

ONEIDA NATION PUBLIC MEETING NOTICE

THURSDAY, JANUARY 12 2023, 12:15 pm

Norbert Hill Center-Business Committee Conference Room
N7210 Seminary Rd., Oneida, Wisconsin

Find Public Meeting Materials at
[Oneida-nsn.gov/government/register/public meetings](http://Oneida-nsn.gov/government/register/public%20meetings)



Send Public Comments to

LOC@oneidation.org

Ask Questions here

LOC@oneidation.org

920-869-4417

ONEIDA PERSONNEL POLICIES AND PROCEDURES AMENDMENTS

The purpose of the Oneida Personnel Policies and Procedures is 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. Amendments to the Oneida Personnel Policies and Procedures are being made to address the selection process, as well as the complaint, discipline, and grievance procedures.

Individuals may attend the public meeting for the proposed amendments to the Oneida Personnel Policies and Procedures in person at the Norbert Hill Center, or virtually through Microsoft Teams. If you wish to attend the public meeting through Microsoft Teams please contact LOC@oneidation.org.

If the Norbert Hill Center's Administrative Offices guidelines prohibits a public meeting from being held in person on January 12, 2023, based on the COVID-19 Community levels in Brown and Outagamie Counties, then the public meeting will be held solely on Microsoft Teams.

PUBLIC COMMENT PERIOD CLOSSES THURSDAY, JANUARY 19, 2023

During the public comment period, anyone may submit written comments, questions or input. Comments may be submitted to the Oneida Nation Secretary's Office or the Legislative Reference Office in person, by U.S. mail, interoffice mail, or e-mail.



For more information on the proposed amendments to the Oneida Personnel Policies and Procedures please review the public meeting packet at [oneida-nsn.gov/government/register/public meetings](http://oneida-nsn.gov/government/register/public%20meetings).



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">▪ 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;▪ Clarify that termination of an employee for cause during their original probationary period shall not be subject to appeal; and▪ Clarify that employees who are terminated during their original probation period shall not be paid for any unused accrued vacation or personal days in their final paycheck.▪ Remove the wage deduction for probationary employees.▪ Eliminate much of the process and procedures currently contained in the law regarding the hiring and selection process, and instead provides that the HRD Office shall be delegated rulemaking authority in accordance with the Administrative Rulemaking law to develop rules regarding procedures for the hiring and selection of employees of the Nation.▪ Eliminate much of the process and procedures currently contained in the law regarding the internal transfer process, and instead provides that the HRD Office shall be delegated rulemaking authority in accordance with the Administrative Rulemaking law to develop rules regarding procedures for internal position posting and reassignment of employees of the Nation.▪ Add a new holiday to the list of the Nation's recognized holidays – Indigenous Peoples' Day.▪ Increase the amount of funeral leave that is provided to an employee for attending a funeral of an immediate family member or another individual when the employee is responsible for making funeral arrangements from three (3) days to five (5) days.▪ Simplify the process for an employee to request a leave of absence by eliminating the approval requirements of the Area Manager, HRD Manager, and General Manager, and only requiring the approval of the supervisor.▪ Recognize that there are various levels of severity of complaints, and dependent on the severity of the complaint, not all complaints shall follow the same process by formally recognizing three (3) different types of complaints: employee disagreements, EEO Violations, and Illegal Activities.▪ Provide the process and procedures for who investigates the different complaints, how long a complaint investigation lasts, and the steps for investigating a complain with the goal of providing supervisors or the

	<p>EEO Officer with clear guidance on how a complaint should be investigated, as well as ensure accountability for those who do not follow the complaint procedure.</p> <ul style="list-style-type: none"> ▪ Revise who initiates disciplinary procedure so that it is the immediate supervisor who initiates disciplinary action for the purpose of correcting unsatisfactory work performance or as the resolution of an Employee Disagreement complaint investigation, while it is the EEO Officer who initiates disciplinary action as the resolution of an EEO Violation complaint or an Illegal Activities complaint investigation. ▪ Clarify the requirement to follow a progressive order for discipline, and provide that for any deviation from the progressive order by the supervisor shall be justified in writing and approved by the EEO Department, while any deviation from the recommended progressive order made by the EEO Officer shall be justified in writing and approved by the Human Resources Executive Director, or designee. ▪ Provide greater clarification as to the process when a disciplinary action results in the suspension or termination of an employee. ▪ Allow the Human Resources Department to void a disciplinary action for clear procedural errors. ▪ Split the grievance procedures into two categories based on the type of complaint that the discipline the employee is grieving stems from. <ul style="list-style-type: none"> ▪ An employee may appeal a discipline that resulted from an EEO Violation or Illegal Activities complaint to the Oneida Nation Judiciary by filing a complaint with the Trial Court within ten (10) days from the employee’s receipt of the discipline. ▪ An employee who wishes to appeal a discipline that resulted from an employee disagreement complaint or unsatisfactory work performance may first appeal the discipline to the Area Manager, and then further appeal the Area Manager’s decision to the Oneida Personnel Commission. ▪ Provide that if the Oneida Personnel Commission is unable to fulfil its responsibility to hear an appeal of an Area Manager’s decision, then the employee may appeal the Area Manager’s decision to the Oneida Nation Judiciary by filing a complaint with the Trial Court within ten (10) days from the employee’s receipt of the Area Manager’s decision.
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, Oneida Business Committee, Oneida Personnel Commission, Oneida Nation Judiciary
Public Meeting	A public meeting has not yet been held.
Fiscal Impact	A fiscal impact statement has not yet been requested.
Expiration of Emergency Legislation	The emergency amendments to the Oneida Personnel Policies and Procedures expire on May 11, 2023.

SECTION 2. LEGISLATIVE DEVELOPMENT

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- 2 **A. *Background.*** The Oneida Personnel Policies and Procedures provides the Nation’s employee related
- 3 policies and procedures including recruitment, selection, compensation and benefits, employee
- 4 relations, safety and health, program and enterprise rules and regulations, and record keeping.
- 5 **B. *Emergency Amendments through BC-11-24-21-A.*** On August 18, 2021, the Legislative Operating
- 6 Committee considered a request for amendments to the Oneida Personnel Policies and Procedures from
- 7 the Human Resources Department to address the selection policy in an effort to update the Oneida
- 8 Personnel Policies & Procedures using current interpretations, language, and technology to improve
- 9 and minimize the time to hire employees in a tight labor market. The Legislative Operating Committee
- 10 determined these amendments should be pursued on an emergency basis for the immediate preservation
- 11 of the general welfare of the Reservation population. The Oneidas Business Committee adopted
- 12 emergency amendments to the Oneida Personnel Policies and Procedures through the adoption of
- 13 resolution BC-11-24-21-A to improve the Nation’s hiring capacity and service delivery in the tight
- 14 labor markets that have resulted from the COVID-19 pandemic. These emergency amendments were
- 15 set to expire on May 24, 2022.
- 16 **C. *Additional Emergency Amendments through BC-05-11-22-A.*** When discussing the potential six (6)
- 17 month extension of the emergency amendments to the Oneida Personnel Policies and Procedures
- 18 adopted through resolution BC-11-24-21-A the Legislative Operating Committee determined it was
- 19 necessary to seek additional emergency amendments to the Oneida Personnel Policies and Procedures
- 20 to clarify inconsistencies that arose as a result of the last emergency amendments. The Oneidas Business
- 21 Committee adopted these additional emergency amendments to the Oneida Personnel Policies and
- 22 Procedures through the adoption of resolution BC-05-11-22-A. These emergency amendments were set
- 23 to expire on November 11, 2022.
- 24 **D. *Extension of Emergency Amendments through BC-11-07-22-A.*** The Oneida Business Committee
- 25 extended the emergency amendments to the Oneida Personnel Policies and Procedures as adopted
- 26 through BC-05-11-22-A for an addition six (6) month period through the adoption of resolution BC-
- 27 11-07-22-A. The emergency amendments to the Oneida Personnel Policies and Procedures will now
- 28 expire on May 11, 2023.
- 29 **E.** The Legislative Operating Committee is now seeking the permanent adoption of comprehensive
- 30 amendments to the Law.

SECTION 3. CONSULTATION AND OUTREACH

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- 33 • Representatives from the following departments or entities participated in the development of the
- 34 amendments to this Law and legislative analysis:
- 35 ▪ Human Resources Department.
- 36 • The following laws of the Nation were reviewed in the drafting of this analysis:
- 37 ▪ Investigative Leave Policy;
- 38 ▪ Workplace Violence law;
- 39 ▪ Drug and Alcohol Free Workplace law;
- 40 ▪ Administrative Rulemaking law;
- 41 ▪ Judiciary law; and
- 42 ▪ Oneida Judiciary Rules of Civil Procedure.
- 43

44 **SECTION 4. PROCESS**

45 A. The amendments to this Law comply with the process set forth in the Legislative Procedures Act.

- 46 ▪ On October 7, 2020, the Legislative Operating Committee added this Law to its Active Files
47 List for amendments.
- 48 ▪ On August 18, 2021, the Legislative Operating Committee accepted the information provided
49 in the request [*request for amendments to the Oneida Personnel Policies and Procedures to*
50 *address the revision of the HRD Manager Title*] as information, and also accepted the request
51 [*request for amendments to the Oneida Personnel Policies and Procedures to address the*
52 *selection process*] to be developed as emergency amendments.
- 53 ▪ On November 17, 2021, the Legislative Operating Committee approved the Oneida Personnel
54 Policies and Procedures emergency amendments adoption packet and forwarded this legislative
55 item to the Oneida Business Committee for consideration.
- 56 ▪ On November 24, 2021, the Oneida Business Committee adopted resolution BC-11-24-21-A,
57 *Emergency Amendments to the Oneida Personnel Policies and Procedures - Selection Policy.*
- 58 ▪ On May 4, 2022, the Legislative Operating Committee approved the Oneida Personnel Policies
59 and Procedures emergency amendments adoption packet and forwarded this legislative item to
60 the Oneida Business Committee for consideration.
- 61 ▪ On May 11, 2022, the Oneida Business Committee adopted resolution BC-05-11-22-A,
62 *Additional Emergency Amendments to the Oneida Personnel Policies and Procedures -*
63 *Selection Policy.*
- 64 ▪ On June 8, 2022, the Oneida Business Committee adopted a motion to support the designation
65 of June 19 as an Oneida Nation paid holiday for the Juneteenth National Independence Day
66 and forward to the Legislative Operating Committee for review.
- 67 ▪ On June 15, 2022, the Legislative Operating Committee accept the request for the designation
68 of June 19 as a holiday as information to be discussed during the current development of
69 amendments to the Oneida Personnel Policies and Procedures.
- 70 ▪ On November 3, 2022, the Legislative Operating Committee conducted an e-poll entitled,
71 *Extension of the Emergency Amendments to the Oneida Personnel Policies and Procedures.*
72 The requested action of this e-poll was to approve the Oneida Personnel Policies and
73 Procedures emergency amendments extension packet and forward to the Oneida Business
74 Committee for consideration. This e-poll was approved by David P. Jordan, Kirby Metoxen,
75 Marie Cornelius, Jennifer Webster, and Daniel Guzman King.
- 76 ▪ On November 7, 2022, the Oneida Business Committee conducted an e-poll entitled, *Adopt the*
77 *resolution entitled Extension of the Emergency Amendments to the Oneida Personnel Policies*
78 *and Procedures.* The requested action of this e-poll was to adopt the resolution entitled,
79 *Extension of the Emergency Amendments to the Oneida Personnel Policies and Procedures.*
80 This e-poll was approved by Daniel Guzman King, David P. Jordan, Kirby Metoxen, Brandon
81 Stevens, Jennifer Webster.

82 B. At the time this legislative analysis was developed the following work meetings had been held
83 regarding the development of the amendments to this Law:

- 84 ▪ September 13, 2021: LOC work meeting with HRD.
- 85 ▪ September 15, 2021: LOC work session.
- 86 ▪ October 12, 2021: LOC work meeting with HRD.
- 87 ▪ October 18, 2021: LOC work meeting with HRD.

- 88 ▪ October 21, 2021: Work meeting with HRD.
- 89 ▪ October 25, 2021: LOC work meeting with HRD.
- 90 ▪ November 4, 2021: LOC work meeting with Oneida Business Committee officers and HRD.
- 91 ▪ November 9, 2021: LOC work session.
- 92 ▪ November 30, 2021: Work meeting with HRD.
- 93 ▪ December 15, 2021: LOC work session.
- 94 ▪ February 21, 2022: Work Meeting with HRD.
- 95 ▪ February 24, 2021: LOC work meeting with HRD.
- 96 ▪ April 20, 2022: LOC work session.
- 97 ▪ July 15, 2022: LOC work meeting with HRD.
- 98 ▪ August 31, 2022: LOC work meeting with HRD.
- 99 ▪ October 19, 2022: LOC work meeting with HRD.
- 100 ▪ November 2, 2022: LOC work meeting with HRD.
- 101 ▪ November 23, 2022: LOC work meeting with HRD.
- 102 ▪ December 1, 2022: LOC work session.

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104 **SECTION 5. CONTENTS OF THE LEGISLATION**

105 A. ***Oneida Preference and Indian Preference Statement of Policy.*** The proposed amendments alter the
106 language of the Oneida Preference and Indian Preference Statement of Policy to state that a highly
107 desirable employment characteristic is knowledge of Oneida culture [Section III(A)]. Previously, this
108 section stated that knowledge of Oneida culture can be attained only by membership (or eligibility for
109 membership) in the Oneida Nation [Section III(A)].

- 110 ▪ *Effect:* Language stating that knowledge of Oneida culture can only be attained by membership (or
111 eligibility for membership) is removed due to the belief that knowledge of the Oneida culture may
112 be attained in other ways.

113 B. ***Role of the Oneida Personnel Commission.*** The proposed amendments add language to clarify that
114 the Oneida Nation established the Personnel Commission to represent the Oneida Community-at-large
115 in the selection of tribal employees. employees of the Nation and to shield those employees from
116 inconsistent and unfair treatment by protecting against issues of nepotism and enforcing Oneida and
117 Indian preference. [Section III(B)(2)(b)(1)]. The proposed amendments also add language to state that
118 the Personnel Commission is directed to comply with the Oneida Personnel Commission Bylaws
119 [Section III(B)(2)(b)(1)(a)(iii)]. The proposed amendments also clarify the role of the Oneida Personnel
120 Commission so that it is consistent with the language used in the Oneida Personnel Commission’s
121 bylaws. The proposed amendments now provide that the Personnel Commission is directed to
122 participate in the hiring selection process, including job description pre-screens and interviews, to
123 ensure compliance with the Nation’s laws and policies regarding the following subject matters: Oneida
124 and Indian preference, nepotism, conflicts of interest; veteran status, and physical capacity
125 requirements. The proposed amendments also direct the Oneida Personnel Commission to comply with
126 the Oneida Personnel Commission bylaws.

- 127 ▪ *Effect:* The Personnel Commission will comply with the Oneida Personnel Commission Bylaws to
128 represent the Oneida Community-at-large in the selection of employees of the Nation.

129 C. ***Hiring and Selection Rules.*** The proposed amendments to the Oneida Personnel Policies and
130 Procedures eliminate much of the process and procedures currently contained in the law regarding the
131 hiring and selection process, and instead provides that the HRD Office shall be delegated rulemaking

132 authority in accordance with the Administrative Rulemaking law to develop rules regarding procedures
133 for the hiring and selection of employees of the Nation. [Section III(B)(2)(c)]. Currently, the Law
134 addresses such topics as identification of vacancies and development of job descriptions, applications,
135 advertising, screening of applicants, interviews, and selection.

136 ■ *Effect:* Utilizing the Administrative Rulemaking law for the promulgation of rules regarding the
137 hiring and selection process instead of including this information in the law itself provides greater
138 flexibility to the Human Resources Department to develop rules that best meet the needs of the
139 Nation in its current circumstances. The Administrative Rulemaking law still ensures that the
140 promulgation process is transparent and the community has an opportunity to provide input during
141 the administrative rulemaking process.

142 **D. Internal Position Posting.** The proposed amendments to the Law eliminate much of the process and
143 procedures currently contained in the law regarding the internal transfer process, and instead provides
144 that the HRD Office shall be delegated rulemaking authority in accordance with the Administrative
145 Rulemaking law to develop rules regarding procedures for internal position posting and reassignment
146 of employees of the Nation. [Section III(C)(1)]. Currently, the Law addresses such topics as procedures
147 for internal posting, bidding and transfers; applicant pool process; and reassignments.

148 ■ *Effect:* Utilizing the Administrative Rulemaking law for the promulgation of rules regarding the
149 internal position posting and reassignment of employees instead of including this information in
150 the law itself provides greater flexibility to the Human Resources Department to develop rules that
151 best meet the needs of the Nation in its current circumstances. The Administrative Rulemaking law
152 ensures that the promulgation process is transparent and the community has an opportunity to
153 provide input during the administrative rulemaking process.

154 **E. Original Probation.** The proposed amendments to the Law clarify that the first three (3) months after
155 an employee's starting date after being hired, transferred, or reassigned shall be considered a period of
156 probation. [Section III(D)]. The proposed amendments eliminate the wage deduction for probationary
157 employees. Previously, employees were paid at five percent (5%) below the posted pay rate for the
158 position during their probationary period [Section III(D)(b)(a)], or new employees hired under a
159 negotiated salary received a salary one step below the agreed upon salary during the probationary period
160 [Section III(D)(b)(a)(1)]. The proposed amendments also eliminate the section stating that employees
161 who are terminated during the probation period will receive credit for accrued vacation or personal days
162 in their final paycheck. [Section III(D)(3)(b)]. The Law now clarifies that Employees who are
163 terminated during their original probation period shall not be paid for any unused accrued vacation or
164 personal days in their final paycheck [Section IV(A)(5)(h)(2)].

165 ■ *Effect.* Employees will receive their full wage during their probationary period. Employees that
166 are terminated during their probationary period will not receive credit for accrued vacation or
167 personal days in their final paycheck.

168 **F. Indigenous Peoples' Day.** The proposed amendments to the Law add a new holiday to the list of the
169 Nation's recognized holidays – Indigenous Peoples' Day. [Section IV(A)(4)]. Indigenous Peoples' Day
170 is a holiday in the United States that celebrates and honors indigenous American peoples and
171 commemorates their histories and cultures that is celebrated on the second Monday in October.

172 ■ *Effect.* On June 8, 2022, the Oneida Business Committee adopted a motion to support the
173 designation of June 19 as an Oneida Nation paid holiday for the Juneteenth National Independence
174 Day and forward to the Legislative Operating Committee for review. The Legislative Operating
175 Committee reviewed and discussed this request with the Human Resources Department. Although

176 the Legislative Operating Committee recognizes and appreciates the diversity of members of the
177 Nation, and fully supports the designation of Juneteenth as a federal holiday, the Legislative
178 Operating Committee ultimately decided that the Nation should first recognize Indigenous Peoples'
179 Day as a recognized holiday of the Nation.

180 **G. *Funeral Leave.*** The proposed amendments to the Law increase the amount of leave a regular employee
181 will be given without loss of pay for attending a funeral service for an immediate family member from
182 three (3) days to five (5) days. [Section IV(D)(2)(a)]. Additionally, the amount of leave a regular
183 employee will be given without loss of pay for attending a funeral service where the employee is
184 responsible for making funeral arrangements was also increased from three (3) days to five (5) days.
185 [Section IV(D)(2)(b)]. The Law was then revised to clarify that all other funeral leave shall be limited
186 to three (3) hours with pay. [Section IV(D)(2)(c)]. Currently, the Law provides that all other funeral
187 leave will be limited to no more than one (1) day, although current practice is limited to three (3) hours.

188 ■ *Effect.* The proposed amendments to the Law increase the amount of funeral leave that is provided
189 to an employee for attending a funeral of an immediate family member or another individual when
190 the employee is responsible for making funeral arrangements in an effort to provide more time for
191 the employee to mourn while also recognizing the time that is necessary to make funeral
192 arrangements.

193 **H. *Leave of Absence.*** The proposed amendments to the Law address the approval process for an
194 employee's leave of absence. The proposed amendments provide that all leaves of absences shall be
195 approved by the supervisor. [Section IV(D)(3)(a)(1)(i)]. Under the current version of the Law, a leave
196 of absence is required to be approved by the supervisor, Area Manager, HRD Manager, and General
197 Manager.

198 ■ *Effect.* The proposed amendments to the Law simplify the process for an employee to request a
199 leave of absence by eliminating the approval requirements of the Area Manager, HRD Manager,
200 and General Manager. HRD relied on the input from various levels of management throughout the
201 Nation to come to the determination that it was unnecessary and burdensome to require more
202 approval beyond that of the supervisor.

203 **I. *Complaints.*** The proposed amendments to the Law greatly expand the process and procedure for
204 complaints. Currently, the Law provides that if an employee has a disagreement with another employee,
205 they may lodge an informal (verbal) or formal (written) complaint with the employee's supervisor, and
206 then the supervisor will investigate the complaint and attempt to resolve the disagreement. The Law
207 demonstrates that the Nation recognizes that all employees have the right to file a complaint against
208 another employee, and that all complaint investigations shall be handled with the utmost fairness,
209 respect, and equality. [Section V(D)(1)(a)(1)]. The proposed amendments to the Law now recognize
210 and provides that there are various levels of severity of complaints, and dependent on the severity of
211 the complaint, not all complaints shall follow the same process. [Section V(D)(1)(a)(2)]. The Law now
212 recognizes three (3) different types of complaints: employee disagreements, EEO Violations, and
213 Illegal Activities. [Section V(D)(1)(b)].

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TYPES OF COMPLAINTS

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Employee Disagreement Complaints

An employee alleges they are having a problem or misunderstanding with another employee.

Example: Employee A files a complaint against Employee B because of the unprofessional attitude and tone Employee B is using with both coworkers and customers.

EEO Violation Complaints

An employee alleges they are being bullied, working in a hostile work environment, being discriminated against, being harassed, being intimidated, being retaliated against, or being sexually harassed.

Example: Employee A files a complaint against Employee B because Employee B continues to ask Employee A out on dates, and hug Employee A without their consent.

Illegal Activities Complaints

An employee alleges they witnessed or have knowledge of the occurrence of an illegal activity such as arson, bribery, theft, embezzlement, possession of an unauthorized material or weapon, or the possession or use of an illegal controlled substance.

