.

(g) “Furlough” means temporary, unpaid time off of work for a specified period of time.

(h) “Indian” means any person, other than an Oneida citizen, who is a citizen of a federally recognized Indian tribe, other than the Oneida Nation.

(i) “Indian preference” means preference for Indian people, regardless of tribal affiliation, in all aspects of employment, with Oneida citizens being afforded the highest levels of preference for purposes of this law.

(j) “Nation” means the Oneida Nation.

(k) “Oneida citizen” means those persons who are enrolled members of the Nation, eligible for enrollment in the Nation or documented first generation Oneida descendants.

(l) “Supervisor” means an employee of the Nation who directly oversees the work and performance of an employee on a daily basis.

(m) “Temporary employee” means an employee hired by the Nation for a short-term assignment and consists of the following classifications:

- (1) Emergency/Temporary;
- (2) Limited Term;
- (3) Seasonal;
- (4) Substitute/Relief;
- (5) Youth Worker; and
- (6) Student/Intern.

205.4. Application

205.4-1. Unless otherwise stated herein, this law shall apply to all employees of the Nation and all employment decisions of the Nation that are governed, whether in whole or in part, by this law.

205.4-2. *Indian Preference.* It is the intent of this law, and the policy of the Nation, that no employee who is Indian shall be furloughed so long as an employee, within the same department/division and position, who is non-Indian is still employed.

(a) Title VII of the Civil Rights Act of 1964 allows private and government employers on or near a Federal Trust Indian Reservation to exercise Indian preference in employment.

(b) The Indian Self Determination and Education Act affirms that any tribal employment or contract preference laws adopted by such tribe shall govern.

(c) In accordance with this section and subject to any express exceptions set forth herein,

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a furlough program shall be administered in a manner that affords preferential treatment to Oneida citizens and Indians in the following order, starting with those employees to be given the highest level of preference when applying the provisions of this law:

- (1) Enrolled members of the Oneida Nation;
- (2) Oneida citizens eligible for enrollment in the Oneida Nation;
- (3) Documented first generation Oneida descendants;
- (4) Indians; and
- (5) Non-Indians.

205.4-3. *Equal Opportunity Employer.* Notwithstanding section 205.4-2, the Nation is an Equal Opportunity Employer that prohibits the application of this law and/or the implementation of a furlough program in a manner that discriminates based on race, color, religion, sex, pregnancy, age, national origin, citizenship status, veteran status, physical or mental disability, genetic information and/or any other basis protected by the anti-discrimination provisions of Title VII of the Civil Rights Act of 1964.

205.4-4. *Training on Indian Preference.* The Human Resources Department shall be responsible for introducing new employees of the Nation to the concept of Indian preference, as well as how it applies to the furlough programs set forth herein, during employee orientation. Such introduction shall include, at a minimum, coverage of the following topics:

- (a) The history behind Indian preference, including the role that the Bureau of Indian Affairs (“BIA”) had in its development;
- (b) The Indian Self-Determination and Education Assistance Act of 1975, as well as the exception to Title VII of the Civil Rights Act of 1964; and
- (c) Examples of how Indian preference would apply in the event of a furlough program when deciding which employees of the Nation would be placed in furlough status, as well as the order in which they would be recalled, using methods to include, but not be limited to, hypotheticals and charting.

205.4-5. *Prohibitions.* Any furlough program of the Nation that is initiated in accordance with this law shall not:

- (a) Be used as a means to resolve performance-related problems, grievance issues or to take the place of disciplinary actions;
- (b) Be administered or implemented in violation of this law or any other applicable laws/policies of the Nation; and/or
- (c) Be implemented in a manner that requires interdepartmental transfers when applying Indian preference to the processes set forth herein.

205.5. Furlough Implementation Plan

205.5-1. *Implementation Plan.* Within a reasonable time after this law goes into effect, all Direct Report Level positions, or their authorized designees, shall submit a furlough implementation plan to the Human Resources Department for approval.

- (a) The Human Resources Department shall create a standard template that Direct Report Level positions and/or authorized designees must use when developing their furlough implementation plan hereunder.

- (1) The intent of the standard template shall be to elicit, in advance, information that will allow the Nation to implement a furlough program in as efficient and

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consistent a manner as possible under the circumstances, the information of which shall include, but not be limited to:

(A) Which positions within their respective department or division may qualify as a critical position;

(B) Which employees within their respective department or division may qualify for Indian preference and the corresponding level of preference that would apply under section 205.4-2 of this law;

(C) Which positions and/or employees within their respective department or division may be exempt from the application of Indian preference and the basis for said exemption;

(D) Whether any employees within their respective department or division may be interested in volunteering to be placed in furlough status in the event a furlough program is implemented; and

(E) Whether any positions within their respective department or division are capable of being adjusted to promote Indian preference when deciding which employees to place in furlough status.

(2) The Human Resources Department shall submit its standard template to the Oneida Business Committee for approval by resolution prior to distributing it to the Direct Report Level positions and/or authorized designees for development in accordance herewith.

(b) The Human Resources Department shall create a Standard Operating Procedure which sets forth how a furlough implementation plan shall be processed under this law once the standard template is approved by the Oneida Business Committee, that shall, at a minimum, address the following:

(1) Distribution of the standard template to the Direct Report Level positions and/or their authorized designees;

(2) The process for Direct Report Level positions and/or authorized designees to follow upon receiving the standard template, including, but not limited to:

(A) How a furlough implementation plan shall be created using the standard template;

(B) How a furlough implementation plan shall be submitted to the Human Resources Department for approval; and

(C) The amount of time the Direct Report Level positions and/or their authorized designees have to submit their furlough implementation plans to the Human Resources Department upon receipt of the standard template.

(3) How the Human Resources Department will process furlough implementation plans for approval upon submission by the Direct Report Level positions and/or authorized designees; and

(4) How the Human Resources Department will notify the Direct Report Level positions and/or authorized designees of its decision to approve or reject their furlough implementation plan and, if rejected, the reason for the rejection and the process for resubmitting the furlough implementation plan for reconsideration.

(c) Copies of approved furlough implementation plans shall be retained by the Human Resources Department, as well as the Direct Report Level positions and/or authorized

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designees, consistent with governing law.

205.5-2. *Furlough Implementation Plan Updates.* The furlough implementation plan, as well as the standard template upon which it is developed, shall be updated as follows:

(a) *Standard Template.* Within two (2) years of its initial approval by resolution and then every two (2) years thereafter, the Human Resources Department shall review its standard template to assess whether it should be updated to better advance the underlying goals/policies of this section, as well as the law in general.

(1) Updates to the standard template must be approved by the Oneida Business Committee in accordance with section 205.5-1 of this law.

(b) *Implementation Plan.* Within two (2) years of initial approval by the Human Resources Department and then every (2) years thereafter, the Direct Report Level positions and/or authorized designees shall review their furlough implementation plan to assess whether it needs to be updated to account for any relevant changes within their department/division, including, but not limited to, changes in personnel, changes in positions and/or changes to any of the job descriptions attached to a position.

(1) Updates to a furlough implementation plan must be processed and approved in accordance with section 205.5-1 of this law, as well as the Standard Operating Procedure created by the Human Resources Department in accordance therewith.

(c) Nothing in this section shall be interpreted to prohibit an earlier review of the standard template or furlough implementation plan nor the number of times they are reviewed.

205.6. Furlough Implementation

205.6-1. *Alternatives to Furlough.* Prior to adopting a furlough resolution hereunder, the Oneida Business Committee shall consider whether any reasonable alternative options to implementation of a furlough program exist and, if so, exhaust the option or options in advance of implementation so long as the burden of doing so on the Nation as a whole does not outweigh the benefit to the employees who may be affected by the implementation of a furlough program.

