



**LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA**  
Business Committee Conference Room - 2<sup>nd</sup> Floor Norbert Hill Center  
February 1, 2023  
9:00 a.m.

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

**II. Minutes to be Approved**

1. January 18, 2023 LOC Meeting Minutes (pg. 2)

**III. Current Business**

1. Back Pay Law Amendments (pg. 4)
2. Clean Air Policy Amendments (pg. 28)

**IV. New Submissions**

1. Oneida Election Board Bylaws Amendments (pg. 35)

**V. Additions**

**VI. Administrative Updates**

1. Legislative Operating Committee FY23 First Quarter Report (pg. 57)
2. Title Revision: Trust Scholarship Fund Policy Amendments to Higher Education Scholarship Law (pg. 69)

**VII. Executive Session**

**VIII. Recess/Adjourn**



**LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES**  
Oneida Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
January 18, 2023  
9:00 a.m.

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

**Others Present:** Clorissa N. Leeman, Carolyn Salutz, Grace Elliott, Brooke Doxtator, Keith Doxtator, Eric Boulanger (Microsoft Teams), Matt Denny (Microsoft Teams), Michelle Tipple (Microsoft Teams), Tina Jorgenson (Microsoft Teams), Todd VandenHeuvel (Microsoft Teams), Kaylynn Gresham (Microsoft Teams), Justin Nishimoto (Microsoft Teams), Whitney Wheelock (Microsoft Teams), Debra Powless (Microsoft Teams), Mark Powless (Microsoft Teams), Rhiannon Metoxen (Microsoft Teams)

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

David P. Jordan called the January 18, 2023, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Marie Cornelius to adopt the agenda with one correction [*title on the coversheet for the Petition: M. Cornelius – Chief Financial Officer Position*]; seconded by Jennifer Webster. Motion carried unanimously.

**II. Minutes to be Approved**

**1. January 4, 2023 LOC Meeting Minutes**

Motion by Marie Cornelius to approve the January 4, 2023, LOC meeting minutes and forward to the Oneida Business Committee; seconded by Kirby Metoxen. Motion carried unanimously.

**III. Current Business**

**1. Emergency Management Law Amendments**

Motion by Jennifer Webster to approve the draft, legislative analysis, and fiscal impact statement review memorandum, and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by February 15, 2023; seconded by Marie Cornelius. Motion carried unanimously.

**2. Petition: M. Cornelius – Chief Financial Officer Position**

Motion by Jennifer Webster to accept the memorandum and remove the Petition: M. Cornelius – Chief Financial Officer Position from the Active Files List; seconded by Marie Cornelius. Motion carried unanimously.

A good mind. A good heart. A strong fire.



**3. Petition: N. Barton – -\$2,500 GWA Payment for Three Years**

Motion by Marie Cornelius to accept the statement of effect for Petition: N. Barton - \$2,500 GWA Payment for Three Years and forward to the Oneida Business Committee; seconded by Jennifer Webster. Motion carried unanimously.

**IV. New Submissions**

**1. Clean Air Policy Amendments**

Motion by Jennifer Webster to add the Clean Air Policy amendments to the Active Files List with David P. Jordan as the sponsor; seconded by Marie Cornelius. Motion carried unanimously.

**V. Additions**

**VI. Administrative Items**

**VII. Executive Session**

**VIII. Adjourn**

Motion by Marie Cornelius to adjourn at 9:20 a.m.; seconded by Daniel Guzman King. Motion carried unanimously.



Legislative Operating Committee  
February 1, 2023

# Back Pay Law Amendments

<b>Submission Date:</b> 9/21/22	<b>Public Meeting:</b> 12/13/22
<b>LOC Sponsor:</b> Marie Cornelius	<b>Emergency Enacted:</b> N/A

**Summary:** *On August 14, 2022, during executive session, the Oneida Business Committee requested that the Legislative Operating Committee add the Back Pay law to the Active Files List, and to release the confidential memo to the Legislative Reference Office as a confidential document.*

**9/14/22 OBC:** Motion by Jennifer Webster to request the Legislative Operating Committee to add the Backpay Policy to the active files agenda and to release the confidential memo to the Legislative Reference Office as a confidential document, seconded by David P. Jordan. Motion carried.

**9/21/22 LOC:** Motion by Jennifer Webster to add the Back Pay Law Amendments to the Active Files List with Marie Cornelius as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

**9/29/22:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Cornelius, Clorissa N. Leeman, Carolyn Salutz, Grace Elliott, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the proposed draft of amendments to the Back Pay law.

**10/5/22 LOC:** Motion by Jennifer Webster to approve the draft of the proposed amendments to the Back Pay law and direct that a legislative analysis be completed; seconded by Daniel Guzman King. Motion carried unanimously.

**10/13/22:** *Work Meeting.* Present: David P. Jordan, Daniel Guzman King, Marie Cornelius, Clorissa N. Leeman, Carolyn Salutz, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss an additional proposed amendments to the law.

**10/19/22 LOC:** Motion by Jennifer Webster to approve the updated draft and legislative analysis; seconded by Marie Cornelius. Motion carried unanimously.

**11/2/22 LOC:** Motion by Kirby Metoxen to approve the public meeting packet and forward the Back Pay law amendments to a public meeting to be held on December 13, 2022; seconded by Marie Cornelius. Motion carried unanimously.

**12/13/22:** *Public Meeting Held.* Present: Kirby Metoxen, Clorissa N. Santiago, Carolyn Salutz, Brooke Doxtator, David P. Jordan (Microsoft Teams), Carrie Lindsey (Microsoft Teams), Joy Salzwedel (Microsoft Teams), Justin Nishimoto (Microsoft Teams), Rachel Fitzpatrick

(Microsoft Teams), Tina Jorgensen (Microsoft Teams), Melanie Burkhart (Microsoft Teams), Grace Elliot (Microsoft Teams), Brenda Haen (Microsoft Teams), Debra Santiago (Microsoft Teams), Kristal Hill (Microsoft Teams), Matt Denny (Microsoft Teams), Ronald Vanschyndel (Microsoft Teams), Wendy Alvarez (Microsoft Teams), Stefanie Reinke (Microsoft Teams), Jay Kennard (Microsoft Teams), Sidney White (Microsoft Teams). The public meeting for the Back Pay law amendments was held in person in the Norbert Hill Center and on Microsoft Teams. No individuals provided public comment during the public meeting.

**12/20/22:** *Public Comment Period Closed.* One (1) submission of written comments were received during the public comment period.

**Next Steps:**

- Accept the public comments and the public comment review memorandum and defer to a work meeting for further consideration.

TO: Legislative Operating Committee (LOC)  
 FROM: Clorissa N. Leeman, Legislative Reference Office, Senior Staff Attorney  
 DATE: February 1, 2023  
 RE: Back Pay Law Amendments: Public Comment Review



On December 13, 2022, a public meeting was held regarding the proposed amendments to the Back Pay law (“the Law”). The public comment period was then held open until December 20, 2022. This memorandum is submitted as a review of the comments received during the public comment period. The public meeting draft, public meeting transcript, and written comments received are attached to this memorandum for review.

### Comment 1 – Definition of Division:

#### 206.4. Reinstatement

**206.4-1. *Reinstatement to the Position the Employee was Terminated From.*** Should an employee's appeal of a termination result in the termination being overturned, the reviewing party shall order the employee be reinstated to the position from which the employee was wrongfully terminated.

- (a) In accordance with section 206.4-3, in the event the position the employee was terminated from has been eliminated or the employee is no longer eligible for the position the employee was terminated from based on amendments to the position description, the reviewing party shall order reinstatement to a position within the same division of the organization the employee was terminated from that is comparable in wage to the position the employee was terminated, to the extent it is available at the time of the reviewing party's decision.
- (b) Any order requiring the employee to be reinstated to a position comparable to the position the employee was terminated from shall note the requirement that the Human Resources Department shall make the determination that the employee is eligible for a comparable position.
- (c) If no comparable positions are available within the same division of the organization the employee was terminated from that are comparable in wage to the position the employee was terminated from, or if the employee is not eligible for the comparable position, the order to reinstate shall be deemed satisfied and the back pay end date shall be the date of the reviewing party's decision.

**Todd Vanden Heuvel (written):** In regards to the definition of Division, how will that be determined or defined? Not every area is designated as a division with some areas being much smaller at a department level. However, some additional comments:

- Non-Divisional areas: will that be considered one division or many separate divisions/areas?
- In the General Manager's area, there are a number of Divisions. Would there be consideration to go beyond the established division? For example; if an employee is reinstated and they're from the Governmental Services Division, could be placed in a

similar position in the Comprehensive Health Division? Using Division may be limiting in that example.

### ***Response***

The commenter expresses concern regarding the use of the term “division” in section 206.4-1 of the Law. Specifically, that the use of this term does not provide clarification on how non-divisional areas will be handled, as well as concern that the use of this term may be limiting in finding positions with comparable wages and responsibilities.

The intent of this provision of the Law is to provide that if an employee returns to work after their termination was overturned and their original employment position has been eliminated or the employee is no longer eligible for their original position, then the employee is reinstated to a position that is comparable. The Law is clear that the reinstated position must be comparable in *wage* to the original position. [2 O.C. 206.4-1(a)]. Requiring “*reinstatement to a position within the same division of the organization the employee was terminated from*” as found in section 206.4-1(a) of the Law increases the probability that the position an employee is reinstated to is similar in job responsibilities, topic areas, or trainings/background as the employee’s original position.

It is agreed that the current use of the term “division” needs clarification and may trigger limitations that were not intended by this provision of the Law. Therefore, it is recommended that the following revisions to the Law be made to provide greater clarification:

### **206.4. Reinstatement**

206.4-1. *Reinstatement to the Position the Employee was Terminated From.* Should an employee's appeal of a termination result in the termination being overturned, the reviewing party shall order the employee be reinstated to the position from which the employee was wrongfully terminated.

- (a) In accordance with section 206.4-3, in the event the position the employee was terminated from has been eliminated or the employee is no longer eligible for the position the employee was terminated from based on amendments to the position description, the reviewing party shall order reinstatement to a position within the ~~same division of the organization~~ ~~the employee was terminated from~~ that is comparable in wage and responsibilities and duties to the position the employee was terminated from, to the extent it is available at the time of the reviewing party's decision.
- (b) Any order requiring the employee to be reinstated to a position comparable to the position the employee was terminated from shall note the requirement that the Human Resources Department shall make the determination that the employee is eligible for a comparable position.
- (c) If no comparable positions are available within the ~~same division of the organization~~ ~~the employee was terminated from~~ that are comparable in wage and responsibilities and duties to the position the employee was terminated from, or if the employee is not eligible for the comparable position, the order to reinstate shall be deemed satisfied and the back pay end date shall be the date of the reviewing party's decision.

### ***LOC Consideration***

## Comment 2 – Modification or Elimination of a Position:

### 206.4. Reinstatement

**206.4-2. Requirement to Hold the Position Pending Litigation.** When an employee is terminated and thereafter appeals said termination, the disciplining supervisor may only fill the employee's former position with an interim employee until the appeal has fully run its course, which includes any appeal timelines to the area manager, the Trial Court, or the Appellate Court.

**206.4-3. Amending the Position Description or Eliminating the Position Pending an Employee Appeal.** Notwithstanding the requirement to hold the terminated employee's position pending an employee's appeal of their termination as provided in section 206.4-2, a supervisor or business unit may amend the affected position description or eliminate the affected position while an employment appeal is pending where such actions are required to meet the Nation's business and employment needs. The determination to amend an affected position description or eliminate an affected position shall be approved by the Human Resources Executive Director and either the General Manager, Gaming General Manager, Retail General Manager, or the highest position in the employee's chain of command for non-divisional employees.

**Todd Vanden Heuvel (written):** In regards to modifying or eliminating a position:

- It may need to be clarified what circumstances that could/would be allowable. As an example; during the pandemic, there were a number of positions eliminated due to budgets/restructures. Pandemics are a rare and unexpected occurrence and it wouldn't be expected to happen often.
  - Budgets may be another reason for positions to be eliminated (i.e. grant funding ends).
- Modifications/elimination of positions outside of unexpected occurrences/budget considerations (i.e. grant funding ends), tend to lend to the perception that the changes were done because of the employee who vacated the position. HRD would have to ensure and/or caution that any modification/elimination of a position is not considered retaliatory in nature. Where/when feasible, it may be suggested that any modifications to the job description wait until the appeal process has concluded.

### *Response*

The commenter provides that it may need to be clarified in what circumstances the modification or elimination of a position would be allowable pending an employee's appeal of their termination. The commenter then expresses the concern that the modification or elimination of a position allowable pending an employee's appeal of their termination outside of unexpected occurrences or budget considerations tend to lead to the perception that the modification or elimination is occurring due to the employee who is appealing their termination and appears retaliatory in nature.



The Law provides that when an employee is terminated and thereafter appeals said termination, the disciplining supervisor may only fill the employee's former position with an interim employee until the appeal has fully run its course, which includes any appeal timelines to the area manager, the Trial Court, or the Appellate Court. [2 O.C. 206.4-2]. A supervisor is allowed to amend the affected position description or eliminate the affected position while an employment appeal is pending in circumstances where such actions are required to meet the Nation's business and employment needs. [2 O.C. 206.4-3]. In addition to the requirement that the modification or elimination only occurs when such actions are required to meet the Nation's business and employment needs, the determination to modify or eliminate an affected position is then required to be approved by the Human Resources Executive Director and either the General Manager, Gaming General Manager, Retail General Manager, or the highest position in the employee's chain of command for non-divisional employees. *Id.*

The Legislative Operating Committee may consider whether the provision “*actions are required to meet the Nation's business and employment needs*” provides enough clarification as to when the modification or elimination of a position is allowed when an employment appeal is pending, or if this section should be further clarified. The Legislative Operating Committee may make one of the following determinations:

1. Section 206.4-3 of the Law provides enough clarification as to when modification or elimination of a position is allowed pending an employment appeal and should remain as currently drafted.
2. Section 206.4-3 of the Law should be amended to provide greater clarification as to when modification or elimination of a position is allowed pending an employment appeal. If the Legislative Operating Committee makes its determination it is recommended that the Legislative Operating Committee meet with the Human Resources Department to discuss and determine specific circumstances in which the modification or elimination of a position should be allowed pending an employment appeal.

### ***LOC Consideration***

#### **Comment 3 – Comparable Wage:**

#### **206.4. Reinstatement**

**206.4-1. *Reinstatement to the Position the Employee was Terminated From.*** Should an employee's appeal of a termination result in the termination being overturned, the reviewing party shall order the employee be reinstated to the position from which the employee was wrongfully terminated.

- (a) In accordance with section 206.4-3, in the event the position the employee was terminated from has been eliminated or the employee is no longer eligible for the position the employee was terminated from based on amendments to the position description, the reviewing party shall order reinstatement to a position within the same division of the organization the employee was terminated from that is

**comparable in wage to the position the employee was terminated, to the extent it is available at the time of the reviewing party's decision.**

**(b) Any order requiring the employee to be reinstated to a position comparable to the position the employee was terminated from shall note the requirement that the Human Resources Department shall make the determination that the employee is eligible for a comparable position.**

**(c) If no comparable positions are available within the same division of the organization the employee was terminated from that are comparable in wage to the position the employee was terminated from, or if the employee is not eligible for the comparable position, the order to reinstate shall be deemed satisfied and the back pay end date shall be the date of the reviewing party's decision.**

**Todd VandenHeuvel (written):** General Question/Comments: If a comparable position needs to be considered, what is a comparable wage? This may need to be defined a bit more. Will it be up to HRD/General Manager to conclude what constitutes a comparable wage?

### ***Response***

The commenter questions how “*comparable wage*” is defined and determined in the Law. The Law provides that in the event the position the employee was terminated from has been eliminated or the employee is no longer eligible for the position the employee was terminated from based on amendments to the position description, the reviewing party shall order reinstatement to a position within the same division of the organization the employee was terminated from that is *comparable in wage* to the position the employee was terminated, to the extent it is available at the time of the reviewing party's decision. [2 O.C. 206.4-1(a)]. Any order requiring the employee to be reinstated to a position comparable to the position the employee was terminated from shall note the requirement that the Human Resources Department shall make the determination that the employee is eligible for a comparable position. [2 O.C. 206.4-1(b)].

Since there is no specific definition included in the Law for comparable wage, the term is used in its ordinary and everyday sense. The Merriam-Webster dictionary defines “comparable” as capable of or suitable for comparison; similar, like.