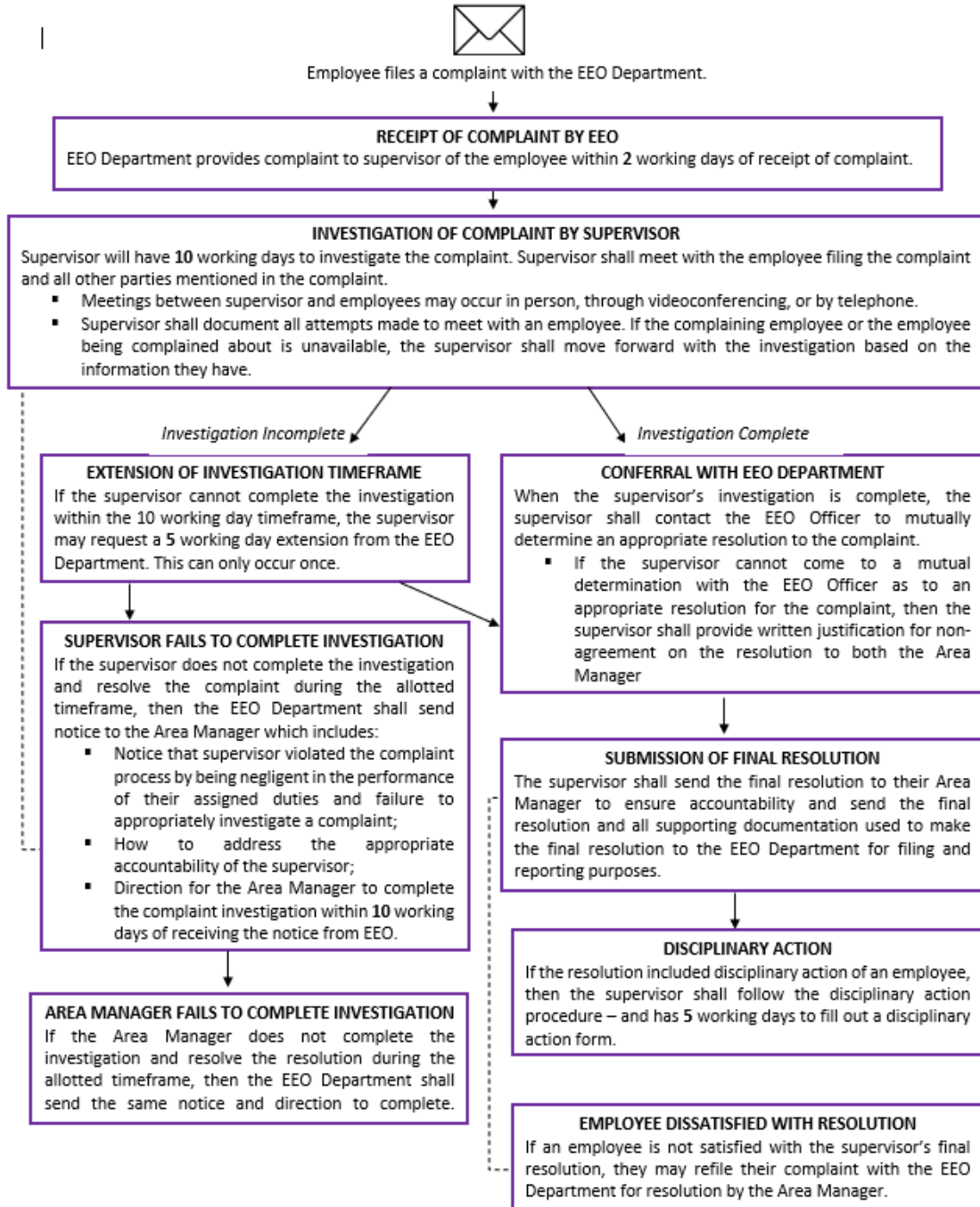
Example: Employee A files a complaint against Employee B because they saw Employee B take money out of the register at the end of their shift.

233 Each type of complaint has its own process and procedures for who investigates the complaint, how
234 long a complaint investigation lasts, and the steps for investigating a complaint. The goal for the
235 employee disagreement complaint process is to provide supervisors with clear guidance on how a
236 complaint should be investigated, as well as ensure accountability for those who do not follow the
237 complaint procedure. [Section V(D)(1)(c)(1)].

238 The employee disagreement complaint process is as follows:

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Employee Disagreement Complaint Process



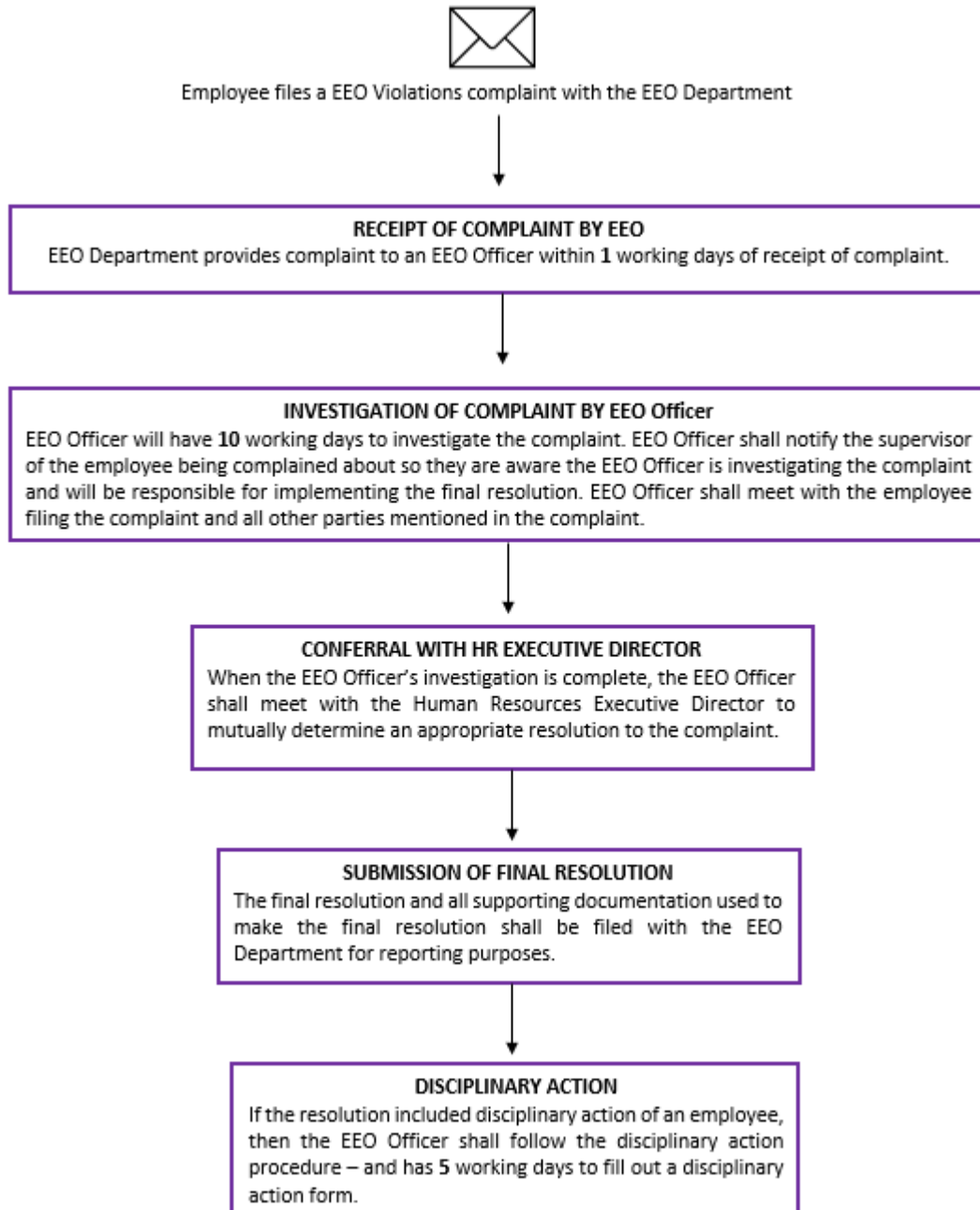
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241 The process for EEO violations complaints places the responsibility to investigate the complaint into
242 the hands of the EEO Department instead of the supervisor based on the increased severity of the
243 complaint. [Section V(D)(1)(c)(2)].

244 The EEO Violation complaint process is as follows:

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EEO VIOLATION COMPLAINT PROCEDURE

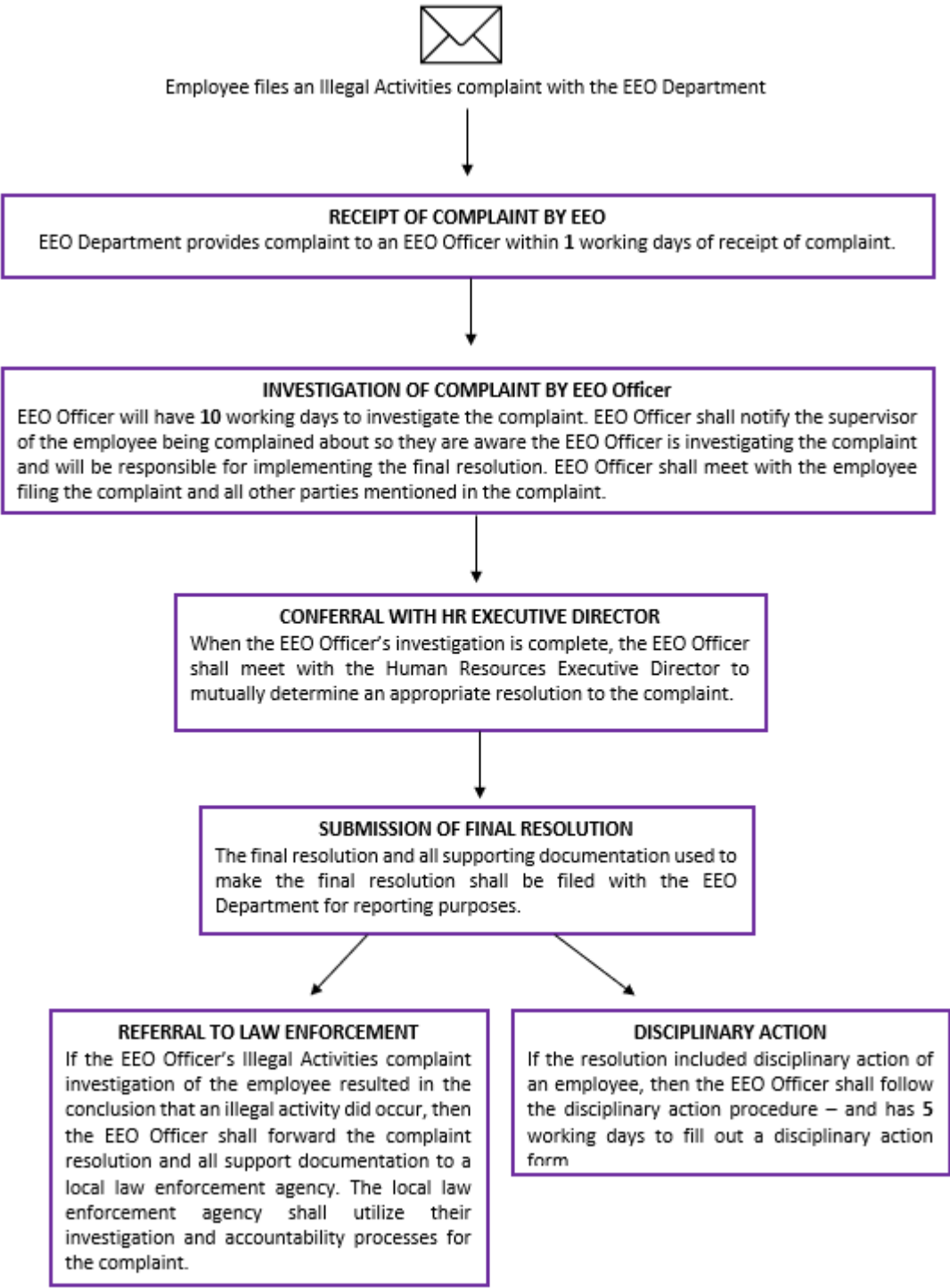


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247 The Nation may utilize its Investigative Leave Policy while the employee is being investigated for an
248 EEO Violations complaint. [Section V(D)(1)(c)(2)(f)]. Much like the process for EEO Violations, the
249 process for Illegal Activities complaints places the responsibility to investigate the complaint into the
250 hands of the EEO Department instead of the supervisor based on the increased severity of the complaint.
251 [Section V(D)(1)(c)(3)]. Previously, only complaints alleging sexual harassment were investigated by
252 the EEO Department.

253 The Illegal Activities complaint process is as follows:

254 **ILLEGAL ACTIVITIES COMPLAINT PROCEDURE**



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256 The Nation may utilize its Investigative Leave Policy while the employee is being investigated for an
257 Illegal Activities complaint. [Section V(D)(1)(c)(3)(f)]. Any employee found to have given false
258 information or made a false claim shall face disciplinary action in accordance with the appropriate
259 policies and procedures. [Section V(D)(1)(a)(3)]. For all types of complaints, access to complaint
260 information shall be limited to those who have a legitimate need to know. [Section V(D)(1)(a)(4)].
261 Retaliation of any form against an employee have a for filing a complaint shall be strictly prohibited.
262 [Section V(D)(1)(a)(5)].

263 ■ *Effect.* The proposed amendments to the Law greatly expand the process and procedure for
264 complaints in recognition that there are various levels of severity of complaints that should be
265 handled in different manners, while also striving to provide clear guidance on how a complaint
266 should be investigated, as well as ensuring accountability for those who do not follow the complaint
267 procedure.

268 **J. Discipline.** The proposed amendments to the Law provide greater clarify to the Nation’s disciplinary
269 procedure. [Section V(D)(2)]. The proposed amendments to the Law revise who initiates disciplinary
270 procedure. Disciplinary actions shall be initiated by an immediate supervisor for the purpose of
271 correcting unsatisfactory work performance or as the resolution of an Employee Disagreement
272 complaint investigation. [Section V(D)(2)(a)(1)]. Disciplinary actions shall be initiated by an EEO
273 Officer as the resolution of an EEO Violation complaint or an Illegal Activities complaint investigation.
274 [Section V(D)(2)(a)(2)]. Previously, disciplinary actions could only be initiated by the supervisor of
275 the employee. The Law has always, and still does require that a supervisor initiate disciplinary actions
276 which commensurate with the seriousness of the unsatisfactory performance or violation. [Section
277 V(D)(2)(b)]. Previously, the Law provided that the supervisor must consider each disciplinary action
278 in progressive order and justify a deviance from that recommended progression. The proposed
279 amendments now provide greater clarification on this issue, and provide that disciplinary action shall
280 be considered in progressive order (written warning → suspension → termination), and that any
281 deviation from the recommended progressive order made by the supervisor shall be justified in writing
282 and approved by the EEO Department, while any deviation from the recommended progressive order
283 made by the EEO Officer shall be justified in writing and approved by the Human Resources Executive
284 Director, or designee. [Section V(D)(2)(b)(2)]. The proposed amendments to the Law clarify that it is
285 both the supervisor and the EEO Officer – depending on the type of violation the complaint is based on
286 – that has responsibilities within the disciplinary procedures when the resolution of a complaint results
287 in the determination that disciplinary action is warranted, or when the determination that disciplinary
288 action is warranted is based on the unsatisfactory work performance of an employee. [Section
289 V(D)(2)(d)]. The proposed amendments to the Law provide greater clarification when a disciplinary
290 action results in the suspension or termination of an employee. If the supervisor is issuing the discipline,
291 then the supervisor is required to consult with the EEO Officer to mutually determine the length of the
292 suspension. [Section V(D)(2)(d)(6)(a)(i)]. If the EEO Officer is issuing the discipline, then the EEO
293 Officer shall consult with the Human Resources Executive Director to mutually determine the length
294 of the suspension. [Section V(D)(2)(d)(6)(a)(ii)]. Previously, the Law required that the supervisor shall
295 consult with the HRD Manager to mutually determine the length of the suspension. Suspension
296 remained capped at a maximum of three (3) weeks. [Section V(D)(2)(d)(6)(b)]. The proposed
297 amendments to the Law also now require that should a disciplinary action result in the termination of
298 an employee, then the supervisor issuing the discipline shall consult with the EEO Officer to mutually
299 determine that the termination is the appropriate disciplinary action, while if it is the EEO Officer is

300 issuing the discipline, then the EEO Officer shall consult with the Human Resources Executive Director
301 to mutually determine that the termination is the appropriate disciplinary action. [Section
302 V(D)(2)(d)(7)(a)]. The proposed amendments to the Law contain a new provision that allows the
303 Human Resources Department to void a disciplinary action for clear procedural errors. [Section
304 V(D)(2)(d)(8)]. The EEO Officer is delegated the authority to void a disciplinary action taken by a
305 supervisor for clear procedural errors, while the Human Resources Executive Director, or designee,
306 may void a disciplinary action taken by an EEO Officer for clear procedural errors. *Id.* Notification of
307 a voided disciplinary action shall be sent to the supervisor or EEO Officer and the employee which
308 identifies the procedural error. *Id.* The Law also now clearly provides that for any supervisor who fails
309 to follow the Nation’s disciplinary procedures, the EEO Department is required to send a letter to the
310 Area Manager notifying the Area Manager that the supervisor violated the disciplinary process by being
311 negligent in the performance of their assigned duties and failed to appropriately discipline an employee,
312 while also addressing the appropriate accountability of the supervisor. [Section V(D)(2)(d)(9)].

313 ▪ *Effect.* The proposed amendments to the Law revise who initiates the discipline – either the
314 supervisor or the EEO Officer – based on how completed the complaint investigation. This was
315 done in an effort to ensure that the individual who initiates the discipline is the individual who
316 collected the information during the complaint and has the most knowledge of the situation.
317 Overall, the amendments to the discipline provisions were made in an effort to provide greater
318 clarity to the discipline processes and procedures.

319 **K. Grievance.** The proposed amendments to the Law split the grievance procedures into two categories
320 based on the type of complaint that the discipline the employee is grieving stems from. An employee
321 may appeal a discipline that resulted from an EEO Violation or Illegal Activities complaint to the
322 Oneida Nation Judiciary by filing a complaint with the Trial Court within ten (10) days from the
323 employee’s receipt of the discipline. [Section V(D)(3)(b)]. This is a new process added to the Law in
324 the proposed amendments. An employee who wishes to appeal a discipline that resulted from an
325 employee disagreement complaint or unsatisfactory work performance may first appeal the discipline
326 to the Area Manager, and then further appeal the Area Manager’s decision to the Oneida Personnel
327 Commission. [Section V(D)(3)(c)]. This is reflective of the current grievance process contained in the
328 Law. In regard to the process for the grievance of a discipline that resulted from an employee
329 disagreement complaint or unsatisfactory work performance, more detail was added to the current
330 process in the Law to provide greater clarity and direction. The Area Manager is given ten (10) working
331 days from the receipt of the employee’s appeal to complete the disciplinary action investigations.
332 [Section V(D)(3)(c)(1)(b)]. The Area Manager is required to meet with the employee filing the appeal
333 of the discipline, the supervisor who issued the discipline, and any other witnesses mentioned in the
334 appeal that were not mentioned in the disciplinary action. [Section V(D)(3)(c)(1)(b)(i)]. Meetings
335 between the Area Manager and the employees may occur in person, through video conferencing, or by
336 telephone. [Section V(D)(3)(c)(1)(b)(ii)]. The Area Manager shall document all attempts made to meet
337 with an employee, and if an employee is unavailable to meet within the grievance timelines, the Area
338 Manager shall move forward with the investigation based on the information they have. [Section
339 V(D)(3)(c)(1)(b)(iii)]. The Law then provides that an Area Manager who does not comply with the
340 disciplinary action grievance procedure may be subject to discipline. [Section V(D)(3)(c)(1)(e)]. The
341 process for the appeal of the Area Manager’s decision to the Oneida Personnel Commission remains
342 mostly unchanged. One revision the proposed amendments to the Law makes to the Oneida Personnel
343 Commission grievance process is that the Human Resources Department is removed from any

344 administrative responsibilities, and instead replaced with the Government Administrative Office, who
345 has administrative responsibilities for the boards, committees, and commissions of the Nation. [Section
346 V(D)(3)(c)(2)]. A new provision was then added to the Law that provides that if the Oneida Personnel
347 Commission is unable to fulfil its responsibility to hear an appeal of an Area Manager’s decision, then
348 the employee may appeal the Area Manager’s decision to the Oneida Nation Judiciary by filing a
349 complaint with the Trial Court within ten (10) days from the employee’s receipt of the Area Manager’s
350 decision. [Section V(D)(3)(c)(2)(k)].

- 351 ▪ *Effect.* The proposed amendments to the Law split the grievance procedures into two categories
352 based on the type of complaint that the discipline the employee is grieving stems from. This
353 amendment was made in recognition that there are various levels of severity of complaints that
354 occur throughout the Nation, and that the different bodies – the Oneida Personnel Commission and
355 the Oneida Nation Trial Court – may be better suited to hear some levels of severity of complaints
356 than others.