205.6-2. *Furlough Resolution.* If the Oneida Business Committee has identified the need for a furlough program, a directive by resolution shall be given to the appropriate Direct Report Level positions, authorized designees, and any other individual or entity deemed necessary by the Oneida Business Committee.

(a) The resolution shall include the following:

(1) The basis for implementing the furlough program;

(2) Whether it is being implemented as an administrative or emergency furlough program;

(3) If feasible under the circumstances and to the extent of such feasibility so long as not less than is required under this law for the particular furlough program being implemented, the beginning and ending dates of the furlough program;

(4) If feasible under the circumstances and to the extent of such feasibility, which areas within the Nation will be subject to the furlough program and which positions, if any, are considered critical positions exempt from being placed in furlough status; and

(5) Whether an ad hoc committee will be established pursuant to this section to assist in the implementation of the furlough program.

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(b) *Ad Hoc Committee.* The Oneida Business Committee may, in its discretion, establish an ad hoc committee to assist in the implementation of a furlough program by, among other actions, helping to identify which areas of the Nation should be subject to the furlough program and which positions, if any, should be deemed critical, when directed to by the Oneida Business Committee.

(1) The ad hoc committee shall be made up of employees of the Nation, identified by the Oneida Business Committee within the furlough resolution or through a subsequent resolution or motion, who possess an expertise commensurate with the type and severity of the event giving rise to the need for the implementation of a furlough program.

(2) The ad hoc committee shall meet as necessary and at the request of the Oneida Business Committee to carry out its responsibilities per the directive of the Oneida Business Committee and in a manner consistent with this law.

(3) The ad hoc committee shall not be subject to the Boards, Committees and Commissions law and employees shall not be entitled to stipends or any additional form of compensation for serving on an ad hoc committee established hereunder.

(4) The ad hoc committee shall dissolve upon conclusion of the furlough program for which it was established or on an early date as determined by the Oneida Business Committee, subject to the following:

(A) The ad hoc committee shall prepare, as well as present, a close-out report, in accordance with the Oneida Business Committee's directive; and

(B) The ad hoc committee shall forward all materials and records that were used and/or created to carry out its responsibilities hereunder to the Human Resources Department for storage/disposal in accordance with governing law.

205.6-3. *Furlough Programs.* A furlough program shall be characterized as either an emergency or an administrative program in the furlough resolution and then carried out in accordance with the portions of this section that apply to such characterization.

(a) *In General.* The following shall apply to all furlough programs implemented hereunder, regardless of their characterization.

(1) Notice of the implementation of a furlough program shall be provided to employees in writing and, along with information relevant to the furlough program being implemented, include the following:

(A) Fair warning regarding the employee's failure to respond to a notice of recall as set forth in section 205.9-2 of this law; and

(B) A directive that it is the responsibility of the employee to ensure that the Nation has his or her most current contact information.

(2) Written notice shall be sent to employees via the outlet(s) deemed most capable of reaching them in as efficient a manner as possible under the circumstances.

(A) In the event that the Nation develops a formal process to provide mass notifications to employees for events such as the implementation of a furlough program, such process shall be deemed the most capable outlet hereunder and used to provide written notice to employees for purposes hereof.

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(b) *Emergency Furlough Program.* An emergency furlough program may be initiated by the Oneida Business Committee when in the best interest of the Nation due to Acts of God that require immediate curtailment of activities within the organization.

(1) *Notice.* Employees shall be notified of the Oneida Business Committee's decision to implement an emergency furlough program as far in advance of the program's implementation date as is reasonably possible under the circumstances.

(A) If circumstances do not allow for the Oneida Business Committee to set a specific date upon which the emergency furlough program will end within the furlough resolution, notice of the anticipated end date shall be provided as soon thereafter as is reasonably possible, consistent with section 205.6-3 of this law.

(2) *Duration.* No emergency furlough program implemented hereunder shall last for longer than twenty-six (26) weeks from the date of implementation, unless extended by the Oneida Business Committee through a subsequent resolution.

(c) *Administrative Furlough Program.* An administrative furlough program may be initiated by the Oneida Business Committee in response to a foreseeable event that is likely to result in a temporary reduction in revenue/funding or some other organizational issue when the intent is to recall employees back to work once the event has subsided.

(1) *Notice.* Employees shall be notified of the Oneida Business Committee's decision to implement an administrative furlough program at least five (5) business days in advance of the program's implementation date.

(2) *Duration.* The beginning and ending dates of the administrative furlough program shall be specified within the furlough resolution.

(A) An administrative furlough program shall end on the date specified within the furlough resolution, unless revised or extended by the Oneida Business Committee through a subsequent resolution.

(B) Notice of a revised or extended end date for an administrative furlough program shall be provided as soon as reasonably possible in advance of the original end date, consistent with section 205.6-3 of this law.

(3) If the intent to bring employees back is not present or is improbable at the time employee reductions are deemed necessary, employees shall be selected for layoff, as opposed to placement in furlough status, consistent with the laws and policies of the Nation governing employee layoffs.

205.7. Placing Employees in Furlough Status

205.7-1. This section shall govern the manner in which employees of the Nation are selected to be placed in furlough status following the adoption of a resolution triggering the implementation of a furlough program.

205.7-2. *Critical Positions.* Except as otherwise stated herein, employment positions identified as critical pursuant to this section of the law shall be exempt from placement into furlough status during the specific furlough program for which the position was deemed critical.

(a) Critical positions shall be identified by the Oneida Business Committee, or ad hoc committee upon the Oneida Business Committee's directive and subject to its approval, within the furlough resolution referenced in section 205.6-2 of this law or as soon thereafter

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as is reasonably possible under the circumstances in a subsequent resolution or motion.

(1) *Amendments.* The Oneida Business Committee, with assistance from the ad hoc committee if so requested, may amend the list of identified critical positions as it deems necessary under the circumstances.

(A) Direct Report Level positions or their authorized designees may submit requests for amendments to the list of identified critical positions under their direction to the Oneida Business Committee for consideration.

(b) *Exception.* The Oneida Business Committee may, when deemed necessary, direct that reductions be made to positions initially identified as critical under this section, through adoption of a subsequent resolution.

(1) Employees within the same critical position who become subject to a reduction hereunder, shall be placed in furlough status pursuant to the order of preference and priority established in section 205.7, and recalled back to work pursuant to the order of preference and priority established in section 205.9, of this law.

205.7-3. *Non-Critical Positions.* Directives from the Oneida Business Committee regarding employee furlough reductions, as set forth in the initial resolution or a subsequent resolution related thereto, shall be carried out by the Direct Reports Level position/authorized designee of the affected department/division in a manner that furthers the policy behind Indian preference to the greatest extent possible without rendering the affected department/division inoperable or unable to reasonably conduct business.

(a) *Placing Employees in Furlough Status.* Unless otherwise stated herein, the following order shall be adhered to when placing non-critical position employees within the same department or division in furlough status.

(1) *Temporary Employees.* Temporary employees within a department or division shall be the first category of employees to be placed in furlough status.

(2) *Volunteer Employees.* Following the placement of temporary employees in furlough status, eligible employees who volunteer for said placement shall be the next category of employees to be placed in furlough status, subject to the following:

(A) Employees who volunteer to be placed in furlough status must sign a form, created by the Human Resources Department, confirming that:

(i) They volunteered to be placed in furlough status notwithstanding any preference or eligibility for retention that they may have;

(ii) Their decision to volunteer was not coerced or based on any promises of compensation or other consideration; and

(iii) They understand that they are not guaranteed a recall back to work and, as a result, could be terminated from their employment with the Nation.