The Legislative Operating Committee may consider whether the use of the term “comparable wage” needs further explanation or clarification. The Legislative Operating Committee may make one of the following determinations:

1. The use of the term “comparable wage” in section 206.4-1 of the Law needs no further clarification as it is used its ordinary and everyday sense, and therefore the Law should remain as currently drafted.
2. The use of the term “comparable wage” in section 206.4-1 of the Law should be amended to provide greater clarification as to how “comparable wage” should be defined and utilized. If the Legislative Operating Committee makes it determination it is recommended that the Legislative Operating Committee meet with the Human Resources Department to discuss and determine a specific definition for the term comparable wage.

### ***LOC Consideration***

**Comment 4 – Process for Reinstating a Terminated Employee to a Comparable Positions:**

**206.4. Reinstatement**

**206.4-1. *Reinstatement to the Position the Employee was Terminated From.*** Should an employee's appeal of a termination result in the termination being overturned, the reviewing party shall order the employee be reinstated to the position from which the employee was wrongfully terminated.

(a) In accordance with section 206.4-3, in the event the position the employee was terminated from has been eliminated or the employee is no longer eligible for the position the employee was terminated from based on amendments to the position description, the reviewing party shall order reinstatement to a position within the same division of the organization the employee was terminated from that is comparable in wage to the position the employee was terminated, to the extent it is available at the time of the reviewing party's decision.

(b) Any order requiring the employee to be reinstated to a position comparable to the position the employee was terminated from shall note the requirement that the Human Resources Department shall make the determination that the employee is eligible for a comparable position.

(c) If no comparable positions are available within the same division of the organization the employee was terminated from that are comparable in wage to the position the employee was terminated from, or if the employee is not eligible for the comparable position, the order to reinstate shall be deemed satisfied and the back pay end date shall be the date of the reviewing party's decision.

**Todd VandenHeuvel (written):** For comparable position, does that take precedence over other processes that are already in place? For example; position is posted and interviews are scheduled. Can the reinstated employee be put into that position or since the hiring process has already started, they would not be eligible?

***Response***

The commenter questions the process for reinstating an employee to a position within the same division of the organization the employee was terminated from that is comparable in wage to the position the employee was terminated.

Currently, the proposed amendments to the Law provides that the reviewing party shall order reinstatement to a position within the same division of the organization the employee was terminated from that is comparable in wage to the position the employee was terminated, to the extent it is available at the time of the reviewing party's decision, and that any order requiring the employee to be reinstated to a position comparable to the position the employee was terminated from shall note the requirement that the Human Resources Department shall make the

determination that the employee is eligible for a comparable position. [2 O.C. 206.4-1]. The Law does not provide the exact process for how a comparable position is found, or how exactly the reinstatement occurs or fits in with the current hiring and selection process. It can be presumed that in the absence of the Law providing this process, the Human Resources Department could develop a standard operating procedure to guide this process.

The Legislative Operating Committee may consider whether section 206.4-1 of the Law needs further explanation or clarification on the process for reinstating a terminated employee to a comparable position in wage to the position the employee was terminated from. The Legislative Operating Committee may make one of the following determinations:

1. Additional clarification in section 206.4-1 of the Law needs no further clarification as to the process for reinstating a terminated employee to a comparable position in wage to the position the employee was terminated from, and therefore the Law should remain as currently drafted.
2. Additional clarification in section 206.4-1 of the Law should be needed to address the process for reinstating a terminated employee to a comparable position in wage to the position the employee was terminated from. If the Legislative Operating Committee makes its determination it is recommended that the Legislative Operating Committee meet with the Human Resources Department to discuss and determine the process details that should be included in this Law.

### *LOC Consideration*

#### **Comment 5 – Amending or Eliminating the Position Pending an Employee Appeal:**

##### **206.4. Reinstatement**

**206.4-2. *Requirement to Hold the Position Pending Litigation.*** When an employee is terminated and thereafter appeals said termination, the disciplining supervisor may only fill the employee's former position with an interim employee until the appeal has fully run its course, which includes any appeal timelines to the area manager, the Trial Court, or the Appellate Court.

**206.4-3. *Amending the Position Description or Eliminating the Position Pending an Employee Appeal.*** Notwithstanding the requirement to hold the terminated employee's position pending an employee's appeal of their termination as provided in section 206.4-2, a supervisor or business unit may amend the affected position description or eliminate the affected position while an employment appeal is pending where such actions are required to meet the Nation's business and employment needs. The determination to amend an affected position description or eliminate an affected position shall be approved by the Human Resources Executive Director and either the General Manager, Gaming General Manager, Retail General Manager, or the highest position in the employee's chain of command for non-divisional employees.

**Todd VandenHeuvel (written):** *206.4-2. Requirement to Hold the Position Pending Litigation. When an employee is terminated and thereafter appeals said termination, the disciplining supervisor may only fill the employee's former position with an interim employee until the appeal has fully run its course, which includes any appeal timelines to the area manager, the Trial Court, or the Appellate Court.*

*206.4-3. Amending the Position Description or Eliminating the Position Pending an Employee Appeal. Notwithstanding the requirement to hold the terminated employee's position pending an employee's appeal of their termination as provided in section 206.4-2, a supervisor or business unit may amend the affected position description or eliminate the affected position while an employment appeal is pending where such actions are required to meet the Nation's business and employment needs. The determination to amend an affected position description or eliminate an affected position shall be approved by the Human Resources Executive Director and either the General Manager, Gaming General Manager, Retail General Manager, or the highest position in the employee's chain of command for non-divisional employees.*

Under the language above, there seems to be contradictory language or clarification is needed. Is 206.4-2 intended to be for circumstances where the position will remain in place with no change expected and 206.4-3 applies if/when business needs change which in turn would potentially eliminate or change the position the appellant would return to?

### **Response**

The commenter questions when it is required to hold a position pending litigation, and when amending or eliminating the position pending litigation is allowed.

Section 206.4-2 of the Law provides the requirement that when an employee is terminated and thereafter appeals said termination, the disciplining supervisor may only fill the employee's former position with an interim employee until the appeal has fully run its course, which includes any appeal timelines to the area manager, the Trial Court, or the Appellate Court. Section 206.4-3 of the Law then goes on to provide that despite the requirement in section 206.4-2 of the Law to hold the position pending an appeal, a supervisor or business unit may amend the affected position description or eliminate the affected position while an employment appeal is pending where such actions are required to meet the Nation's business and employment needs. To ensure that the modification or elimination of a position is necessary in order to meet the Nation's business and employment needs, the determination to amend an affected position description or eliminate an affected position is required to be approved by the Human Resources Executive Director and either the General Manager, Gaming General Manager, Retail General Manager, or the highest position in the employee's chain of command for non-divisional employee. [2 O.C. 206.4-3].

In order to clarify these provisions, it is recommended that the following revision be made to the Law:

### **206.4. Reinstatement**

*206.4-1. Reinstatement to the Position the Employee was Terminated From.* Should an employee's appeal of a termination result in the termination being overturned, the reviewing party shall order

the employee be reinstated to the position from which the employee was wrongfully terminated.

~~(a) In accordance with section 206.4-3, in the event the position the employee was terminated from has been eliminated or the employee is no longer eligible for the position the employee was terminated from based on amendments to the position description, the reviewing party shall order reinstatement to a position within the same division of the organization the employee was terminated from that is comparable in wage to the position the employee was terminated, to the extent it is available at the time of the reviewing party's decision.~~

~~(b) Any order requiring the employee to be reinstated to a position comparable to the position the employee was terminated from shall note the requirement that the Human Resources Department shall make the determination that the employee is eligible for a comparable position.~~

~~(c) If no comparable positions are available within the same division of the organization the employee was terminated from that are comparable in wage to the position the employee was terminated from, or if the employee is not eligible for the comparable position, the order to reinstate shall be deemed satisfied and the back pay end date shall be the date of the reviewing party's decision.~~

206.4-2. *Requirement to Hold the Position Pending Litigation.* When an employee is terminated and thereafter appeals said termination, the disciplining supervisor may only fill the employee's former position with an interim employee until the appeal has ~~concluded~~ fully run its course, which includes any appeal timelines to the area manager, the Trial Court, or the Appellate Court.

(a) Exception. If such action is required to meet the business and employment needs of the Nation, a supervisor may modify or eliminate the affected position while an employment appeal is pending.

(1) The determination to modify or eliminate an affected position shall be approved by the Human Resources Executive Director and either the General Manager, Gaming General Manager, Retail General Manager, or the highest position in the employee's chain of command for non-divisional employees.

~~206.4-3. *Amending the Position Description or Eliminating the Position Pending an Employee Appeal.* Notwithstanding the requirement to hold the terminated employee's position pending an employee's appeal of their termination as provided in section 206.4-2, a supervisor or business unit may amend the affected position description or eliminate the affected position while an employment appeal is pending where such actions are required to meet the Nation's business and employment needs. The determination to amend an affected position description or eliminate an affected position shall be approved by the Human Resources Executive Director and either the General Manager, Gaming General Manager, Retail General Manager, or the highest position in the employee's chain of command for non-divisional employees.~~

206.4-3. *Reinstatement to a Comparable Position.* In the event the position the employee was terminated from has been eliminated or the employee is no longer eligible for the position the employee was terminated from based on **modifications** to the position description, the reviewing party shall order reinstatement to a position within the same division of the organization the employee was terminated from that is comparable in wage to the position the employee was terminated, to the extent it is available at the time of the reviewing party's decision.

(a) Any order requiring the employee to be reinstated to a position comparable to the position the employee was terminated from shall note the requirement that the Human Resources Department shall make the determination that the employee is eligible for a

comparable position.

(b) If no comparable positions are available within the same division of the organization the employee was terminated from that are comparable in wage to the position the employee was terminated from, or if the employee is not eligible for the comparable position, the order to reinstate shall be deemed satisfied and the back pay end date shall be the date of the reviewing party's decision.

***LOC Consideration***

## Title 2. Employment – Chapter 206

### ~~BACK PAY~~

### Tashakotikályahke? kayanl\hsla?

### *back pay law*

## BACK PAY AND REINSTATEMENT

~~206.1. Purpose and Policy~~

~~206.2. Adoption, Amendment, Appeal~~

~~206.3. Definitions~~

~~206.4. Back Pay Calculation~~

~~206.5. Back Pay Process~~

~~206.1. Purpose and Policy~~

~~206.2. Adoption, Amendment, Appeal~~

~~206.3. Definitions~~

~~206.4. Reinstatement~~

~~206.5. Back Pay Calculation~~

~~206.6. Back Pay Process~~

### 206.1. Purpose and Policy

206.1-1. Purpose. The purpose of this law is to set forth standards used in the reinstatement of a wrongfully terminated employee and the calculation of back pay for all employees of the Nation in accordance with the Nation’s law.

206.1-2. Policy. It is the policy of the Nation to have consistent and standard procedures for the management of employee reinstatement and back pay.

### 206.2. Adoption, Amendment, Appeal

206.2-1. This law was adopted by the Oneida Business Committee by resolution BC-5-24-06-PP and amended by resolutions BC-06-23-10-F, BC-08-13-14-C~~and~~, BC-10-26-16-A~~,~~ and BC- - - -.

206.2-2. This law may be amended or repealed by the Oneida Business Committee or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

206.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

206.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

206.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

### 206.3. Definitions

206.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Appellate Court” means the branch of the Nation’s Judiciary delegated the authority of final appeals within the Nation’s Judiciary, as authorized by Oneida General Tribal Council resolution GTC-03-19-17-A in accordance with Article V of the Constitution and Bylaws of the Oneida Nation.

~~(a)~~(b) “Advocate” means a non-attorney person as provided by law and other person who is admitted to practice law and is presented to the court as the representative or advisor to a party.

~~(b)~~(c) “Back pay” means money damages owed to the employee for a salary or wage to compensate the employee as determined by the formulas set forth within this law.

~~(c)~~(d) “Consequential damages” means damages that are not a direct and immediately



Draft 2 (Redline to Current)

2022 10 19

35 result of an act, but a consequence of the initial act, including but not limited to penalties  
36 on early withdrawal of retirement account.

37 ~~(d) "Consultant" means a professional who is contracted externally whose expertise is~~  
38 ~~provided on a temporary basis for a fee.~~

39 (e) "Earnings" includes vacation ~~/~~ or personal time, shift differential, holiday pay, merit  
40 increases, bonuses and incentives, employment benefits and income received during the  
41 back pay period.

42 (f) "Employee" means any individual who is employed by the Nation and is subject to the  
43 direction and control of the Nation with respect to the material details of the work  
44 performed, or who has the status of an employee under the usual common law rules  
45 applicable to determining the employer-employee relationship. "Employee" includes, but  
46 is not limited to, an individual employed by any program or enterprise of the Nation, but  
47 does not include elected or appointed officials, or individuals employed by a Tribally  
48 Chartered Corporation. For purposes of this law, individuals employed under an  
49 employment contract as a limited term employee are employees of the Nation, not  
50 consultants.

51 (g) "Involuntarily separated" means an employee removed from employment through  
52 whatever means, other than a layoff, by the employer. This shall include, but is not limited  
53 to, investigative leave, suspension or termination.

54 (h) "Judiciary" means Oneida Nation Judiciary, which is the judicial system that was  
55 established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later  
56 authorized to administer the judicial authorities and responsibilities of the Nation by  
57 Oneida General Tribal Council resolution GTC-03-19-17-A in accordance with Article V  
58 of the Constitution and Bylaws of the Oneida Nation.

59 (i) "Nation" means the Oneida Nation.

60 (j) "Punitive damages" means monetary compensation awarded to an injured party that  
61 goes beyond that which is necessary to compensate the individual for losses and that is  
62 intended to punish the other party.

63 (k) "Reviewing party" means the area manager or the Trial Court.

64 (l) "Trial Court" means the Trial Court of the Oneida Nation Judiciary authorized to  
65 administer the judicial authorities and responsibilities of the Nation by Oneida General  
66 Tribal Council resolution GTC-03-19-17-A in accordance with Article V of the  
67 Constitution and Bylaws of the Oneida Nation.

#### 68 69 **206.4. Reinstatement**

70 206.4-1. Reinstatement to the Position the Employee was Terminated From. Should an employee's  
71 appeal of a termination result in the termination being overturned, the reviewing party shall order  
72 the employee be reinstated to the position from which the employee was wrongfully terminated.

73 (a) In accordance with section 206.4-3, in the event the position the employee was  
74 terminated from has been eliminated or the employee is no longer eligible for the position  
75 the employee was terminated from based on amendments to the position description, the  
76 reviewing party shall order reinstatement to a position within the same division of the  
77 organization the employee was terminated from that is comparable in wage to the position  
78 the employee was terminated, to the extent it is available at the time of the reviewing party's  
79 decision.

80 (b) Any order requiring the employee to be reinstated to a position comparable to the  
81 position the employee was terminated from shall note the requirement that the Human

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Resources Department shall make the determination that the employee is eligible for a comparable position.

(c) If no comparable positions are available within the same division of the organization the employee was terminated from that are comparable in wage to the position the employee was terminated from, or if the employee is not eligible for the comparable position, the order to reinstate shall be deemed satisfied and the back pay end date shall be the date of the reviewing party's decision.

206.4-2. Requirement to Hold the Position Pending Litigation. When an employee is terminated and thereafter appeals said termination, the disciplining supervisor may only fill the employee's former position with an interim employee until the appeal has fully run its course, which includes any appeal timelines to the area manager, the Trial Court, or the Appellate Court.

206.4-3. Amending the Position Description or Eliminating the Position Pending an Employee Appeal. Notwithstanding the requirement to hold the terminated employee's position pending an employee's appeal of their termination as provided in section 206.4-2, a supervisor or business unit may amend the affected position description or eliminate the affected position while an employment appeal is pending where such actions are required to meet the Nation's business and employment needs. The determination to amend an affected position description or eliminate an affected position shall be approved by the Human Resources Executive Director and either the General Manager, Gaming General Manager, Retail General Manager, or the highest position in the employee's chain of command for non-divisional employees.

### **206.5. Back Pay Calculation**

206.4-1. Back Pay Limitations. Back pay shall only include the items identified calculations shall be made using the employee's last wage in the position which they were terminated from. Back pay, in all circumstances, shall be limited to the calculation set forth in this Section as they relate to the employee. section. Back pay shall include and be subject to the following as it is related to the employee:

(a) Vacation and Personal Time Accrual. Employees shall receive prorated credit for vacation and personal time which would have accrued during the back pay period.