358 SECTION 6. EXISTING LEGISLATION

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

- 361 ▪ *Administrative Rulemaking law.* The Administrative Rulemaking law provides an efficient,
362 effective, and democratic process for enacting and revising administrative rules. [1 O.C. 106.1-
363 2].
 - 364 ▪ The amendments to this Law provide that the HRD Office shall be delegated
365 rulemaking authority in accordance with the Administrative Rulemaking law to
366 develop rules regarding procedures for the hiring and selection of employees of the
367 Nation. [Section III(B)(2)(c)].
 - 368 ▪ The amendments to this Law provide that the HRD Office shall be delegated
369 rulemaking authority in accordance with the Administrative Rulemaking law to
370 develop rules regarding procedures for internal position posting and reassignment of
371 employees of the Nation. [Section III(C)(1)].
 - 372 ▪ Any rules developed under this Law are required to be promulgated in accordance with
373 the Administrative Rulemaking law.
- 374 ▪ *Drug and Alcohol Free Workplace Law.* The Drug and Alcohol Free Workplace law
375 establishes a drug and alcohol-free workplace program that balances respect for individuals
376 with the need to maintain an alcohol and drug-free environment. [2 O.C. 202.1-2].
 - 377 ▪ The amendments to the Law provide that complaints of use of prohibited drugs and/or
378 alcohol during working hours shall be reported and processed in accordance with the
379 Nation’s Drug and Alcohol Free Workplace law [Section V(D)(1)(b)(4)(b)].
- 380 ▪ *Workplace Violence Law.* The purpose of the Workplace Violence law is to provide all Oneida
381 Nation employees and visitors an environment that is free of violence and the threat of violence
382 by establishing the procedures by which incidents of workplace violence shall be addressed. [2
383 O.C. 223.1-1. 223.1-2].
 - 384 ▪ Workplace violence means any intentional act committed by an employee in a
385 workplace that: inflicts, attempts to inflict, or threatens to inflict emotional or bodily

- 386 harm on another person; or inflicts, attempts to inflict, or threatens to inflict, damage
387 to property. [2 O.C. 223.3-1(k)].
- 388 ▪ The amendments to the Law provide that complaints of alleged workplace violence
389 shall be reported and processed in accordance with the Nation’s Workplace Violence
390 law. [Section V(D)(1)(b)(4)(a)].
 - 391 ▪ *Investigative Leave Policy.* The purpose of the Investigative Leave Policy is to address
392 investigative leave for employees undergoing work-related investigations, in an effort to
393 maintain confidentiality and avoid undue influence when conducting an investigation into an
394 employee’s alleged wrong doings. [2 O.C. 208.1-1. 208.1-2].
 - 395 ▪ This Law provides that the Nation may utilize its laws and policies governing
396 investigative leave while the employee is being investigated for an EEO Violation
397 complaint or an Illegal Activities complaint. [Section V(D)(1)(c)(2)(f), Section
398 V(D)(1)(c)(3)(f)].
 - 399 ▪ *Judiciary Law.* The purpose of the Judiciary law is to establish a Judiciary, and to provide for
400 the administration of law, justice, judicial procedures and practices by the Oneida Nation as a
401 sovereign nation by exercising the inherent power to make, execute, apply and enforce its own
402 law, and to apply its own customs and traditions in matters affecting the Oneida people. [8
403 O.C. 801.1-1].
 - 404 ▪ The Judiciary law provides that employment grievances shall be heard in accordance
405 with the Nation’s personnel policies and procedures. [8 O.C. 801.4-6(c)].
 - 406 ▪ *Oneida Judiciary Rules of Civil Procedure.* The purpose of the Oneida Judiciary Rules of Civil
407 Procedure is to govern all civil actions that fall under the jurisdiction of the Oneida Nation to
408 ensure that there is a consistent set of rules governing the process for civil claims, in order to
409 ensure equal and fair treatment to all persons who come before the Tribal Courts to have their
410 disputes resolved. [8 O.C. 803.1-1. 803.1-2].
 - 411 ▪ This Law provides that an employee may appeal a discipline that resulted from an EEO
412 Violation or Illegal Activities complaint to the Oneida Nation Judiciary by filing a
413 complaint with the Trial Court within ten (10) days from the employee’s receipt of the
414 discipline. [Section V(D)(3)(b)].
 - 415 ▪ This Law provides that if the Oneida Personnel Commission is unable to fulfil its
416 responsibility to hear an appeal of an Area Manager’s decision, then the employee may
417 appeal the Area Manager’s decision to the Oneida Nation Judiciary by filing a
418 complaint with the Trial Court within ten (10) days from the employee’s receipt of the
419 Area Manager’s decision. [Section V(D)(3)(c)(2)(k)].
 - 420 ▪ The Oneida Judiciary Rules of Civil Procedure governs how a complaint shall be filed
421 with the Oneida Trial Court as well as the various processes and procedures to be used
422 during the various stages of the hearing process.

423 424 **SECTION 7. OTHER CONSIDERATIONS**

425 **A. *Deadline for Permanent Adoption of Legislation.*** The emergency amendments to the Oneida
426 Personnel Policies and Procedures will expire on May 11, 2023.

- 427 ▪ *Conclusion:* The Legislative Operating Committee will need to development and present these
428 permanent amendments to the Oneida Personnel Policies and Procedures to the General Tribal
429 Council prior to May 11, 2023. If the General Tribal Council does not adopt permanent

430 amendments to the Oneida Personnel Policies and Procedures before May 11, 2023, then the Law
431 reverts back to the version in place before the emergency amendments occurred through BC-11-
432 24-21-A and BC-05-11-22-A.

433 **B. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all
434 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
435 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
436 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
437 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
438 completing the fiscal impact statement.

439 ▪ *Conclusion.* A fiscal impact statement has not yet been requested.

440

441



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.

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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.

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~~ [Human Resources](#)
 153 [Executive Director](#), or elected official of 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)

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

267 B. HIRING PROCEDURE

268 1 Statement of Policy

- 269 a. The Oneida Nation is an equal employment opportunity employer and follows
 270 nondiscriminatory policies in hiring.
 271
 272 b. The Oneida Nation is a firm advocate of the 1964 Civil Rights Act (as amended) and
 273 the 1968 Indian Civil Rights Act (as amended) and will make every effort to ensure
 274 compliance with each Act; however:
 275
 276 c. The Oneida Nation follows the principles of Indian Preference in the implementation
 277 of hiring practices (see the Oneida Preference and Indian Preference Statement of
 Policy).

278 2. ~~The members~~Hiring Guidelines

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

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

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

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

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

288 a) ~~Father~~ i) ~~Father in-law~~

289 b) ~~Mother~~ j) ~~Mother in-law~~

290 c) ~~Husband~~ k) ~~Brother in-law~~

291 d) ~~Wife~~ l) ~~Sister in-law~~

292 e) ~~Brother~~ m) ~~Son-in-law~~

293 f) ~~Sister~~ n) ~~Daughter in-law~~

294 g) ~~Son~~ o) ~~Grandparent~~

295 h) ~~Daughter~~ p) ~~Grandchild~~

296 3. ~~Hiring Procedures~~

297 a. ~~HRD Office Responsibilities~~

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

301 b. Personnel Commission Role

302 1) The Oneida Nation established the Personnel Commission to represent the
 303 Oneida Community-at-large in the selection of ~~tribal employees~~employees of the
 304 Nation and to shield those employees from inconsistent and unfair treatment by:

305 a) Protecting against issues of nepotism;

306 b) Enforcing Oneida and Indian preference.

307 ~~2)~~ The Personnel Commission is directed to:

- 308 i.—~~Seek out~~Participate in the best-matched applicants for each available
 309 position;
- 310 ii.—~~Consider only job-related factors (such as education, experience, past job~~
 311 ~~performance, skills and abilities, and compatibility with the position and~~
 312 ~~potential co-workers) when selecting candidates.~~
- 313 c.—~~Identification of Vacancies and Development of Job Descriptions.~~^(Work Standard, 11-16-11)
- 314 1)—~~Supervisors may inform the HRD Office of pending vacancies as soon as they are~~
 315 ~~identified.~~
- 316 2)—~~For existing positions, the HRD Manager (or designate), the supervisor and the~~
 317 ~~Area Manager (at his/her option) will review the hiring selection process,~~
 318 ~~including job description pre-screens and interviews, to ensure compliance with:~~
- 319 a)—~~The the Nation's job structure;~~
- 320 b)—~~The needslaws and requirements of the job.~~
- 321 3)—~~For new positions, the HRD Manager, the appropriate Area Manager, and the~~
 322 ~~supervisor shall develop the job description.~~^(HR Interpretation, 12-8-16)
- 323 a)—~~The new job description shall conform to the Oneida Nation job structure.~~
- 324 b)—~~The new job description will be reviewed by the General Manager.~~
- 325 4)—~~All job descriptions shall contain the following information:~~
- 326 a)—~~Job title, division/department, location, supervisor's title;~~
- 327 b)—~~Posting date, application deadline, preferred starting date, date of job,~~
 328 ~~description review;~~
- 329 c)—~~Pay level (grade, step, hourly rate);~~
- 330 d)—~~A brief job summary;~~
- 331 e)—~~Duties and responsibilities;~~
- 332 f)—~~Qualifications;~~
- 333 g)—~~Inquiry address;~~
- 334 h)—~~Statement of compliance with EEO and Indian Preference policies.~~
- 335 d.—~~Applications~~
- 336 1)—~~All inquiries for job vacancies will be responded to with an Oneida Nation~~
 337 ~~Application Form which will consist of:~~
- 338 a)—~~Job vacancy title;~~
- 339 b)—~~Applicant biographical data;~~
- 340 c)—~~A request for a resume (where applicable).~~
- 341 2)i. ~~The Application Form shall be accompanied by a Statement of Policy~~
 342 ~~regarding Oneida Preference and Indian Preference.~~the following
 343 subject matters:
- 344 3)—~~Hand-delivered applications will be accepted at the HRD Office until 4:30 p.m. on~~
 345 ~~the deadline date; mailed applications must be postmarked on or before the~~
 346 ~~deadline date.~~
- 347 4)—~~All applications will be acknowledged.~~
- 348 e.—~~Advertising~~
- 349 1)—~~Position vacancies will be advertised as widely as possible including:~~
- 350 a)—~~The Kalihwisaks;~~

- 351 b) ~~Statewide, through print and electronic media and public employment~~
 352 ~~agencies;~~
- 353 c) ~~Through targeted recruiting efforts including:~~
- 354 i. ~~Major metropolitan areas (i.e. Milwaukee, Chicago, Minneapolis, etc.)~~
- 355 ii. ~~1. The Bureau of Oneida and Indian Affairs preference;~~
- 356 iii. ~~The Oneida Higher Education Office.~~
- 357 ~~2. Other postings targeted toward special recruiting categories (such as~~
 358 ~~professions) shall be carried out at the discretion of the HRD~~
 359 ~~Office~~ Nepotism;
- 360 3. Conflicts of interest;
- 361 4. Veteran status; and
- 362 5. Physical capacity requirements.
- 363 d) ~~Comply with the advice and consent of the affected department.~~
- 364 2) ~~Unless otherwise prohibited by external grant source or federal law, the first~~
 365 ~~posting for a position vacancy shall be limited to enrolled Oneida members and~~
 366 ~~shall be posted for a minimum of seven (7) calendar days.~~
- 367 3) ~~The second posting for a position vacancy shall be posted for a minimum of ten~~
 368 ~~(10) calendar days and shall be open to the general public, unless the position~~
 369 ~~must be filled by an enrolled Oneida Nation member. (HR Interpretation 9-9-11)~~
- 370 4) ~~All vacancies requiring re-posting shall be referred back to B-2.c (Identification of~~
 371 ~~Vacancies and Development of Job description) to begin the re-posting process.~~
- 372 f. ~~Screening of Applicants (HR Interpretation 11-16-12) (HR Interpretation 10-22-12).~~
- 373 1) ii. ~~A Screening Committee consisting of the HRD Manager (or~~
 374 ~~designate), the position supervisor, the Area Manager (at his/her option),~~
 375 ~~and a member of the Personnel Commission shall be convened to~~
 376 ~~conduct the screening of applicants. The Screening process will begin as~~
 377 ~~soon as practical following the closing of the position. This Committee~~
 378 ~~will: Bylaws.~~
- 379 a) ~~Verify that all applications are complete, are accurate~~ Hiring ~~and were~~
 380 ~~submitted on time.~~
- 381 i. ~~Applications that are incomplete, inaccurate, or were not submitted on~~
 382 ~~or before the posted deadline date may be screened out.~~
- 383 b) ~~Analyze the job description to establish screening criteria. These criteria will~~
 384 ~~include qualifications listed on the job description determined by the~~
 385 ~~supervisor and Area Manager to be essential to the job. (T.O.E. WS-5-6-13)~~
- 386 c) ~~Screen verified applications~~
- 387 d) c. ~~Recommend a list of applicants to be interviewed.~~ Selection Rules.
- 388 2) ~~The HRD Office shall notify screened out applicants within five (5) working days~~
 389 ~~after the initial screening and reserve these applications~~ be delegated rulemaking
 390 authority ~~in the general recruiting pool.~~
- 391 3) ~~The HRD Office will arrange for interviews~~ accordance ~~with the listed candidates.~~
- 392 g. ~~Candidate Interviews~~

- 393 1) ~~An Interview Committee will be convened and will consist of the members of the~~
 394 ~~Screening Committee except that the HRD Manager will be replaced with a~~
 395 ~~second member of the Personnel Commission. The Interview Committee will:~~
 396 a) ~~Construct an interview format consisting of:~~
 397 ~~i. A set of questions related to the screening criteria qualifications;~~
 398 ~~ii. An interview rating scale designed to objectively evaluate each~~
 399 ~~candidate's qualifications.~~
 400 b) ~~Interview candidates and evaluate each individually.~~
 401 2) ~~The HRD Manager (or designee) will total the evaluation rating scale to rank~~
 402 ~~order of the candidates.~~
 403 h. ~~Selection (HR Interpretation - Disqualification of Applicant 10-24-13)~~
 404 1) ~~The supervisor shall select one of the top two (2) candidates as ranked through~~
 405 ~~the rating scale. (HR Interpretation - 10-17-12)~~
 406 a) ~~The supervisor may conduct an additional personal interview with the top~~
 407 ~~two (2) candidates.~~
 408 b) ~~The Administrative Rulemaking law to develop rules regarding procedures~~
 409 ~~for the hiring and selection decision shall be governed by the Oneida~~
 410 ~~Preference and Indian Preference Policy. (HR Interpretation - 6-6-11)~~
 411 c) ~~The HRD Office will notify the selected candidate and offer the candidate the~~
 412 ~~job within five (5) working days of the selection decision by the supervisor.~~
 413 ~~i. Should the supervisor's first choice refuse the offer, the HRD Office will~~
 414 ~~offer the job to the second ranked candidate.~~
 415 2) ~~Should both of the top two ranked candidates refuse the job offer, the~~
 416 ~~supervisor may:~~
 417 a) ~~Repeat the process outlined in B.2.h.1. above; or~~
 418 b) ~~Re post the position.~~
 419 3) ~~The HRD Office will notify those candidates interviewed but not selected of the~~
 420 ~~decision to hire the best qualified candidate.~~
 421 4) ~~1) All newly hired of employees will be listed in of the HR newsletter Nation.~~

- 422
 423 C. ~~TRANSFERS AND PROMOTIONS POLICY~~INTERNAL POSITION POSTING - The Oneida Nation
 424 encourages ~~transfers and promotions~~movement within and among units in order to make
 425 the best possible use of human resources to meet the Oneida ~~Nation~~Nation's goals and
 426 objectives. Supervisors and employees are encouraged to work together to create an
 427 environment in which employees constantly strive to improve their skills and abilities and
 428 ~~managers~~managers constantly seek to provide challenging and rewarding work
 429 experiences.

430 ~~1. Procedure~~

431 ~~a. 1. _____ Internal~~ Position Posting and Bidding Reassignment Rules.

- 432 1) ~~Open positions as determined by a supervisor and his/her Area Manager will be~~
 433 ~~posted internally~~The HRD Office shall be delegated rulemaking authority in
 434 accordance with the Administrative Rulemaking law to develop rules regarding

~~procedures for five (5) working days. This internal position posting will be concurrent with the external (public) posting and reassignment of positions.~~

~~a) Positions will be posted in prominent locations in each Oneida Nation building~~

~~2)a. Oneida Nation employees may bid for transfers by notifying their immediate supervisor and submitting an Application Form to the HRD Office of the Nation.~~

~~a) The HRD Manager will inform all affected Area Managers of each transfer bid.~~

~~3) At the end of the five (5) day internal posting period, the HRD Manager will schedule a conference with the open position's supervisor and the Area Manager.~~

~~a) The conference committee will consist of the supervisor, the Area Manager and the HRD Manager (or designate) acting as this Committee will:~~

~~i. Establish selection criteria; and~~

~~ii. Review each bid.~~

~~b) The Committee may select the best qualified applicant but is not required to choose an applicant to fill the open position from those employees who have submitted an application for a transfer or promotion.~~

~~c) If the Committee does not fill the position from the transfer/promotion process, the process will continue through the full advertising, screening and interview steps.~~

~~i. Any decision will be governed by the Indian Preference Policy.~~

~~4) Employees who are transferred or promoted will not lose any benefits; however:~~

~~a) An employee may be required to continue serving in his/her present position until a replacement can be found;~~

~~b) An employee who is transferred to a position lower on the Oneida Nation Job Structure will be paid at the grade level corresponding to the new position;~~

~~c) An employee must have completed one year of service to the Nation before being eligible for a promotion or transfer (requests for transfers for documented medical conditions will be handled on a case by case basis and only when in the best interests of both the employee and the Nation);~~

~~d) The newly transferred or promoted employee shall be required to complete a three (3) month probation period (all conditions of the Nation's Probation Policy shall apply).~~

~~b. Applicant Pool Process~~

~~1) New and vacant positions will be advertised through the Tribal Applicant Pool.~~

~~2) The job description will be sent to persons whose applications are maintained in the Applicant Pool.~~

~~a) The Tribal Applicant Pool will consist of open (unspecified) applications from Tribal members who wish to be considered for employment by the Nation.~~

~~b) Advertising through the Tribal Applicant Pool will follow the format and time conditions set forth in the Hiring Policy.~~

478 ~~2. Reassignments~~

479 ~~a. Title Reassignments~~

480 ~~1) Title Reassignments may be made by supervisors to:~~

481 ~~a) More accurately describe or define an existing job; or~~

482 ~~b) Make minor adjustments in jobs within a unit or operating division.~~

483 ~~2) Title Reassignments may be made at any time with the approval of the Area~~
 484 ~~Manager and HRD Manager.~~

485 ~~b. Job Reassignments~~

486 ~~1) Job Reassignments may be made by supervisors to make more efficient and~~
 487 ~~effective use of human resources.~~

488 ~~2) Job Reassignments may be supervisor initiated or employee initiated but must be~~
 489 ~~made in the best interests of the operating unit.~~

490 ~~3) Job Reassignments may be made at any time with the approval of the Area~~
 491 ~~Manager and after a review of each affected job by the Personnel Evaluation~~
 492 ~~Committee.~~

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

496 D. ORIGINAL PROBATION

497 ~~1.~~ The first three (3) months after an employee's starting date after being hired,
 498 transferred, or reassigned shall be considered a period of probation. At the end of six
 499 (6) weeks, the employee's performance shall be reviewed with him/her/them by the
 500 supervisor by completing an employee evaluation.

501 ~~a.~~ At the end of the three- (3) month probation period, a second performance evaluation
 502 will/shall be conducted. This evaluation will/shall recommend the end of probation and regular
 503 status for the employee, an extension of probation, or termination for cause.

506 ~~2.1.~~ Status as a Probationary Employee

507 ~~a.~~ Probationary employees will be paid at five percent (5%) below the posted pay rate
 508 for the position.

509 ~~1)~~ New employees hired under a negotiated salary will receive a salary one step
 510 below the agreed upon salary during the probationary period.

511 ~~b.a.~~ Probationary employees will/shall accrue vacation ~~and~~ personal days during the
 512 probation period and will/shall receive holiday pay.

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

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

517 ~~3.~~ Termination of Probation Period

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

- 520 ~~b. Employees who are terminated~~ cause during ~~the probation~~ their original probationary
- 521 ~~period will receive credit for accrued vacation/personal days in their final paycheck.~~
- 522 c. ~~Extensions of probation periods will~~ shall not affect accrual of or use of benefits as
- 523 ~~explained under D.2.~~ be subject to appeal

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SECTION IV - COMPENSATION AND BENEFITS

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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~~ Human Resources Executive Director and the General Manager.

- 561 2. Workday [\(Work Standard, 10-17-12\)](#)
- 562 a. The regular Tribal workday is from 8:00 a.m. to 4:30 p.m. with an hour for lunch. The
- 563 exception to these hours occurs only if the program/enterprise hours must vary for
- 564 the purpose of providing service (such as retail hours beyond 4:30 p.m.). Shifts will
- 565 be developed as needed, and the shift hours will then become the regular workday
- 566 for assigned employees for that program/enterprise.
- 567 b. Employees are expected to be at work each scheduled work day.
- 568 1) Employees who do not report for work because of inclement weather or
- 569 unforeseen circumstances will not be paid for that day. Employees may elect to
- 570 use personal day(s) to cover this absence. [\(W.S. Closures Multiple/Individual Depts.7-28-2017\)](#)
- 571 [\(W.S. Closures Non-Critical Departments/Divisions 7-28-2017\)](#)
- 572 2) In case of an unavoidable delay or absence, the supervisor must be notified no
- 573 later than thirty (30) minutes after the scheduled starting time. Employees are
- 574 encouraged to notify their supervisor before their scheduled starting time.
- 575 i. Employees failing to report to their assigned jobs or failing to call in within the
- 576 thirty (30) minute time allowed will be subject to disciplinary action.
- 577 ii. Permission to leave early must be obtained by the employee from his/her
- 578 supervisor.
- 579 3. Overtime
- 580 a. Any and all overtime will be kept to a minimum and must be approved by the
- 581 Supervisor and Area Manager.
- 582 1) In the case of potential overtime that may occur at night, on holidays or on
- 583 weekends, supervisors will delegate this authority to a specific employee and
- 584 outline specific situations and actions that warrant overtime.
- 585 b. All overtime must be reported to the supervisor for evaluation.
- 586 c. Overtime will be approved only if the program or enterprise budget is capable of
- 587 paying it.
- 588 d. Overtime will be approved only for hours worked in excess of forty (40) hours per
- 589 week. Personal/vacation days and holidays will not count toward the forty (40) hour
- 590 requirements.
- 591 e. Tribal employees are expected to work overtime if required. Time and one-half will
- 592 be paid for this overtime.
- 593 f. Exempt employees are not eligible for overtime.
- 594 1) The HRD Office will maintain a list of exempt employees.
- 595 4. Holidays [\(Work Standard, 11-7-14\)](#)
- 596 a. Tribal holidays consist of the following:
- 597 1) One-half Day Christmas Eve
- 598 2) Christmas Day
- 599 3) New Year's Day
- 600 4) Memorial Day
- 601 5) Veteran's Day
- 602 6) Independence Day
- 603 7) Labor Day

- 604 8) Indigenous Peoples' Day
 605 ~~9)~~ Thanksgiving Day
 606 ~~9)~~ 10) Indian Day (day after Thanksgiving)
 607 ~~10)~~ 11) One-half day Good Friday
 608 ~~11)~~ 12) Code Talker's Day (Oneida Day, Friday prior to Memorial Day)
 609 (BC Resolution – 12-11-13A)
- 610 b. To be eligible for a paid holiday, employees must work the preceding and following
 611 scheduled work days (except for employees who are on a prescheduled work leave
 612 or an approved extended sick leave.) Employees who are granted a sick day directly
 613 prior to a holiday must certify that they were capable of working the holiday in order
 614 to qualify for a paid holiday.
- 615 c. All regular employees will be given holiday pay for the maximum pay of eight (8)
 616 hours per day.
- 617 d. Holidays falling on a Saturday will be observed the preceding Friday; holidays falling
 618 on a Sunday will be observed on the following Monday. [\(2019 Holiday Observance Calendar\)](#)
 619 [\(2018 Holiday Observance Calendar\)](#)
- 620 e. The Oneida Nation acknowledges its responsibility to make a reasonable
 621 accommodation to employees who wish time off to observe religious holidays.
 622 Requests for such time off will be granted where possible, based on the scheduling
 623 and staffing needs of affected departments. Employees wishing to take time off work
 624 for religious observances should inform their supervisor as early as possible.
 625 Employees may use personal time for such requests if eligible; otherwise the time off
 626 will be treated as unpaid leave.
- 627 5. Vacation/Personal Days
- 628 a. Every Oneida Nation employee, except temporary employees, shall be allowed
 629 personal and vacation days with pay to the extent that personal days and vacation
 630 are accumulated.
- 631 b. The amount of personal and vacations days shall be determined by continuous
 632 service for the Nation. A "lay-off" from Oneida Nation employment shall not be
 633 considered an interruption in continuous service where the lay-off is in accordance
 634 with the Nation's Layoff Policy, nor shall a preapproved leave of absence. [\(HR](#)
 635 [Interpretation. 3-6-12\)](#)
- 636 c. Except as provided for in section g, the accrual of personal days shall be as follows:
 637 [\(BC Resolution – 4-11-13-F\)](#)
- 638 1) 0-3 years of service - 6 days per year;
 639 2) 4-7 years of service - 8 days per year;
 640 3) 8-14 years of service - 10 days per year;
 641 4) 15+ years of service - 12 days per year;
- 642 d. Except as provided for in section g, the accrual of vacation days shall be as follows:
- 643 1) 0-3 years of service - 12 days per year
 644 2) 4-7 years of service - 15 days per year;
 645 3) 8-15 years of service - 20 days per year;
 646 4) 15+ years of service - 25 days per year.