(B) Once signed, the employee shall be provided with a copy for his or her records and the Human Resources Department shall retain the original copy in a manner consistent with the Nation's Open Records and Open Meetings law and/or any other applicable laws of the Nation.

(C) Employees who volunteer to be placed in furlough status shall retain the rights afforded under, as well as be subject to, the recall process set forth in section 205.9 of this law.

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(3) *Indian Preference*. Absent an express exception and after application of sub-sections (1) and (2), above, when the remaining number of employees in the same position within a department or division exceeds the number of said employees to be placed in furlough status, the order of placement shall occur in the following order, beginning with the first category:

- (A) Non-Indians;
- (B) Indians;
- (C) Documented first generation Oneida descendants;
- (D) Oneida citizens eligible for enrollment in the Oneida Nation; and
- (E) Enrolled members of the Oneida Nation.

(i) *Exceptions for Grant Positions*. Employment positions within the Nation that are funded, in whole or part, by appropriations from outside of the Nation, which prohibit, as a condition of receiving said funds, the application of Indian preference in employment practices, shall be exempt from the requirements of section 205.7-3 of this law.

(ii) *Other Exceptions*. Where it would violate an applicable federal law, including any regulations related thereto, or the terms of an applicable loan, memorandum of understanding, contract or other agreement for which the Nation is a party, the requirements of section 205.7-3 shall not apply.

(4) *Other Priorities*. If, following application of Indian preference, employees subject to placement in furlough status within the same preference category still remain, priority shall be given to their retention in the following order, beginning with the first category:

(A) *Seniority*. Employees who have served the Nation as a regular status employee without a break in employment for the longest amount of time shall be afforded the highest level of retention priority.

(B) *Veteran Status*. If employees remain after applying the priority for seniority, employees with veteran status shall be afforded the next level of retention priority over the other employees who remain within the same preference category; and

(C) *Performance Evaluation*. If employees remain after applying the priority for veterans, employees with a more favorable performance evaluation shall be afforded retention priority over the employees with a less favorable performance evaluation who remain within the same preference category.

(i) The most current performance evaluation in existence on the date the Oneida Business Committee adopts the furlough resolution at issue shall be the evaluation that is used when assessing priority hereunder.

205.8. Furloughed Employees

205.8-1. Employees shall not perform any work for the Nation when off of work due to being

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placed in furlough status, which includes, but is not limited to, responding to work-related e-mail and voicemail, as well as traveling on behalf of the Nation.

(a) Employees within the Nation’s Gaming Operations who are placed in furlough status, shall continue to adhere to the “*Who May Not Play Policy*” throughout the furlough period.

205.8-2. *Continuous Employment.* Being placed in furlough status shall not be considered a break in continuous service under the Nation’s Personnel Policies and Procedures law or any other governing law of the Nation that contemplates continuous employment therein.

205.8-3. *Unemployment.* Employees placed in furlough status shall be responsible for contacting the State of Wisconsin Department of Workforce Development to determine if they qualify for unemployment insurance benefits.

(a) Eligibility for unemployment insurance benefits shall be determined by the State of Wisconsin.

205.8-4. *Benefits.* Employees placed in furlough status shall not use or accrue personal or vacation time for the time that they are off of work as a result of said placement.

(a) To the extent feasible and subject to the policy of insurance or contractual agreement governing the specific benefit at issue, employees placed in furlough status shall continue to receive other benefits for which they were entitled to before the implementation of the furlough program throughout the period of time in which the furlough program is in place.

205.8-5. *Overtime and Additional Duty Pay.* Unless otherwise approved by the Oneida Business Committee on a case-by-case basis, when a furlough program is implemented in a department or division, no employee in that department or division shall be eligible for:

(a) Overtime during the same pay period that another employee from the same department or division is placed in furlough status; or

(b) Additional duty pay for performing duties for other employees in his or her department or division who have been placed in furlough status.

205.8-6. *Back Pay.* Except as provided for in section 205.11 of this law, employees placed in furlough status shall not be eligible for back pay upon their return to work.

205.8-7. *Outside Employment.* Employees placed in furlough status shall be allowed to obtain outside employment while in furlough status but shall remain subject to the recall provisions of section 205.9 of this law.

(a) Employees who obtain outside employment shall continue to adhere to any existing policies of the Nation that govern their positions of employment with the Nation, including, but not limited to, employee confidentiality and social media use, while in furlough status.

205.9. Recall of Furloughed Employees

205.9-1. The following shall be adhered to when deciding the order in which employees placed in furlough status are recalled back to work at the end of a furlough program.

(a) *Order for Employee Recall.* If every employee placed in furlough status is unable to be recalled back to work at the same time, or at all, the order of employee recall shall be as follows:

(1) *Indian Preference.* Indian preference shall be applied to the recall process in the following order, with the first category of employees receiving the greatest level of preference:

(A) Enrolled members of the Oneida Nation;

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- (B) Oneida citizens eligible for enrollment in the Oneida Nation;
- (C) Documented first generation Oneida descendants;
- (D) Indians; and
- (E) Non-Indians.

(2) *Other Priorities.* If, following application of Indian preference, employees subject to placement in furlough status within the same preference category still remain, priority shall be given to the recall of those remaining employees in the following order, beginning with the first category:

(A) *Seniority.* Employees who have served the Nation as a regular status employee without a break in employment for the longest amount of time shall be given recall priority first;

(B) *Veteran Status.* If employees remain after applying the priority for seniority, the remaining employees with veteran status shall be given recall priority over those with a more favorable performance evaluation; and

(C) *Performance Evaluation.* If employees remain after applying the priority for veterans, the remaining employees with a more favorable performance evaluation shall be given recall priority over those with a less favorable performance evaluation.

- (i) The most current performance evaluation in existence on the date the Oneida Business Committee adopts the furlough resolution at issue shall be the evaluation that is used when assigning priority hereunder.

(b) *Volunteers.* Except as stated herein, employees who qualify for Indian preference and volunteered to be placed in furlough status shall retain said preference rights during the recall process, regardless of volunteering, and be recalled consistent therewith.

- (1) A volunteer employee in the same Indian preference category as an employee, who did not volunteer to be placed in furlough status and has no other priority over the volunteer employee, shall be recalled before the non-volunteer employee.

205.9-2. *Notice of Recall and Responses.*

(a) Employees shall be provided with written notice of their recall from placement in furlough status, using a method that can accurately determine the date of the employee's receipt of said notice.

- (1) Along with information relevant to the employee's recall back to work, the written notice of recall shall include the language of subsection (b), below, in its entirety.

(b) *Failure to Respond.* A failure to respond to the notice of recall, in the manner indicated, within ten (10) business days of the employee's receipt thereof shall be interpreted to mean that the employee does not intend to return on the date of his or her recall and treated as a resignation of employment by that employee per the governing laws and policies of the Nation.

205.9-3. *Separation in Lieu of Recall.* Employees placed in furlough status who are not recalled at the end of the furlough program shall be terminated from their employment with the Nation in accordance with the governing laws/policies of the Nation.

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205.10. Responsibilities of Direct Report Level and Supervisor Positions

205.10-1. *Generally.* Persons employed in Direct Report Level and supervisory positions with the Nation, along with any of their authorized designees, shall be responsible for familiarizing themselves with this law, including any policies or procedures promulgated thereunder.

(a) Within a reasonable time after this law goes into effect, and then every two (2) years thereafter, the Direct Report Level and supervisory positions, along with any of their authorized designees, who would be subject to one (1) or more of the responsibilities set forth within this law in the event of a furlough program implementation, shall be required to attend training on the application of this law, as well as the programs to be implemented hereunder.

(1) The Human Resources Department shall be responsible for the creation and administration of the training required herein.

(b) Failure to adhere to the requirements or processes set forth within this law may result in disciplinary action or other consequences consistent with the Nation's employment laws.