(1) Reinstated employees shall be credited for vacation and personal time. -If the crediting of vacation and personal time would result in the employee exceeding the accrual cap pursuant to the Nation's laws, rules and policies, then any amount over that cap shall be provided as a cash payout. Non-reinstated employees shall be paid out vacation and personal time in lieu of crediting personal and vacation time.

(b) Shift Differential. Shift differential shall be included in the back pay amount to the extent it is a part of the employee's regularly scheduled hours.

(c) Tips. If the employee received pooled tips at the time of involuntary separation, tips shall be included in the total back pay amount at the same tip rate that other employees in the same position and on the same shift received on the same dates.

(1) If the employee received individual tips at the time of involuntary separation, the employee shall be ineligible for tips during the back pay period.

(d) Holiday Pay. Holiday pay shall be included in the back pay amount to the extent the employee would have received such pay if the employee had not been involuntarily separated.

(e) Merit Increases. The hourly rate used to calculate back pay shall be increased according to the merit increase system or standard used by the employee's supervisor

129 during the back pay period and ~~will~~shall include any increases from Oneida Business  
130 Committee or General Tribal Council directives.

131 (1) The effective date of the employee's merit increase shall be the same as the  
132 effective date for other employees in the same department. ~~Retroactive~~ increases  
133 shall be calculated back to the retroactive date used for other employees in the same  
134 department.

135 (2) The most recent performance review issued to the employee prior to being  
136 involuntarily separated shall be used to determine the level of merit increase.  
137 However, if the employee appealed the performance review to the Human Resource  
138 Department Manager prior to involuntary separation, a method under the Nation's  
139 laws, rules and policies shall be used to determine the merit increase.

140 (f) *Bonuses and Incentives.* All bonus and incentive payments for which the employee  
141 would have been eligible during the back pay period shall be included in the total back pay  
142 amount, except for non-monetary gifts distributed by the Nation to all employees (e.g.  
143 winter gift) or other non-monetary benefits, such as clothing allowance.

144 (g) *Employment Benefits.* Employee benefits shall be subject to the provisions in this  
145 section.

146 (1) *Insurance Benefits.* Coverage by the Nation for health insurance, dental  
147 insurance, vision insurance, life insurance, long-term disability and short-term  
148 disability coverage shall continue during an involuntary separation, except in the  
149 event of a termination where the coverage ~~will~~shall discontinue. ~~The Nation shall~~  
150 deduct the employee's share of premiums paid from any back pay award.

151 (A) If the employee's circumstances have changed during the back pay period  
152 and such circumstances affect the employee's insurance needs, the employee  
153 shall notify the Nation of such changes at the time of reinstatement.

154 (B) An employee who is reinstated shall sign a waiver from Purchased  
155 Referred Care authorizing a review of the back pay period to determine if  
156 Purchased Referred Care services were rendered. ~~If Purchased Referred Care~~  
157 determines services were rendered during the back pay period, an employee  
158 shall timely submit insurance information to Purchased Referred Care in  
159 order for Purchased Referred Care to retroactively bill the insurance provider  
160 to recoup funds for those services rendered during the back pay period.

161 (C) If the employee refuses to sign an authorization waiver from Purchased  
162 Referred Care, the employee ~~will~~shall not be eligible to receive any back pay  
163 award.

164 (2) *Flexible Benefit Plan Contributions.* If a terminated employee was contributing  
165 to the Nation's flexible benefit plan at the time of termination, the status of the  
166 employee's flex benefit plan shall be subject to the provisions of the Internal  
167 Revenue Code.

168 (3) *Retirement Benefit Contributions.* In the event the employee was participating  
169 in the Nation's retirement plan at the time of involuntary separation, the employee  
170 shall be responsible for contacting the retirement plan administrator and  
171 reactivating contributions.

172 (A) The employee may choose whether to have the employee's contribution  
173 to the retirement plan that would have been made during the back pay period  
174 deducted from the total back pay amount and deposited into the employee's  
175 retirement account.

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176 (B) If the employee was eligible for employer matching contributions at the  
 177 time of involuntary separation and the employee chooses to make a  
 178 contribution through back pay, the Nation shall contribute the employer  
 179 match into the employee's retirement account.

180 (C) If the employee was not participating in the Nation's retirement plan or  
 181 chooses not to make contributions through the back pay process, then the  
 182 Nation shall not make employer match contributions into the employee's  
 183 retirement account.

184 (h) *Income Received During the Back Pay Period.*

185 (1) *Unemployment Benefits.* Depending upon the unemployment compensation  
 186 financing option elected by the Nation, either:

187 (A) Any unemployment compensation paid by the Nation to the State of  
 188 Wisconsin for an involuntarily separated employee shall be deducted from  
 189 the employee's back pay award; or

190 (B) The employee is directly responsible for the reimbursement to the State  
 191 of Wisconsin. -The Nation shall send a copy of the completed and signed  
 192 settlement agreement to the appropriate state department. The state then may  
 193 determine the amount, if any, of unemployment compensation benefits  
 194 received during the back pay period should be repaid.

195 (2) *Income Received Through Employment.* Except as provided in section 4206.5-  
 196 1(h)(2)(B), income earned by an employee during the back pay period shall be  
 197 deducted from the total back pay amount.

198 (A) The employee shall provide information to verify the amount of or lack  
 199 of earned income and sign an affidavit attesting to the amount of or lack of  
 200 earned income.

201 (B) If the employee worked an additional job prior to being involuntarily  
 202 separated and continued working in the same capacity, the income earned  
 203 from that employment shall not be deducted from the total back pay amount  
 204 to the extent that the income is consistent with pre-involuntary separation  
 205 earnings. Where the employee worked the additional job, the employee shall  
 206 provide information from the employer to verify the income earned before  
 207 and during the back pay period.

208 206.45-2. Payments Not Allowed. The Nation shall not include the following in any back pay  
 209 amount:

210 (a) Punitive damages;

211 (b) Consequential damages;

212 (c) Attorney's or advocate's fees;

213 (d) Time when the employee would not have been eligible to work; An employee is not  
 214 eligible to work in circumstances including, but not limited to, the following:

215 (1) When an employee is on layoff or furlough status at the time of termination;

216 (2) When a position is eliminated or inactive as part of the Nation's response to a  
 217 financial force majeure event including, but not limited to:

218 (A) responses to war;

219 (B) global health pandemics; and

220 (C) any substantial loss of revenue or funding; and

221 (3) When an employee would otherwise not be eligible to work in the position from  
 222 which they were terminated from in accordance with the position description based

on:

- (A) applicable grant requirements when the position is grant funded;
- (B) applicable laws of the Nation including, but not limited to, the Vehicle Driver Certification and Fleet Management law; and
- (C) a criminal conviction;

(e) Monies normally paid for additional duties while working where an alternate employee assumed that function while the employee was involuntarily separated, unless the additional duties are a part of such involuntarily separated employee’s regular schedule.

206.45-3. *Back Pay Period.* Calculation of back pay begins on the day the employee is involuntarily separated and ends on the day the employee is reinstated.

(a) If the employee is reinstated but refuses to return to work, the back pay period ends on the date reinstatement would have taken effect, but was refused by the employee.

(b) Back pay shall be calculated by taking the employee’s average hours worked during the fifty-two (52) week period immediately preceding the date of the involuntary separation and divide that amount by the number of weeks worked.

(1) If the employment prior to the involuntary separation was less than fifty-two (52) weeks, the back pay shall be calculated by taking the employee’s average hours worked and divide that amount by the number of weeks worked.

(2) If the involuntary separation period involves a fractional week, the indemnity shall be paid for each day of a fractional week at the rate of the average number of hours worked per day immediately prior to the involuntary separation. For the purposes of this section, immediately prior means the twelve (12) full work weeks immediately preceding the involuntary separation. Provided that, under extenuating circumstances related to business needs of the Nation wherein the Oneida Law Office determines that considering hours worked per day immediately prior would be unfair, an alternative reasonable timeframe may be used.

**206.56. Back Pay Process**

206.56-1. The Oneida Law Office shall develop necessary forms and procedures for the purpose of implementing this law.

206.56-2. Internal departments shall cooperate as necessary with the Oneida Law Office in providing information needed to assemble and prepare the back pay agreement.

206.56-3. A reasonable effort shall be made to complete the back pay agreement within thirty (30) calendar days, starting the day after the party to the grievance action provides to the Oneida Law Office a judgment ordering back pay or the results of an investigation or test showing the employee is cleared of any wrongdoing.

206.56-4. An employee not receiving back pay in accordance with the back pay agreement may seek enforcement by the Judiciary.

End.

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Adopted - BC-05-24-06-PP  
 Amended - BC-06-23-10-F  
 Amended - BC-08-13-14-C  
 Amended - BC-10-26-16-A  
 Amended - BC- - - -



**LEGISLATIVE OPERATING COMMITTEE  
PUBLIC MEETING**

**Back Pay Law Amendments and Emergency Management Law Amendments**  
Norbert Hill Center Executive Conference Room and Microsoft Teams  
December 13, 2022 12:15 p.m.

**Present:** Kirby Metoxen, Clorissa N. Santiago, Carolyn Salutz, Brooke Doxtator, David P. Jordan (Microsoft Teams), Carrie Lindsey (Microsoft Teams), Joy Salzwedel (Microsoft Teams), Justin Nishimoto (Microsoft Teams), Rachel Fitzpatrick (Microsoft Teams), Tina Jorgensen (Microsoft Teams), Melanie Burkhart (Microsoft Teams), Grace Elliot (Microsoft Teams), Brenda Haen (Microsoft Teams), Debra Santiago (Microsoft Teams), Kristal Hill (Microsoft Teams), Matt Denny (Microsoft Teams), Ronald Vanschyndel (Microsoft Teams), Wendy Alvarez (Microsoft Teams), Stefanie Reinke (Microsoft Teams), Jay Kennard (Microsoft Teams), Sidney White (Microsoft Teams).

**Kirby Metoxen:** Good Afternoon. The time is 12:15 p.m. and today's date is Tuesday, December 13, 2022. I will now call to order the public meeting for both the proposed amendments to the Back Pay law and the proposed amendments to the Emergency Management law.

The Legislative Operating Committee is hosting this public meeting to gather feedback from the community regarding these legislative proposals. The public meeting is not a question and answer period. The LOC will review and consider all comments received during the public comment period. The LOC will respond to all comments received in a memorandum, which will be submitted in the meeting materials of a future LOC meeting.

All persons who wish to present oral testimony in person need to register on the sign in sheet at the back of the room. If you leave an email address on the sign in sheet, we can ensure you receive a copy of the public comment review memorandum. Individuals who wish to present oral testimony on Microsoft Teams, please raise your hand and you will be called on. If you leave an email address in the chat with your name, we can ensure you receive a copy of the public comment review memorandum.

Additionally, written comments may be submitted to the Nation's Secretary's Office or to the Legislative Reference Office in person, by U.S. mail, interoffice mail, e-mail, or fax as provided on the public meeting notice. These comments must be received by close of business on Tuesday, December 20, 2022.

In attendance from the LOC is the attorneys Clorissa and Carolyn, and myself, and our recorder Brooke.

The LOC may impose a time limit for all speakers pursuant to section 109.8-3(c) of the Legislative Procedures Act. As the presiding LOC member, I am imposing a time limit of five (5) minutes per each topic. This time limit shall be applied equally to all persons.

We will now begin today's public meeting for the proposed amendments to the Back Pay law and proposed amendments to the Emergency Management law.

The purpose of the Back Pay law is to set forth standards used in the reinstatement of a wrongfully terminated employee and the calculation of back pay for all employees of the Nation in accordance with the Nation's law.

The purpose of the Emergency Management law is to provide for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster.

Those who wish to speak please come to the microphone raise your hand. Please state your name and the law you will be commenting on. First up to speak is. . . Anybody out there raising their hand? I see nobody. So, we will wait until I think it's fifteen (15) minutes and if no one shows up, no one's here at this end as the public of interest.

They can hear us now. And we're still not seeing anybody registered with the hand raised to be called on, and no one has attended the meeting in person. We do have a sign down at the hall directing people to come into the BC conference room and also the front desk was notice that the meeting has moved from the BC Conference room to the Executive room. That's what this room is called, right, David? Executive room.

**David P. Jordan:** Correct.

**Kirby Metoxen:** I do see twelve (12) people on, registered on online in here. But nobody's raising their hand. And it's 12:21 p.m. We said we would wait fifteen (15) minutes. So, at 12:30 p.m., if no one shows up, no one raises their hand, we will call the meeting.

Question David, is this the first in person?

**David P. Jordan:** Nope, the second.

**Kirby Metoxen:** Second. Did we have anybody at the other one, do you know?

**David P. Jordan:** You'd have to ask Clorissa. I missed that when Daniel ran that one.

**Kirby Metoxen:** Clorissa, do you know?

**Clorissa N. Leeman:** *[inaudible]*

**Kirby Metoxen:** A couple. It seems to me I do remember we had maybe two (2) or three (3) at the last one. I guess I'm surprised that no one has showed because this is the first one on the Back Pay law, it's it affects employees. You know, we got over two thousand (2000) employees in the Tribe. So, you think they wanna, they would be interested in some of the laws that may affect them in the future. But we will wait.

I'm just looking for things to talk about. I think there's a chili taco or chili fry bread sale at the Parish Hall. Those that didn't get lunch today. Today is Buffalo chili and fry bread. Tomorrow is Indian tacos. And then I think on Friday is Indian Taco fundraiser at the Ho Chunk Nation office.

We're still waiting. If anybody has anything they'd like to comment, we still have about six (6) minutes left. If you would like to be called on, please raise your hand. I see someone joined us.

I just seen. I don't know how I did. Did somebody wakes their hand?

**David P. Jordan:** Wendy Alvarez did.

**Kirby Metoxen:** I see a hand button.

**David P. Jordan:** Wendy Alvarez, go ahead.

**Wendy Alvarez:** Hello I'm just wondering if it's possible to submit written comments on this after the meeting. Is that appropriate?

**Kirby Metoxen:** Yes, the written comment period will end on Tuesday, December 20th, 2022.

**Wendy Alvarez:** Thank you.

**Kirby Metoxen:** Yeah. On my end, David, I see hands, but I don't see a name.

**David P. Jordan:** I'll keep an eye open for it.

**Kirby Metoxen:** It's just kind of weird waiting for community members to attend the public meetings. I know in the past, before the pandemic, I'm guessing we'd have anywhere from five (5) to twelve (12), fifteen(15) people attend those meetings and at one time we were even serving dinner or bring a dish to pass down in the cafeteria, and that was always successful.

And I know they did extend the written period comment during the pandemic. I think it was you typically five (5) days after the in person community meetings and they extended it to ten (10) days. And in this case, are we extending it the ten (10) days? Yeah. Okay.

And I have 12:28 p.m., two (2) more minutes and it's a public meeting for both the proposed amendment to the back pay law and the proposed amendments to the Emergency Management law. Umm, we will leave our written comments are open and must be received by the close of business day on Tuesday, December 20th, 2022.

I still don't see any hands raised and no one has attended in person .The proposed, the purpose of the back pay law is to set forth standards used in the reinstatement of a wrongfully terminated employee and the calculation of back pay for all employees of the nation in accordance with the Nation's law. And the purpose of the Emergency Management law is to provide for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster.



Those who wish to speak please come to the microphone, raise your hand. Please state your name and the law you will be commenting on.

And with that, we are winding down. I have one (1) minute left and still no hands raised and nobody attended in person. We still have the three (3) staff and myself in the BC Executive Conference room.

Okay, with there being no speakers the public meeting for the proposed amendments to the Back Pay law and the proposed amendments to the Emergency Management law is now closed at 12:30 p.m. Written comments may be submitted until the close of business day on Tuesday, December 20th, 2022. Thank you. Thank you, that's it, we are done. This meeting is adjourned.