- 647 e. Part-time employees accrue personal and vacation days for time actually worked at a
648 ratio of a full-time employee.
- 649 f. Service is defined as working for Programs/Enterprises which are contracted by the
650 Nation or specifically sponsored by the Nation.
- 651 g. Vacation and personal days shall be capped at 280 ~~hrs~~hours. An employee shall
652 cease to accrue vacation and personal hours when he or she has reached 280 total
653 hours. Supervisors shall notify their employees when said employees have
654 accumulated 200 total hours of vacation and personal time. [\(GTC Resolution, 7-2-12A\)](#)
655 1) An employee may trade back accumulated vacation and personal hours in
656 accordance with Section IV.A.5.n. below. [\(GTC Resolution, 5-23-11-B\)](#)
- 657 h. Upon termination from Oneida Nation employment, employees will be paid for any
658 unused personal and/or vacation days.
659 1) Employees who have used the Oneida Nation-sponsored loan program will be
660 required to honor the terms of the loan agreement.
661 2) Employees who are terminated during their original probation period shall not
662 be paid for any unused accrued vacation or personal days in their final paycheck.
- 663 i. Personal Days can be used for any reason so long as the request is approved by the
664 employee's supervisor at least twenty-four (24) hours in advance (unless the absence
665 is due to illness or unforeseen circumstances).
666 1) In the case of illness or unforeseen circumstance, the supervisor shall be notified
667 no later than fifteen (15) minutes before the scheduled starting time.
668 2) Programs and enterprises may institute stricter standards of notification. These
669 standards will be submitted to and approved by the Personnel Department.
- 670 j. An employee shall notify his/her supervisor of an intent to use personal days in the
671 following ways:
672 1) Three (3) to five (5) days - one (1) week advance notification
673 2) Six (6) days or more - two (2) weeks advance notification.
- 674 k. An employee shall notify his/her supervisor one (1) day in advance if he/she will take
675 off one (1) or two (2) days of vacation. Programs and enterprises may institute
676 stricter standards of notification.
677 1) Three (3) to five (5) days of vacation 1) require a one (1) week advance notification.
678 2) Six (6) or more days of vacation require at least two (2) weeks advance
679 notification.
- 680 l. The burden shall be on the supervisor to show that a denial of a personal day or a
681 vacation day is based upon interference with the business of the Nation.
- 682 m. Personal or Vacation Days can be taken when an employee is on probation. [\(GTC](#)
683 [Resolution 5-23-11-B, HR Interpretation 5-8-17\)](#)
- 684 n. Trade-back for Cash - Each fiscal year, the Oneida Business Committee shall analyze
685 fiscal conditions to determine whether employees may trade back personal and/or
686 vacation hours for cash that fiscal year.
687 1) If the Oneida Business Committee approves trade-back for cash, they shall also
688 determine whether (i) and/or (ii) applies: [\(See Revision\)](#)

- 689 i. All employees will have the opportunity to trade-back hours one time that
 690 year.
 691 1. By August 15, each employee who has accumulated twenty-four (24)
 692 hours or more of vacation and/or personal days may opt to trade in
 693 his/her hours for cash.
 694 2. Employees will receive their trade back on or before September 30 of
 695 that year.
 696 ii. Only those employees who are unable to utilize their personal and/or
 697 vacation time due to working conditions, such as a shortage in staffing, as
 698 determined by the ~~HRD Manager~~Human Resources Executive Director or
 699 designee, will have the opportunity to trade back hours on a quarterly basis.
 700 1. Employees will receive their trade back within sixty (60) days after
 701 opting to trade back hours.
 702 2) When trade-back for cash is approved by the Oneida Business Committee, the
 703 following standards shall apply:
 704 i. Employees must decide which status (vacation or personal or both) from
 705 which their trade back will be drawn.
 706 ii. Employees may not trade for cash more than eighty (80) hours in one year.
 707 (GTC Resolution, 5-23-11-B)
 708 o. Additional Duties Compensation
 709 p. Travel Time Compensation (Work Standard , 3-20-13)
 710
 711 B. INSURANCES (see separate publication) for information on Oneida Nation Insurance plans.
 712
 713 C. RETIREMENT PLAN (See separate publication for information on Tribal Retirement Plan).
 714 (Separating Employees WS 5-6-13)
 715 D. LEAVES
 716 1. Meeting Attendance
 717 a. Approval for attending any meetings inside normal working hours must be approved
 718 in advance by the employee's immediate supervisor. (BC Action, 5-16-89)
 719 b. Employees who receive stipends or honoraria in excess of \$50.00 for attending
 720 meetings during working hours will forfeit the amount in excess of \$50.00 from their
 721 regular paycheck. Stipends for travel or per diem will not be deducted if
 722 accompanied by receipts for such expenses.
 723 c. Stipends or honoraria for intra-tribal meetings during normal working hours will
 724 results in the employee's paycheck being reduced by the full amount of the stipend.
 725 2. Funeral Leave (Work Standard, 8-2-11)
 726 a. All regular employees will be given a ~~three (3)~~five (5) day leave without loss of pay for
 727 funeral services for immediate family. Immediate family includes:
 728 Husband Mother Brother Great-grandparent
 729 Wife Father Sister Great-grandchildren
 730 Mother-in-law Son Grandparent Spouse's great-grandparents

- 731 Father-in-law Daughter Grandchild Spouse's grandparents
 732 Daughter-in-law Sister-in-law Brother-in-law
- 733 b. ~~Three (3)~~Five (5) day leave for other persons will be given only if the employee is
 734 responsible for making funeral arrangements, subject to prior approval of supervisor.
- 735 c. All other funeral leave will be limited to ~~no more than one (1) day~~three (3) hours
 736 with pay subject to the notification and approval of the immediate supervisor. (Mgmt
 737 Directive, 12-17-2009)
- 738 3. Leave of Absence (Work Standard, 6-10-14)
- 739 a. A leave of absence without pay may be granted to employees for a justifiable reason
 740 (including caring for a child, spouse or parent with a serious health condition) and
 741 when in the best interest of the Nation.
- 742 1) Leaves of absence will not exceed three (3) months.
- 743 i. All leaves of absence ~~must~~shall be approved by the Supervisor, ~~Area~~
 744 ~~Manager, HRD Manager and General Manager.~~ (HR Interpretation, 12-9-16).
- 745 ii. Requests ~~must~~shall be documented and submitted to the supervisor with as
 746 much advance notice as possible.
- 747 iii. Disposition of requests will be made on the basis of staffing requirements.
- 748 2) Upon returning, the employee will be reinstated in the former position with full
 749 status and benefits. Holiday, vacation, and sick leave will not be accrued during
 750 the leave of absence.
- 751 3) No later than fifteen (15) working days prior to the expiration of the leave period
 752 the employee must give notice in writing of his/her intent to return to the
 753 position. Notice must be presented to the supervisor.
- 754 i. Failure to provide written notice will be interpreted to mean that the
 755 employee does not intend to return following the leave. The position will be
 756 posted and filled through the selection process. (HR Interpretation, 11-21-11)
- 757 4. Maternity Leave
- 758 a. Maternity leave will be granted for a period of six (6) weeks without pay.
- 759 1) An employee may elect to cover any portion of this time by using accumulated
 760 sick days.
- 761 2) Any maternity-related absences for longer than six (6) weeks must be taken as a
 762 medical leave of absence.
- 763 5. Military Leave
- 764 a. In addition to the following provisions, the Nation's Military Service Protection Act
 765 shall govern Military Leave.
- 766 b. A Military Leave of Absence is afforded employees entering active duty without
 767 accumulation of holiday, vacation or personal time during the period of leave. Any
 768 accumulated benefits prior to leave will be maintained for the employee.
- 769 c. Time off for inactive duty training, examinations to determine fitness for duty and
 770 funeral honors duty shall be afforded to employees without the accumulation or loss
 771 of holiday, vacation or personal time. An employee will receive pay from the Nation
 772 for any hours work that the employee was required to miss due to reservist training.

- 773 1) Any pay received for performing any of the above duties shall be deducted from
 774 the employee's pay. [\(GTC Resolution, 1-26-08A\)](#)
- 775 6. Jury Duty
- 776 a. During a period of jury duty, an employee will receive pay from the Nation for any
 777 hours of work missed due to jury duty.
- 778 1) Jury duty pay will be deducted from the employee's paycheck when determining
 779 the amount of pay
- 780 2) No overtime will be allowed in determining employee pay while serving on jury
 781 duty.
- 782 7. Educational Leave [\(BC Action, 5-4-90\)](#)
- 783 a. A leave of absence for education purposes will not exceed one (1) year.
- 784 8. Parent Policy Leave [\(BC Action, 3-2-94A\)](#) [\(Parental Leave Policy, 11-3-17\)](#)
- 785 a. Employees who are parents, guardians, or those individuals specifically referred to as
 786 "immediate family" as defined in Section IV, page 6 of these Personnel Policies and
 787 Procedures which includes husband, wife, mother, father, brother, sister, son,
 788 daughter, mother-in-law, father-in-law, grandparent and grandchild may request to
 789 participate in their child(ren)'s educationally sanctioned events not to exceed four (4)
 790 hours per employee per month
- 791 1) These four (4) hours shall not accumulate.
- 792 b. Approval to utilize the four (4) hours must be obtained from the supervisor.
- 793 1) An employee shall request his/her supervisor to utilize this leave with a minimum
 794 of twenty-four (24) hours' notice.
- 795 2) The Supervisor may request verification of
- 796 i. Guardianship of the child(ren) and/or
- 797 ii. The attendance of the employee at their child(ren)'s educationally sanctioned
 798 event.
- 799 c. The burden shall be on the supervisor to show that a denial of the Parent Policy
 800 Leave which is based upon interference with the business of the Nation.
- 801 d. This leave shall not be paid as overtime. The supervisor may have the option to use
 802 flex time to cover this time off to attend their child(ren)'s educationally sanctioned
 803 events.
- 804 e. All employees, except Emergency/Temporary, Youth Workers, Student Interns, and
 805 Seasonal Workers during their first season, and Substitute Reliefs are eligible to
 806 participate in this benefit.
- 807

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810 **SECTION V – EMPLOYEE RELATIONS**

811

812 A. ORIENTATION POLICY

813 The Oneida Nation reflects the unique culture and character of our Nation. The Oneida Nation

814 recognizes that this may present special problems and difficulties for a new employee. The
 815 Nation therefore provides an Orientation Program designed to ease the new employee's
 816 transition into a job and enable the new employee to become effective and productive as
 817 quickly as possible.

818 1. Orientation Program Outline

- 819 a. Overview
- 820 b. Tribal Government and Procedures
- 821 c. Key Policies and Procedures
- 822 d. Benefits
- 823 e. Safety, Health and Security
- 824 f. Departmental Orientation

825 2. Responsibilities

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

849
 850 B. EVALUATIONS

- 851 1. Evaluation reports will be used in determining all promotions, transfers and salary
- 852 adjustments.
- 853 2. Annual evaluation reports for each employee will be submitted to the HRD Office by
- 854 August 1 of each year. [\(Work Standard, 6-23-15\)](#)
- 855 a. Evaluation reports will be retained in each employee's personnel file.
- 856 3. All Oneida Nation employees will be evaluated at least once a year.
- 857 a. Employee performance evaluations will be conducted by each employee's immediate
- 858 supervisor. The Business Committee will conduct the performance evaluation of the
- 859 General Manager. [\(HR Interpretation, 12-8-16\)](#)
- 860 b. The supervisor will discuss the evaluation with each employee. The evaluation will
- 861 then be signed by the employee and the supervisor and forwarded to the HRD
- 862 Office.

- 863 4. Satisfactory evaluations may result in the employee receiving an increase in pay within
 864 their grade level provided that the employee has not attained the highest step within the
 865 grade.
 866 a. Unsatisfactory evaluations will result in probation status for the employee. The
 867 supervisor shall provide documentation to the Area Manager and to the employee
 868 detailing the deficiency(s). A repeat evaluation will be conducted three (3) months
 869 after the unsatisfactory evaluation. This second evaluation will result in the
 870 employee:
 871 1) Being removed from probation and receiving a salary increase if the second
 872 evaluation results in an overall satisfactory rating; or
 873 2) Receiving appropriate disciplinary actions if the second evaluation also results in
 874 an unsatisfactory rating.
 875 b. Employees may appeal unsatisfactory evaluations to the ~~HRD Manager. The HRD~~
 876 ~~Manager~~ Human Resources Executive Director. The Human Resources Executive
 877 Director will consult with the supervisor and the employee to negotiate an
 878 appropriate resolution (Work Standard, 12-8-16)
 879

880 C. CAREER DEVELOPMENT

- 881 1. Oneida Nation employees are encouraged to develop their skills and abilities by
 882 pursuing education at a local educational institution. (BC Action, 9-9-92)
 883 a. Oneida Nation employees must provide a general Career Development Plan to the
 884 supervisor listing the goals and objectives of the training and education to be
 885 undertaken.
 886 2. Oneida Nation employees may be eligible for assistance for one (1) course per semester.
 887 The employee must attempt to arrange to take the class outside his/her normal working
 888 hours.
 889 a. Where a class conflicts with the employee's work schedule, the needs of the Tribal
 890 unit take precedence; however, the supervisor shall attempt to accommodate the
 891 employee's request.
 892 b. In no case shall the accommodation exceed actual class hours plus reasonable travel
 893 time.
 894 c. Employees must obtain the approval of their immediate supervisor to take a course
 895 on work time.
 896 3. The supervisor's approval and estimated cost must be submitted to the HRD Office, the
 897 Area Manager and the General Manager. (HR Interpretation, 12-8-16)
 898 4. The cost of the books, tuition and fees for the course shall be paid by the Nation through
 899 funds budgeted in programs or through the Higher Education program.
 900 a. Reimbursement for books, tuition and fees is contingent upon the employee
 901 receiving at least a C (2.0 on a 4.0 point scale).
 902 b. Employees who receive less than the required grade point will be required to
 903 reimburse the program for whatever costs were incurred.
 904

905 D. COMPLAINTS, DISCIPLINARY ACTIONS, AND GRIEVANCES

- 906 Disciplinary procedures provide a systematic process ~~for handling problem employees.~~
 907 ~~Disciplinary procedures serve to correct~~ correcting unacceptable ~~behavior~~ and ~~to protect the~~
 908 ~~Nation.~~ problematic behaviors in employees. Grievance procedures provide a systematic
 909 process for ~~hearing and evaluating job related disputes.~~ Grievance procedures serve to
 910 protect ~~protecting~~ employees from inconsistent and unfair treatment.- In all cases of
 911 grievance and discipline, supervisors are enjoined to use common sense, discretion and
 912 judicious good sense to resolve complaints between employees, exercise disciplinary

913 prerogatives, and handle grievances.

914 (HR Interpretation, 2-4-13) (HR Interpretation, 1-29-14)

915 1. Complaints

916 a. ~~Should~~General

- 917 1) The Nation recognizes that all employees have the right to file a complaint
 918 against another employee, and that all complaint investigations shall be handled
 919 with the utmost fairness, respect, and equality.
- 920 2) The Nation recognizes there are various levels of severity of complaints, and
 921 dependent on the severity of the complaint, not all complaints shall follow the
 922 same process.
- 923 3) An employee found to have given false information or made a false claim shall
 924 face disciplinary action in accordance with the appropriate policies and
 925 procedures.
- 926 4) Access to complaint information shall be limited to those who have a legitimate
 927 need to know.
- 928 5) Retaliation of any form against an employee ~~have a~~ for filing a complaint shall be
 929 strictly prohibited.

930 b. Types of Complaints

931 1) Employee Disagreements

- 932 a) An employee disagreement ~~with another employee, he/she may lodge~~ occurs
 933 when an ~~informal~~ employee alleges they are having problems,
 934 misunderstandings, or frustrations with another employee.

935 2) EEO Violations

- 936 a) An EEO violation occurs when an employee alleges they are being bullied,
 937 working in a hostile work environment, being discriminated against, being
 938 harassed, being intimidated, being retaliated against, or being sexually
 939 harassed.

940 i. Sexual Harassment is defined as unwelcome sexual advances, requests
 941 for sexual favors, and other verbal~~l~~ or physical conduct of a sexual nature
 942 when:

- 943 1. submission to such conduct is made either explicitly or implicitly a
 944 term or condition of an individual's employment;
- 945 2. submissions to or rejection of such conduct by an individual is used as
 946 the basis for employment decisions affecting such individuals; or
- 947 3. such conduct has the purpose or effect of substantially interfering
 948 with an individual's work performance or creating an intimidating,
 949 hostile, or offensive work environment.

950 3) ~~formal~~(written)Illegal Activities

- 951 a) An illegal activities violation occurs when an employee alleges:
- 952 i. They witnessed or have knowledge of arson, bribery, lying under oath,
 953 obstruction, or interference with a criminal investigation;
- 954 ii. They witnessed or have knowledge of a possession of a dangerous or
 955 unauthorized material, such as explosives or firearms, in the workplace;
- 956 iii. They witnessed or have knowledge of the use or possession of an illegal
 957 controlled substance; or
- 958 iv. They witnessed or have knowledge of a theft of property which includes,
 959 but is not limited to, theft, embezzlement, cheating, defrauding, pilfering,
 960 robbery, extortion, racketeering, swindling, or conspiracy to commit such
 961 actions.

962 4) Additional Complaints

963 a) Complaints of alleged workplace violence shall be reported and processed in
 964 accordance with the Nation's Workplace Violence law.

965 b) Complaints of use of prohibited drugs and/or alcohol during working hours
 966 shall be reported and processed in accordance with the Nation's Drug and
 967 Alcohol Free Workplace law.

968 c. Complaint Procedures

969 1) Employee Disagreements

970 a) An employee who alleges they have a disagreement with another employee
 971 may file a complaint with the ~~employee's~~EEO Department.

972 ~~a-b)~~ Within two (2) working days of the receipt of the complaint, the EEO
 973 Department shall provide the supervisor of the employee with the complaint.

974 ~~b-c)~~ The supervisor ~~will~~shall have ten (10) working days to investigate the
 975 complaint and attempt to resolve the ~~disagreement~~complaint.

976 i. ~~If the employee lodging~~The supervisor's ten (10) working day timeframe
 977 begins the day after the supervisor receives the complaint ~~is~~
 978 dissatisfied from the EEO Department.

979 ii. The supervisor shall meet with the ~~attempted resolution,~~
 980 he/she employee filing the complaint as well as all other parties
 981 mentioned in the complaint.

982 1. Meetings between the supervisor and employees may ~~ask~~occur in
 983 person, through video conferencing, or over the telephone.

984 2. The supervisor shall document all attempts made to meet with an
 985 employee. If the complaining employee or the employee being
 986 complained about is unavailable, the supervisor shall move forward
 987 with the investigation based on the information they have.

988 iii. If the supervisor cannot complete the investigation within the ten (10)
 989 working day timeframe, the supervisor may request a one (1) time five
 990 (5) working day extension from the EEO Department.

991 iv. When the supervisor's investigation is complete, the supervisor shall
 992 contact the EEO Officer to mutually determine an appropriate resolution.

993 ~~e-1.~~ If the supervisor cannot come to a mutual determination with the EEO
 994 Officer as to an appropriate resolution for the complaint, then the
 995 supervisor shall provide written justification for non-agreement on the
 996 resolution to both the Area Manager ~~to attempt a resolution~~and the
 997 Human Resources Executive Director.

998 ~~d.~~ There is no further appeal of this process.

999 v. The supervisor shall send the final resolution to their Area Manager to
 1000 ensure accountability.

1001 vi. The supervisor shall also send the final resolution and all supporting
 1002 documentation used to make the final resolution to the EEO Department
 1003 for filing and reporting purposes.

1004 d) If the supervisor fails to complete the investigation and resolve the complaint
 1005 within the ten (10) working days, the EEO Department shall send notice to
 1006 the Area Manager.

1007 i. The notice shall notify the Area Manager that the complaint was not
 1008 addressed within the allotted ten (10) working days.

1009 ii. The notice shall inform the Area Manager that the supervisor violated
 1010 the complaint process by being negligent in the performance of their
 1011 assigned duties and failure to appropriately investigate a complaint.

1012 iii. The notice shall address the appropriate accountability of the supervisor.

- 1013 1. If the Area Manager fails to take appropriate action to address the
1014 accountability of the supervisor, then the EEO Department shall send
1015 notice to the General Manager level position in that chain of
1016 command. If the General Manager level position was the Area
1017 Manager in the complaint, then the EEO Officer shall send the notice
1018 to the Oneida Business Committee.
- 1019 iv. The notice shall direct the Area Manager to complete the complaint
1020 investigation within ten (10) working days of receiving the notice from
1021 EEO.
- 1022 e) If the employee is not satisfied with the supervisor's final resolution, they may
1023 refile their complaint with the EEO Department for resolution by the Area
1024 Manager.
- 1025 i. Within two (2) working days of the receipt of the complaint, the EEO
1026 Department shall provide the Area Manager of the employee with the
1027 complaint.
- 1028 ii. The Area Manager shall have ten (10) working days to complete their
1029 investigation.
- 1030 iii. The Area Manager's ten (10) working day timeframe begins the day after
1031 the Area Manager receives the complaint from the EEO Department.
- 1032 iv. The Area Manager shall meet with the employee filing the complaint as
1033 well as all other parties mentioned in the complaint.
- 1034 1. Meetings between the Area Manager and the employees may occur
1035 in person, through video conferencing, or by telephone.
- 1036 2. The Area Manager shall document all attempts made to meet with an
1037 employee. If the complaining employee or the employee being
1038 complained about is unavailable, the Area Manager shall move
1039 forward with the investigation based on the information they have.
- 1040 v. When the Area Manager's investigation is complete, the Area Manager
1041 shall contact the EEO Officer to mutually determine an appropriate
1042 resolution.
- 1043 1. If the Area Manager cannot come to a mutual determination with the
1044 EEO Officer as to an appropriate resolution for the complaint, then
1045 the Area Manager shall provide written justification for non-
1046 agreement on the resolution to both the appropriate GM level
1047 position and the HRD Executive Director.
- 1048 vi. The Area Manager shall send the final resolution and all supporting
1049 documentation used to make the final resolution to the EEO Department
1050 for filing and reporting purposes.
- 1051 vii. The Area Manager's resolution shall be final.
- 1052 f) If the Area Manager fails to complete the investigation and resolve the
1053 complaint within the ten (10) working days, the EEO Department shall send
1054 notice to the General Manager level position in that chain of command. If the
1055 General Manager level position was the Area Manager in the complaint, then
1056 the EEO Officer shall send the notice to the Oneida Business Committee.
- 1057 i. The notice shall notify the General Manager level position that the
1058 complaint was not addressed within the additional ten (10) working
1059 days.
- 1060 ii. The notice shall inform the General Manager level position that the Area
1061 Manager violated the complaint process by being negligent in the

1062 performance of their assigned duties and failure to appropriately
1063 investigate a complaint.