205.10-2. *Direct Report Level Positions.* Upon the passage of a resolution directing a furlough be implemented, all Direct Report Level positions and/or authorized designees shall immediately carry out the directive consistent with the resolution; this law, including the Standard Operating Procedure created by the Human Resources Department in accordance therewith; and the furlough implementation plan that was approved for their respective department or division.

205.10-3. *Supervisor Responsibilities.* Upon directive from the appropriate Direct Report Level positions and/or authorized designees, supervisors shall be responsible to provide notice to those employees within their respective department or division as required under section 205.6-3 of this law and provide copies of such notice to the Human Resources Department to maintain in accordance with governing law.

(a) Supervisors shall ensure that job descriptions within their respective departments or divisions are accurately maintained and up-to-date.

205.11. Appeal

205.11-1. An employee who has been placed in furlough status under this law may only appeal said placement if based on a claim that it occurred in violation of this law.

(a) A written appeal must be submitted to the Direct Report Level position and/or authorized designee within ten (10) business days of the employee's receipt of the notice under section 205.6 of this law.

(b) The burden for showing that the employee was placed in furlough status in violation of this law is on the employee appealing the placement.

(c) The Direct Report Level position and/or authorized designee may make a decision based on the written appeal alone.

(1) The Direct Report Level position and/or authorized designee shall provide a written decision on the matter to the employee and the employee's supervisor within ten (10) business days of receiving the written appeal unless for good cause an extension is necessary.

(2) This decision is final and cannot be appealed.

205.11-2. An employee who has been placed in furlough status does not have any other right to appeal a furlough decision under any law, policy or the personnel grievance process of the Nation.

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522

523 *End.*

524

525 Emergency Adoption – BC-10-15-13-A

526 Emergency Adoption Extension – BC-04-09-14-D

527 Adoption – BC-11-10-15-B

528 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: November 17, 2021
- 2) Contact Person(s): Lauren McLester-Davis and/or Kristen Hooker
 Dept: LRO
 Phone Number: 920-869-4411 Email: khooker@oneidanation.org
- 3) Agenda Title: Tribal Sovereignty in Data Research
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
Lauren McLester-Davis, a Tulane University Brain Institute Neuroscience
Doctoral Program candidate, has submitted the attached materials in
support of the Nation creating a plan for how research that is conducted
on the Nation or its members is approved, conducted and maintained.

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

- 1) Power point presentation
- 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:
OBC
- 7) Do you consider this request urgent? ☐ Yes ☒ No
 If yes, please indicate why:

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 M. Hooker

Digitally signed by Kristen M. Hooker
 Date: 2021.11.12 14:22:47 -06'00'

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

Proposal for Oneida Nation Data and Research Sovereignty Discussions

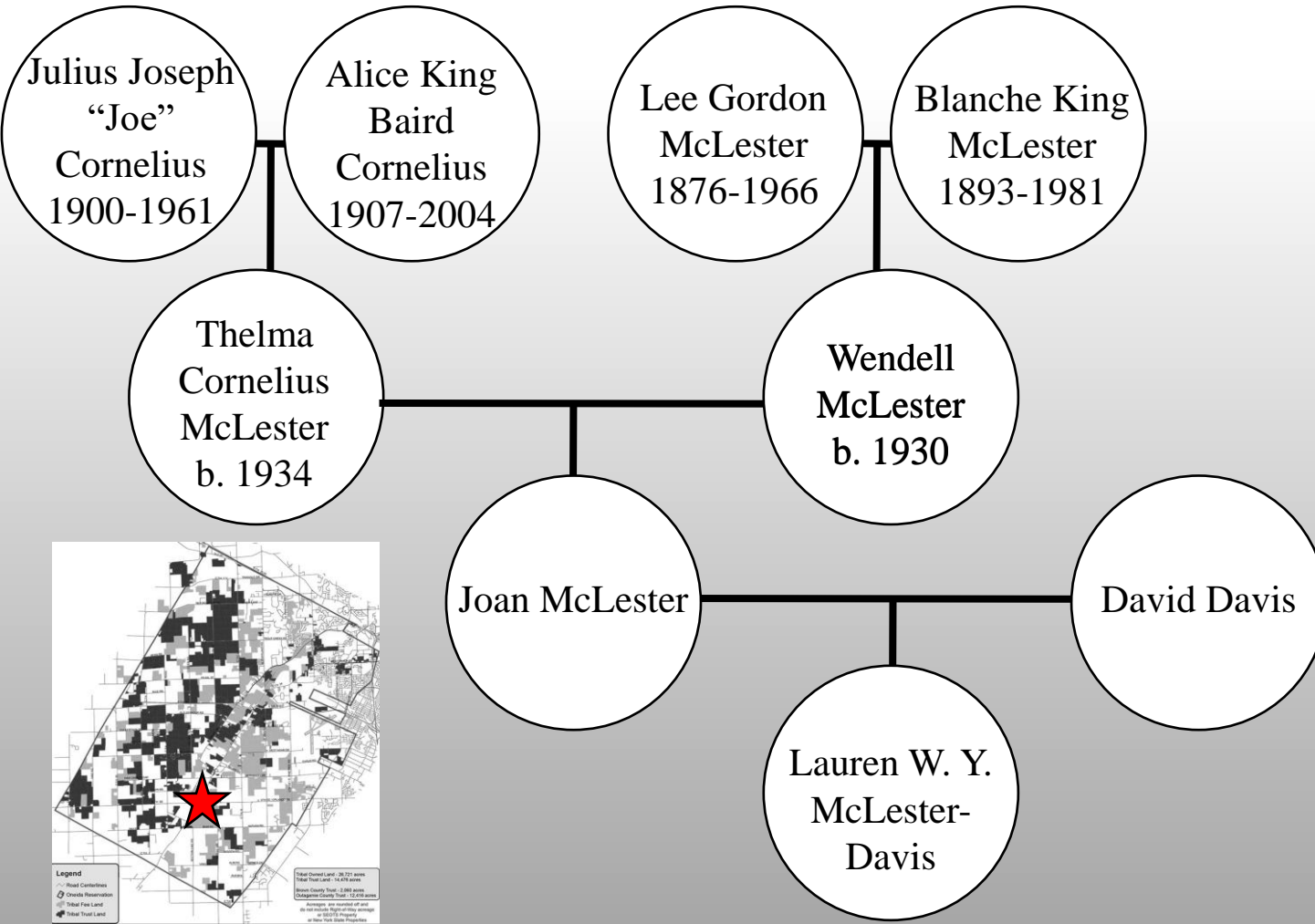
Lauren Wendelle Yowelunh McLester-Davis, Ph.D. in progress

Presented for the Business Committee on October 20th, 2021



Why do I care?

- Currently at Tulane University completing my Ph.D. in Neuroscience
- Collaborations with University Wisconsin (UW) and John Hopkins Center for American Indian Health (JHU)



Developing a data and research sovereignty plan for Oneida

- We should begin discussing the benefits of data and research sovereignty and these discussions will **protect** the tribe from research ethical harms that have happened elsewhere
 - Determinations of good control of data and research conducted in Oneida will need to come from Oneida
 - Implementations of good academic research related policies will be need for academic partnerships
 - Discussions on Planning, Infrastructure Development, Implementation, and Measures of Assessment / Evaluation will lead to protection of the Oneida's sovereign rights

Why get involved in regulating data and research?