**-End of Meeting-**

**From:** [Todd A. Vanden Heuvel](#)  
**To:** [LOC](#)  
**Subject:** Back Pay comments  
**Date:** Tuesday, December 20, 2022 4:45:48 PM  
**Attachments:** [image001.png](#)

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Back pay comments:

- In regards to the definition of Division, how will that be determined or defined? Not every area is designated as a division with some areas being much smaller at a department level. However, some additional comments:
  - Non-Divisional areas: will that be considered one division or many separate divisions/areas?
  - In the General Manager's area, there are a number of Divisions. Would there be consideration to go beyond the established division? For example; if an employee is reinstated and they're from the Governmental Services Division, could be placed in a similar position in the Comprehensive Health Division? Using Division may be limiting in that example.
- In regards to modifying or eliminating a position:
  - It may need to be clarified what circumstances that could/would be allowable. As an example; during the pandemic, there were a number of positions eliminated due to budgets/restructures. Pandemics are a rare and unexpected occurrence and it wouldn't be expected to happen often.
    - Budgets may be another reason for positions to be eliminated (i.e. grant funding ends).
  - Modifications/elimination of positions outside of unexpected occurrences/budget considerations (i.e. grant funding ends), tend to lend to the perception that the changes were done because of the employee who vacated the position. HRD would have to ensure and/or caution that any modification/elimination of a position is not considered retaliatory in nature. Where/when feasible, it may be suggested that any modifications to the job description wait until the appeal process has concluded.
- General Question/Comments:
  - If a comparable position needs to be considered, what is a comparable wage? This may need to be defined a bit more. Will it be up to HRD/General Manager to conclude what constitutes a comparable wage?
  - For comparable position, does that take precedence over other processes that are already in place? For example; position is posted and interviews are scheduled. Can the reinstated employee be put into that position or since the hiring process has already started, they would not be eligible?

206.4-2. *Requirement to Hold the Position Pending Litigation.* When an employee is terminated and thereafter appeals said termination, the disciplining supervisor may only fill the employee's former position with an interim employee until the appeal has fully run its course, which includes any appeal timelines to the area manager, the Trial Court, or the

Appellate Court.

206.4-3. *Amending the Position Description or Eliminating the Position Pending an Employee Appeal.* Notwithstanding the requirement to hold the terminated employee's position pending an employee's appeal of their termination as provided in section 206.4-2, a supervisor or business unit may amend the affected position description or eliminate the affected position while an employment appeal is pending where such actions are required to meet the Nation's business and employment needs. The determination to amend an affected position description or eliminate an affected position shall be approved by the Human Resources Executive Director and either the General Manager, Gaming General Manager, Retail General Manager, or the highest position in the employee's chain of command for non-divisional employees.

Under the language above, there seems to be contradictory language or clarification is needed. Is 206.4-2 intended to be for circumstances where the position will remain in place with no changes expected and 206.4-3 applies if/when business needs change which in turn would potentially eliminate or change the position the appellant would return to?

Yaw^ko (Thank you),

Todd VanDen Heuvel  
Executive Human Resources Director  
Skenandoah Complex  
909 Packerland Drive  
(920)496-7358



**A GOOD MIND. A GOOD HEART. A STRONG FIRE.**

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Legislative Operating Committee  
February 1, 2023

# Clean Air Policy Amendments

<b>Submission Date:</b> 1/18/23	<b>Public Meeting:</b> N/A
<b>LOC Sponsor:</b> David P. Jordan	<b>Emergency Enacted:</b> N/A

**Summary:** *On January 10, 2023, the LOC received a request from Retail to consider amendments to the Clean Air Policy to create an exemption for smoking cigars and tobacco in pipes within a premise designated by retail as a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco product and in which the smoking of only cigars and tobacco in pipes is permitted.*

**1/18/23 LOC:** Motion by Jennifer Webster to add the Clean Air Policy amendments to the Active Files List with David P. Jordan as the sponsor; seconded by Marie Cornelius. Motion carried unanimously.

**1/26/23:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Clorissa N. Leeman, Carolyn Salutz, Grace Elliott, Kristal Hill. This was a work meeting held on Microsoft Teams. The purpose of this work meeting was to review and discuss the proposed draft of amendments to the Clean Air Policy.

**Next Steps:**

- Approve the draft of the Clean Air Policy Amendments and direct that a legislative analysis be completed.

**Title 4. Environment and Natural Resources – Chapter 411**  
**CLEAN AIR POLICY**

411.1. Purpose and Policy

411.3. Definitions

~~411.2. Adoption, Amendment, Conflicts~~

411.4. Regulation of Smoking

~~411.2. Adoption, Amendment, Repeal~~

3#

4# **411.1. Purpose and Policy**

5# 411.1-1. *Purpose.* It is the purpose of this ~~Clean Air Policy~~law to provide a healthy working and  
6# learning environment within buildings and vehicles owned and operated by the ~~Oneida~~  
7# ~~Tribe~~Nation.

8# 411.1-2. *Policy.* ~~The Oneida Tribe~~It is committed~~the policy of the Nation~~ to commit to promoting  
9# health and wellness in all forms. ~~There is long standing evidence that smoking is harmful to~~  
:# oneself and that second-hand smoke is harmful to others. ~~In addition, the long term effects of~~  
;# electronic cigarettes on individuals are unclear. ~~In an effort to provide a healthy environment for~~  
32# children, employees, and visitors, smoking ~~will~~shall be ~~restricted~~prohibited as described within  
33# this ~~policy~~law.

34#

35# **411.2. Adoption, Amendment, ~~Conflicts~~Repeal**

36# 411.2-1. This ~~Policy~~law was adopted by motion of the Oneida Business Committee on May 25,  
37# 1994, and amended by ~~resolution~~resolutions BC-02-24-10-I~~and~~, BC-05-28-14-A~~,~~ and BC-- -  
38# - -.#

39# 411.2-2. This ~~Policy~~law may be amended or repealed by the Oneida Business Committee or  
3:# General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

3:# 411.2-3. Should a provision of this ~~Policy~~law or the application thereof to any person or  
42# circumstances be held as invalid, such invalidity shall not affect other provisions of this ~~Policy~~law  
43# which are considered to have legal force without the invalid portions.

44# 411.2-4. In the event of a conflict between a provision of this ~~Policy~~law and a provision of another  
45# law, ~~ordinance, policy, regulation, rule, resolution, or motion~~, the provisions of this ~~Policy~~law shall  
46# control. ~~Provided that, nothing in this Policy is intended to repeal or modify any existing law,~~  
47# ~~ordinance, policy, regulation, rule, resolution or motion.~~

48# 411.2-5. This ~~Policy~~law is adopted under authority of the Constitution of the Oneida ~~Tribe of~~  
49# ~~Indians of Wisconsin~~Nation.

4:#

4:# **411.3. Definitions**

52# 411.3-1. This section shall govern the definitions of words and phrases used within this ~~Policy~~law.  
53# law. All words not defined herein shall be used in their ordinary and everyday sense.

54# (a) (a) “Building” means a structure that has a roof and more than two (2) substantial  
55# walls.

56# (b) (b) “Electronic cigarette” means a device that enables a person to ingest nicotine,  
57# or other chemicals or substances, by inhaling a vaporized liquid and shall include the  
58# cartridges and other products used to refill the device. ~~“Electronic cigarette” shall not~~  
59# ~~include any device that is prescribed by a healthcare professional.~~

5:# (1) Electronic cigarette shall not include any device that is prescribed by a  
5:# healthcare professional.

62# (c) (c) “Indoor” means within the exterior walls of any building.

63# (d) (d) “Main entrance” means the front entrance to any building, or any entrance a  
64# majority of the employees and public use to access the building.

65# (e) “Nation” means the Oneida Nation.

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- 66# (e) (f) “Smoke” or “Smoking” means the inhalation of:  
 67# (1) the smoke of burning tobacco encased in cigarettes, pipes and cigars; or  
 68# (2) a vaporized liquid from an electronic cigarette, whether the liquid contains  
 69# or does not contain nicotine.  
 6:# (g) “Tobacco product” means any form of Indians of  
 6;# Wisconsin tobacco prepared in a manner suitable for smoking.  
 72#

#### 411.4. Regulation of Smoking

74# 411.4-1. Except as provided in 411.4-1(b)(1) and 411.4-2, no Prohibition of Smoking. No person  
 75# may smoke:

- 76# (a) in any building owned or operated by the Tribe Nation;  
 77# (b) within thirty (30) feet of any building owned or operated by the Tribe Nation.  
 78# Receptacles for disposing of smoking materials shall be maintained at least thirty (30) feet  
 79# from the main entrances of the building; or  
 7:# (1) Exception. A person may smoke within thirty (30) feet of the Oneida One  
 7;# Stop retail outlets or any gaming establishments. Receptacles for disposing of  
 82# smoking materials may be maintained within thirty (30) feet of the entrances of  
 83# these buildings.

84# (c) in any vehicle owned or operated by the Tribe Nation.

85# 411.4-2. Exemptions. The following exemptions shall apply to the prohibition of smoking:

86# (a) There shall be an exemption for specific cultural uses for the Cultural Usage. The  
 87# reasonable burning of tobacco, sage, cedar, and/or sweetgrass shall be exempted for  
 88# cultural usage. Employees working in the vicinity of this cultural use shall be notified prior  
 89# to use.

8:# (b) Specifically Exempted Locations. The following locations shall be exempted from this  
 8;# policy are the prohibition of smoking:

- 92# (1) all gaming areas in any Tribal building of the Nation;  
 93# (A) Smoking and non-smoking employee break rooms shall be provided in  
 94# these buildings and shall have separate ventilation.  
 95# (B) Employees shall not smoke while working in these buildings, other than  
 96# in the provided break room.  
 97# (2) residential buildings that are owned by the Tribe Nation, including, but not  
 98# limited to, single-family dwellings, two-(2) family dwellings, and multiple-family  
 99# dwellings; and  
 9:# (3) a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco  
 9;# product, unless prohibited by Oneida Retail or the terms and conditions of the lease.

:2# 411.4-3. Posting and Notices. All Tribal buildings of the Nation, except for those listed in  
 :3# exempted by section 411.4-2(b);) of this Law, shall be posted as “Non-Smoking” on entrances. In  
 :4# addition, the hallways, restroom facilities, and other public areas of these buildings may also be  
 :5# posted as “Non-Smoking.” Signs shall be large enough that they can be viewed and read thirty  
 :6# (30) feet from the building.

:7# 411.4-4. Violations.

:8# (a) Any building manager or designated agent of the Oneida Business Committee Nation  
 :9# may file for injunctive relief with the Tribe’s judicial system Nation’s Judiciary against any

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: :# person who repeatedly or willfully violates this ~~policy~~law.

: ;# (b) An employee of the ~~Tribe~~Nation who violates this ~~policy~~law during ~~his or her~~their

; 2# work hours may be subject to the following disciplinary action in accordance with the

; 3# Nation’s laws and policies governing employment :

; 4# (1) ~~reprimanded~~written warning for a first-time violation;

; 5# (2) suspended without pay ~~for one (1) week~~ for a second violation; or

; 6# (3) terminated from employment for any violation thereafter.

; 7#

; 8# *End.*

; 9#

---

; :# Adopted ~~5- OBC motion on 05-~~25-94, ~~motion, grace~~Grace period for thirty (30) feet until shelters complete, except

; ;# for at educational facilities where minors are present.

32 2# Amended – BC-02-24-10-I

32 3# Amended – BC-05-28-14-A

32 4# Amended – BC - - -

**Title 4. Environment and Natural Resources – Chapter 411  
CLEAN AIR**

411.1. Purpose and Policy  
411.2. Adoption, Amendment, Repeal

411.3. Definitions  
411.4. Regulation of Smoking

---

3#

4# **411.1. Purpose and Policy**

5# 411.1-1. *Purpose.* It is the purpose of this law to provide a healthy working and learning  
6# environment within buildings and vehicles owned and operated by the Nation.

7# 411.1-2. *Policy.* It is the policy of the Nation to commit to promoting health and wellness in all  
8# forms. There is long standing evidence that smoking is harmful to oneself and that second-hand  
9# smoke is harmful to others. In addition, the long term effects of electronic cigarettes on individuals  
:# are unclear. In an effort to provide a healthy environment for children, employees, and visitors,  
;# smoking shall be prohibited as described within this law.

32#

33# **411.2. Adoption, Amendment, Repeal**

34# 411.2-1. This law was adopted by motion of the Oneida Business Committee on May 25, 1994,  
35# and amended by resolutions BC-02-24-10-I, BC-05-28-14-A, and BC-\_\_-\_\_-\_\_-\_\_.#

36# 411.2-2. This law may be amended or repealed by the Oneida Business Committee or General  
37# Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

38# 411.2-3. Should a provision of this law or the application thereof to any person or circumstances  
39# be held as invalid, such invalidity shall not affect other provisions of this law which are considered  
3:# to have legal force without the invalid portions.

3;# 411.2-4. In the event of a conflict between a provision of this law and a provision of another law,  
42# the provisions of this law shall control.

43# 411.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

44#

45# **411.3. Definitions**

46# 411.3-1. This section shall govern the definitions of words and phrases used within this law. All  
47# words not defined herein shall be used in their ordinary and everyday sense.

48# (a) “Building” means a structure that has a roof and more than two (2) substantial walls.

49# (b) “Electronic cigarette” means a device that enables a person to ingest nicotine, or other  
4:# chemicals or substances, by inhaling a vaporized liquid and shall include the cartridges and  
4;# other products used to refill the device.

52# (1) Electronic cigarette shall not include any device that is prescribed by a  
53# healthcare professional.

54# (c) “Indoor” means within the exterior walls of any building.

55# (d) “Main entrance” means the front entrance to any building, or any entrance a majority  
56# of the employees and public use to access the building.

57# (e) “Nation” means the Oneida Nation.

58# (f) “Smoke” or “Smoking” means the inhalation of:

59# (1) the smoke of burning tobacco encased in cigarettes, pipes and cigars; or

5:# (2) a vaporized liquid from an electronic cigarette, whether the liquid contains or  
5;# does not contain nicotine.

62# (g) “Tobacco product” means any form of tobacco prepared in a manner suitable for  
63# smoking.

64#



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2023 02 01

65# **411.4. Regulation of Smoking**

66# 411.4-1. *Prohibition of Smoking.* No person may smoke:

- 67# (a) in any building owned or operated by the Nation;  
68# (b) within thirty (30) feet of any building owned or operated by the Nation. Receptacles  
69# for disposing of smoking materials shall be maintained at least thirty (30) feet from the  
6:# main entrances of the building; or

6;# (1) *Exception.* A person may smoke within thirty (30) feet of the retail outlets or  
72# any gaming establishments. Receptacles for disposing of smoking materials may  
73# be maintained within thirty (30) feet of the entrances of these buildings.

74# (c) in any vehicle owned or operated by the Nation.

75# 411.4-2. *Exemptions.* The following exemptions shall apply to the prohibition of smoking:

76# (a) *Cultural Usage.* The reasonable burning of tobacco, sage, cedar, and/or sweetgrass  
77# shall be exempted for cultural usage. Employees working in the vicinity of this cultural use  
78# shall be notified prior to use.

79# (b) *Exempted Locations.* The following locations shall be exempted from the prohibition  
7:# of smoking:

7;# (1) all gaming areas in any building of the Nation;

82# (A) Smoking and non-smoking employee break rooms shall be provided in  
83# these buildings and shall have separate ventilation.

84# (B) Employees shall not smoke while working in these buildings, other than  
85# in the provided break room.

86# (2) residential buildings that are owned by the Nation, including, but not limited  
87# to, single-family dwellings, two (2) family dwellings, and multiple-family  
88# dwellings; and

89# (3) a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco  
8:# product, unless prohibited by Oneida Retail or the terms and conditions of the lease.

8;# 411.4-3. *Posting and Notices.* All buildings of the Nation, except for those exempted by section  
92# 411.4-2(b) of this Law, shall be posted as “Non-Smoking” on entrances. In addition, the hallways,  
93# restroom facilities, and other public areas of these buildings may also be posted as “Non-  
94# Smoking.” Signs shall be large enough that they can be viewed and read thirty (30) feet from the  
95# building.

96# 411.4-4. *Violations.*

97# (a) Any building manager or designated agent of the Nation may file for injunctive relief  
98# with the Nation’s Judiciary against any person who repeatedly or willfully violates this  
99# law.

9:# (b) An employee of the Nation who violates this law during their work hours may be  
9;# subject to the following disciplinary action in accordance with the Nation’s laws and  
:2# policies governing employment :

:3# (1) written warning for a first-time violation;

:4# (2) suspended without pay for a second violation; or

:5# (3) terminated from employment for any violation thereafter.

:6#

:7# *End.*

:8#

:9# 

---

Adopted – OBC motion on 05-25-94, Grace period for thirty (30) feet until shelters complete, except for at educational

Draft 1  
2023 02 01

: :# facilities where minors are present.  
: ;# Amended – BC-02-24-10-1  
; 2# Amended – BC-05-28-14-A  
; 3# Amended – BC \_ - - - \_



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



### AGENDA REQUEST FORM

- 1) Request Date: January 26, 2023
- 2) Contact Person(s): Pamela Nohr  
Dept: Oneida Election Board  
Phone Number: 480-287-1543 Email: oeb-pnoh@oneidanation.org
- 3) Agenda Title: Amendments to Oneida Election Board bylaws
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
The Oneida Election Board met in September and November 2022 to review the Board's bylaws and discuss amendments. On January 23, 2023, the Board approved amendments as reflected in the attachments.