1064 iii. The notice shall address the appropriate accountability of the Area
1065 Manager.

1066 iv. The notice shall address the General Manager level position's
1067 responsibility to complete the complaint investigation and reach a
1068 resolution.

1069 1. Investigation Procedure for all General Manager Level Positions, not
1070 the Oneida Business Committee

1071 a. The General Manager level position shall complete the
1072 investigation and reach a resolution within ten (10) working days
1073 of receiving the notice from EEO.

1074 b. The General Manager level position's ten (10) working day
1075 timeframe begins the day after the General Manager level position
1076 receives the complaint from the EEO Department.

1077 c. The General Manager level position shall meet with the employee
1078 filing the complaint as well as all other parties mentioned in the
1079 complaint.

1080 i. Meetings between the General Manager level position and the
1081 employees may occur in person, through video conferencing,
1082 or by telephone.

1083 ii. The General Manager level position shall document all
1084 attempts made to meet with an employee. If the complaining
1085 employee or the employee being complained about is
1086 unavailable, the General Manager level position shall move
1087 forward with the investigation based on the information they
1088 have.

1089 d. When the General Manager level position's investigation is
1090 complete, the General Manager level position shall contact the
1091 EEO Officer to mutually determine an appropriate resolution.

1092 i. If the General Manager level position cannot come to a mutual
1093 determination with the EEO Officer as to an appropriate
1094 resolution for the complaint, then the General Manager level
1095 position shall provide written justification for non-agreement
1096 on the resolution to the Human Resources Executive Director.

1097 e. The final resolution shall be sent to the EEO Department for filing
1098 and reporting purposes.

1099 f. The General Manager level position's resolution of the complaint
1100 shall be final.

1101 2. Investigation Procedure for the Oneida Business Committee

1102 a. When the GM level position of a complaint was the Area Manager
1103 in the complaint, then the Oneida Business Committee shall
1104 complete the investigation and reach a resolution in accordance
1105 with their standard operating procedure regarding complaints.

1106 2) EEO Violations

1107 a) An employee may file a EEO Violation complaint with the EEO Department.

1108 b) The EEO Officer shall have ten (10) working days to investigate and resolve
1109 the complaint.

1110 c) The EEO Officer's ten (10) working day timeframe begins the day after the
1111 EEO Department receives the complaint from the employee.

- 1112 d) The EEO Officer shall notify the immediate supervisor of the employee being
 1113 complained about so they:
 1114 i. Are aware that the EEO Officer will be investigating their employee;
 1115 ii. Know the EEO Officer shall be responsible for implementing the final
 1116 resolution; and
 1117 iii. Know the final resolution shall be sent to their supervisor to ensure
 1118 accountability.
 1119 e) The EEO Officer shall meet with the employee filing the complaint as well as
 1120 all other parties mentioned in the complaint.
 1121 f) The Nation may utilize its laws and policies governing investigative leave
 1122 while the employee is being investigated for an EEO Violation complaint.
 1123 g) The EEO Officer shall meet with the Human Resources Executive Director to
 1124 mutually determine an appropriate resolution.
 1125 h) The final resolution and all support documentation used to make the final
 1126 resolution shall be filed at the EEO Department for reporting purposes.
 1127 i) The EEO Officer's resolution shall be final.

1128 3) Illegal Activities

- 1129 a) An employee may file an Illegal Activities complaint with the EEO
 1130 Department.
 1131 b) The EEO Officer shall have ten (10) working days to investigate and resolve
 1132 the complaint.
 1133 c) The EEO Officer's ten (10) working day timeframe begins the day after the
 1134 EEO Department receives the complaint from the employee.
 1135 d) The EEO Officer shall notify the immediate supervisor of the employee being
 1136 complained about so they:
 1137 i. Are aware that the EEO Officer will be investigating their employee;
 1138 ii. Know the EEO Officer shall be responsible for implementing the final
 1139 resolution; and
 1140 iii. Know the final resolution shall be sent to their supervisor to ensure
 1141 accountability.
 1142 e) The EEO Officer shall meet with the employee filing the complaint as well as
 1143 all other parties mentioned in the complaint.
 1144 f) The Nation may utilize its laws and policies governing investigative leave
 1145 while the employee is being investigated for an Illegal Activities complaint.
 1146 g) The EEO Officer shall meet with the Human Resources Executive Director to
 1147 mutually determine an appropriate resolution.
 1148 h) The final resolution and all support documentation used to make the final
 1149 resolution shall be filed at the EEO Department for reporting purposes.
 1150 i) The EEO Officer's resolution shall be final.
 1151 j) If the EEO Officer's Illegal Activities complaint investigation of the employee
 1152 resulted in the conclusion that an illegal activity did occur, then the EEO
 1153 Officer shall forward the complaint resolution and all support documentation
 1154 to a local law enforcement agency.
 1155 i. The local law enforcement agency shall utilize their investigation and
 1156 accountability processes for the complaint.

1157 2. Discipline

1158 2.a. Initiation of Disciplinary Actions

- 1159 a.1) Disciplinary actions ~~will~~ shall be initiated by an immediate supervisor for
 1160 the purpose of correcting ~~unacceptable~~ ~~unsatisfactory~~ work performance. ~~The~~
 1161 supervisor will always discuss or as the action with the employee being

disciplined to ensure that the employee's resolution of an Employee Disagreement complaint investigation.

~~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.~~

2) A supervisor Disciplinary actions shall initiate be initiated by an EEO Officer as the resolution of an EEO Violation complaint or an Illegal Activities complaint investigation.

b. Determination of Disciplinary Action.

1) All disciplinary actions shall commensurate with the seriousness of the unsatisfactory performance— or violation.

2) Disciplinary actions shall be considered in progressive order.

a) The progressive order for discipline is as follows, unless otherwise noted:

i. Written warning (W);

ii. Suspension (S);

iii. Termination (T).

b) Deviation from Progressive Order

i. Any deviation from the recommended progressive order made by the supervisor shall be justified in writing and approved by the EEO Department.

ii. Any deviation from the recommended progressive order made by the EEO Officer shall be justified in writing and approved by the Human Resources Executive Director, or designee.

3) Accumulated Disciplinary Actions Warranting Termination

a) The following accumulations of disciplinary actions shall warrant the termination of an employee:

i. Three (3) upheld warning notices within any twelve (12) month period;

ii. Two (2) upheld suspensions within any twelve (12) month period; or

iii. Any combination of three (3) upheld warning notices and/or upheld suspensions within any twelve (12) month period.

c. Disciplinary Action for Unsatisfactory Work Performance.

~~b.1) A supervisor must consider each may initiate disciplinary action in progressive order and justify a deviance from that recommended progression for unsatisfactory work performance of an employee.~~

~~e.2) The actions listed below are examples of unacceptable unsatisfactory work performance and do not constitute a comprehensive or exhaustive list. -The actions in parentheses are guidelines for a supervisor to use the progressive order standards to be used in administering disciplinary actions. (W = written warning; S = suspension; T = termination);, unless a deviation is sought and approved.~~

~~f.1) a) Work Performance~~

~~a) i. Insubordination (including disobedience) or failure/refusal to carry out assignments or instructions. (W/S/T)~~

~~b) ii. Loafing, loitering, sleeping or engaging in personal business. (W/S/T)~~

~~c) iii. Unauthorized disclosure of confidential information or records. (S/T)~~

~~d) iv. Falsifying records or giving false information to departments and/or employees responsible for Recordkeeping. (S/T)~~

~~e) v. Failure to provide accurate and complete information where such information is required by an authorized person. (S/T)~~

~~f) vi. Failure to comply with health, safety and sanitation requirements, rules and regulations. (W/S/T)~~

- 1212 ~~g~~vii. Negligence in the performance of assigned duties. (W/S/T)
- 1213 ~~2~~b) Attendance and Punctuality
- 1214 ~~a~~i. Failure to report promptly and observe work schedules (such as starting
- 1215 time, quitting time, rest and meal breaks) without the specific approval of
- 1216 the supervisor. (W/S/T)
- 1217 ~~b~~ii. A pattern of unexcused or excessive absenteeism and/or tardiness.
- 1218 (W/S/T)
- 1219 ~~3~~c) Use of Property
- 1220 ~~a~~i. Unauthorized or improper use of Oneida Nation property or equipment
- 1221 (for example, Oneida Nation vehicles, telephone, mail services, etc.)
- 1222 (W/S/T)
- 1223 ~~b~~ii. Unauthorized possession, removal or willful destruction of Oneida
- 1224 Nation or another employee's property (including improper use of
- 1225 possession of uniforms, identification cards, badges, permits or
- 1226 weapons). (Willful destruction of property may subject the violator to
- 1227 applicable liability laws.) (T)
- 1228 ~~e~~iii. Unauthorized use, lending, borrowing or duplicating of Oneida Nation
- 1229 keys. (T)
- 1230 ~~e~~iv. Unauthorized entry of Oneida Nation property, including unauthorized
- 1231 entry outside of assigned hours of work or entry into restricted areas
- 1232 without prior supervisory approval. (S/T)
- 1233 ~~e~~v. Theft ~~of~~ property shall include theft, embezzlement, cheating,
- 1234 defrauding, pilfering, robbery, extortion, racketeering, swindling or any
- 1235 of these actions, or conspiracy to commit such actions with Oneida
- 1236 Nation employees or other persons against the Nation, its guests,
- 1237 employee, members, customers and/or clients while on or about
- 1238 ~~Tribal~~the Nation's premises. (S/T) (BC Action, 12-2-88)
- 1239 ~~4~~d) Personal Actions and Appearance
- 1240 ~~a~~i. Threatening, attempting, or doing bodily harm to another person. (T)
- 1241 ~~b~~ii. Intimidating, interfering with or using abusive language toward
- 1242 customers, clients, co-workers or others. (S/T)
- 1243 ~~e~~iii. Making false or malicious statements concerning other employees,
- 1244 supervisors or program heads. (W/S/T)
- 1245 ~~e~~iv. Use of alcohol or illegal controlled substances during work hours. (S/T)
- 1246 (GTC Resolution, 01-05-09A)
- 1247 ~~e~~v. Reporting for work under the influence of alcohol or illegal controlled
- 1248 substances. (S/T) (GTC Resolution, 01-05-09A)
- 1249 ~~f~~vi. Failure to immediately report any work-related injuries to the immediate
- 1250 supervisor. (W/S)
- 1251 ~~g~~vii. Direct involvement in political campaigning during scheduled work
- 1252 hours. Violations include:
- 1253 ~~i~~.1. Use of Oneida Nation employment title in Oneida Nation campaign
- 1254 activities. (W/S/T)
- 1255 ~~1~~.a. Political materials include: leaflets, brochures, etc. which solicit
- 1256 support for candidates for office.
- 1257 ~~2~~.b. Resolutions or petitions which propose that a political action be
- 1258 initiated.
- 1259 ~~3~~.c. Leaflets, newsletters, or other written materials the purpose of
- 1260 which is to espouse political views or opinions.

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- ~~h)~~viii. The acceptance of gifts or gratuities for personal gain in the course of official duties. (Customers are allowed to tip Bingo workers, Oneida ~~Tobacco~~Retail Enterprise workers, and Museum ~~Workers~~workers.) (W/S/T)
- ~~i)~~ix. Inappropriate dress or personal hygiene which adversely affects the proper performance of duties or constitutes a health or safety hazard. (W/S)
- ~~j)~~x. Failure to exercise proper judgment. (W/S/T)
- ~~k)~~xi. Failure to be courteous in dealing with fellow employees or the general public. (W/S/T)
- ~~h)~~xii. 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)
- ~~xiii.~~ The use, possession, selling or purchasing of, or attempt to sell or purchase alcohol, and/or ~~controlled substances~~prohibited drugs on or about Oneida Nation premises ~~while on duty~~. (S/T)
- ~~m) 1.~~ Prohibited drug means marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substances included in Schedules I through V, as defined by Section 812 of Title 21 of the United States Code. Prohibited drugs also includes prescription medication or over-the-counter medicine when used in an unauthorized or unlawful manner.
(BC Action, 12-2-88)
- ~~n) xiv.~~ Any violation of duly adopted ~~Oneida laws of the 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).~~

~~1. 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~~

- 1311 a. ~~Should an employee have a complaint, he/she should file a formal~~
 1312 ~~(written) complaint with the Human Resources Department.~~
 1313 b. ~~The Human Resources Department is obligated to investigate the~~
 1314 ~~complaint which is to be held in the strictest confidence. This~~
 1315 ~~investigation shall be done within five (5) working days from~~
 1316 ~~receiving the formal written complaint.~~
 1317 c. ~~After investigating the complaint and the Human Resources~~
 1318 ~~Department finds cause to take disciplinary action due to sexual~~
 1319 ~~harassment violation, the employee will be disciplined accordingly~~
 1320 ~~by their supervisor. This disciplinary action shall be initiated within~~
 1321 ~~five (5) working days from the date the supervisor receives the~~
 1322 ~~report from the Human Resource Department. (BC Actions, 7-16-93)~~
 1323 3. ~~Accumulated Disciplinary Actions Warranting Termination (HR Interpretation, 1-29-14) (Provided~~
 1324 ~~that the Drug and Alcohol Free Workplace Policy shall govern disciplinary actions~~
 1325 ~~warranting termination for drug and alcohol related violations.) (GTC Resolution, 01-05-09A)~~
 1326 a. ~~The accumulation of three (3) upheld warning notices within any twelve (12) month~~
 1327 ~~period. (T)~~
 1328 b. ~~The accumulation of two (2) upheld suspensions within any twelve (12) month~~
 1329 ~~period. (T)~~
 1330 c. ~~The accumulation of three (3) of any combination of upheld warning notices and/or~~
 1331 ~~upheld suspensions within any twelve (12) month period. (T)~~
 1332 4. ~~Substance Abuse Disciplinary Procedure Section was deleted. (GTC Resolution, 01-05-09-A)~~
 1333 ~~Click here for Drug and Alcohol Free Workplace Policy.~~
 1334 5. ~~d. Disciplinary Procedure (Disciplinary Flowchart)~~
 1335 ~~The Procedure. The following procedure shall be adhered to by the supervisor or~~
 1336 ~~EEO Officer whenever disciplinary action is taken.~~
 1337 1) ~~Supervisor becomes aware of. The supervisor or EEO Officer shall fill out a~~
 1338 ~~disciplinary action form within five (5) working days of either:~~
 1339 a) ~~the resolution of a complaint from which it has been determined that~~
 1340 ~~disciplinary action is warranted, or~~
 1341 a-b) ~~the determination that disciplinary action is warranted based on the~~
 1342 ~~unsatisfactory work performance or violation of an employee.~~
 1343 1) ~~Supervisor investigates through a meeting with the employees and determines~~
 1344 ~~whether disciplinary action is warranted.~~
 1345 2) ~~If disciplinary action is warranted, within five (5) working days the The supervisor~~
 1346 ~~will or EEO Officer shall fill out the five (5) part disciplinary action form stating in its~~
 1347 ~~entirety and ensure the information contained on the form is complete and~~
 1348 ~~accurate. The disciplinary action form shall include at a minimum the following~~
 1349 ~~information:~~
 1350 a) ~~Statement of~~ the behavior for which the ~~disciplinary~~ action is being taken;
 1351 ~~the;~~
 1352 b) ~~The~~ time and date of its occurrence; and ~~the~~
 1353 ~~b-c) The~~ specific policy section under which action is being taken.
 1354 c-3) ~~The form will be discussed supervisor or EEO Officer shall promptly hold a~~
 1355 ~~meeting with the employee to discuss the disciplinary action form with the~~
 1356 ~~employee and identify a corrective action will be identified.~~
 1357 a) ~~The meeting between the supervisor or EEO Officer and the employee may~~
 1358 ~~occur in person, through video conferencing, or over the telephone.~~

b) During the meeting the supervisor or EEO Officer shall discuss the disciplinary action with the employee being disciplined to ensure that the employee:

i. Understands the reason for the disciplinary action;

ii. Understands the expected work performance in light of the disciplinary action; and

iii. Understands the consequences of continued unacceptable behavior.

~~4~~ 4) The employee being disciplined will shall sign the disciplinary action form.

~~4~~ a) Should an employee being disciplined refuse to discuss the action with his/her their supervisor or the EEO Officer, or refuse to sign the disciplinary action form, the supervisor or EEO Officer shall so note this, with date of refusal, on the form and distribute as in 5.e.

5) Copies will be given to the employee, the HRD Manager, the supervisor, the Within one (1) working day of the conclusion of the meeting with the employee, the supervisor or EEO Officer shall provide copies of the signed disciplinary action form, or disciplinary action form noting the date of refusal, to the:

a) Employee being disciplined;

b) Human Resources Executive Director;

c) Supervisor;

d) Area Manager; and

e-e) Appropriate General Manager within twenty four (24) hours of the conference with the employee. HR Interpretation 12-8-16) level position.

~~6~~ 6) Should a disciplinary action result in the suspension or termination of an employee, the following guidelines shall apply:

a) The Consultation on Suspensions

~~4~~ i. If the supervisor is issuing the discipline, then the supervisor shall consult with the HRD Manager EEO Officer to mutually determine the length of the suspension.

ii. If the EEO Officer is issuing the discipline, then the EEO Officer shall consult with the Human Resources Executive Director to mutually determine the length of the suspension.

~~a~~ b) Suspensions will shall be limited to a maximum period of three (3) weeks.

i. Suspension/terminations Suspensions that are overturned in the grievance process shall result in the employee receiving back pay for the time they were suspended.

7) Should a disciplinary action result in the termination of an employee, the following guidelines shall apply:

a) Consultation on Termination

i. If the supervisor is issuing the discipline, then the supervisor shall consult with the EEO Officer to mutually determine that the termination is the appropriate disciplinary action.

ii. If the EEO Officer is issuing the discipline, then the EEO Officer shall consult with the Human Resources Executive Director to mutually determine that the termination is the appropriate disciplinary action.

b) Terminations that are overturned in the appeal grievance process shall result in the employee receiving back pay for the days he/she was suspended/ time they were terminated.

8) The Human Resources Department may void a disciplinary action for clear procedural errors.

a) The EEO Officer may void a disciplinary action taken by a supervisor for clear procedural errors.

b) The Human Resources Executive Director, or designee, may void a disciplinary action taken by an EEO Officer for clear procedural errors.

c) Notification of a voided disciplinary action shall be sent to the supervisor or EEO Officer and the employee which identifies the procedural error.

9) For any supervisor who fails to follow the Nation's disciplinary procedures, the EEO Department shall send a letter to the Area Manager.

a) The letter shall notify the Area Manager that the supervisor violated the disciplinary process by being negligent in the performance of their assigned duties and failure to appropriately discipline an employee.

b) The letter shall address the appropriate accountability of the supervisor.

3. Grievance [\(Grievance Flowchart\)](#)

a. General

1) An employee who receives a disciplinary action which ~~he/she believes~~ ~~they believe~~ is ~~unfair~~ ~~improper~~ may grieve the action.

2) The ~~Grievance~~ ~~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~~ Nation holidays of the Nation 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~~.

b. Grievance Process for EEO Violations and Illegal Activities Complaints. An employee may appeal a discipline that resulted from an EEO Violation or Illegal Activities complaint to the Oneida Nation Judiciary by filing a complaint with the Trial Court within ten (10) days from the employee's receipt of the discipline.

~~6.c.~~ Grievance Process for Employee Disagreement Complaints and Unsatisfactory Work Performance. The grievance process ~~will~~ ~~for~~ ~~discipline that resulted from an employee disagreement complaint or unsatisfactory work performance shall~~ 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) Appeal to the Area Manager

~~1)a)~~ The employee (petitioner) ~~must~~ ~~shall~~ file an appeal in writing ~~with the Area Manager and the Human Resources Executive Director, or designee,~~ within ten (10) working days from the day the employee receives the disciplinary action.

~~a)i.~~ The employee may seek the assistance of ~~a spokesperson or an~~ 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) ~~b)~~ The Area Manager, for all disciplinary action investigations, ~~will~~ ~~shall~~ 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.~~

i. The ~~supervisor shall meet with the following individuals during the disciplinary action investigation:~~

- 1459 1. Employee filing the appeal of the discipline;
1460 2. Supervisor who issued the discipline; and
1461 3. Any other witnesses mentioned in the appeal that were not
1462 mentioned in the disciplinary action.
1463 ii. Meetings between the Area Manager ~~will do~~ and the employees may
1464 occur in person, through video conferencing, or by telephone.
1465 iii. The Area Manager shall document all attempts made to meet with an
1466 employee. If an employee is unavailable to meet within the grievance
1467 timelines, the Area Manager shall move forward with the investigation
1468 based on the information they have.
1469 iv. One (1) extension of no more than five (5) working days may be
1470 requested of and granted by the Human Resources Executive Director,
1471 or designee, at their discretion.
1472 3)c) The Area Manager shall take one of the following actions:
1473 a)i. Uphold the disciplinary action;~~or~~
1474 b)ii. Modify the disciplinary action; or
1475 iii. Overturn the disciplinary action.
1476 1. If a suspension or termination is overturned, the employee
1477 (petitioner) shall be reinstated to the position the employee was
1478 suspended or terminated from with full back pay.
1479 d) The Area Manager ~~will~~shall file at their decision with the employee and the
1480 HRD Manager ~~(Human Resources Executive Director, or designee) and will.~~
1481 The decision of the Area Manager shall include:
1482 i. a reason for the decision;
1483 ii. an explanation of the decision; and
1484 4)iii. the action to be taken as a result of it.
1485 e) Filing a ComplaintAn Area Manager who does not comply with the
1486 disciplinary action grievance procedure may be subject to discipline.
1487 b-2) Appeal to the Oneida Personnel Commission [\(BC Resolution, 3-18-19\)](#)
1488 1)a) An employee may appeal the Area Manager's decision to the Oneida
1489 Personnel Commission by filing a ~~complaint~~grievance with the Human
1490 Resources ~~Department~~Government Administrative Office on behalf of the
1491 Oneida Personnel Commission within ten (10) working days from the
1492 employee's receipt of the Area Manager's decision.
1493 a) The employee shall file the appeal within ten (10) working days from the
1494 employee's receipt of the Area Manager's decision
1495 2)b) The Human Resources ~~Department~~Government Administrative Office
1496 shall notify the Human Resources ~~Department~~Manager of receiptExecutive
1497 Director of the appeal of the Area Manager's decision within one (1) business
1498 day of receipt of the appeal.
1499 c. Collection of Information
1500 1)c) The Human Resources ~~Department~~The Government Administrative Office
1501 shall collect all information the Area Manager used in making the decision to
1502 uphold or modify the disciplinary action.
1503 d. Review of the Complaint
1504 d) The Human Resources ~~Department~~The Government Administrative Office
1505 shall provide the information obtained to the Oneida Personnel Commission
1506 members selected to serve as the hearing body for the ~~complaint, and the~~
1507 appeal.