- “As **sovereign nations**, American Indian / Alaska Native (AI/AN) communities have the **right** and the **responsibility** to regulate research on their lands. Federal law provides *some protections* for AI/AN people that participate in research, but it is also important that AI/AN community governments *formulate their own policies or laws regulating research*. . . . Although federal policies provide some protection for AI/AN communities, these policies may not always be adequate to fully protect AI/AN communities in research.”
- Puneet Chawla Sahota, on behalf of the National Congress of American Indians Policy Research Center. “Research regulation in American Indian / Alaska Native communities” (2007).

The history of research ethics in Indian Country

- Nuremberg Trials raised awareness of ethical research based on harms to specific groups, '40s
- NIH Clinical Research Center, '53
- Indian Health Service formed, '55
- Tuskegee Syphilis Study violations uncovered, '30s-'70s
- Belmont Report, '79
- Common Rule (45 CFR 46), published in '91
- 1st Tribal Institutional Review Board (Navajo), '96
- Havasupai lawsuit against Arizona Board of Regents and Arizona State University, '04
- Common Rule revisions, '10s
- Continued calls for AI/AN-led research and community based participatory research / community-engaged research
- Data sovereignty

1950s

U.S. Public Health Service Commissioned Corps & University based research

1970s

Indian Self-Determination & Education Assistance Act provided access to grants and contracts to tribes

1990s

Federal regulations on research widely adopted

2010s

Increasing number of Tribal Institutional Review Boards & Community Based Participatory Research

1960s

Civil Rights & American Indian Movement move to restore sovereign rights

1980s

Indian Health Service Institutional Review Board processes takes shape

2000s

National Institutes of Health Native American Research Centers for Health created

2020s

Participation of Tribes in increasing vaccine availability & vaccination during global pandemic

National Bioethics Advisory Commission defined **6 harms** in research; AI/AN have experienced **each harm**.

Harm in Research	AI/AN Example
Psychological Harm (e.g., self-stigmatization, disruption of tribal knowledge systems)	1920s: Publishing of ceremonial details from a southwestern tribal community
Physical Harm	1950s: U.S. Airforce used radioactive iodine to study thyroid function in AN
Economic Harm	1970s: Center for Research on the Acts of Man study of alcoholism in Barrow, AK
Social Harm (e.g., external stigmatization)	1980s: State Health Department study of congenital syphilis that named the tribal community in reports
Legal Harm	1990s: Tribal agency misappropriated genetic results as “Indian markers” and expelled members
Dignitary Harm (e.g., violation of privacy and self-governance)	1990s: Native American Graves Protection and Repatriation Act 1990s: Study of arthritis among Nuu-chah-nulth examined migration without consent
Relational Harm (e.g., mistrust of health research and/or public health)	1990s: C.D.C. use of Navajo placenames in publications despite request to not use them for privacy and protection from external stigmatization 2000s: Study of diabetes among Havasupai examined migration, schizophrenia, inter-relatedness without consent

HAVASUPAI TRIBE v. ARIZONA BOARD OF REGENTS



- In 1989, **a member of the tribe asked** Dr. John Martin to look into diabetes among tribal members
- Dr. Martin, an ASU anthropology professor, had been studying the tribe since 1963 and developed a **good relationship** with tribal members
- Dr. Martin suspected tribal members' diabetes was related to genetics and diet
- Dr. Martin approached ASU genetics professor, Dr. Therese Markow, who agreed to work with Dr. Martin on a diabetes-centered project
- Dr. Markow, despite the Havasupai's **lack of interest in other studies**, prepared and was given a grant to study schizophrenia among tribal members
- ASU did not find a genetic link to diabetes in the tribe, but did continue to research and publish on data from the tribe's blood samples
- **Oneida members**, on the Oneida Nation Committee on Aging (ONCOA) **have asked UW** to provide education and resources around dementia, Alzheimer's, and age-related diseases
- UW professor, Dr. Carey Gleason has developed a **good relationship** with our tribe
- Along with other researchers, there have been educational programs and research studies conducted
- There are increasingly more researchers interested in studying tribal health, genetics, environment, history, etc., and an existing relationship for UW researchers
- However, **our tribe's interests** should lead all data collection and researchers
- Our tribe will need protection 1) from researchers like Dr. Markow and 2) to ensure nation sovereignty

There are also examples of ethical and beneficial research in AI/AN communities

Example of Good Research for AI/AN Communities	Common Characteristics
1997: The People Awakening Project AN people proposed study of alcoholism focused on strengths and resilience of their community	<ul style="list-style-type: none"> • Focused on health priority of the tribe(s) • Incorporated the community values • Benefited the communities with actionable results • Strengths-based view of tribal communities • Innovative in topic or closeness of collaboration
2001: White Mountain Apache Suicide Surveillance and Prevention System Tribe collaborated with Johns Hopkins to develop community-based surveillance, case management, and prevention	
2006: Safe Passage Study Multi-site study on sensitive, potentially stigmatizing issue of alcohol use in pregnancy prioritized by Tribal IRB review	
2010: Alaska Area Specimen Bank Biospecimens from 83,000 persons who participated in projects since the 1960s and previously managed by the C.D.C. transitioned to management by a tribal-federal partnership	
2015: American Indian and Alaska Native Head Start Family and Child Experiences Survey Serves a large portion of AI/AN Head Start students financially and educationally following dozens of tribal approvals	
Present: Oneida Nation relationship with University of Wisconsin (UW) Primarily collaboration between the ONCOA / CAB and Dr. Gleason	

Ways to protect Oneida from potential harms of research and potential drawbacks / benefits

- Do not participate in research
 - Prevents benefits reaching the Oneida community and potential benefits to the greater human population
- Continue to participate in research with recommendations from Business Committee (BC) and Community Advisory Board (CAB)
 - Influx of research requests may bog down existing meetings or be under representative of all Oneida community members (i.e. elders, youth, health care workers, etc.)
- Utilize other systems in place for protecting AI/AN individual participants
 - May not encourage researchers to work for Oneida (i.e. Indian Health Services (HIS) IRBs, the Tribal Health Research Office (THRO), etc.)
- Create a new system that **incorporates Oneida values with academic processes**
 - Other tribes, like Menominee Indian Tribe of Wisconsin, Navajo Nation, Cherokee Nation, Chickasaw Nation, Choctaw Nation, Muscogee Nation, others, and Haskell Indian Nations University

Moving the Oneida – UW relationship along the community engagement to ownership spectrum