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

- 1) OEB Bylaws DRAFT (show changes) 3) \_\_\_\_\_
- 2) OEB Bylaws FINAL (clean) 4) \_\_\_\_\_

- 5) Please list any laws, policies or resolutions that might be affected:  
OEB Bylaws
- 6) Please list all other departments or person(s) you have brought your concern to:  
The Board worked with the Oneida Law Office attorney assigned to Election matters.
- 7) Do you consider this request urgent?  Yes  No  
If yes, please indicate why:  
\_\_\_\_\_

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

Signature of Requester:  
Peggy A. Van Gheem

Digitally signed by Peggy A. Van Gheem  
Date: 2023.01.26 10:22:40 -06'00'

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

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

## ONEIDA ELECTION BOARD BYLAWS

### Article I. Authority

- 1-1. *Name.* The name of this entity shall be the Oneida Election Board and may be referred to as the Board.
- 1-2. *Establishment.* This Board was established by the Oneida General Tribal Council (“GTC”) on July 7, 1939, through resolution GTC-07-07-39; and under the Nation’s Election law, adopted by GTC motion during its June 19, 1993 special meeting, as further amended by motion of the Oneida Business Committee on June 28, 1995, as well as resolutions GTC-07-06-98-A, GTC-01-04-10-A, BC-02-25-15-C and GTC-04-23-17-A.
- 1-3. *Authority.*
- (a) *Purpose.* The Board was created to carry out the provisions of the Election law and Article III, Sections 2 & 3 of the Constitution of the Oneida Nation. The purpose of the Board is to conduct the Nation’s elections in compliance with the laws of the Nation and assist with GTC meetings in reference to voting.
  - (b) *Powers and Duties.* The Board is responsible to conduct elections and to govern all procedures used in the election process along with attending GTC meetings. The Board has all delegated authority established through the laws, policies, rules and resolutions of the Nation, including, but not limited to, the Election law.
- 1-4. *Office.* The official mailing address of the Election Board shall be:  
 Oneida Election Board  
 P.O. Box 365 413  
 Oneida, Wisconsin 54155
- 1-5. *Membership.*
- (a) *Number of Members.* The Election Board shall consist of nine (9) members.
    - (1) *Board Alternates.* The Oneida Business Committee may appoint or reappoint a sufficient number of alternates to the Board, as recommended by the Board, to assist with election day and pre-election activities.
    - (b) *Elected.* Members of the Board shall be elected by enrolled members of the Nation in accordance with the laws and/or policies of the Nation governing elections.
      - (+) Members of the Board shall serve terms of three (3) years. ~~not to exceed two (2) consecutive terms.~~
      - (2) Members shall hold office until their term expires, they resign, or they are removed/terminated from office.
        - (A) Although a member’s term has expired, he or she shall remain in office and serve until a successor has been sworn in by the Oneida Business Committee.

- (B) A member may resign at any time verbally at a meeting or by delivering written notice to the Oneida ~~Business Committee Support~~ Government Administrative Office and the Board Chairperson or Chairperson's designee.
- (i) The resignation is effective upon acceptance by Board motion of a member's verbal resignation or upon delivery of the written notices.
- (c) *Vacancies.* Vacancies on the Board shall be filled as follows:
- (1) *Expired Terms.* Vacancies caused by the expiration of a member's term shall be filled by election in accordance with the laws and/or policies of the Nation governing elections.
- (2) *Unexpired Terms.* Vacancies in unexpired terms shall be filled by appointment by the Oneida Business Committee, pursuant to the Boards, Committees and Commissions law, for the balance of the unexpired term.
- (A) The Board's Chairperson shall provide the Oneida Business Committee recommendations on all applications for appointment to fill a vacancy by the executive session in which the appointment is intended to be made.
- (B) The filling of a vacancy may be timed to correspond with the pre-election activities and the needs of the Board.
- (d) *Qualifications of Members.* All Board members must be:
- (1) An enrolled member of the Nation; and
- (2) At least eighteen (18) years of age.
- (e) *Duties/Responsibilities.*
- (1) Board members shall carry out all duties delegated by the Election law, including, but not limited to:
- ~~(A) Ensuring that the election polling equipment and ballots are maintained in a locked and secured area when not in use for an election;~~
- ~~(B) Developing and adhering to standard operating procedures regarding election activities and responsibilities;~~
- ~~(C) Assisting individuals with disabilities throughout the voting process;~~
- ~~(D) Being in charge of all registration and election procedures;~~
- ~~(E) Upon completion of an election, making a final report on the election results and posting/publishing the election results in accordance with the Election law; and~~
- ~~(F) Attending all Board meetings. [PAVG1]~~
- (A) Attending all Board meetings;
- (B) Being in charge of all registration and election procedures;
- (C) Assisting individuals with disabilities throughout the voting process;
- (D) Developing and adhering to standard operating procedures regarding election activities and responsibilities;
- (E) Ensuring that the election polling equipment and ballots are

maintained in a locked and secured area when not in use for an election; and

- (F) Upon completion of an election, making a final report on the election results and posting/publishing the election results in accordance with the Election law.

- 1-6. *Termination or Removal.* A member of the Board found to be in violation of these bylaws or the Election law may be subject to the following:
- (a) If the Board member was elected, the Board's filing of a petition for his or her removal pursuant to the Removal law and/or any other law of the Nation governing removal of elected officials;
    - (1) A member who is removed from the Board shall be ineligible to serve on the Board for three (3) years from the time he or she is removed from the Board.
  - (b) If the Board member was appointed, the Board's recommendation to the Oneida Business Committee for termination of his or her appointment pursuant to the Boards, Committees and Commissions law and/or any other law of the Nation governing termination of appointed officials.
  - (c) The filing of a petition for removal or submission of a recommendation for termination shall be decided by a majority vote of the members in attendance at a Board meeting of an established quorum.
- 1-7. *Trainings and Conferences.* Mandatory trainings/conferences for members of the Board shall be as follows:
- (a) Robert's Rules of Order training on an annual basis or as needed, not to exceed five (5) full days per Board member; and/or
  - (b) ~~Other Tribal Affiliated~~ Election conferences/trainings, including those focused on tribal elections, as approved by the Board, not to exceed three (3) full days per Board member, per ~~term~~ year.
  - (c) Regardless of the number of trainings/conferences that he or she is required to attend, no member of the Board shall be eligible to receive stipends for attending more than ~~five (5)~~ ten (10) full days of mandatory trainings/conferences per year.

## Article II. Officers & Non-Officer Positions

- 2-1. *Officers.* The Officer positions of the Board shall consist of a Chairperson, a Vice-Chairperson and a Secretary.
- 2-2. *Responsibilities of the Chairperson.* The duties, responsibilities and limitations of the Chairperson are as follows:
- (a) Call meetings and notify Board members with the assistance of the Vice-Chairperson and/or Secretary;
  - (b) Preside over all meetings and hearings of the Board;
  - (c) Oversee the conduct of the election;
  - (d) Decide issues of voter eligibility with the assistance of the Election Judge(s);
  - (e) Select the hearing body for applicants found to be ineligible in accordance

- with the Election law in the event of an appeal;
- (f) Dismiss the alternates and Trust Enrollment Department personnel when their election day duties are complete;
- (g) Post and report the results of all elections;
- (h) With the assistance of the Board Secretary, submit quarterly reports to the Oneida Business Committee and annual/semi-annual reports to the Oneida General Tribal Council in accordance with the Boards, Committees and Commissions law;
- (i) Attend, or designate a Board member to attend, the Oneida Business Committee meeting where the Board's quarterly report appears on the agenda; and
- (j) Carry out any other duty assigned to the Chairperson by the Board or the Election law.

2-3. *Responsibilities of the Vice-Chairperson.* The duties, responsibilities and limitations of the Vice-Chairperson are as follows:

- (a) Preside over all meetings in the absence of the Chairperson and assist the Chairperson in forwarding notice of meeting location, agenda, minutes and materials; and
- (b) Work with the Chairperson in all matters that concern the Board.

2-4. *Responsibilities of the Secretary.* The duties, responsibilities and limitations of the Secretary are as follows:

- ~~(a) Keep accurate minutes of all Board meetings; submit them to the Oneida Business Committee Support Office in accordance with the Boards, Committees and Commissions law; and make them available to other Board members, as well as the public, per the requirements of the Nation's Open Records and Open Meetings law;~~
- ~~(b) Assure that minutes are reported in the proper format;~~
- ~~(c) Oversee mail received and inform the Board of all correspondence;~~
- (d) (b) In the event that both the Chairperson and Vice-Chairperson positions become vacant before the end of their terms, call Board meetings to fill the vacancies and preside over those meetings for the sole purpose of conducting an election of new Officers, at which point the Chairperson, or Vice-Chairperson in the absence of the Chairperson, shall preside; and
- ~~(e) Assist the Chairperson in forwarding notice of meeting location, agenda, minutes and materials; and~~
- (f) (a) As applicable, The Secretary will work with the Oneida Business Committee Support Government Administrative Office will assist the Secretary with certain to carry out the administrative duties and responsibilities.[PAVG2]

2-5. *Selection of Officers.* The Officers shall serve one (1) year terms and shall be elected by a majority vote of the members in attendance at a Board meeting of an established quorum.

- (a) The Chairperson shall be elected at the first meeting of the Board.
  - (1) Upon his or her election, the Chairperson shall direct the Board to

elect a Vice-Chairperson and Secretary.

- (b) Board members may be dismissed from their Officer positions by majority vote of the members in attendance at a Board meeting of an established quorum.
- (c) In the event of a vacancy in the position of a Board Officer, a successor shall be voted in by a majority vote of the members in attendance at a Board meeting of an established quorum for the duration of the Officer's unexpired term.
- (d) Officers may hold only one (1) Officer position per Officer term.

2-6. *Ad Hoc Committee of the Board.* The Board shall create an Ad Hoc Committee for the limited purpose of maintaining a pool of qualified candidates that the Board may choose from, when needed, to assist with its duties relating to GTC meetings. On or before the date of its creation, the Board shall develop a mission statement that reflects the Ad Hoc Committee's limited purpose stated herein.

- (a) Members of the Ad Hoc Committee shall be appointed and reappointed by the Oneida Business Committee, as recommended by the Board, for one (1) year terms in accordance with the Boards, Committees and Commissions law.
  - (1) Members of the Ad Hoc Committee shall not be limited in the number of terms they can serve, consecutively or otherwise.
- (b) Members of the Ad Hoc Committee must possess the same qualifications required of Board members under the Election law and these bylaws.
- (c) Upon appointment, members of the Ad Hoc Committee must take an oath during a regular or special meeting of the Oneida Business Committee.
  - (1) Members of the Ad Hoc Committee shall be subject to the applicable portions of section 4-1 and all of sections 4-2 through 4-5 of these bylaws to the same extent as appointed members of the Board, including the provisions relating to enforcement and discipline.
- (d) Members of the Ad Hoc Committee shall receive a stipend of fifty (50) dollars for each GTC meeting that:
  - (1) The Board asked them to attend to assist with its duties relating to GTC meetings;
  - (2) They did attend for the entirety of the meeting; and
  - (3) They did assist with the Board's duties relating to GTC meetings.
- (e) Dissolution of the Ad Hoc Committee shall be in accordance with the Boards, Committees and Commissions law.

2-7. *Non-Officer Positions.* The Board shall identify Board members who shall serve in the non-Officer positions of tellers, Election Judges and clerks in advance of an election.

- (a) Non-Officers shall be identified in accordance with the Election law.

2-8. *Responsibilities of the Election Judge.* The duties, responsibilities and limitations of the Election Judge are as follows:

- (a) Inform and advise the Chairperson of all aspects of elections conducted



- under the Election law;
- (b) In accordance with the Election law, meet with the Trust Enrollment Department personnel who are registering voters to answer questions arising over voter eligibility; and
  - (1) When disputes among Board members, or between members of the Nation and Board members, or any controversy regarding voter eligibility arise, the Election Judge shall assist the Chairperson in making a determination.
- (c) Ensure that all ballots of voters whose eligibility may be in question remain confidential.

2-9. *Responsibilities of the Teller.* The duties, responsibilities and limitations of the teller are as follows:

- (a) Collect and keep safe all ballots until the election is complete, as determined by the Election law; and
- (b) Assist the Chairperson as directed in conducting the election.

2-10. *Responsibilities of the Clerk.* The duties, responsibilities and limitations of the clerk are as follows:

- (a) Implement the requirements of identifying and registering all voters and determining voter eligibility;
- (b) Work in conjunction with the Trust Enrollment Department personnel in the registration process;
- (c) Assist the Chairperson as directed in conducting the election; and
- (d) Not be currently employed in the Trust Enrollment Department.

2-11. *Budgetary Sign-Off Authority and Travel.* The Board shall follow the Nation's policies and procedures regarding purchasing and sign-off authority.

- (a) Levels of budgetary sign-off authority for the Board shall be as set forth in the manual titled, *Oneida Tribe of Indians of Wisconsin Oneida Nation [PAVG3] Purchasing Policies and Procedures*, for Area Directors/Enterprise Directors.
  - (1) All Board Officers have sign-off authority and two (2) Officers shall be required to sign-off on all budgetary requests, except as follows:
    - (A) The Oneida ~~Business Committee Support~~ **Government Administrative** Office shall have sign-off authority over requests for stipends, travel per diem and business expense reimbursement.
  - (b) The Board shall approve a member's request to travel on behalf of the Board by a majority vote of the members in attendance at a regular or emergency Board meeting of an established quorum.

2-12. *Personnel.* The Board shall not have the authority to hire personnel for the benefit of the Board.

### Article III. Meetings

3-1. *Regular Meetings.* The regular meetings of the Board shall be held every second (2nd)

Monday of the month, commencing at 5:00 p.m., ~~at the Ridgeview Plaza, or another location as suggested~~ at a location to be determined at the first meeting of the Board. ~~The meeting location --and may change from time to time as determined by the Board but~~ shall be within the Reservation boundaries, unless notice is provided to all members in writing and ~~along with~~ to the public, in accordance with governing law, including, but not [PAVG4]limited to, the Nation's Open Records and Open Meetings law, prior to designating the meeting location.

- (a) The regular meeting date, time and location may change from time-to-time as determined by a majority vote of the members in attendance at a Board meeting of an established quorum. ~~upon notice to all members in writing and, along with the public, in accordance with~~ [PAVG5]Notice of such change shall be provided to Board members in writing and to the public according to governing law, including, but not limited to, the Nation's Open Records and Open Meetings law, prior to the implementation of a new date, time and/or location.
- (b) Notice of meeting location, agenda, minutes and materials shall be forwarded ~~by the Chairperson with the assistance of the Vice Chairperson and/or Secretary.~~ to Board members by the Oneida Government Administrative Office.
- (c) Meetings shall be run in accordance with Robert's Rules of Order.

3-2. *Emergency Meetings.* An emergency meeting may be called by the Chairperson when time sensitive issues require immediate action.

- (a) The Chairperson or Chairperson's designee shall provide advance notice to all Board members of an emergency meeting by telephone call, as well as email communication sent to the official Oneida Nation email address provided to each member to conduct business electronically on behalf of the Board. ~~The Chairperson or Chairperson's designee~~ and shall further provide notice to all members, as well as the public, in accordance with the Nation's Open Records and Open Meetings law.
- (b) Within seventy-two (72) hours after an emergency meeting, the Board Chairperson or Chairperson's designee shall provide the Nation's Secretary with notice of the emergency meeting, the reason for the emergency meeting, and an explanation as to why the matter could not wait until the next regular meeting.

3-3. *Joint Meetings.* Joint Meetings shall not be held.

3-4. *Quorum.* A quorum shall consist of a majority of current Board members, at least one (1) of which shall include the Chairperson, Vice-Chairperson or Secretary; provided, the Secretary is presiding over the meeting in accordance with section 2-4 (b) [PAVG6] ~~(d)~~ of these bylaws.