- 1508 ~~1)e)~~ 1)e) The Oneida Personnel Commissioners shall review all the information
 1509 submitted by the ~~Petitioner~~employee petitioner and the ~~Human Resources~~
 1510 ~~Department~~Government Administrative Office to determine if one ~~(1)~~ or both
 1511 conditions exist;
- 1512 ~~1)i)~~ 1)i) The decision of the Area Manager is clearly against the weight of the
 1513 evidence; ~~and/or~~
- 1514 ~~1)ii)~~ 1)ii) Procedural irregularities were exhibited during the appeal process that
 1515 were harmful to one of the parties to the grievance.
- 1516 ~~2)f)~~ 2)f) If Oneida Personnel Commission members selected to serve as the hearing
 1517 body for the ~~complaint~~appeal find one ~~(1)~~ or both conditions exist, the
 1518 ~~Human Resources Department~~Government Administrative Office shall
 1519 convene the Oneida Personnel Commission to hear the grievance.
- 1520 ~~3)g)~~ 3)g) If the Oneida Personnel Commission members find that neither condition
 1521 exists, the Oneida Personnel Commission ~~will~~shall deny the appeal for a
 1522 hearing and affirm the decision of the Area Manager.
- 1523 ~~e.h)~~ e.h) Convening a Hearing
- 1524 ~~1)i)~~ 1)i) ~~The Human Resources Department~~The Government Administrative
 1525 Office shall schedule a time and location for the grievance hearing and
 1526 shall confirm the participation of the Oneida Personnel Commission
 1527 members selected to serve as the hearing body for the complaint.
- 1528 ~~2)ii)~~ 2)ii) ~~The Human Resources Department~~The Government Administrative
 1529 Office shall send notice of the hearing to the petitioner, respondent, and
 1530 Oneida Personnel Commission members at least five (5) working days
 1531 prior to the hearing date.
- 1532 ~~3)iii)~~ 3)iii) ~~The Human Resources Department~~The Government Administrative
 1533 Office shall provide copies of all information on the subject case upon
 1534 which the disciplinary action was upheld or modified by the Area
 1535 Manager to the members of the Oneida Personnel Commission at least
 1536 two (2) working days prior to the appeal date.
- 1537 ~~4)iv)~~ 4)iv) The ~~Human Resources Department~~Government Administrative Office
 1538 shall allow the petitioner and respondent access to this information in
 1539 the ~~Human Resources Department~~Government Administrative Office at
 1540 least two (2) days prior to the appeal date.
- 1541 ~~f.i)~~ f.i) Hearing Procedure
- 1542 ~~1)i)~~ 1)i) The order of presentation for the hearing shall be:
- 1543 ~~1)~~ 1) Petitioner's opening statement;
- 1544 ~~2)~~ 2) Respondent's opening statement;
- 1545 ~~3)~~ 3) The Petitioner's case;
- 1546 ~~4)~~ 4) The Respondent's case;
- 1547 ~~5)~~ 5) Petitioner's closing statement; and
- 1548 ~~6)~~ 6) Respondent's closing statement.
- 1549 ~~2)ii)~~ 2)ii) The petitioner shall have the right to be represented by an advocate, at
 1550 ~~his or her~~their own expense. ~~The respondent and/or area manager~~Area
 1551 Manager who is party to the grievance action shall have access to an
 1552 advocate for consultation and/or representation. Should the petitioner
 1553 engage outside professional legal representation, the respondent and/or
 1554 ~~area manager~~Area Manager shall have access to the professional legal
 1555 representation.
- 1556 ~~1)~~ 1) Should the petitioner and ~~his or her~~their representative both fail to
 1557 appear for any scheduled hearing without justifiable cause, the

- 1558 decision of the Area Manager shall be upheld, and the grievance
 1559 dismissed.
- 1560 ~~b)2.~~ b)2. Should the respondent and ~~his/her~~their representative both fail to
 1561 appear for any scheduled hearing without justifiable cause, the
 1562 decision of the Area Manager shall be overturned.
- 1563 ~~3)iii.~~ 3)iii. If new evidence which was previously unavailable is introduced at any
 1564 point during the hearing process, the Oneida Personnel Commission
 1565 hearing shall be suspended, and the case ~~will~~shall be remanded to the
 1566 Area Manager for reconsideration.
- 1567 ~~a)1.~~ a)1. The Area Manager shall reconsider the decision in light of the new
 1568 evidence and issue a decision within three (3) working days.
- 1569 ~~b)2.~~ b)2. This procedure may be invoked only once.
- 1570 ~~e)iv.~~ e)iv. Thereafter, the appeal process shall continue to a conclusion based on
 1571 the information originally presented and the newly introduced evidence.
- 1572 ~~i.1.~~ i.1. If the Area Manager overturns ~~his or her~~their decision, the case
 1573 ~~would~~shall not come back for a hearing.
- 1574 ~~ii.2.~~ ii.2. If the Area Manager affirms ~~his or her~~their decision, then the case
 1575 ~~will~~shall come back to the Oneida Personnel Commission to complete
 1576 the hearing.
- 1577 ~~4)v.~~ 4)v. The Oneida Personnel Commission's decision shall be based solely on the
 1578 information presented to them before the appeal hearing, the record of
 1579 the prior proceedings, and any new evidence if introduced
 1580 appropriately.
- 1581 ~~5)vi.~~ 5)vi. The Oneida Personnel Commission may:
- 1582 ~~a)1.~~ a)1. Uphold the disciplinary action; or
- 1583 ~~b)2.~~ b)2. Overturn the disciplinary action and:
- 1584 ~~i.a.~~ i.a. Reinstatement the employee (petitioner) with ~~full~~ back pay for any lost
 1585 time in accordance with the Back Pay law; or
- 1586 ~~ii.b.~~ ii.b. Reinstatement the employee (petitioner) without back pay.
- 1587 ~~6)vii.~~ 6)vii. The Oneida Personnel Commission shall provide notification of the final
 1588 decision within five (5) working days following the hearing. Notification
 1589 of the final decision shall include;
- 1590 ~~a)1.~~ a)1. The final decision;
- 1591 ~~b)2.~~ b)2. The reason(s) for the final decision; and
- 1592 ~~e)3.~~ e)3. The action to be taken as a result of the final decision.
- 1593 ~~7)j) The Human Resources Department~~The Government Administrative Office
 1594 shall keep records of the hearing, and provide copies of administrative
 1595 advocacy rules, procedural rules, and time line rules to interested parties.
- 1596
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- 1598
- 1599 k) If the Oneida Personnel Commission is unable to fulfil its responsibility to hear
 1600 an appeal of an Area Manager's decision, then the employee may appeal the
 1601 Area Manager's decision to the Oneida Nation Judiciary by filing a complaint
 1602 with the Trial Court within ten (10) days from the employee's receipt of the
 1603 Area Manager's decision.
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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

1647 strive to develop a high level of cooperation in all safety and health matters between supervisors
1648 and employees and among employees.

1649
1650 The objective of this program is a safe and healthy environment that will reduce the number of
1651 job-related injuries and illnesses to an absolute minimum. The Nation's goal is zero
1652 accidents and illnesses.

1653
1654 B. PROCEDURES

1655 The Oneida Nation Safety Committee will adopt and enforce through the Personnel
1656 Department procedures related to the education of the Nation's work force in matters
1657 of safety and health. These procedures will include all education and prevention
1658 activities, assessments and evaluations, and reporting.

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1680 **SECTION VII – PROGRAM/ENTERPRISE RULES & REGULATIONS**

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- 1682 A. Enterprises and programs may establish internal rules and regulations to facilitate the
1683 administration of Oneida Nation Personnel Policies and Procedures.
 - 1684 1. In no case will these internal rules and/or regulations conflict with or take the
1685 place of Oneida Nation Personnel Policies and Procedures.
 - 1686 2. Enterprises and programs which establish internal rules and regulations will
1687 file a copy of the rules and regulations with the Personnel Department.

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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

- 1731 g. Disciplinary action information
 1732 h. Performance evaluations
 1733 i. Insurance coverage/changes
 1734 j. Transfers
 1735 2. The Personnel Office shall keep and maintain a complete record of each employee
 1736 throughout his/her term of employment.
 1737 a. Oneida Nation employees shall have access to their employment file.
 1738 b. Employment files kept by the Personnel Office shall be considered confidential
 1739 information. Release of any information to a third party must have the consent
 1740 of the employee in writing.

1741
 1742 B. ACCOUNTING DEPARTMENT

- 1743 1. Basic records to be retained include:
 1744 a. Attendance records
 1745 b. Employee Time Sheets
 1746 c. Earnings - in the form of computer printouts
 1747 d. Travel - in the form of complete travel authorization forms.
 1748 1) Time sheets and travel reports shall be filled out by every employee for pay
 1749 period, collected by the program head, and forwarded to the Department.
 1750 2. The Accounting Department shall retain all records for a period of seven (7)
 1751 years. [\(BC Action, 10-14-09B\)](#)

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SECTION IX – PRIVACY AND CONFIDENTIALITY OF EMPLOYEE RECORDS

1763 The Human Resources Department of the Oneida Nation collects information from employees in
 1764 order to make decisions regarding personnel actions including hiring, transfers and promotions,
 1765 training, compensation and benefits, disciplinary actions and other job opportunities. This
 1766 information is maintained by the Human Resources Department in individual files for as long as
 1767 the person is an employee of the Oneida Nation.

1768 A. STATEMENT OF POLICY

1769 As a general rule, the Oneida Nation considers all information contained in these files to be
 1770 private and confidential. No information of any type shall be released to any person or agent of

1771 any organization without the written consent of the employee except under the conditions
1772 outlined herein.

1773 B. EMPLOYEE ACCESS

1774 In addition, the Oneida Nation recognizes that the information contained in each employee's
1775 file is personal and that the lives of its employees are subject to changes. Therefore, the Oneida
1776 Nation provides for employee access to his/her personnel file. Employees are allowed to review
1777 their file and submit a statement of amendment should their review uncover any inaccurate,
1778 obsolete or irrelevant information. Should any information come into dispute, an employee's
1779 statement of dispute will be accessed into the file.

1780 C. RELEASE OF INFORMATION TO THIRD PARTIES

1781 The Oneida Nation is obligated by law to release certain information to outside parties. Such
1782 parties include the State of Wisconsin's Unemployment Compensation Department and its
1783 Workers Compensation Division and the United States Social Security Administration. Any
1784 additional information released to a third party by the Human Resources Department related to
1785 employee records shall consist of summary information and will not include any identifying
1786 personal information. (Such information may be total numbers of males and females in the
1787 workforce, mean, median and average age of the workforce, etc.)

1788 The Oneida Nation will release personal information on employees when a request is
1789 accompanied by a written release signed by the employee. The Human Resources Department
1790 will make every effort to validate this request by contacting the employee. In no case shall the
1791 Oneida Nation release personal information from an employee's file without this consent.

1792



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.

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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 Human Resources Executive
153 Director, or elected official of 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

- 267 1 Statement of Policy
268 a. The Oneida Nation is an equal employment opportunity employer and follows
269 nondiscriminatory policies in hiring.
270 b. The Oneida Nation is a firm advocate of the 1964 Civil Rights Act (as amended) and
271 the 1968 Indian Civil Rights Act (as amended) and will make every effort to ensure
272 compliance with each Act; however:
273 c. The Oneida Nation follows the principles of Indian Preference in the implementation
274 of hiring practices (see the Oneida Preference and Indian Preference Statement of
275 Policy).
- 276 2. Hiring Guidelines
277 a. All Supervisors of the Oneida Nation shall undergo both training upon hiring and
278 periodic retraining in EEO and laws, rules, and regulations of the Nation.
279 b. Personnel Commission Role
280 1) The Oneida Nation established the Personnel Commission to represent the
281 Oneida Community-at-large in the selection of employees of the Nation and to
282 shield those employees from inconsistent and unfair treatment by:
283 a) Protecting against issues of nepotism;
284 b) Enforcing Oneida and Indian preference.
285 2) The Personnel Commission is directed to:
286 i. Participate in the hiring selection process, including job description pre-
287 screens and interviews, to ensure compliance with the Nation's laws and
288 policies regarding the following subject matters:
289 1. Oneida and Indian preference;
290 2. Nepotism;
291 3. Conflicts of interest;
292 4. Veteran status; and
293 5. Physical capacity requirements.
294 ii. Comply with the Oneida Personnel Commission Bylaws.
295 c. Hiring and Selection Rules.
296 1) The HRD Office shall be delegated rulemaking authority in accordance with the
297 Administrative Rulemaking law to develop rules regarding procedures for the
298 hiring and selection of employees of the Nation.
299
- 300 C. INTERNAL POSITION POSTING - The Oneida Nation encourages movement within and
301 among units in order to make the best possible use of human resources to meet the Oneida
302 Nation's goals and objectives. Supervisors and employees are encouraged to work
303 together to create an environment in which employees constantly strive to improve their
304 skills and abilities and managers constantly seek to provide challenging and rewarding
305 work experiences.
306 1. Internal Position Posting and Reassignment Rules.
307 a. The HRD Office shall be delegated rulemaking authority in accordance with the
308 Administrative Rulemaking law to develop rules regarding procedures for internal
309 position posting and reassignment of employees of the Nation.

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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 (3) 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.
 - c. Termination of an employee for cause during their original probationary period shall not be subject to appeal

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 Human Resources Executive Director 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.
- d. Overtime will be approved only for hours worked in excess of forty (40) hours per week. Personal/vacation days and holidays will not count toward the forty (40) hour requirements.

- 393 e. Tribal employees are expected to work overtime if required. Time and one-half will
394 be paid for this overtime.
- 395 f. Exempt employees are not eligible for overtime.
- 396 1) The HRD Office will maintain a list of exempt employees.
- 397 4. Holidays ([Work Standard, 11-7-14](#))
- 398 a. Tribal holidays consist of the following:
- 399 1) One-half Day Christmas Eve
- 400 2) Christmas Day
- 401 3) New Year's Day
- 402 4) Memorial Day
- 403 5) Veteran's Day
- 404 6) Independence Day
- 405 7) Labor Day
- 406 8) Indigenous Peoples' Day
- 407 9) Thanksgiving Day
- 408 10) Indian Day (day after Thanksgiving)
- 409 11) One-half day Good Friday
- 410 12) Code Talker's Day (Oneida Day, Friday prior to Memorial Day)
- 411 ([BC Resolution – 12-11-13A](#))
- 412 b. To be eligible for a paid holiday, employees must work the preceding and following
- 413 scheduled work days (except for employees who are on a prescheduled work leave
- 414 or an approved extended sick leave.) Employees who are granted a sick day directly
- 415 prior to a holiday must certify that they were capable of working the holiday in order
- 416 to qualify for a paid holiday.
- 417 c. All regular employees will be given holiday pay for the maximum pay of eight (8)
- 418 hours per day.
- 419 d. Holidays falling on a Saturday will be observed the preceding Friday; holidays falling
- 420 on a Sunday will be observed on the following Monday. ([2019 Holiday Observance Calendar](#))
- 421 ([2018 Holiday Observance Calendar](#))
- 422 e. The Oneida Nation acknowledges its responsibility to make a reasonable
- 423 accommodation to employees who wish time off to observe religious holidays.
- 424 Requests for such time off will be granted where possible, based on the scheduling
- 425 and staffing needs of affected departments. Employees wishing to take time off work
- 426 for religious observances should inform their supervisor as early as possible.
- 427 Employees may use personal time for such requests if eligible; otherwise the time off
- 428 will be treated as unpaid leave.
- 429 5. Vacation/Personal Days
- 430 a. Every Oneida Nation employee, except temporary employees, shall be allowed
- 431 personal and vacation days with pay to the extent that personal days and vacation
- 432 are accumulated.
- 433 b. The amount of personal and vacations days shall be determined by continuous
- 434 service for the Nation. A "lay-off" from Oneida Nation employment shall not be
- 435 considered an interruption in continuous service where the lay-off is in accordance

- 436 with the Nation's Layoff Policy, nor shall a preapproved leave of absence. [\(HR](#)
437 [Interpretation, 3-6-12\)](#)
- 438 c. Except as provided for in section g, the accrual of personal days shall be as follows:
439 [\(BC Resolution – 4-11-13-F\)](#)
- 440 1) 0-3 years of service - 6 days per year;
 - 441 2) 4-7 years of service - 8 days per year;
 - 442 3) 8-14 years of service - 10 days per year;
 - 443 4) 15+ years of service - 12 days per year;
- 444 d. Except as provided for in section g, the accrual of vacation days shall be as follows:
- 445 1) 0-3 years of service - 12 days per year
 - 446 2) 4-7 years of service - 15 days per year;
 - 447 3) 8-15 years of service - 20 days per year;
 - 448 4) 15+ years of service - 25 days per year.
- 449 e. Part-time employees accrue personal and vacation days for time actually worked at a
450 ratio of a full-time employee.
- 451 f. Service is defined as working for Programs/Enterprises which are contracted by the
452 Nation or specifically sponsored by the Nation.
- 453 g. Vacation and personal days shall be capped at 280 hours. An employee shall cease
454 to accrue vacation and personal hours when he or she has reached 280 total hours.
455 Supervisors shall notify their employees when said employees have accumulated 200
456 total hours of vacation and personal time. [\(GTC Resolution, 7-2-12A\)](#)
- 457 1) An employee may trade back accumulated vacation and personal hours in
458 accordance with Section IV.A.5.n. below. [\(GTC Resolution, 5-23-11-B\)](#)
- 459 h. Upon termination from Oneida Nation employment, employees will be paid for any
460 unused personal and/or vacation days.
- 461 1) Employees who have used the Oneida Nation-sponsored loan program will be
462 required to honor the terms of the loan agreement.
 - 463 2) Employees who are terminated during their original probation period shall not
464 be paid for any unused accrued vacation or personal days in their final paycheck.
- 465 i. Personal Days can be used for any reason so long as the request is approved by the
466 employee's supervisor at least twenty-four (24) hours in advance (unless the absence
467 is due to illness or unforeseen circumstances).
- 468 1) In the case of illness or unforeseen circumstance, the supervisor shall be notified
469 no later than fifteen (15) minutes before the scheduled starting time.
 - 470 2) Programs and enterprises may institute stricter standards of notification. These
471 standards will be submitted to and approved by the Personnel Department.
- 472 j. An employee shall notify his/her supervisor of an intent to use personal days in the
473 following ways:
- 474 1) Three (3) to five (5) days - one (1) week advance notification
 - 475 2) Six (6) days or more - two (2) weeks advance notification.
- 476 k. An employee shall notify his/her supervisor one (1) day in advance if he/she will take
477 off one (1) or two (2) days of vacation. Programs and enterprises may institute
478 stricter standards of notification.