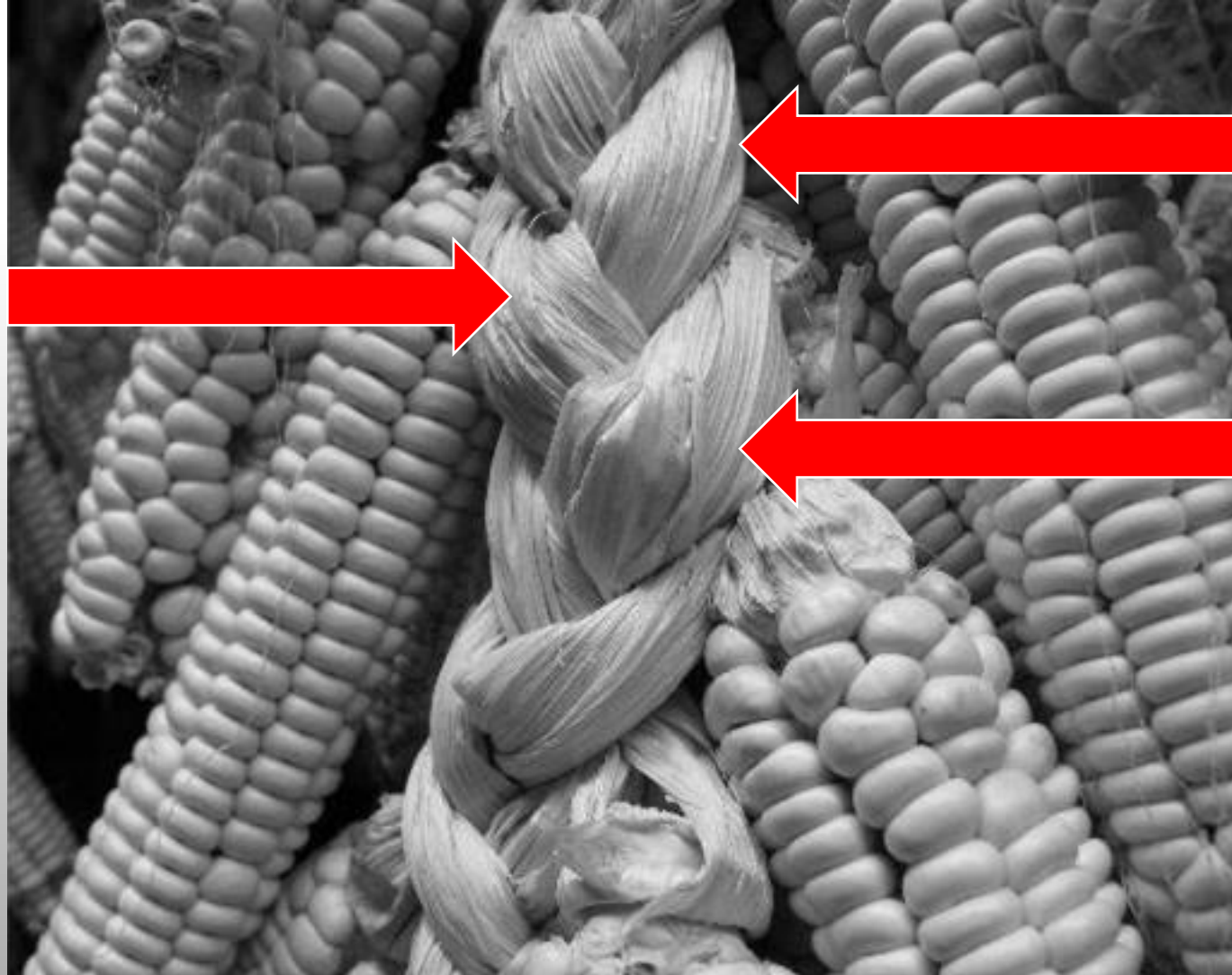


Potential outcomes of discussions on data and research sovereignty

- ☐ Utilize existing review boards (i.e. BC, CAB)
- ☐ Utilizing the existing or creating a new CAB
- ☐ Establishing a Tribal Institutional Review Board (IRB)
- ☐ Create a different type of research review committee to fit the needs of Oneida
- ☐ Delegate a subcommittee of departments of health / social services to consider research approvals
- ☐ Creating protective policies for Oneida regarding jurisdiction in relation to the federal government, HIS, universities, and the surrounding community

Steps moving forward: a braided approach

community education
and feedback



legal protections: laws,
agreements, values

consolidated review
process by health, science
specialists, & community
members for researchers

Questions and Conversation

Thank you

Lauren W. Y. McLester-Davis

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(920) 819-6021



Legislative Operating Committee FY2021 Fourth Quarter Report

Active Files List As of 9/30/2021

Work completed July 1, 2021 – September 30, 2021

Name of Legislation	Development	Public Input	GTC/OBC Consideration or Adoption
Audit Committee Bylaws Amendments			
Budget Management and Control Law Amendments			
Business Corporations Law			
Children's Code Amendments			
Code of Ethics Law Amendments			
Community Support Fund Law Amendments			
Credit Collections Law Amendments			
Drug and Alcohol-Free Law for Elected and Appointed Officials			
Early Return to Work Law Emergency Amendments <i>Emerg. Expires 11/12/21</i>			
Election Law Emergency Amendments <i>Emerg. Expires 10/28/21</i>			
Emergency Management and Homeland Security Law Amendments			
Endowments Law			
Environmental Review Law			
Fire Signs Law			
Furlough Law Amendments			
GTC Meeting Stipends Payment Policy Emergency Amendments <i>Emerg. Expired 4/8/21</i>			
Guardianship Law			
Industrial Hemp Law			
Investigative Leave Policy Amendments			
Law Enforcement Ordinance Amendments			
Layoff Policy Amendments			
Local Land Use Regulation Reimbursement Policy Repeal			
Marijuana Law			
Misappropriations of Funds Law			
Oneida General Welfare Law Emergency Amendments <i>Emerg. Expires 2/10/22</i>			
Oneida Higher Education Pandemic Relief Fund Law Emergency Amendments <i>Emerg. Expired 8/24/21</i>			
Oneida Land Trust Law			
Oneida Nation Emergency Planning Committee Bylaws			
Oneida Nation Gaming Ordinance Emergency Amendments <i>Emerg. Expires 11/12/21</i>			
Oneida Personnel Policies and Procedures Emergency Amendments			

Oneida Worker’s Compensation Law Emergency Amendments <i>Emerg. Expires 11/12/21</i>	<div><div></div></div>
Oneida Trust Enrollment Committee Bylaws	<div><div></div></div>
Pandemic Relief Assistance Law <i>Emerg. Expired 5/24/21</i>	<div><div></div></div>
Pardon and Forgiveness Law Emergency Amendments <i>Emerg. Expires 10/28/21</i>	<div><div></div></div>
Pardon and Forgiveness Screening Committee Bylaws Amendments	<div><div></div></div>
Public Peace Law	<div><div></div></div>
Real Property Law Amendments	<div><div></div></div>
Recycling and Solid Waste Disposal Law Amendments	<div><div></div></div>
Sanctions and Penalties Law	<div><div></div></div>
Taxation Law	<div><div></div></div>
Traffic Law	<div><div></div></div>
Wellness Court Law	<div><div></div></div>
Workplace Violence Law Amendments	<div><div></div></div>

Legislative Operating Committee Action on Legislative Requests

During the FY21 Fourth Quarter the Legislative Operating Committee added four (4) legislative items to its Active Files List and denied the request for three (3) legislative items.

Items Added to the Active Files List by the Legislative Operating Committee

On July 7, 2021, the Legislative Operating Committee added the Local Land Use Regulation Reimbursement Policy Repeal to its Active Files List.

Then on August 4, 2021, the Legislative Operating Committee added the Oneida Nation Emergency Planning Committee Bylaws Amendments to its Active Files List.

On August 18, 2021, the Legislative Operating Committee added the following items to its Active Files List:

- Fire Signs Law; and
- Oneida Personnel, Policies and Procedures Emergency Amendments – Selection Policy.

Items Denied by the Legislative Operating Committee

On August 18, 2021, the Legislative Operating Committee denied the request for amendments to the Workplace Violence law and the Oneida Personnel Policies and Procedures – Revision of HRD Manager Title due to the fact that these items were already on the Active Files List.

On September 15, 2021, the Legislative Operating Committee denied the request to add the Children’s Code Amendments, and the Guardianship law and Adoption law to the Active Files List noting that the Children’s Code Amendments and the Guardianship law are already currently on the Active Files List.

FY21 Fourth Quarter Legislative Accomplishments

The Legislative Operating Committee brought forward the following legislation for adoption or amendment during the FY21 Fourth Quarter:

Oneida General Welfare Law Emergency Amendments Extension

The Oneida General Welfare law was adopted by the Oneida Business Committee on an emergency basis through resolution BC-08-12-20-D for the purpose of providing assistance on a non-taxable basis, to eligible Tribal members through approved programs that promote the general welfare of the Nation including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.1-1, 1001.1-3, 1001.9-2]. The emergency adoption of the Oneida General Welfare law was set to expire on February 12, 2021.