3-5. *Order of Business.* The order of business, as far as applicable, is:

- (a) Call to Order
- (b) Adopt the Agenda

- (c) ~~Approval of~~ Minutes
- (d) Old Business
- (e) New Business
- (f) Other Concerns/Announcements
- (g) Executive Session
- (h) Adjournment

- 3-6. *Voting.* Voting shall be in accordance with a majority vote of the Board members present at a meeting of an established quorum.
- (a) All members of the Board shall have one (1) equal vote.
  - (b) The Chairperson or Vice-Chairperson, when presiding in the absence of the Chairperson, and Secretary, when presiding in accordance with section 2-4 (b) ~~(d)~~ [PAVG7] of these bylaws, shall only vote when a tie needs to be broken.
  - (c) E-polls are permitted so long as conducted in accordance with the Boards, Committees and Commissions law.
    - (1) The Vice-Chairperson, in the absence or discretion of the Chairperson, and the Secretary, in the absence of the Vice-Chairperson or discretion of the Chairperson, shall be responsible for conducting e-polls.

#### Article IV. Expectations

- 4-1. *Behavior of Members.* Members of the Board are expected to behave as follows:
- (a) They shall not miss three (3) consecutive unexcused meetings within a twelve (12) month period.
    - (1) A member who fails to notify a Board Officer ~~or the recording clerk~~ ~~, in writing,~~ of his or her absence at least thirty (30) minutes prior to the meeting in which he or she will be absent from shall be deemed unexcused.
  - (b) They shall follow the Election Board's Code of Conduct.
  - (c) They shall not speak or act in the name of the Board except when, by majority vote of the members present at a meeting of an established quorum, the Board has specifically delegated that responsibility.
  - (d) *Enforcement.* Any member of the Board found to be in violation of these behaviors/expectations or any other section of these bylaws may be subject to:
    - (1) Sanctions and penalties in accordance with any laws or policies of the Nation governing sanctions ~~and~~ or penalties of officials.
    - (2) If the Board member was elected, the Board's filing of a petition for his or her removal pursuant to the Removal law ~~and~~ or any other laws or policies of the Nation governing the removal of elected officials.
    - (3) If the Board member was appointed, the Board's recommendation to the Oneida Business Committee for termination of his or her appointment pursuant to the Boards, Committees and Commissions law ~~and~~ or any other laws or policies of the Nation governing the termination of appointed officials.
    - (4) The filing of a petition for removal or recommendation for

termination shall be decided by a majority vote of the members in attendance at a Board meeting of an established quorum.

4-2. *Prohibition of Violence.* Any violent intentional act committed by a member of the Board that inflicts, attempts to inflict or threatens to inflict emotional or bodily harm on another person, or damage to property, when acting in his or her official capacity is strictly prohibited. *Acts of self-defense are excepted from this prohibition.*<sup>[PAVG8]</sup>

4-3. *Drug and Alcohol Use.* Members of the Board are prohibited from using alcohol and/or illegal drugs when acting in their official capacity.

4-4. *Social Media.* Social media shall be used in accordance with the members' oath of office, as well as any laws or policies of the Nation governing social media.

- (a) No member of the Board shall post any *confidential* Election Board information on his or her Facebook page or other social media outlets.<sup>[PAVG9]</sup>

OR

*Social Media.* Commissioners shall abide by the Nation's Social Media Policy and their oath of office when using social media on behalf of or as a representative of the OGC. *(from Gaming Commission bylaws)*

OR

*Social Media.* OLCC members shall adhere to the Oneida Nation's Social Media Policy and their oath of office when using social media while acting on behalf of or as a representative of the OLCC.

- (a) Any social media use on behalf of or as a representative of the OLCC must be approved in advance by a majority vote of the members in attendance at an OLCC meeting of an established quorum. *(from Land Claims Commission bylaws)*

OR

*Social Media.* Commissioners . . . shall further refrain from posting, attaching or writing anything relating to ONCOA business or activities on any social media outlet unless authorized by these bylaws or by a majority vote of the Commissioners in attendance at an ONCOA meeting of an established quorum. *(from ONCOA bylaws)*

4-5. *Conflict of Interest.* Members of the Board shall abide by all applicable laws of the Nation governing conflicts of interest.

- (a) A Board member shall recuse himself or herself from participating as a Board member in any pre-election, election day, or post-election activities when:
- (1) He or she is a petitioner, applicant or candidate in any election;
  - (2) A petitioner, applicant, or candidate in any election is an immediate family member of the Board member; or

- (A) Immediate family member shall be as defined within the Nation's Conflict of Interest law.
- (3) There is otherwise a conflict of interest.
- (b) Unless otherwise provided in any governing laws of the Nation relating to conflicts of interest, any conflicts will be handled by recommendation of a majority vote of the members in attendance at a Board meeting of an established quorum.

## Article V. Stipends and Compensation

5-1. *Stipends.* Board members are eligible for the following stipends as set forth in and subject to these bylaws, the Boards, Committees and Commissions law, and resolution BC-05-08-19-B titled, Amending Resolution BC-09-26-18-D Boards, Committees and Commissions Law Stipends, as may be further amended from time-to-time hereafter:

- (a) ~~Two (2) monthly meeting stipends;~~ Up to twenty-four (24) meeting stipends per fiscal year;<sup>[PAVG10]</sup>
- (b) Stipends for conducting hearings on appeals of eligibility determinations;
- (c) Stipends for attending Judiciary hearings;
  - (1) A member of the Board may only receive a stipend for attending an Oneida Judiciary hearing if that member's attendance was required by official subpoena.
- (d) A stipend for attendance at each full day of a training/conference that is required by law, bylaws or resolution.
- (e) An hourly stipend for services that he or she provides during an election, including, but not limited to, managing the polling site, recounts and lot drawings; and
- (f) A stipend for attending and providing service at an Oneida General Tribal Council meeting of the Nation.

5-2. *Compensation.* Besides the travel, per diem and business expense reimbursement authorized by the Boards, Committees and Commissions law, Board members shall not be eligible for any other form of compensation for duties/ activities they perform on behalf of the Board.

## Article VI. Records and Reporting

6-1. *Agenda Items.* Agenda items shall be maintained in a format provided by the Oneida ~~Business Committee Support~~ Government Administrative Office.

6-2. *Minutes.* Minutes of the Board shall be typed in a format designed by the Oneida ~~Business Committee Support~~ Government Administrative Office to generate the most informative record of the Board's meetings, including a summary of the actions taken by the Board during its meetings.

- (a) Minutes shall be submitted to the Oneida Business Committee Support Office within five (5) days of the meeting date.


- 6-3. *Attachments.* Any handouts, reports, or documents shall be turned in to be filed with the minutes and agenda for the meeting in which they were presented.
- (a) All handouts, reports, and documents shall be kept in electronic format in the Board's shared folder.
- 6-4. *Oneida Business Committee Liaison.* The Board shall regularly communicate with the Oneida Business Committee member who is its designated liaison.
- (a) The frequency and method of communication shall be as agreed upon by the Board and the liaison, but not less than that required in any law or policy on reporting developed by the Oneida Business Committee or Oneida General Tribal Council.
- 6-5. *Audio Recordings.* All meetings of the Board shall be audio recorded using a recording device supplied by the Oneida ~~Business Committee Support~~ Government Administrative Office.
- (a) Audio recordings shall be submitted to the Oneida ~~Business Committee Support~~ Government Administrative Office by the Chairperson or Chairperson's designee for purposes of maintaining in accordance with the applicable laws of the Nation.
  - (b) *Exception.* Audio recordings of executive session portions of a Board meeting shall not be required.

## Article VII. Amendments

- 7-1. *Amendments to Bylaws.* Amendments shall be made to these bylaws by a majority vote of the members present at a regular Board meeting of an established quorum, provided that a written notice of proposed amendments was made at a prior regular meeting.
- (a) Amendments to these bylaws must conform to the requirements of the Boards, Committees and Commissions law, as well as any other policy of the Nation.
  - (b) Amendments to these bylaws must be approved by the Oneida Business Committee before implementation.
  - (c) The Board shall review these bylaws from time to time as needed, but no less than on an annual basis.

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These By-laws, as amended and revised, are hereby approved by the Oneida Business Committee at a duly called meeting held on September 25, 2019, by the Secretary of the Oneida Business Committee's signature.

  
 Lisa Summers, Secretary  
 Oneida Business Committee

## ONEIDA ELECTION BOARD BYLAWS

### Article I. Authority

- 1-1. *Name.* The name of this entity shall be the Oneida Election Board and may be referred to as the Board.
- 1-2. *Establishment.* This Board was established by the Oneida General Tribal Council (“GTC”) on July 7, 1939, through resolution GTC-07-07-39; and under the Nation’s Election law, adopted by GTC motion during its June 19, 1993 special meeting, as further amended by motion of the Oneida Business Committee on June 28, 1995, as well as resolutions GTC-07-06-98-A, GTC-01-04-10- A, BC-02-25-15-C and GTC-04-23-17-A.
- 1-3. *Authority.*
- (a) *Purpose.* The Board was created to carry out the provisions of the Election law and Article III, Sections 2 & 3 of the Constitution of the Oneida Nation. The purpose of the Board is to conduct the Nation’s elections in compliance with the laws of the Nation and assist with GTC meetings in reference to voting.
  - (b) *Powers and Duties.* The Board is responsible to conduct elections and to govern all procedures used in the election process along with attending GTC meetings. The Board has all delegated authority established through the laws, policies, rules and resolutions of the Nation, including, but not limited to, the Election law.
- 1-4. *Office.* The official mailing address of the Election Board shall be:  
 Oneida Election Board  
 P.O. Box 365  
 Oneida, Wisconsin 54155
- 1-5. *Membership.*
- (a) *Number of Members.* The Election Board shall consist of nine (9) members.
    - (1) *Board Alternates.* The Oneida Business Committee may appoint or reappoint a sufficient number of alternates to the Board, as recommended by the Board, to assist with election day and pre-election activities.
  - (b) *Elected.* Members of the Board shall be elected by enrolled members of the Nation in accordance with the laws and/or policies of the Nation governing elections.
    - (1) Members of the Board shall serve terms of three (3) years.
    - (2) Members shall hold office until their term expires, they resign, or they are removed/terminated from office.
      - (A) Although a member’s term has expired, he or she shall remain in office and serve until a successor has been sworn in by the Oneida Business Committee.

- (B) A member may resign at any time verbally at a meeting or by delivering written notice to the Oneida Government Administrative Office and the Board Chairperson or Chairperson's designee.
  - (i) The resignation is effective upon acceptance by Board motion of a member's verbal resignation or upon delivery of the written notices.
- (c) *Vacancies.* Vacancies on the Board shall be filled as follows:
  - (1) *Expired Terms.* Vacancies caused by the expiration of a member's term shall be filled by election in accordance with the laws and/or policies of the Nation governing elections.
  - (2) *Unexpired Terms.* Vacancies in unexpired terms shall be filled by appointment by the Oneida Business Committee, pursuant to the Boards, Committees and Commissions law, for the balance of the unexpired term.
    - (A) The Board's Chairperson shall provide the Oneida Business Committee recommendations on all applications for appointment to fill a vacancy by the executive session in which the appointment is intended to be made.
    - (B) The filling of a vacancy may be timed to correspond with the pre-election activities and the needs of the Board.
- (d) *Qualifications of Members.* All Board members must be:
  - (1) An enrolled member of the Nation; and
  - (2) At least eighteen (18) years of age.
- (e) *Duties/Responsibilities.*
  - (1) Board members shall carry out all duties delegated by the Election law, including, but not limited to:
    - (A) Attending all Board meetings;
    - (B) Being in charge of all registration and election procedures;
    - (C) Assisting individuals with disabilities throughout the voting process;
    - (D) Developing and adhering to standard operating procedures regarding election activities and responsibilities;
    - (E) Ensuring that the election polling equipment and ballots are maintained in a locked and secured area when not in use for an election; and
    - (F) Upon completion of an election, making a final report on the election results and posting/publishing the election results in accordance with the Election law.

1-6. *Termination or Removal.* A member of the Board found to be in violation of these bylaws or the Election law may be subject to the following:

- (a) If the Board member was elected, the Board's filing of a petition for his or her removal pursuant to the Removal law and/or any other law of the Nation governing removal of elected officials;
  - (1) A member who is removed from the Board shall be ineligible to



serve on the Board for three (3) years from the time he or she is removed from the Board.

- (b) If the Board member was appointed, the Board's recommendation to the Oneida Business Committee for termination of his or her appointment pursuant to the Boards, Committees and Commissions law and/or any other law of the Nation governing termination of appointed officials.
- (c) The filing of a petition for removal or submission of a recommendation for termination shall be decided by a majority vote of the members in attendance at a Board meeting of an established quorum.

1-7. *Trainings and Conferences.* Mandatory trainings/conferences for members of the Board shall be as follows:

- (a) Robert's Rules of Order training on an annual basis or as needed, not to exceed five (5) full days per Board member; and/or
- (b) Election conferences/trainings, including those focused on tribal elections, as approved by the Board, not to exceed three (3) full days per Board member, per year.
- (c) Regardless of the number of trainings/conferences that he or she is required to attend, no member of the Board shall be eligible to receive stipends for attending more than ten (10) full days of mandatory trainings/conferences per year.

## **Article II. Officers & Non-Officer Positions**

2-1. *Officers.* The Officer positions of the Board shall consist of a Chairperson, a Vice-Chairperson and a Secretary.

2-2. *Responsibilities of the Chairperson.* The duties, responsibilities and limitations of the Chairperson are as follows:

- (a) Call meetings and notify Board members with the assistance of the Vice-Chairperson and/or Secretary;
- (b) Preside over all meetings and hearings of the Board;
- (c) Oversee the conduct of the election;
- (d) Decide issues of voter eligibility with the assistance of the Election Judge(s);
- (e) Select the hearing body for applicants found to be ineligible in accordance with the Election law in the event of an appeal;
- (f) Dismiss the alternates and Trust Enrollment Department personnel when their election day duties are complete;
- (g) Post and report the results of all elections;
- (h) With the assistance of the Board Secretary, submit quarterly reports to the Oneida Business Committee and annual/semi-annual reports to the Oneida General Tribal Council in accordance with the Boards, Committees and Commissions law;
- (i) Attend, or designate a Board member to attend, the Oneida Business Committee meeting where the Board's quarterly report appears on the agenda; and
- (j) Carry out any other duty assigned to the Chairperson by the Board or the

Election law.

2-3. *Responsibilities of the Vice-Chairperson.* The duties, responsibilities and limitations of the Vice-Chairperson are as follows:

- (a) Preside over all meetings in the absence of the Chairperson and assist the Chairperson in forwarding notice of meeting location, agenda, minutes and materials; and
- (b) Work with the Chairperson in all matters that concern the Board.

2-4. *Responsibilities of the Secretary.* The duties, responsibilities and limitations of the Secretary are as follows:

- (a) The Secretary will work with the Oneida Government Administrative Office to carry out the administrative duties and responsibilities; and,
- (b) In the event that both the Chairperson and Vice-Chairperson positions become vacant before the end of their terms, call Board meetings to fill the vacancies and preside over those meetings for the sole purpose of conducting an election of new Officers, at which point the Chairperson, or Vice-Chairperson in the absence of the Chairperson, shall preside.

2-5. *Selection of Officers.* The Officers shall serve one (1) year terms and shall be elected by a majority vote of the members in attendance at a Board meeting of an established quorum.

- (a) The Chairperson shall be elected at the first meeting of the Board.
  - (1) Upon his or her election, the Chairperson shall direct the Board to elect a Vice-Chairperson and Secretary.
- (b) Board members may be dismissed from their Officer positions by majority vote of the members in attendance at a Board meeting of an established quorum.
- (c) In the event of a vacancy in the position of a Board Officer, a successor shall be voted in by a majority vote of the members in attendance at a Board meeting of an established quorum for the duration of the Officer's unexpired term.
- (d) Officers may hold only one (1) Officer position per Officer term.

2-6. *Ad Hoc Committee of the Board.* The Board shall create an Ad Hoc Committee for the limited purpose of maintaining a pool of qualified candidates that the Board may choose from, when needed, to assist with its duties relating to GTC meetings. On or before the date of its creation, the Board shall develop a mission statement that reflects the Ad Hoc Committee's limited purpose stated herein.