- 479 1) Three (3) to five (5) days of vacation require a one (1) week advance notification.
480 2) Six (6) or more days of vacation require at least two (2) weeks advance
481 notification.
- 482 l. The burden shall be on the supervisor to show that a denial of a personal day or a
483 vacation day is based upon interference with the business of the Nation.
- 484 m. Personal or Vacation Days can be taken when an employee is on probation. [\(GTC](#)
485 [Resolution 5-23-11-B, HR Interpretation 5-8-17\)](#)
- 486 n. Trade-back for Cash - Each fiscal year, the Oneida Business Committee shall analyze
487 fiscal conditions to determine whether employees may trade back personal and/or
488 vacation hours for cash that fiscal year.
- 489 1) If the Oneida Business Committee approves trade-back for cash, they shall also
490 determine whether (i) and/or (ii) applies: [\(See Revision\)](#)
- 491 i. All employees will have the opportunity to trade-back hours one time that
492 year.
- 493 1. By August 15, each employee who has accumulated twenty-four (24)
494 hours or more of vacation and/or personal days may opt to trade in
495 his/her hours for cash.
- 496 2. Employees will receive their trade back on or before September 30 of
497 that year.
- 498 ii. Only those employees who are unable to utilize their personal and/or
499 vacation time due to working conditions, such as a shortage in staffing, as
500 determined by the Human Resources Executive Director or designee, will
501 have the opportunity to trade back hours on a quarterly basis.
- 502 1. Employees will receive their trade back within sixty (60) days after
503 opting to trade back hours.
- 504 2) When trade-back for cash is approved by the Oneida Business Committee, the
505 following standards shall apply:
- 506 i. Employees must decide which status (vacation or personal or both) from
507 which their trade back will be drawn.
- 508 ii. Employees may not trade for cash more than eighty (80) hours in one year.
509 [\(GTC Resolution, 5-23-11-B\)](#)
- 510 o. Additional Duties Compensation
- 511 p. Travel Time Compensation [\(Work Standard , 3-20-13\)](#)
- 512
- 513 B. INSURANCES [\(see separate publication\)](#) for information on Oneida Nation Insurance plans.
514
- 515 C. RETIREMENT PLAN [\(See separate publication for information on Tribal Retirement Plan\)](#).
516 [\(Separating Employees WS 5-6-13\)](#)
- 517 D. LEAVES
- 518 1. Meeting Attendance
- 519 a. Approval for attending any meetings inside normal working hours must be approved
520 in advance by the employee's immediate supervisor. [\(BC Action, 5-16-89\)](#)

- 521 b. Employees who receive stipends or honoraria in excess of \$50.00 for attending
522 meetings during working hours will forfeit the amount in excess of \$50.00 from their
523 regular paycheck. Stipends for travel or per diem will not be deducted if
524 accompanied by receipts for such expenses.
- 525 c. Stipends or honoraria for intra-tribal meetings during normal working hours will
526 results in the employee's paycheck being reduced by the full amount of the stipend.
- 527 2. Funeral Leave ([Work Standard, 8-2-11](#))
- 528 a. All regular employees will be given a five (5) day leave without loss of pay for funeral
529 services for immediate family. Immediate family includes:
- | | | | |
|---------------------|---------------|----------------|-----------------------------|
| 530 Husband | Mother | Brother | Great-grandparent |
| 531 Wife | Father | Sister | Great-grandchildren |
| 532 Mother-in-law | Son | Grandparent | Spouse's great-grandparents |
| 533 Father-in-law | Daughter | Grandchild | Spouse's grandparents |
| 534 Daughter-in-law | Sister-in-law | Brother-in-law | |
- 535 b. Five (5) day leave for other persons will be given only if the employee is responsible
536 for making funeral arrangements, subject to prior approval of supervisor.
- 537 c. All other funeral leave will be limited to three (3) hours with pay subject to the
538 notification and approval of the immediate supervisor. ([Mgmt Directive, 12-17-2009](#))
- 539 3. Leave of Absence ([Work Standard, 6-10-14](#))
- 540 a. A leave of absence without pay may be granted to employees for a justifiable reason
541 (including caring for a child, spouse or parent with a serious health condition) and
542 when in the best interest of the Nation.
- 543 1) Leaves of absence will not exceed three (3) months.
- 544 i. All leaves of absence shall be approved by the Supervisor.
- 545 ii. Requests shall be documented and submitted to the supervisor with as much
546 advance notice as possible.
- 547 iii. Disposition of requests will be made on the basis of staffing requirements.
- 548 2) Upon returning, the employee will be reinstated in the former position with full
549 status and benefits. Holiday, vacation, and sick leave will not be accrued during
550 the leave of absence.
- 551 3) No later than fifteen (15) working days prior to the expiration of the leave period
552 the employee must give notice in writing of his/her intent to return to the
553 position. Notice must be presented to the supervisor.
- 554 i. Failure to provide written notice will be interpreted to mean that the
555 employee does not intend to return following the leave. The position will be
556 posted and filled through the selection process. ([HR Interpretation, 11-21-11](#))
- 557 4. Maternity Leave
- 558 a. Maternity leave will be granted for a period of six (6) weeks without pay.
- 559 1) An employee may elect to cover any portion of this time by using accumulated
560 sick days.
- 561 2) Any maternity-related absences for longer than six (6) weeks must be taken as a
562 medical leave of absence.
- 563 5. Military Leave

- 564 a. In addition to the following provisions, the Nation's Military Service Protection Act
565 shall govern Military Leave.
- 566 b. A Military Leave of Absence is afforded employees entering active duty without
567 accumulation of holiday, vacation or personal time during the period of leave. Any
568 accumulated benefits prior to leave will be maintained for the employee.
- 569 c. Time off for inactive duty training, examinations to determine fitness for duty and
570 funeral honors duty shall be afforded to employees without the accumulation or loss
571 of holiday, vacation or personal time. An employee will receive pay from the Nation
572 for any hours work that the employee was required to miss due to reservist training.
- 573 1) Any pay received for performing any of the above duties shall be deducted from
574 the employee's pay. [\(GTC Resolution, 1-26-08A\)](#)
- 575 6. Jury Duty
- 576 a. During a period of jury duty, an employee will receive pay from the Nation for any
577 hours of work missed due to jury duty.
- 578 1) Jury duty pay will be deducted from the employee's paycheck when determining
579 the amount of pay
- 580 2) No overtime will be allowed in determining employee pay while serving on jury
581 duty.
- 582 7. Educational Leave [\(BC Action, 5-4-90\)](#)
- 583 a. A leave of absence for education purposes will not exceed one (1) year.
- 584 8. Parent Policy Leave [\(BC Action, 3-2-94A\)](#) [\(Parental Leave Policy, 11-3-17\)](#)
- 585 a. Employees who are parents, guardians, or those individuals specifically referred to as
586 "immediate family" as defined in Section IV, page 6 of these Personnel Policies and
587 Procedures which includes husband, wife, mother, father, brother, sister, son,
588 daughter, mother-in-law, father-in-law, grandparent and grandchild may request to
589 participate in their child(ren)'s educationally sanctioned events not to exceed four (4)
590 hours per employee per month
- 591 1) These four (4) hours shall not accumulate.
- 592 b. Approval to utilize the four (4) hours must be obtained from the supervisor.
- 593 1) An employee shall request his/her supervisor to utilize this leave with a minimum
594 of twenty-four (24) hours' notice.
- 595 2) The Supervisor may request verification of
- 596 i. Guardianship of the child(ren) and/or
- 597 ii. The attendance of the employee at their child(ren)'s educationally sanctioned
598 event.
- 599 c. The burden shall be on the supervisor to show that a denial of the Parent Policy
600 Leave which is based upon interference with the business of the Nation.
- 601 d. This leave shall not be paid as overtime. The supervisor may have the option to use
602 flex time to cover this time off to attend their child(ren)'s educationally sanctioned
603 events.
- 604 e. All employees, except Emergency/Temporary, Youth Workers, Student Interns, and
605 Seasonal Workers during their first season, and Substitute Reliefs are eligible to
606 participate in this benefit.

607 **SECTION V – EMPLOYEE RELATIONS**

608
609 A. ORIENTATION POLICY

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

615 1. Orientation Program Outline

- 616 a. Overview
- 617 b. Tribal Government and Procedures
- 618 c. Key Policies and Procedures
- 619 d. Benefits
- 620 e. Safety, Health and Security
- 621 f. Departmental Orientation

622 2. Responsibilities

- 623 a. The HRD Office will administer the General Orientation Program
 - 624 1) The HRD Office will assist Divisions in administering Departmental Orientation
 - 625 Programs.
 - 626 b. The HRD Office will develop and establish an Employee Mentor Program with each
 - 627 Division.
 - 628 1) Employee Mentors will be responsible for conducting the Departmental
 - 629 Orientation.
 - 630 2) Employee Mentors will assist new employees throughout their probation period
 - 631 as a source of references and referrals.
 - 632 c. The HRD Office will annually review the General Orientation Program and each
 - 633 Departmental Orientation Program to:
 - 634 1) Evaluate the effectiveness of each Program,
 - 635 2) Modify programs as necessary.
 - 636 3) Requirements
 - 637 a) The HRD Office will provide a copy of the Employee Policy and Procedures
 - 638 Manual to new employees before (if possible) the scheduled starting date.
 - 639 b) The General Orientation Program will be completed in appropriate stages
 - 640 within the first month of the new employee’s starting date.
 - 641 i. The Departmental Orientation will be completed within the first week of
 - 642 the starting date.
 - 643 c) The HRD Office will administer a NEW Employee Reporting Form to provide
 - 644 information for the purposes of maintaining a Nation-wide skills assessment
 - 645 inventory and a management succession plan.

647 B. EVALUATIONS

- 648 1. Evaluation reports will be used in determining all promotions, transfers and salary
- 649 adjustments.
- 650 2. Annual evaluation reports for each employee will be submitted to the HRD Office by
- 651 August 1 of each year. [\(Work Standard, 6-23-15\)](#)
- 652 a. Evaluation reports will be retained in each employee’s personnel file.
- 653 3. All Oneida Nation employees will be evaluated at least once a year.

- 654 a. Employee performance evaluations will be conducted by each employee's immediate
655 supervisor. The Business Committee will conduct the performance evaluation of the
656 General Manager. [\(HR Interpretation, 12-8-16\)](#)
657 b. The supervisor will discuss the evaluation with each employee. The evaluation will
658 then be signed by the employee and the supervisor and forwarded to the HRD
659 Office.
660 4. Satisfactory evaluations may result in the employee receiving an increase in pay within
661 their grade level provided that the employee has not attained the highest step within the
662 grade.
663 a. Unsatisfactory evaluations will result in probation status for the employee. The
664 supervisor shall provide documentation to the Area Manager and to the employee
665 detailing the deficiency(s). A repeat evaluation will be conducted three (3) months
666 after the unsatisfactory evaluation. This second evaluation will result in the
667 employee:
668 1) Being removed from probation and receiving a salary increase if the second
669 evaluation results in an overall satisfactory rating; or
670 2) Receiving appropriate disciplinary actions if the second evaluation also results in
671 an unsatisfactory rating.
672 b. Employees may appeal unsatisfactory evaluations to the Human Resources Executive
673 Director. The Human Resources Executive Director will consult with the supervisor
674 and the employee to negotiate an appropriate resolution [\(Work Standard, 12-8-16\)](#)
675

676 C. CAREER DEVELOPMENT

- 677 1. Oneida Nation employees are encouraged to develop their skills and abilities by
678 pursuing education at a local educational institution. [\(BC Action, 9-9-92\)](#)
679 a. Oneida Nation employees must provide a general Career Development Plan to the
680 supervisor listing the goals and objectives of the training and education to be
681 undertaken.
682 2. Oneida Nation employees may be eligible for assistance for one (1) course per semester.
683 The employee must attempt to arrange to take the class outside his/her normal working
684 hours.
685 a. Where a class conflicts with the employee's work schedule, the needs of the Tribal
686 unit take precedence; however, the supervisor shall attempt to accommodate the
687 employee's request.
688 b. In no case shall the accommodation exceed actual class hours plus reasonable travel
689 time.
690 c. Employees must obtain the approval of their immediate supervisor to take a course
691 on work time.
692 3. The supervisor's approval and estimated cost must be submitted to the HRD Office, the
693 Area Manager and the General Manager. [\(HR Interpretation, 12-8-16\)](#)
694 4. The cost of the books, tuition and fees for the course shall be paid by the Nation through
695 funds budgeted in programs or through the Higher Education program.
696 a. Reimbursement for books, tuition and fees is contingent upon the employee
697 receiving at least a C (2.0 on a 4.0 point scale).
698 b. Employees who receive less than the required grade point will be required to
699 reimburse the program for whatever costs were incurred.
700

701 D. COMPLAINTS, DISCIPLINARY ACTIONS, AND GRIEVANCES

702 Disciplinary procedures provide a systematic process correcting unacceptable and
703 problematic behaviors in employees. Grievance procedures provide a systematic process for

704 protecting employees from inconsistent and unfair treatment. In all cases of grievance and
705 discipline, supervisors are enjoined to use common sense, discretion and judicious good
706 sense to resolve complaints between employees, exercise disciplinary prerogatives, and
707 handle grievances.

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

709 1. Complaints

710 a. General

- 711 1) The Nation recognizes that all employees have the right to file a complaint
712 against another employee, and that all complaint investigations shall be handled
713 with the utmost fairness, respect, and equality.
- 714 2) The Nation recognizes there are various levels of severity of complaints, and
715 dependent on the severity of the complaint, not all complaints shall follow the
716 same process.
- 717 3) An employee found to have given false information or made a false claim shall
718 face disciplinary action in accordance with the appropriate policies and
719 procedures.
- 720 4) Access to complaint information shall be limited to those who have a legitimate
721 need to know.
- 722 5) Retaliation of any form against an employee for filing a complaint shall be strictly
723 prohibited.

724 b. Types of Complaints

725 1) Employee Disagreements

- 726 a) An employee disagreement occurs when an employee alleges they are
727 having problems, misunderstandings, or frustrations with another employee.

728 2) EEO Violations

- 729 a) An EEO violation occurs when an employee alleges they are being bullied,
730 working in a hostile work environment, being discriminated against, being
731 harassed, being intimidated, being retaliated against, or being sexually
732 harassed.

- 733 i. Sexual Harassment is defined as unwelcome sexual advances, requests
734 for sexual favors, and other verbal or physical conduct of a sexual nature
735 when:

- 736 1. submission to such conduct is made either explicitly or implicitly a
737 term or condition of an individual's employment;
- 738 2. submissions to or rejection of such conduct by an individual is used as
739 the basis for employment decisions affecting such individuals; or
- 740 3. such conduct has the purpose or effect of substantially interfering
741 with an individual's work performance or creating an intimidating,
742 hostile, or offensive work environment.

743 3) Illegal Activities

- 744 a) An illegal activities violation occurs when an employee alleges:

- 745 i. They witnessed or have knowledge of arson, bribery, lying under oath,
746 obstruction, or interference with a criminal investigation;
- 747 ii. They witnessed or have knowledge of a possession of a dangerous or
748 unauthorized material, such as explosives or firearms, in the workplace;
- 749 iii. They witnessed or have knowledge of the use or possession of an illegal
750 controlled substance; or
- 751 iv. They witnessed or have knowledge of a theft of property which includes,
752 but is not limited to, theft, embezzlement, cheating, defrauding, pilfering,

- 753 robbery, extortion, racketeering, swindling, or conspiracy to commit such
754 actions.
- 755 4) Additional Complaints
- 756 a) Complaints of alleged workplace violence shall be reported and processed in
757 accordance with the Nation's Workplace Violence law.
- 758 b) Complaints of use of prohibited drugs and/or alcohol during working hours
759 shall be reported and processed in accordance with the Nation's Drug and
760 Alcohol Free Workplace law.
- 761 c. Complaint Procedures
- 762 1) Employee Disagreements
- 763 a) An employee who alleges they have a disagreement with another employee
764 may file a complaint with the EEO Department.
- 765 b) Within two (2) working days of the receipt of the complaint, the EEO
766 Department shall provide the supervisor of the employee with the complaint.
- 767 c) The supervisor shall have ten (10) working days to investigate and resolve the
768 complaint.
- 769 i. The supervisor's ten (10) working day timeframe begins the day after the
770 supervisor receives the complaint from the EEO Department.
- 771 ii. The supervisor shall meet with the employee filing the complaint as well
772 as all other parties mentioned in the complaint.
- 773 1. Meetings between the supervisor and employees may occur in
774 person, through video conferencing, or over the telephone.
- 775 2. The supervisor shall document all attempts made to meet with an
776 employee. If the complaining employee or the employee being
777 complained about is unavailable, the supervisor shall move forward
778 with the investigation based on the information they have.
- 779 iii. If the supervisor cannot complete the investigation within the ten (10)
780 working day timeframe, the supervisor may request a one (1) time five
781 (5) working day extension from the EEO Department.
- 782 iv. When the supervisor's investigation is complete, the supervisor shall
783 contact the EEO Officer to mutually determine an appropriate resolution.
- 784 1. If the supervisor cannot come to a mutual determination with the EEO
785 Officer as to an appropriate resolution for the complaint, then the
786 supervisor shall provide written justification for non-agreement on the
787 resolution to both the Area Manager and the Human Resources
788 Executive Director.
- 789 v. The supervisor shall send the final resolution to their Area Manager to
790 ensure accountability.
- 791 vi. The supervisor shall also send the final resolution and all supporting
792 documentation used to make the final resolution to the EEO Department
793 for filing and reporting purposes.
- 794 d) If the supervisor fails to complete the investigation and resolve the complaint
795 within the ten (10) working days, the EEO Department shall send notice to
796 the Area Manager.
- 797 i. The notice shall notify the Area Manager that the complaint was not
798 addressed within the allotted ten (10) working days.
- 799 ii. The notice shall inform the Area Manager that the supervisor violated
800 the complaint process by being negligent in the performance of their
801 assigned duties and failure to appropriately investigate a complaint.
- 802 iii. The notice shall address the appropriate accountability of the supervisor.

- 803 1. If the Area Manager fails to take appropriate action to address the
804 accountability of the supervisor, then the EEO Department shall send
805 notice to the General Manager level position in that chain of
806 command. If the General Manager level position was the Area
807 Manager in the complaint, then the EEO Officer shall send the notice
808 to the Oneida Business Committee.
- 809 iv. The notice shall direct the Area Manager to complete the complaint
810 investigation within ten (10) working days of receiving the notice from
811 EEO.
- 812 e) If the employee is not satisfied with the supervisor's final resolution, they may
813 refile their complaint with the EEO Department for resolution by the Area
814 Manager.
- 815 i. Within two (2) working days of the receipt of the complaint, the EEO
816 Department shall provide the Area Manager of the employee with the
817 complaint.
- 818 ii. The Area Manager shall have ten (10) working days to complete their
819 investigation.
- 820 iii. The Area Manager's ten (10) working day timeframe begins the day after
821 the Area Manager receives the complaint from the EEO Department.
- 822 iv. The Area Manager shall meet with the employee filing the complaint as
823 well as all other parties mentioned in the complaint.
- 824 1. Meetings between the Area Manager and the employees may occur
825 in person, through video conferencing, or by telephone.
- 826 2. The Area Manager shall document all attempts made to meet with an
827 employee. If the complaining employee or the employee being
828 complained about is unavailable, the Area Manager shall move
829 forward with the investigation based on the information they have.
- 830 v. When the Area Manager's investigation is complete, the Area Manager
831 shall contact the EEO Officer to mutually determine an appropriate
832 resolution.
- 833 1. If the Area Manager cannot come to a mutual determination with the
834 EEO Officer as to an appropriate resolution for the complaint, then
835 the Area Manager shall provide written justification for non-
836 agreement on the resolution to both the appropriate GM level
837 position and the HRD Executive Director.
- 838 vi. The Area Manager shall send the final resolution and all supporting
839 documentation used to make the final resolution to the EEO Department
840 for filing and reporting purposes.
- 841 vii. The Area Manager's resolution shall be final.
- 842 f) If the Area Manager fails to complete the investigation and resolve the
843 complaint within the ten (10) working days, the EEO Department shall send
844 notice to the General Manager level position in that chain of command. If the
845 General Manager level position was the Area Manager in the complaint, then
846 the EEO Officer shall send the notice to the Oneida Business Committee.
- 847 i. The notice shall notify the General Manager level position that the
848 complaint was not addressed within the additional ten (10) working
849 days.
- 850 ii. The notice shall inform the General Manager level position that the Area
851 Manager violated the complaint process by being negligent in the

- 852 performance of their assigned duties and failure to appropriately
853 investigate a complaint.
- 854 iii. The notice shall address the appropriate accountability of the Area
855 Manager.
- 856 iv. The notice shall address the General Manager level position's
857 responsibility to complete the complaint investigation and reach a
858 resolution.
- 859 1. Investigation Procedure for all General Manager Level Positions, not
860 the Oneida Business Committee
- 861 a. The General Manager level position shall complete the
862 investigation and reach a resolution within ten (10) working days
863 of receiving the notice from EEO.
- 864 b. The General Manager level position's ten (10) working day
865 timeframe begins the day after the General Manager level position
866 receives the complaint from the EEO Department.
- 867 c. The General Manager level position shall meet with the employee
868 filing the complaint as well as all other parties mentioned in the
869 complaint.
- 870 i. Meetings between the General Manager level position and the
871 employees may occur in person, through video conferencing,
872 or by telephone.
- 873 ii. The General Manager level position shall document all
874 attempts made to meet with an employee. If the complaining
875 employee or the employee being complained about is
876 unavailable, the General Manager level position shall move
877 forward with the investigation based on the information they
878 have.
- 879 d. When the General Manager level position's investigation is
880 complete, the General Manager level position shall contact the
881 EEO Officer to mutually determine an appropriate resolution.
- 882 i. If the General Manager level position cannot come to a mutual
883 determination with the EEO Officer as to an appropriate
884 resolution for the complaint, then the General Manager level
885 position shall provide written justification for non-agreement
886 on the resolution to the Human Resources Executive Director.
- 887 e. The final resolution shall be sent to the EEO Department for filing
888 and reporting purposes.
- 889 f. The General Manager level position's resolution of the complaint
890 shall be final.
- 891 2. Investigation Procedure for the Oneida Business Committee
- 892 a. When the GM level position of a complaint was the Area Manager
893 in the complaint, then the Oneida Business Committee shall
894 complete the investigation and reach a resolution in accordance
895 with their standard operating procedure regarding complaints.
- 896 2) EEO Violations
- 897 a) An employee may file a EEO Violation complaint with the EEO Department.
- 898 b) The EEO Officer shall have ten (10) working days to investigate and resolve
899 the complaint.
- 900 c) The EEO Officer's ten (10) working day timeframe begins the day after the
901 EEO Department receives the complaint from the employee.

- 902 d) The EEO Officer shall notify the immediate supervisor of the employee being
- 903 complained about so they:
- 904 i. Are aware that the EEO Officer will be investigating their employee;
- 905 ii. Know the EEO Officer shall be responsible for implementing the final
- 906 resolution; and
- 907 iii. Know the final resolution shall be sent to their supervisor to ensure
- 908 accountability.
- 909 e) The EEO Officer shall meet with the employee filing the complaint as well as
- 910 all other parties mentioned in the complaint.
- 911 f) The Nation may utilize its laws and policies governing investigative leave
- 912 while the employee is being investigated for an EEO Violation complaint.
- 913 g) The EEO Officer shall meet with the Human Resources Executive Director to
- 914 mutually determine an appropriate resolution.
- 915 h) The final resolution and all support documentation used to make the final
- 916 resolution shall be filed at the EEO Department for reporting purposes.
- 917 i) The EEO Officer's resolution shall be final.

918 3) Illegal Activities

- 919 a) An employee may file an Illegal Activities complaint with the EEO
- 920 Department.
- 921 b) The EEO Officer shall have ten (10) working days to investigate and resolve
- 922 the complaint.
- 923 c) The EEO Officer's ten (10) working day timeframe begins the day after the
- 924 EEO Department receives the complaint from the employee.
- 925 d) The EEO Officer shall notify the immediate supervisor of the employee being
- 926 complained about so they:
- 927 i. Are aware that the EEO Officer will be investigating their employee;
- 928 ii. Know the EEO Officer shall be responsible for implementing the final
- 929 resolution; and
- 930 iii. Know the final resolution shall be sent to their supervisor to ensure
- 931 accountability.
- 932 e) The EEO Officer shall meet with the employee filing the complaint as well as
- 933 all other parties mentioned in the complaint.
- 934 f) The Nation may utilize its laws and policies governing investigative leave
- 935 while the employee is being investigated for an Illegal Activities complaint.
- 936 g) The EEO Officer shall meet with the Human Resources Executive Director to
- 937 mutually determine an appropriate resolution.
- 938 h) The final resolution and all support documentation used to make the final
- 939 resolution shall be filed at the EEO Department for reporting purposes.
- 940 i) The EEO Officer's resolution shall be final.
- 941 j) If the EEO Officer's Illegal Activities complaint investigation of the employee
- 942 resulted in the conclusion that an illegal activity did occur, then the EEO
- 943 Officer shall forward the complaint resolution and all support documentation
- 944 to a local law enforcement agency.
- 945 i. The local law enforcement agency shall utilize their investigation and
- 946 accountability processes for the complaint.

947 2. Discipline

- 948 a. Initiation of Disciplinary Action.
- 949 1) Disciplinary actions shall be initiated by an immediate supervisor for the purpose
- 950 of correcting unsatisfactory work performance or as the resolution of an
- 951 Employee Disagreement complaint investigation.