Emergency amendments to the Oneida General Welfare law were then adopted by the Oneida Business Committee through resolution BC-02-10-21-B for the purpose of addressing how an approved program would be adopted by the Oneida Business Committee to allow for more flexibility and efficiency in addressing the needs of the Nation. The emergency amendment to the Oneida General Welfare law revised the definition of approved program to allow an approved program to be adopted by the Oneida Business Committee through resolution or law of the Nation. [10 O.C. 1001.3-1(a)]. Previously, an approved program could only be adopted by the Oneida Business Committee through a law of the Nation. These emergency amendments to the Oneida General Welfare law were set to expire on August 10, 2021.

On July 28, 2021, the Oneida Business Committee extended the emergency amendments for an additional six (6) month period through the adoption of resolution BC-07-28-21-M. A six (6) month extension of the emergency amendments to the Oneida General Welfare law was granted to provide additional time for the Legislative Operating Committee to process the adoption of permanent amendments to the Oneida General Welfare law. The emergency amendments to the Oneida General Welfare law will now expire on February 10, 2022.

Public Peace Law

The purpose of the Public Peace 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. [1 O.C. 309.1-1]. The Public Peace law:

- Delegates jurisdiction to the Trial Court for any action brought under this law [3 O.C. 309.4-1];
- Delegates authority to the Oneida Police Department to investigate complaints involving civil infractions under this law and issue citations for violations of this law [3 O.C. 309.4-3];
- Prohibits a person from committing a civil infraction under this law [3 O.C. 309.4-4];
- Provides the various civil infractions including:
 - Civil infractions against property [3 O.C. 309.5];
 - Civil infractions against the peace [3 O.C. 309.6];
 - Civil infractions against government [3 O.C. 309.7];
 - Civil infractions against the person [3 O.C. 309.8];
 - Civil infractions involving alcohol, tobacco, and drugs [3 O.C. 309.9]; and
 - Civil Infractions affecting health and safety [3 O.C. 309.10];
- Provides that a 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)];

- Requires 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 [3 O.C. 309.11-1(c)]; and
- Provides various penalties to be utilized by the Trial Court upon a finding that a violation of this law has occurred, including:
 - Fines [3 O.C. 309.11-2(a)];
 - Community service [3 O.C. 309.11-2(b)];
 - Counseling and/or other programs [3 O.C. 309.11-2(c)];
 - Restitution [3 O.C. 309.11-2(d)]; and/or
 - Any other penalty as deemed appropriate by the Trial Court [3 O.C. 309.11-2(e)].

The Oneida Business Committee adopted the Public Peace law on September 8, 2021, through resolution BC-09-08-21-A.

FY21 Fourth Quarter Administrative Accomplishments

The Legislative Operating Committee brought forward the following administrative items for adoption or approval during the FY21 Fourth Quarter:

Adoption of the Leasing Law Rule No. 5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)

The Leasing law was adopted for purposes of setting forth the Nation’s authority to issue, review, approve, and enforce leases. [6 O.C. 602.1-1]. The Leasing law delegates authority to the Oneida Land Commission and Land Management to jointly develop rules related to obtaining residential, agricultural, or business leases. [6 O.C. 602.5-1]. Land Management is defined in the Leasing law as “the Division of Land Management or other entity responsible for entering into leases of tribal land”. [6 O.C. 602.3-1(i)]. According to the Real Property law, the Comprehensive Housing Division is the entity responsible for processing all residential leases of Tribal land. [6 O.C. 601.9-1]. Therefore, the Comprehensive Housing Division is Land Management for purposes of the rulemaking authority delegated under the Leasing law.

The purpose of the Leasing law Rule No. 5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (“the Rule”) is to increase the Nation’s land base while maintaining individual homeownership. Through the program, eligible homeowners can sell their land to the Nation and then enter into a residential lease with the Comprehensive Housing Division that will allow them to retain ownership of the improvements, as well as rights to the land upon which those improvements are located.

On September 1, 2021, the Legislative Operating Committee reviewed and certified the Rule, finding good cause under section 106.7-1(a) of the Administrative Rulemaking law to certify this Rule, despite being presented for certification outside of the time limits allowed by the Administrative Rulemaking law upon closure of the public comment period. This Rule was then adopted by the Oneida Business Committee on September 8, 2021. This Rule was later repealed by the Oneida Business Committee on October 13, 2021.

Amendments to the Leasing Law Rule No. 6 -Homeownership by Independent Purchase Program (HIPP)

The Leasing law was adopted for purposes of setting forth the Nation’s authority to issue, review, approve, and enforce leases. [6 O.C. 602.1-1]. The Leasing law delegates authority to the Oneida Land Commission and Land Management to jointly develop rules related to obtaining residential, agricultural, or business leases. [6 O.C. 602.5-1]. Land Management is defined in the Leasing law as “the Division of Land Management or other entity responsible for entering into leases of tribal land”. [6 O.C. 602.3-1(i)]. According to the Real Property law, the Comprehensive Housing Division is the entity responsible for processing all residential leases of Tribal land. [6 O.C. 601.9-1]. Therefore, the Comprehensive Housing Division is Land Management for purposes of the rulemaking authority delegated under the Leasing law.

The purpose of the Leasing law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program (“Rule”) was to amend the HIP Program which was originally promulgated to expand the services being offered by the Nation through a program in which the prospective lessee buyer initiates a purchase where the buyer purchases the improvements; the Nation purchases the land per the Land Management’s Land Acquisitions for Residential Leasing Standard Operating Procedure; and the buyer then enters into a HIP residential lease for the land through the Comprehensive Housing Division. Amendments to the Rule were pursued to modify the existing HIP Program process to account for the division of the Comprehensive Housing Division and Land Management; to incorporate the updated residential leasing rules which now allow parties to have more than one (1) lease at a time; and to open up the HIP Program to non-Tribal members.

On September 1, 2021, the Legislative Operating Committee reviewed and certified the amendments to the Rule, finding good cause under section 106.7-1(a) of the Administrative Rulemaking law to certify the Rule, despite being presented for certification outside of the time limits allowed by law upon closure of the public comment period. [1 O.C. 106.7-1(a)]. This Rule was then adopted by the Oneida Business Committee with revisions on September 8, 2021.

FY21 Fourth Quarter Legislative Highlights

The Legislative Operating Committee would like to highlight its work on the following legislative items during the FY21 Fourth Quarter:

Budget Management and Control Law Amendments

The Legislative Operating Committee held one (1) work meeting during the FY21 Fourth Quarter on the development of amendments to the Budget Management and Control law. The work meeting was held in collaboration with the Treasurer, Finance Administration, and Budget Analyst.

Fire Signs Law

The Legislative Operating Committee held two (2) work meetings during the FY21 Fourth Quarter on the development of a Fire Signs law. The work meeting was held in collaboration with Intergovernmental Affairs and Communications.

Furlough Law Amendments

The Legislative Operating Committee held six (6) work meetings during the FY21 Fourth Quarter on the development of proposed amendments to the Furlough law. Some of the work meetings were held in collaboration with representatives from the Human Resources Department and Retail. On August 4, 2021, the Legislative Operating Committee approved the Furlough law amendments draft and directed that a legislative analysis be prepared for consideration at the next meeting. On August 18, 2021, the Legislative Operating Committee approved the draft amendments to the Furlough law and legislative analysis and deferred these items to a work meeting for further consideration.

Local Land Use Regulation Reimbursement Policy Repeal

The Legislative Operating Committee held one (1) work meetings during the FY21 Fourth Quarter on the proposed repeal of the Local Land Use Regulation Reimbursement Policy. The work meeting was held in collaboration with the Intergovernmental Affairs and Communications Department. On August 18, 2021, the Legislative Operating Committee approved the Local Land Use Regulation Reimbursement Policy Repeal legislative analysis and public meeting notice, and tentatively scheduled a public meeting for the repeal of the Local Land Use Regulation Reimbursement Policy to be held on September 9, 2021.