- (a) Members of the Ad Hoc Committee shall be appointed and reappointed by the Oneida Business Committee, as recommended by the Board, for one (1) year terms in accordance with the Boards, Committees and Commissions law.
  - (1) Members of the Ad Hoc Committee shall not be limited in the number of terms they can serve, consecutively or otherwise.
- (b) Members of the Ad Hoc Committee must possess the same qualifications

- required of Board members under the Election law and these bylaws.
- (c) Upon appointment, members of the Ad Hoc Committee must take an oath during a regular or special meeting of the Oneida Business Committee.
    - (1) Members of the Ad Hoc Committee shall be subject to the applicable portions of section 4-1 and all of sections 4-2 through 4-5 of these bylaws to the same extent as appointed members of the Board, including the provisions relating to enforcement and discipline.
  - (d) Members of the Ad Hoc Committee shall receive a stipend of fifty (50) dollars for each GTC meeting that:
    - (1) The Board asked them to attend to assist with its duties relating to GTC meetings;
    - (2) They did attend for the entirety of the meeting; and
    - (3) They did assist with the Board's duties relating to GTC meetings.
  - (e) Dissolution of the Ad Hoc Committee shall be in accordance with the Boards, Committees and Commissions law.

*2-7. Non-Officer Positions.* The Board shall identify Board members who shall serve in the non-Officer positions of tellers, Election Judges and clerks in advance of an election.

- (a) Non-Officers shall be identified in accordance with the Election law.

*2-8. Responsibilities of the Election Judge.* The duties, responsibilities and limitations of the Election Judge are as follows:

- (a) Inform and advise the Chairperson of all aspects of elections conducted under the Election law;
- (b) In accordance with the Election law, meet with the Trust Enrollment Department personnel who are registering voters to answer questions arising over voter eligibility; and
  - (1) When disputes among Board members, or between members of the Nation and Board members, or any controversy regarding voter eligibility arise, the Election Judge shall assist the Chairperson in making a determination.
- (c) Ensure that all ballots of voters whose eligibility may be in question remain confidential.

*2-9. Responsibilities of the Teller.* The duties, responsibilities and limitations of the teller are as follows:

- (a) Collect and keep safe all ballots until the election is complete, as determined by the Election law; and
- (b) Assist the Chairperson as directed in conducting the election.

*2-10. Responsibilities of the Clerk.* The duties, responsibilities and limitations of the clerk are as follows:

- (a) Implement the requirements of identifying and registering all voters and determining voter eligibility;
- (b) Work in conjunction with the Trust Enrollment Department personnel in the registration process;

- (c) Assist the Chairperson as directed in conducting the election; and
- (d) Not be currently employed in the Trust Enrollment Department.

2-11. *Budgetary Sign-Off Authority and Travel.* The Board shall follow the Nation's policies and procedures regarding purchasing and sign-off authority.

- (a) Levels of budgetary sign-off authority for the Board shall be as set forth in the manual titled, *Oneida Nation Purchasing Policies and Procedures*, for Area Directors/Enterprise Directors.
  - (1) All Board Officers have sign-off authority and two (2) Officers shall be required to sign-off on all budgetary requests, except as follows:
    - (A) The Oneida Government Administrative Office shall have sign-off authority over requests for stipends, travel per diem and business expense reimbursement.
- (b) The Board shall approve a member's request to travel on behalf of the Board by a majority vote of the members in attendance at a regular or emergency Board meeting of an established quorum.

2-12. *Personnel.* The Board shall not have the authority to hire personnel for the benefit of the Board.

### **Article III. Meetings**

3-1. *Regular Meetings.* The regular meetings of the Board shall be held every second (2nd) Monday of the month, commencing at 5:00 p.m., at a location to be determined at the first meeting of the Board. The meeting location shall be within the Reservation boundaries, unless notice is provided to all members in writing and to the public, in accordance with governing law, including, but not limited to, the Nation's Open Records and Open Meetings law, prior to designating the meeting location.

- (a) The regular meeting date, time and location may change from time-to-time as determined by a majority vote of the members in attendance at a Board meeting of an established quorum. Notice of such change shall be provided to Board members in writing and to the public according to governing law, including, but not limited to, the Nation's Open Records and Open Meetings law, prior to the implementation of a new date, time and/or location.
- (b) Notice of meeting location, agenda, minutes and materials shall be forwarded to Board members by the Oneida Government Administrative Office.
- (c) Meetings shall be run in accordance with Robert's Rules of Order.

3-2. *Emergency Meetings.* An emergency meeting may be called by the Chairperson when time sensitive issues require immediate action.

- (a) The Chairperson or Chairperson's designee shall provide advance notice to all Board members of an emergency meeting by telephone call, as well as email communication sent to the official Oneida Nation email address provided to each member to conduct business electronically on behalf of the Board. The Chairperson or Chairperson's designee shall further provide

notice to all members, as well as the public, in accordance with the Nation's Open Records and Open Meetings law.

- (b) Within seventy-two (72) hours after an emergency meeting, the Board Chairperson or Chairperson's designee shall provide the Nation's Secretary with notice of the emergency meeting, the reason for the emergency meeting, and an explanation as to why the matter could not wait until the next regular meeting.

3-3. *Joint Meetings.* Joint Meetings shall not be held.

3-4. *Quorum.* A quorum shall consist of a majority of current Board members, at least one (1) of which shall include the Chairperson, Vice-Chairperson or Secretary; provided, the Secretary is presiding over the meeting in accordance with section 2-4(b) of these bylaws.

3-5. *Order of Business.* The order of business, as far as applicable, is:

- (a) Call to Order
- (b) Adopt the Agenda
- (c) Minutes
- (d) Old Business
- (e) New Business
- (f) Other Concerns/Announcements
- (g) Executive Session
- (h) Adjournment

3-6. *Voting.* Voting shall be in accordance with a majority vote of the Board members present at a meeting of an established quorum.

- (a) All members of the Board shall have one (1) equal vote.
- (b) The Chairperson or Vice-Chairperson, when presiding in the absence of the Chairperson, and Secretary, when presiding in accordance with section 2-4(b) of these bylaws, shall vote when a tie needs to be broken.
- (c) E-polls are permitted so long as conducted in accordance with the Boards, Committees and Commissions law.
  - (1) The Vice-Chairperson, in the absence or discretion of the Chairperson, and the Secretary, in the absence of the Vice-Chairperson or discretion of the Chairperson, shall be responsible for conducting e-polls.

#### **Article IV. Expectations**

4-1. *Behavior of Members.* Members of the Board are expected to behave as follows:

- (a) They shall not miss three (3) consecutive unexcused meetings within a twelve (12) month period.
  - (1) A member who fails to notify a Board Officer or the recording clerk of his or her absence at least thirty (30) minutes prior to the meeting in which he or she will be absent from shall be deemed unexcused.
- (b) They shall follow the Election Board's Code of Conduct.
- (c) They shall not speak or act in the name of the Board except when, by

majority vote of the members present at a meeting of an established quorum, the Board has specifically delegated that responsibility.

- (d) *Enforcement.* Any member of the Board found to be in violation of these behaviors/expectations or any other section of these bylaws may be subject to:
- (1) Sanctions and penalties in accordance with any laws or policies of the Nation governing sanctions or penalties of officials.
  - (2) If the Board member was elected, the Board's filing of a petition for his or her removal pursuant to the Removal law or any other laws or policies of the Nation governing the removal of elected officials.
  - (3) If the Board member was appointed, the Board's recommendation to the Oneida Business Committee for termination of his or her appointment pursuant to the Boards, Committees and Commissions law or any other laws or policies of the Nation governing the termination of appointed officials.
  - (4) The filing of a petition for removal or recommendation for termination shall be decided by a majority vote of the members in attendance at a Board meeting of an established quorum.

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- (a) A Board member shall recuse himself or herself from participating as a Board member in any pre-election, election day, or post-election activities when:
- (1) He or she is a petitioner, applicant or candidate in any election;
  - (2) A petitioner, applicant, or candidate in any election is an immediate family member of the Board member; or
    - (A) Immediate family member shall be as defined within the Nation's Conflict of Interest law.
  - (3) There is otherwise a conflict of interest.
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established quorum.

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- (b) Stipends for conducting hearings on appeals of eligibility determinations;
- (c) Stipends for attending Judiciary hearings;
  - (1) A member of the Board may only receive a stipend for attending an Oneida Judiciary hearing if that member's attendance was required by official subpoena.
- (d) A stipend for attendance at each full day of a training/conference that is required by law, bylaws or resolution.
- (e) An hourly stipend for services that he or she provides during an election, including, but not limited to, managing the polling site, recounts and lot drawings; and
- (f) A stipend for attending and providing service at an Oneida General Tribal Council meeting of the Nation.

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- (a) All handouts, reports, and documents shall be kept in electronic format in the Board's shared folder.

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- (a) The frequency and method of communication shall be as agreed upon by the Board and the liaison, but not less than that required in any law or policy

on reporting developed by the Oneida Business Committee or Oneida General Tribal Council.

6-5. *Audio Recordings.* All meetings of the Board shall be audio recorded using a recording device supplied by the Oneida Government Administrative Office.

- (a) Audio recordings shall be submitted to the Oneida Government Administrative Office by the Chairperson or Chairperson's designee for purposes of maintaining in accordance with the applicable laws of the Nation.
- (b) *Exception.* Audio recordings of executive session portions of a Board meeting shall not be required.

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7-1. *Amendments to Bylaws.* Amendments shall be made to these bylaws by a majority vote of the members present at a regular Board meeting of an established quorum, provided that a written notice of proposed amendments was made at a prior regular meeting.

- (a) Amendments to these bylaws must conform to the requirements of the Boards, Committees and Commissions law, as well as any other policy of the Nation.
  - (b) Amendments to these bylaws must be approved by the Oneida Business Committee before implementation.
  - (c) The Board shall review these bylaws from time to time as needed, but no less than on an annual basis.
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## Legislative Operating Committee FY2023 First Quarter Report

### Legislative Operating Committee Action on Legislative Requests

During the FY23 First Quarter the Legislative Operating Committee added eighteen (18) legislative items to its Active Files List. No requests were denied during the FY23 First Quarter.

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

On October 5, 2022, the Legislative Operating Committee added the Oneida Personnel Commission bylaws amendments, and the Furlough law amendments to its Active Files List.

Then on October 19, 2022, the Legislative Operating Committee added the Budget and Finances law emergency amendments to its Active Files List.

On December 7, 2022, the Legislative Operating Committee added the following to the Active Files List:

- Emergency Gift Card law;
- Audit Committee bylaws amendments;
- Election law emergency amendments;
- Cemetery law amendments;
- Domestic Animals law amendments;
- Tribal Environmental Response law amendments;
- Well Abandonment law amendments;
- All Terrain Vehicle law amendments;
- Tribal Environmental Quality Review law amendments;
- Hunting, Fishing, and Trapping law amendments;
- On-Site Waste Disposal law amendments;
- Water Resources law amendments;
- Public Use of Tribal Land law amendments;
- Petition: M. Cornelius – Chief Financial Officer Position; and
- Petition: N. Barton – \$2,500 GWA Payment for Three (3) Years.

On December 21, 2022, the Legislative Operating Committee added the Two Spirit Inclusion law to the Active Files List.

#### *Items Denied from the Active Files List by the Legislative Operating Committee*

The Legislative Operating Committee did not deny adding any items to the Active Files List during the FY23 First Quarter.

### FY23 First Quarter Legislative Accomplishments

The Legislative Operating Committee brought forward the following legislation for adoption or amendment during the FY23 First Quarter:

**Emergency Amendments to the Budget and Finances Law**

The Oneida Business Committee adopted the emergency amendments to the Budget and Finances law on October 26, 2022, through the adoption of resolution BC-10-26-22-D. The purpose of the Budget and Finances law is to set forth the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation. *[1 O.C. 121.1-1]*.

The emergency amendments to the Budget and Finances law:

- Clarified that the Oneida Business Committee may work with any other appropriate entity in addition to the Treasurer, Chief Financial Officer, and managers to compile a final draft budget to be presented to the General Tribal Council. *[1 O.C. 121.5-4(c)]*; and
- Removed the provision which only allows a continuing budget resolution to remain in effect for a maximum of three (3) months. *[1 O.C. 121.5-47(e)(1)]*.

The emergency amendments to the Budget and Finances law will expire on April 26, 2023. The Legislative Procedures Act provides the possibility to extend the emergency amendments for an additional six (6) months. *[1 O.C. 109.9-5(b)]*.

**Extension of the Emergency Amendments to the Oneida Personnel Policies and Procedures**

Emergency amendments to the Oneida Personnel Policies and were adopted by the Oneida Business Committee on November 24, 2021, through the adoption of resolution BC-11-24-21-A to improve the Nation's hiring capacity and service delivery in the tight labor markets that have resulted from the COVID-19 pandemic. The emergency amendments to the Oneida Personnel Policies and Procedures:

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

These emergency amendments to the Oneida Personnel Policies and Procedures were set to expire on May 24, 2022.

It was determined necessary to seek additional emergency amendments to the Oneida Personnel Policies and Procedures to clarify inconsistencies that arose as a result of the last emergency amendments. The Oneida Business Committee then adopted additional emergency amendments to the Oneida Personnel Policies and Procedures on May 11, 2022, through the adoption of resolution BC-05-11-22-A which maintained the current emergency amendments and also:

- Clarified that termination of an employee for cause during their original probationary period shall not be subject to appeal; and
- Clarified 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.

These emergency amendments to the Oneida Personnel Policies and Procedures were set to expire on November 11, 2022.

The Oneida Business Committee then took action to extend these emergency amendments for an additional six (6) month period on November 7, 2022, through the adoption of resolution BC-11-07-22-A. The emergency amendments will now expire on May 11, 2023.

### **Adoption of the Oneida Nation Assistance Fund Law**

The Oneida Business Committee adopted the Oneida Nation Assistance Fund law on a permanent basis on November 30, 2022, through the adoption of resolution BC-11-30-22-A. The purpose of the Oneida Nation Assistance Fund law is to establish the Oneida Nation Assistance Fund as an approved program of the Nation to govern how the Nation provides financial assistance to its members, pursuant to the Oneida General Welfare law. [10 O.C. 1003.1-1].

The Oneida Nation Assistance Fund law:

- Establishes the Oneida Nation Assistance Fund as an approved program of the Nation in accordance with the Oneida General Welfare law [10 O.C. 1003.4-1];
- Provides how this program qualifies for general welfare exclusion [10 O.C. 1003.4-2];
- Provides the eligibility requirements for accessing assistance from the Oneida Nation Assistance Fund – which is that a person is a member of the Nation; age eighteen (18) or older; and submits a completed application during the designated submission timeframe [10 O.C. 1003.5-1];
- Provides the minimum requirements for the information that must be included on the application [10 O.C. 1003.5-3];
- Provides how and when funds from the Oneida Nation Assistance Fund are disbursed [10 O.C. 1003.5-2, 1003.5-4];
- Provides for the types of expenses that shall be considered qualifying expenditures for use of assistance from Oneida Nation Assistance Fund by the recipient [10 O.C. 1003.5-5];
- Provides information on the funding source and who determines that amount of available funding to an eligible participant [10 O.C. 1003.6-1, 1003.6-2]; and

- Provides that the Trust Enrollment Department is the department that has the responsibilities to administer the Oneida Nation Assistance Fund. [10 O.C. 1003.5-6, 1003.5-7].

### **Adoption of the Audit Committee Bylaws Amendments**

The Oneida Business Committee adopted amendments to the Audit Committee bylaws on December 14, 2022. Amendments to the Audit Committee bylaws were brought forward to allow the appointed community member to be eligible to receive a stipend for attending the Oneida Business Committee meeting when the annual audit is presented by the external auditors.

### **Emergency Amendments to the Election Law**

The Oneida Business Committee adopted emergency amendments to the Election law on December 28, 2022, through the adoption of resolution BC-12-28-22-B. The purpose of the Election law is to govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations. [1 O.C. 102.1-1].

The emergency amendments to the Election law were made to allow the Oneida Business Committee to select the election date if the General Tribal Council is unable to meet to select the election date by February 1st of a year. [1 O.C. 102.9-1].

The emergency amendments to the Election law will expire on June 28, 2023. The Legislative Procedures Act provides the possibility to extend the emergency amendments for an additional six (6) months. [1 O.C. 109.9-5(b)].

## **FY23 First Quarter Legislative Highlights**

The Legislative Operating Committee would like to highlight its work on the following legislative items during the FY23 First Quarter:

### **Back Pay Law Amendments**

The Legislative Operating Committee held one (1) work meeting during the FY23 First Quarter on the proposed Back Pay law amendments. On October 5, 2022, the Legislative Operating Committee approved the draft of the proposed amendments to the Back Pay law and directed that a legislative analysis be completed. On October 19, 2022, the Legislative Operating Committee approved the updated draft and legislative analysis. On November 2, 2022, the Legislative Operating Committee approved the public meeting packet and forwarded the Back Pay law amendments to a public meeting to be held on December 13, 2022. The public meeting was held on December 13, 2022, in person in the Norbert Hill Center and on Microsoft Teams. No individuals provided public comment during the public meeting. The public comment period closed on December 20, 2022. One (1) submission of written comments was received during the public comment period.