- 952 2) Disciplinary actions shall be initiated by an EEO Officer as the resolution of an
953 EEO Violation complaint or an Illegal Activities complaint investigation.
954 b. Determination of Disciplinary Action.
955 1) All disciplinary actions shall commensurate with the seriousness of the
956 unsatisfactory performance or violation.
957 2) Disciplinary actions shall be considered in progressive order.
958 a) The progressive order for discipline is as follows, unless otherwise noted:
959 i. Written warning (W);
960 ii. Suspension (S);
961 iii. Termination (T).
962 b) Deviation from Progressive Order
963 i. Any deviation from the recommended progressive order made by the
964 supervisor shall be justified in writing and approved by the EEO
965 Department.
966 ii. Any deviation from the recommended progressive order made by the
967 EEO Officer shall be justified in writing and approved by the Human
968 Resources Executive Director, or designee.
969 3) Accumulated Disciplinary Actions Warranting Termination
970 a) The following accumulations of disciplinary actions shall warrant the
971 termination of an employee:
972 i. Three (3) upheld warning notices within any twelve (12) month period;
973 ii. Two (2) upheld suspensions within any twelve (12) month period; or
974 iii. Any combination of three (3) upheld warning notices and/or upheld
975 suspensions within any twelve (12) month period.
976 c. Disciplinary Action for Unsatisfactory Work Performance.
977 1) A supervisor may initiate disciplinary action for unsatisfactory work performance
978 of an employee.
979 2) The actions listed below are examples of unsatisfactory work performance and
980 do not constitute a comprehensive or exhaustive list. The actions in parentheses
981 are the progressive order standards to be used in administering disciplinary
982 actions, unless a deviation is sought and approved.
983 a) Work Performance
984 i. Insubordination (including disobedience) or failure/refusal to carry out
985 assignments or instructions. (W/S/T)
986 ii. Loafing, loitering, sleeping or engaging in personal business. (W/S/T)
987 iii. Unauthorized disclosure of confidential information or records. (S/T)
988 iv. Falsifying records or giving false information to departments and/or
989 employees responsible for Recordkeeping. (S/T)
990 v. Failure to provide accurate and complete information where such
991 information is required by an authorized person. (S/T)
992 vi. Failure to comply with health, safety and sanitation requirements, rules
993 and regulations. (W/S/T)
994 vii. Negligence in the performance of assigned duties. (W/S/T)
995 b) Attendance and Punctuality
996 i. Failure to report promptly and observe work schedules (such as starting
997 time, quitting time, rest and meal breaks) without the specific approval of
998 the supervisor. (W/S/T)
999 ii. A pattern of unexcused or excessive absenteeism and/or tardiness.
1000 (W/S/T)
1001 c) Use of Property

- 1002 i. Unauthorized or improper use of Oneida Nation property or equipment
1003 (for example, Oneida Nation vehicles, telephone, mail services, etc.)
1004 (W/S/T)
- 1005 ii. Unauthorized possession, removal or willful destruction of Oneida
1006 Nation or another employee's property (including improper use of
1007 possession of uniforms, identification cards, badges, permits or
1008 weapons). (Willful destruction of property may subject the violator to
1009 applicable liability laws.) (T)
- 1010 iii. Unauthorized use, lending, borrowing or duplicating of Oneida Nation
1011 keys. (T)
- 1012 iv. Unauthorized entry of Oneida Nation property, including unauthorized
1013 entry outside of assigned hours of work or entry into restricted areas
1014 without prior supervisory approval. (S/T)
- 1015 v. Theft of property shall include theft, embezzlement, cheating,
1016 defrauding, pilfering, robbery, extortion, racketeering, swindling or any
1017 of these actions, or conspiracy to commit such actions with Oneida
1018 Nation employees or other persons against the Nation, its guests,
1019 employee, members, customers and/or clients while on or about the
1020 Nation's premises. (S/T) [\(BC Action, 12-2-88\)](#)
- 1021 d) Personal Actions and Appearance
- 1022 i. Threatening, attempting, or doing bodily harm to another person. (T)
- 1023 ii. Intimidating, interfering with or using abusive language toward
1024 customers, clients, co-workers or others. (S/T)
- 1025 iii. Making false or malicious statements concerning other employees,
1026 supervisors or program heads. (W/S/T)
- 1027 iv. Use of alcohol or illegal controlled substances during work hours. (S/T)
1028 [\(GTC Resolution, 01-05-09A\)](#)
- 1029 v. Reporting for work under the influence of alcohol or illegal controlled
1030 substances. (S/T) [\(GTC Resolution, 01-05-09A\)](#)
- 1031 vi. Failure to immediately report any work-related injuries to the immediate
1032 supervisor. (W/S)
- 1033 vii. Direct involvement in political campaigning during scheduled work
1034 hours. Violations include:
 - 1035 1. Use of Oneida Nation employment title in Oneida Nation campaign
1036 activities. (W/S/T)
 - 1037 a. Political materials include: leaflets, brochures, etc. which solicit
1038 support for candidates for office.
 - 1039 b. Resolutions or petitions which propose that a political action be
1040 initiated.
 - 1041 c. Leaflets, newsletters, or other written materials the purpose of
1042 which is to espouse political views or opinions.
- 1043 viii. The acceptance of gifts or gratuities for personal gain in the course of
1044 official duties. (Customers are allowed to tip Bingo workers, Oneida Retail
1045 Enterprise workers, and Museum workers.) (W/S/T)
- 1046 ix. Inappropriate dress or personal hygiene which adversely affects the
1047 proper performance of duties or constitutes a health or safety hazard.
1048 (W/S)
- 1049 x. Failure to exercise proper judgment. (W/S/T)
- 1050 xi. Failure to be courteous in dealing with fellow employees or the general
1051 public. (W/S/T)

- 1052 xii. Any of the following acts by employees: Arson, bribery, perjury,
1053 obstruction or interference with an investigation authorized by the
1054 Oneida Nation. (S/T)
1055 [\(BC Action, 12-2-88\)](#)
- 1056 xiii. The use, possession, selling or purchasing of, or attempt to sell or
1057 purchase alcohol, and/or prohibited drugs on or about Oneida Nation
1058 premises while on duty. (S/T)
1059 1. Prohibited drug means marijuana, cocaine, opiates, amphetamines,
1060 phencyclidine (PCP), hallucinogens, methaqualone, barbiturates,
1061 narcotics, and any other substances included in Schedules I through
1062 V, as defined by Section 812 of Title 21 of the United States Code.
1063 Prohibited drugs also includes prescription medication or over-the-
1064 counter medicine when used in an unauthorized or unlawful manner.
1065 [\(BC Action, 12-2-88\)](#)
- 1066 xiv. Any violation of duly adopted laws of the Nation. (W/S/T) [\(BC Action, 12-2-88\)](#)
- 1067 d. Disciplinary Procedure. The following procedure shall be adhered to by the
1068 supervisor or EEO Officer whenever disciplinary action is taken.
- 1069 1) The supervisor or EEO Officer shall fill out a disciplinary action form within five (5)
1070 working days of either:
- 1071 a) the resolution of a complaint from which it has been determined that
1072 disciplinary action is warranted, or
- 1073 b) the determination that disciplinary action is warranted based on the
1074 unsatisfactory work performance of an employee.
- 1075 2) The supervisor or EEO Officer shall fill out the disciplinary action form in its
1076 entirety and ensure the information contained on the form is complete and
1077 accurate. The disciplinary action form shall include at a minimum the following
1078 information:
- 1079 a) Statement of the behavior for which the disciplinary action is being taken;
- 1080 b) The time and date of its occurrence; and
- 1081 c) The specific policy section under which action is being taken.
- 1082 3) The supervisor or EEO Officer shall promptly hold a meeting with the employee
1083 to discuss the disciplinary action form with the employee and identify a
1084 corrective action.
- 1085 a) The meeting between the supervisor or EEO Officer and the employee may
1086 occur in person, through video conferencing, or over the telephone.
- 1087 b) During the meeting the supervisor or EEO Officer shall discuss the disciplinary
1088 action with the employee being disciplined to ensure that the employee:
- 1089 i. Understands the reason for the disciplinary action;
- 1090 ii. Understands the expected work performance in light of the disciplinary
1091 action; and
- 1092 iii. Understands the consequences of continued unacceptable behavior.
- 1093 4) The employee being disciplined shall sign the disciplinary action form.
- 1094 a) Should an employee being disciplined refuse to discuss the action with their
1095 supervisor or the EEO Officer, or refuse to sign the disciplinary action form,
1096 the supervisor or EEO Officer shall so note this, with date of refusal, on the
1097 form.
- 1098 5) Within one (1) working day of the conclusion of the meeting with the employee,
1099 the supervisor or EEO Officer shall provide copies of the signed disciplinary action
1100 form, or disciplinary action form noting the date of refusal, to the:
- 1101 a) Employee being disciplined;

- 1102 b) Human Resources Executive Director;
1103 c) Supervisor;
1104 d) Area Manager; and
1105 e) Appropriate General Manager level position.
- 1106 6) Should a disciplinary action result in the suspension of an employee, the
1107 following guidelines shall apply:
1108 a) Consultation on Suspensions
1109 i. If the supervisor is issuing the discipline, then the supervisor shall consult
1110 with the EEO Officer to mutually determine the length of the suspension.
1111 ii. If the EEO Officer is issuing the discipline, then the EEO Officer shall
1112 consult with the Human Resources Executive Director to mutually
1113 determine the length of the suspension.
1114 b) Suspensions shall be limited to a maximum period of three (3) weeks.
1115 i. Suspensions that are overturned in the grievance process shall result in
1116 the employee receiving back pay for the time they were suspended.
- 1117 7) Should a disciplinary action result in the termination of an employee, the
1118 following guidelines shall apply:
1119 a) Consultation on Termination
1120 i. If the supervisor is issuing the discipline, then the supervisor shall consult
1121 with the EEO Officer to mutually determine that the termination is the
1122 appropriate disciplinary action.
1123 ii. If the EEO Officer is issuing the discipline, then the EEO Officer shall
1124 consult with the Human Resources Executive Director to mutually
1125 determine that the termination is the appropriate disciplinary action.
1126 b) Terminations that are overturned in the grievance process shall result in the
1127 employee receiving back pay for the time they were terminated.
- 1128 8) The Human Resources Department may void a disciplinary action for clear
1129 procedural errors.
1130 a) The EEO Officer may void a disciplinary action taken by a supervisor for clear
1131 procedural errors.
1132 b) The Human Resources Executive Director, or designee, may void a disciplinary
1133 action taken by an EEO Officer for clear procedural errors.
1134 c) Notification of a voided disciplinary action shall be sent to the supervisor or
1135 EEO Officer and the employee which identifies the procedural error.
- 1136 9) For any supervisor who fails to follow the Nation's disciplinary procedures, the
1137 EEO Department shall send a letter to the Area Manager.
1138 a) The letter shall notify the Area Manager that the supervisor violated the
1139 disciplinary process by being negligent in the performance of their assigned
1140 duties and failure to appropriately discipline an employee.
1141 b) The letter shall address the appropriate accountability of the supervisor.
- 1142 3. Grievance ([Grievance Flowchart](#))
1143 a. General
1144 1) An employee who receives a disciplinary action which they believe is improper
1145 may grieve the action.
1146 2) The grievance process shall be conducted with utmost consideration for due
1147 process within the time limits set forth herein but will allow and account for
1148 recognized holidays of the Nation and unforeseen circumstances, such as
1149 illnesses, deaths in the immediate family of principals.
1150 b. Grievance Process for EEO Violations and Illegal Activities Complaints. An employee
1151 may appeal a discipline that resulted from an EEO Violation or Illegal Activities

- 1152 complaint to the Oneida Nation Judiciary by filing a complaint with the Trial Court
1153 within ten (10) days from the employee's receipt of the discipline.
- 1154 c. Grievance Process for Employee Disagreement Complaints and Unsatisfactory Work
1155 Performance. The grievance process for discipline that resulted from an employee
1156 disagreement complaint or unsatisfactory work performance shall be governed by
1157 the following guidelines: [\(HR Interpretation, 8-19-2011\)](#) [\(HR Interpretation, 1-29-2014\)](#)
- 1158 1) Appeal to the Area Manager
- 1159 a) The employee (petitioner) shall file an appeal in writing with the Area
1160 Manager and the Human Resources Executive Director, or designee, within
1161 ten (10) working days from the day the employee receives the disciplinary
1162 action.
- 1163 i. The employee may seek the assistance of an advocate at any time after
1164 the disciplinary action has been issued in order to aid in the resolution of
1165 the grievance process.
- 1166 b) The Area Manager, for all disciplinary action investigations, shall have ten (10)
1167 working days from the receipt of the employee's appeal to complete the
1168 investigation.
- 1169 i. The supervisor shall meet with the following individuals during the
1170 disciplinary action investigation:
- 1171 1. Employee filing the appeal of the discipline;
1172 2. Supervisor who issued the discipline; and
1173 3. Any other witnesses mentioned in the appeal that were not
1174 mentioned in the disciplinary action.
- 1175 ii. Meetings between the Area Manager and the employees may occur in
1176 person, through video conferencing, or by telephone.
- 1177 iii. The Area Manager shall document all attempts made to meet with an
1178 employee. If an employee is unavailable to meet within the grievance
1179 timelines, the Area Manager shall move forward with the investigation
1180 based on the information they have.
- 1181 iv. One (1) extension of no more than five (5) working days may be
1182 requested of and granted by the Human Resources Executive Director,
1183 or designee, at their discretion.
- 1184 c) The Area Manager shall take one of the following actions:
- 1185 i. Uphold the disciplinary action;
1186 ii. Modify the disciplinary action; or
1187 iii. Overturn the disciplinary action.
- 1188 1. If a suspension or termination is overturned, the employee
1189 (petitioner) shall be reinstated to the position the employee was
1190 suspended or terminated from with full back pay.
- 1191 d) The Area Manager shall file their decision with the employee and the Human
1192 Resources Executive Director, or designee. The decision of the Area Manager
1193 shall include:
- 1194 i. a reason for the decision;
1195 ii. an explanation of the decision; and
1196 iii. the action to be taken as a result of it.
- 1197 e) An Area Manager who does not comply with the disciplinary action grievance
1198 procedure may be subject to discipline.
- 1199 2) Appeal to the Oneida Personnel Commission [\(BC Resolution, 3-18-19\)](#)
- 1200 a) An employee may appeal the Area Manager's decision to the Oneida
1201 Personnel Commission by filing a grievance with the Government

- 1202 Administrative Office on behalf of the Oneida Personnel Commission within
1203 ten (10) working days from the employee's receipt of the Area Manager's
1204 decision.
- 1205 b) The Government Administrative Office shall notify the Human Resources
1206 Executive Director of the appeal of the Area Manager's decision within one
1207 (1) business day of receipt of the appeal.
- 1208 c) The Government Administrative Office shall collect all information the Area
1209 Manager used in making the decision to uphold or modify the disciplinary
1210 action.
- 1211 d) The Government Administrative Office shall provide the information obtained
1212 to the Oneida Personnel Commission members selected to serve as the
1213 hearing body for the appeal.
- 1214 e) The Oneida Personnel Commissioners shall review all the information
1215 submitted by the employee petitioner and the Government Administrative
1216 Office to determine if one (1) or both conditions exist;
- 1217 i. The decision of the Area Manager is clearly against the weight of the
1218 evidence; or
- 1219 ii. Procedural irregularities were exhibited during the appeal process that
1220 were harmful to one of the parties to the grievance.
- 1221 f) If Oneida Personnel Commission members selected to serve as the hearing
1222 body for the appeal find one (1) or both conditions exist, the Government
1223 Administrative Office shall convene the Oneida Personnel Commission to
1224 hear the grievance.
- 1225 g) If the Oneida Personnel Commission members find that neither condition
1226 exists, the Oneida Personnel Commission shall deny the appeal for a hearing
1227 and affirm the decision of the Area Manager.
- 1228 h) Convening a Hearing
- 1229 i. The Government Administrative Office shall schedule a time and location
1230 for the grievance hearing and shall confirm the participation of the
1231 Oneida Personnel Commission members selected to serve as the hearing
1232 body for the complaint.
- 1233 ii. The Government Administrative Office shall send notice of the hearing
1234 to the petitioner, respondent, and Oneida Personnel Commission
1235 members at least five (5) working days prior to the hearing date.
- 1236 iii. The Government Administrative Office shall provide copies of all
1237 information on the subject case upon which the disciplinary action was
1238 upheld or modified by the Area Manager to the members of the Oneida
1239 Personnel Commission at least two (2) working days prior to the appeal
1240 date.
- 1241 iv. The Government Administrative Office shall allow the petitioner and
1242 respondent access to this information in the Government Administrative
1243 Office at least two (2) days prior to the appeal date.
- 1244 i) Hearing Procedure
- 1245 i. The order of presentation for the hearing shall be:
- 1246 1. Petitioner's opening statement;
- 1247 2. Respondent's opening statement;
- 1248 3. The Petitioner's case;
- 1249 4. The Respondent's case;
- 1250 5. Petitioner's closing statement; and
- 1251 6. Respondent's closing statement.

- 1252 ii. The petitioner shall have the right to be represented by an advocate, at
1253 their own expense. The respondent and/or Area Manager who is party
1254 to the grievance action shall have access to an advocate for consultation
1255 and/or representation. Should the petitioner engage outside
1256 professional legal representation, the respondent and/or Area Manager
1257 shall have access to the professional legal representation.
- 1258 1. Should the petitioner and their representative both fail to appear for
1259 any scheduled hearing without justifiable cause, the decision of the
1260 Area Manager shall be upheld, and the grievance dismissed.
- 1261 2. Should the respondent and their representative both fail to appear for
1262 any scheduled hearing without justifiable cause, the decision of the
1263 Area Manager shall be overturned.
- 1264 iii. If new evidence which was previously unavailable is introduced at any
1265 point during the hearing process, the Oneida Personnel Commission
1266 hearing shall be suspended, and the case shall be remanded to the Area
1267 Manager for reconsideration.
- 1268 1. The Area Manager shall reconsider the decision in light of the new
1269 evidence and issue a decision within three (3) working days.
- 1270 2. This procedure may be invoked only once.
- 1271 iv. Thereafter, the appeal process shall continue to a conclusion based on
1272 the information originally presented and the newly introduced evidence.
- 1273 1. If the Area Manager overturns their decision, the case shall not come
1274 back for a hearing.
- 1275 2. If the Area Manager affirms their decision, then the case shall come
1276 back to the Oneida Personnel Commission to complete the hearing.
- 1277 v. The Oneida Personnel Commission's decision shall be based solely on the
1278 information presented to them before the appeal hearing, the record of
1279 the prior proceedings, and any new evidence if introduced
1280 appropriately.
- 1281 vi. The Oneida Personnel Commission may:
- 1282 1. Uphold the disciplinary action; or
- 1283 2. Overturn the disciplinary action and:
- 1284 a. Reinstatement the employee (petitioner) with back pay for any lost time
1285 in accordance with the Back Pay law; or
- 1286 b. Reinstatement the employee (petitioner) without back pay.
- 1287 vii. The Oneida Personnel Commission shall provide notification of the final
1288 decision within five (5) working days following the hearing. Notification
1289 of the final decision shall include;
- 1290 1. The final decision;
- 1291 2. The reason(s) for the final decision; and
- 1292 3. The action to be taken as a result of the final decision.
- 1293 j) The Government Administrative Office shall keep records of the hearing, and
1294 provide copies of administrative advocacy rules, procedural rules, and time
1295 line rules to interested parties.
- 1296 k) If the Oneida Personnel Commission is unable to fulfil its responsibility to hear
1297 an appeal of an Area Manager's decision, then the employee may appeal the
1298 Area Manager's decision to the Oneida Nation Judiciary by filing a complaint
1299 with the Trial Court within ten (10) days from the employee's receipt of the
1300 Area Manager's decision.
- 1301

1302 **SECTION VI – SAFETY AND HEALTH**

1303
1304 A. POLICY

1305 The personal safety and health of each employee, customer and client of the Oneida Nation is
1306 of primary importance. The prevention of injuries and illnesses is of such importance that it will
1307 take precedence over operating productivity whenever necessary.

1308
1309 The Oneida Nation will maintain a safety and health program conforming to the best practices
1310 available. To be successful, this program will work to develop the proper attitudes toward on-
1311 the-job injury and illness prevention on the part of supervisors and employees. This program will
1312 strive to develop a high level of cooperation in all safety and health matters between supervisors
1313 and employees and among employees.

1314
1315 The objective of this program is a safe and healthy environment that will reduce the number of
1316 job-related injuries and illnesses to an absolute minimum. The Nation's goal is zero
1317 accidents and illnesses.

1318
1319 B. PROCEDURES

1320 The Oneida Nation Safety Committee will adopt and enforce through the Personnel
1321 Department procedures related to the education of the Nation's work force in matters
1322 of safety and health. These procedures will include all education and prevention
1323 activities, assessments and evaluations, and reporting.

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SECTION VII – PROGRAM/ENTERPRISE RULES & REGULATIONS

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- 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.

1386 **SECTION VIII – RECORDKEEPING**

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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. [\(BC Action, 10-14-09B\)](#)

1427 **SECTION IX – PRIVACY AND CONFIDENTIALITY OF EMPLOYEE RECORDS**

1428 The Human Resources Department of the Oneida Nation collects information from employees in
1429 order to make decisions regarding personnel actions including hiring, transfers and promotions,
1430 training, compensation and benefits, disciplinary actions and other job opportunities. This
1431 information is maintained by the Human Resources Department in individual files for as long as
1432 the person is an employee of the Oneida Nation.

1433 A. STATEMENT OF POLICY

1434 As a general rule, the Oneida Nation considers all information contained in these files to be
1435 private and confidential. No information of any type shall be released to any person or agent of
1436 any organization without the written consent of the employee except under the conditions
1437 outlined herein.

1438 B. EMPLOYEE ACCESS

1439 In addition, the Oneida Nation recognizes that the information contained in each employee's
1440 file is personal and that the lives of its employees are subject to changes. Therefore, the Oneida
1441 Nation provides for employee access to his/her personnel file. Employees are allowed to review
1442 their file and submit a statement of amendment should their review uncover any inaccurate,
1443 obsolete or irrelevant information. Should any information come into dispute, an employee's
1444 statement of dispute will be accessed into the file.

1445 C. RELEASE OF INFORMATION TO THIRD PARTIES

1446 The Oneida Nation is obligated by law to release certain information to outside parties. Such
1447 parties include the State of Wisconsin's Unemployment Compensation Department and its
1448 Workers Compensation Division and the United States Social Security Administration. Any
1449 additional information released to a third party by the Human Resources Department related to
1450 employee records shall consist of summary information and will not include any identifying
1451 personal information. (Such information may be total numbers of males and females in the
1452 workforce, mean, median and average age of the workforce, etc.)

1453 The Oneida Nation will release personal information on employees when a request is
1454 accompanied by a written release signed by the employee. The Human Resources Department
1455 will make every effort to validate this request by contacting the employee. In no case shall the
1456 Oneida Nation release personal information from an employee's file without this consent.

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