The September 9, 2021, public meeting for the repeal of the Local Land Use Regulation Reimbursement Policy was canceled in accordance with Oneida Business Committee resolution BC-08-03-21-A, *Setting Public Gathering Guidelines during Public Health State of Emergency—COVID-19*, which prohibits public gatherings when the COVID-19 infection rates within Brown or Outagamie Counties exceed “Low” as identified by the Wisconsin Department of Health Services. The Wisconsin Department of Health Services reported the infections rates within Brown and Outagamie Counties as “Very High” during this time frame. The public comment period remained open in accordance with the Nation’s COVID-19 Team’s March 27, 2020, declaration, *Suspension of Public Meetings under the Legislative Procedures Act*, which suspends the Legislative Procedures Act’s requirement to hold a public meeting during the public comment period due to the COVID-19 public health emergency. Although there was no public meeting, the public comment period was held open for written comments to be submitted until the close of business on September 16, 2021. No public comments were received during this timeframe.

Oneida General Welfare Law

The Legislative Operating Committee held one (1) work meeting during the FY21 Fourth Quarter on the permanent adoption of the Oneida General Welfare law. On July 7, 2021, the Legislative Operating Committee accepted the public comments that were received for the Oneida General Welfare law amendments question: “*Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?*” Then on July 21, 2021, the Legislative Operating Committee approved the Oneida General Welfare law emergency amendments extension packet and forwarded the materials to the Oneida Business Committee for consideration. The emergency amendments to the Oneida General Welfare law were extended by the Oneida Business Committee on July 28, 2021. On September 1, 2021 the Legislative Operating Committee approved the draft of the Oneida General Welfare law and directed that a legislative analysis be completed. On September 15, 2021, the Legislative Operating Committee approved the legislative analysis and the Oneida General Welfare law public comment period notice and

forwarded the Oneida General Welfare law to a public comment period to be held open until October 13, 2021.

Oneida Nation Gaming Ordinance Amendments

The Legislative Operating Committee held one (1) work meeting during the FY21 Fourth Quarter on the amendments to the Oneida Nation Gaming Ordinance.

Oneida Personnel Policies and Procedures Emergency Amendments

The Legislative Operating Committee held two (2) work meetings during the FY21 Fourth Quarter on the emergency amendments to the Oneida Personnel Policies and Procedures. The work meetings were held in collaboration with the Human Resources Department.

Real Property Law Amendments

The Legislative Operating Committee held two (2) work meetings during the FY21 Fourth Quarter on the Real Property law amendments. The work meetings were held in collaboration with the Comprehensive Housing Division, Oneida Law Office, Department of Public Works, and the Environmental, Safety, Health, Land and Agriculture Division.

Public Peace Law

The Legislative Operating Committee held seven (7) work meetings during the FY21 Fourth Quarter on the development a Public Peace law and its accompanying Citations Schedule Resolution. The work meeting was held in collaboration with the Oneida Law Office and the Oneida Police Department. On July 7, 2021, the Legislative Operating Committee accepted the public comments that were received and the public comment review memorandum, and forwarded these items to a work session for further consideration. On July 21, 2021, the Legislative Operating Committee accepted the updated public comment review memorandum and directed the drafting attorney to prepare the final draft of the proposed Public Peace law. On August 4, 2021, the Legislative Operating Committee approved the draft of the Public Peace law and the fiscal impact statement request memorandum and forwarded these items to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by August 18, 2021. The fiscal impact statement was received from the Finance Department on August 17, 2021. On September 1, 2021 the Legislative Operating Committee approved the Public Peace law adoption packet, with updated materials, and forwarded to the Oneida Business Committee for consideration. The Public Peace law was then adopted by the Oneida Business Committee on September 8, 2021.

FY21 Fourth Quarter Legislative Operating Committee Meetings

Typically, all Legislative Operating Committee meetings are open to the public and held on the first and third Wednesday of each month, at 9:00 a.m. in the Norbert Hill Center's Business Committee Conference Room.

Due to the COVID-19 pandemic and the Nation's Public Health State of Emergency, the Legislative Operating Committee meetings were closed to the public during the FY21 Fourth Quarter. Oneida Business Committee resolution BC-08-03-21-A, *Setting Public Gathering Guidelines during Public Health State of Emergency - COVID-19*, requires that Legislative Operating Committee meetings be closed to the public due to the Nation's Public Health State of

Emergency when infection rates within Brown or Outagamie Counties exceed a “Low” designation by the Wisconsin Department of Health Services.

Employees of the Nation are provided the opportunity to attend the Legislative Operating Committee meeting through Microsoft Teams. An audio recording of the Legislative Operating Committee meeting is made available on the Nation’s website after the meeting concludes. Any non-employee who would like to access the Legislative Operating Committee meeting through Microsoft Teams can provide their name, phone number or e-mail address to LOC@oneidanation.org by the close of business the day before a meeting of the Legislative Operating Committee to receive the link to the Microsoft Teams meeting. Additionally, any individual who has comments or questions regarding open session items on a Legislative Operating Committee meeting agenda may submit the comments or questions to LOC@oneidanation.org no later than the close of business the day prior to any Legislative Operating Committee meeting. Any comments received are noticed to the Legislative Operating Committee.

The Legislative Operating Committee held the following meetings during the FY21 Fourth Quarter:

- July 7, 2021 – Regular meeting;
- July 21, 2021 – Regular meeting;
- August 4, 2021 – Regular meeting;
- August 18, 2021 – Regular meeting;
- September 1, 2021 – Regular meeting;
- September 15, 2021 – Regular meeting.

Goals for FY22 First Quarter

During the FY22 First Quarter the Legislative Operating Committee will focus its legislative efforts on the following matters:

1. Continued response to the COVID-19 pandemic;
2. Adoption of the Oneida General Welfare law;
3. Adoption of the Furlough law;
4. Public meeting for the amendments to the Budget Management and Control law;
5. Development of amendments to the Children’s Code;
6. Development of permanent amendments to the Oneida Nation Gaming Ordinance; and
7. Development of amendments to the Real Property law.

Legislative Reference Office

The Legislative Reference Office’s mission is to provide support for the Legislative Operating Committee in developing clear and consistent legislation that reflects the Nation’s values, builds upon the Nation’s strong foundation, and reaffirms our inherent sovereignty. The Legislative Reference Office is currently staffed by the following individuals:

- Clorissa N. Santiago, Senior Legislative Staff Attorney;
- Kristen Hooker, Legislative Staff Attorney; and
- Carmen Vanlanen, Legislative Analyst.
 - Carmen was welcomed to the Legislative Reference Office in August 2021.

Legislative Operating Committee Contact Information

Feel free to contact the LOC at LOC@oneidanation.org with any questions or comments, or individual LOC members at the following:

- David Jordan, LOC Chairman
djordan1@oneidanation.org
- Kirby Metoxen, LOC Vice-Chairman
kmetox@oneidanation.org
- Jennifer Webster, LOC Member
jwebstel@oneidanation.org
- Daniel Guzman King, LOC Member
dguzman@oneidanation.org
- Marie Summers, LOC Member
esummer1@oneidanation.org



November 2021

November 2021

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December 2021

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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Oct 31	Nov 1	2	3 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - LOC	4 1:30pm Budget Management and Control Law 3:00pm Oneida Personnel Policies and Procedures	5	6
7	8	9 10:00am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	10	11	12	13
14	15	16	17 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - Clorissa	18	19	20
21	22	23	24	25	26	27
28	29	30	Dec 1	2	3	4