### **Business Corporations Law**

The Legislative Operating Committee held one (1) work meeting during the FY23 First Quarter on the proposed Business Corporations law.

**Drug and Alcohol Free Workplace Law Amendments**

The Legislative Operating Committee held three (3) work meetings during the FY23 First Quarter on the proposed Drug and Alcohol Free Workplace law amendments. On December 7, 2022, the Legislative Operating Committee approved the draft of the Drug and Alcohol Free Workplace law amendments and directed that a legislative analysis be completed. On December 21, 2022, the Legislative Operating Committee approved the legislative analysis of the Drug and Alcohol Free Workplace law amendments.

**Emergency Management Law Amendments**

The Legislative Operating Committee held two (2) work meetings during the FY23 First Quarter on the proposed Emergency Management law amendments. On October 5, 2022, the Legislative Operating Committee approved the draft of the proposed amendments to the Emergency Management law and direct that a legislative analysis be completed. On October 19, 20122, the Legislative Operating Committee approved the legislative analysis of the Emergency Management law. On November 2, 2022, the Legislative Operating Committee approved the public meeting packet and forward the Emergency Management law amendments to a public meeting to be held on December 13, 2022. The public meeting was held on December 13, 2022, in person in the Norbert Hill Center and on Microsoft Teams. No individuals provided public comment during the public meeting. The public comment period closed on December 20, 2022. No submissions of written comments were received during the public comment period.

**Furlough Law Amendments**

The Legislative Operating Committee held two (2) work meetings during the FY23 First Quarter on the proposed Furlough law amendments.

**Investigative Leave Policy Amendments**

The Legislative Operating Committee held four (4) work meetings during the FY23 First Quarter on the proposed Investigative Leave Policy amendments.

**Law Enforcement Ordinance Amendments**

The Legislative Operating Committee held one (1) work meeting during the FY23 First Quarter on the proposed amendments to the Law Enforcement Ordinance.

**Layoff Policy Amendments**

The Legislative Operating Committee held one (1) work meeting during the FY23 First Quarter on the proposed amendments to the Layoff Policy.

**Marijuana Law**

The Legislative Operating Committee held one (1) work meetings during the FY23 First Quarter on the proposed Marijuana law.

**Oneida Language Code**

The Legislative Operating Committee held one (1) work meeting during the FY23 First Quarter on the proposed Oneida Language Code.

**Oneida Personnel Policies and Procedures Amendments**

The Legislative Operating Committee held four (4) work meetings during the FY23 First Quarter on the proposed amendments to the Oneida Personnel Policies and Procedures. On December 7, 2022, the Legislative Operating Committee approved the draft of the Oneida Personnel Policies and Procedures amendments, the legislative analysis, and the public meeting notice with updated date, and forwarded the Oneida Personnel Policies and Procedures amendments to a public meeting to be held on January 12, 2023.

**Probate Law**

The Legislative Operating Committee held one (1) work meeting during the FY23 First Quarter on the proposed Probate law.

**Trust Scholarship Policy Amendments**

The Legislative Operating Committee held three (3) work meeting during the FY23 First Quarter on the proposed amendments to the Trust Scholarship Policy.

Overall, the Legislative Operating Committee held over thirty (30) work meetings during the FY23 First Quarter.

**FY23 First Quarter Legislative Operating Committee Meetings**

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

The Legislative Operating Committee held the following meetings during the FY23 First Quarter:

- October 5, 2022 – Regular meeting;
- October 19, 2022 – Regular meeting;
- November 2, 2022 – Regular meeting;
- December 7, 2022 – Regular meeting; and
- December 21, 2022 – Regular meeting.

The November 16, 2022, Legislative Operating Committee meeting was canceled. This Legislative Operating Committee meeting was canceled so that the members of the Legislative Operating Committee had the opportunity to attend the “Re-Kindling the Fire: Indigenizing our Ways of Governance” event put on by the Cultural Heritage Department.

In addition to attending the Legislative Operating Committee meetings in person, employees of the Nation are provided the opportunity to attend the Legislative Operating Committee meeting through Microsoft Teams. Additionally, any non-employee who would like to access the Legislative Operating Committee meeting through Microsoft Teams can provide their name, phone number or e-mail address to [LOC@oneidanation.org](mailto:LOC@oneidanation.org) by the close of business the day before a meeting of the Legislative Operating Committee to receive the link to the Microsoft Teams meeting. For those who may be unable to attend the Legislative Operating Committee meeting either in person or on Microsoft Teams, an audio recording of the Legislative Operating Committee meeting is made available on the Nation's website after the meeting concludes.

## Goals for FY23 Second Quarter

During the FY23 Second Quarter the Legislative Operating Committee will focus its legislative efforts on the following matters:

1. Adoption of the amendments to the Back Pay law;
2. Adoption of the amendments to the Emergency Management law;
3. Development of amendments to the Workplace Violence law;
4. Development of amendments to the Investigative Leave Policy;
5. Development of the Oneida Language Code;
6. Development of amendments to the Drug and Alcohol Free Workplace law.

## Legislative Reference Office

The Legislative Reference Office's mission is to provide support for the Legislative Operating Committee in developing clear and consistent legislation that reflects the Nation's values, builds upon the Nation's strong foundation, and reaffirms our inherent sovereignty. During the FY23 First Quarter the Legislative Reference Office was staffed by the following individuals:

- Clorissa N. Leeman, Senior Legislative Staff Attorney.
  - Contact: [cleeman@oneidanation.org](mailto:cleeman@oneidanation.org) or (920) 869-4417
- Carolyn Salutz, Legislative Staff Attorney.
  - Contact: [csalutz@oneidanation.org](mailto:csalutz@oneidanation.org) or (920) 869-4422
- Grace Elliott, Legislative Staff Attorney.
  - Contact: [gelliott@oneidanation.org](mailto:gelliott@oneidanation.org) or (920) 869-4320

## Legislative Operating Committee Contact Information

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

- David P. Jordan, LOC Chairman  
[djordan1@oneidanation.org](mailto:djordan1@oneidanation.org)  
(920) 869-4483
- Kirby Metoxen, LOC Vice-Chairman  
[kmetox@oneidanation.org](mailto:kmetox@oneidanation.org)  
(920) 869-4441
- Jennifer Webster, LOC Member  
[jwebste1@oneidanation.org](mailto:jwebste1@oneidanation.org)  
(920) 869-4457
- Daniel Guzman King, LOC Member  
[dguzman@oneidanation.org](mailto:dguzman@oneidanation.org)  
(920) 869-4366
- Marie Cornelius, LOC Member  
[ecornel2@oneidanation.org](mailto:ecornel2@oneidanation.org)  
(920) 869-2214



# LEGISLATIVE OPERATING COMMITTEE

## ACTIVE FILES LIST





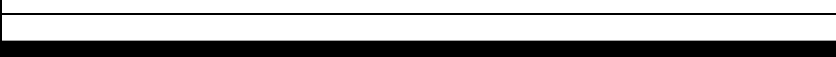




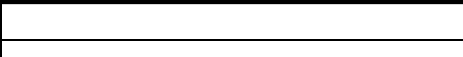

















*Status as of December 31, 2022*






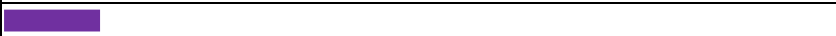


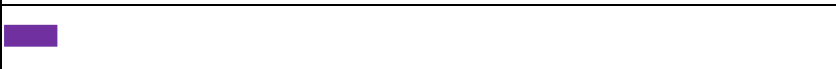
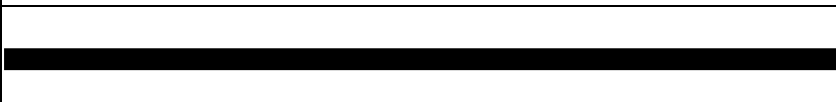
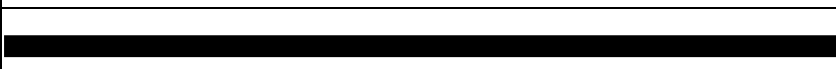
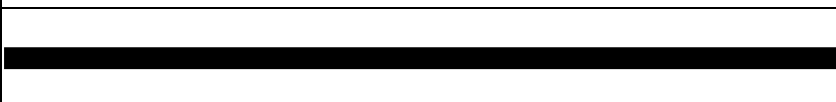

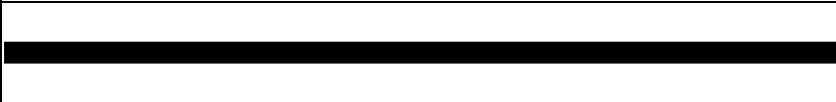

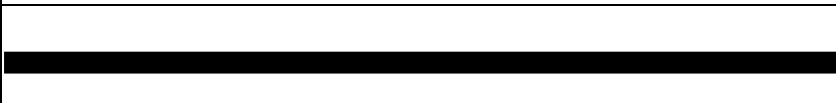


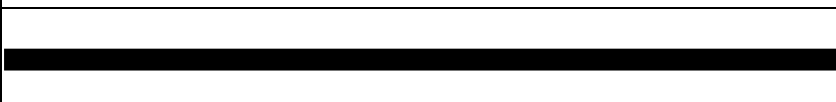
Means Legislative Item in Progress








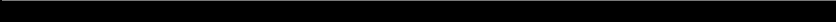















Means Legislative Item Adopted or Amended




Name of Legislation	Development	Public Input	OBC/GTC Consideration or Adoption
All Terrain Vehicle Law Amendments	<span style="display: inline-block; width: 15px; height: 10px; background-color: purple; border: 1px solid black;"></span>		
Audit Committee Bylaws Amendments (4-14-21)			<span style="display: inline-block; width: 15px; height: 10px; background-color: black; border: 1px solid black;"></span>
Audit Committee Bylaws Amendments (12-14-22)			<span style="display: inline-block; width: 15px; height: 10px; background-color: black; border: 1px solid black;"></span>
Back Pay Law Amendments	<span style="display: inline-block; width: 15px; height: 10px; background-color: purple; border: 1px solid black;"></span>		
Budget Management and Control Law Emergency Amendments (BC-11-24-20-E)			<span style="display: inline-block; width: 15px; height: 10px; background-color: black; border: 1px solid black;"></span>
Budget Management and Control Law Emergency Amendments (BC-05-12-21-C)			<span style="display: inline-block; width: 15px; height: 10px; background-color: black; border: 1px solid black;"></span>
Budget Management and Control Law Emergency Extension (BC-11-10-21-B)			<span style="display: inline-block; width: 15px; height: 10px; background-color: black; border: 1px solid black;"></span>
Budget Management and Control Law Amendments (BC-05-11-22-B)			<span style="display: inline-block; width: 15px; height: 10px; background-color: black; border: 1px solid black;"></span>
Budget and Finances Law Emergency Amendments (BC-10-26-22-D)			<span style="display: inline-block; width: 15px; height: 10px; background-color: black; border: 1px solid black;"></span>
Business Corporations Law	<span style="display: inline-block; width: 15px; height: 10px; background-color: purple; border: 1px solid black;"></span>		
Cemetery Law Amendments	<span style="display: inline-block; width: 15px; height: 10px; background-color: purple; border: 1px solid black;"></span>		
Children's Code Amendments (BC-09-14-22-A)			<span style="display: inline-block; width: 15px; height: 10px; background-color: black; border: 1px solid black;"></span>
Code of Ethics Law Amendments	<span style="display: inline-block; width: 15px; height: 10px; background-color: purple; border: 1px solid black;"></span>		
Community Support Fund Law Amendments (BC-03-10-21-C)			<span style="display: inline-block; width: 15px; height: 10px; background-color: black; border: 1px solid black;"></span>
Credit Collections Law Amendments	<span style="display: inline-block; width: 15px; height: 10px; background-color: purple; border: 1px solid black;"></span>		
Domestic Animals Law Amendments	<span style="display: inline-block; width: 15px; height: 10px; background-color: purple; border: 1px solid black;"></span>		
Drug and Alcohol Free for Elected and Appointed Officials	<span style="display: inline-block; width: 15px; height: 10px; background-color: purple; border: 1px solid black;"></span>		
Drug and Alcohol Free Workplace Law Amendments	<span style="display: inline-block; width: 15px; height: 10px; background-color: purple; border: 1px solid black;"></span>		



Early Return to Work Law Emergency Amendments (BC-05-12-21-I)	
Election Law Emergency Amendments (BC-04-28-21-B)	
Election Law Emergency Amendments (BC-07-13-22-E)	
Election Law Emergency Amendments (BC-12-28-22-B)	
Elder Assistance Program Law (BC-07-13-22-A)	
Elder Protection Law	
Emergency Gift Card Law	
Emergency Management and Homeland Security Law Amendments (BC-03-10-21-A)	
Emergency Management Law Emergency Amendments (BC-09-14-22-B)	
Emergency Management Law Amendments	
Endowments Law Amendments	
Environmental Review Law	
Eviction and Termination Law Amendments	
Fire Signs Law	
Furlough Law Amendments (BC-02-09-22-A)	
Furlough Law Amendments	
General Tribal Council Meeting Stipend Payment Policy Emergency Extension (BC-09-23-20-B)	
Guardianship Law	
Healing to Wellness Court Law (BC-07-13-22-D)	
Hunting, Fishing, and Trapping Law Amendments	
Industrial Hemp Law (BC-12-09-20-A)	
Investigative Leave Policy Amendments	
Law Enforcement Ordinance Amendments	
Layoff Policy Amendments	
Local Land Use Regulation Reimbursement Policy Repeal	
Marijuana Law	
Misappropriation of Funds Law	

Oneida Higher Education Pandemic Relief Fund Law Emergency Amendments (BC-02-24-21-A)	
Oneida General Welfare Law Emergency Amendments (BC-02-10-21-B)	
Oneida General Welfare Law Emergency Extension (BC-07-28-21-M)	
Oneida General Welfare Law (BC-12-08-21-A)	
Oneida Land Trust Law	
Oneida Language Code	
Oneida Life Insurance Plan Law Emergency Adoption (BC-09-28-22-C)	
Oneida Life Insurance Plan Law	
Oneida Nation Arts Board Bylaws Amendments	
Oneida Nation Assistance Fund Law Emergency Adoption (BC-06-08-22-A)	
Oneida Nation Assistance Fund Law (BC-11-30-22-A)	
Oneida Nation Emergency Planning Committee Bylaws Amendments (1-27-21)	
Oneida Nation Emergency Planning Committee Bylaws Amendments	
Oneida Nation Gaming Ordinance Emergency Amendments (BC-05-12-21-D)	
Oneida Nation Gaming Ordinance Emergency Extension (BC-11-10-21-A)	
Oneida Nation Gaming Ordinance Amendments (BC-05-11-22-C)	
Oneida Nation Veterans Affairs Committee Bylaws Amendments	
Oneida Personnel Commission Bylaws Amendments	
Oneida Personnel Policies and Procedures Emergency Amendments (BC-11-24-21-A)	

Oneida Personnel Policies and Procedures Emergency Amendments (BC-05-11-22-A)	
Oneida Personnel Policies and Procedures Emergency Extension (BC-11-07-22-A)	
Oneida Personnel Policies and Procedures Amendments	
Oneida Trust Enrollment Committee Bylaws Amendments	
Oneida Worker's Compensation Law Emergency Amendments (BC-05-12-21-H)	
On-Site Waste Disposal Law Amendments	
Pandemic Relief Assistance Law Emergency Adoption (BC-11-24-20-D)	
Pardon and Forgiveness Law Emergency Amendments (BC-04-28-21-A)	
Pardon and Forgiveness Law Emergency Extension (BC-10-27-21-A)	
Pardon and Forgiveness Screening Committee Bylaws Amendments (4-28-21)	
Probate Law	
Public Peace Law (BC-09-08-21-A)	
Public Use of Tribal Land Law Amendments	
Real Property Law Amendments	
Recycling and Solid Waste Disposal Law Amendments	
Sanctions and Penalties Law	
Taxation Law	
Traffic Law	
Tribal Environmental Response Law	
Tribal Environmental Quality Review Law Amendments	
Tribal Sovereignty in Data Research Law	
Trust Scholarship Fund Policy Amendments	
Two Spirit Inclusion Law	

Water Resources Law Amendments	
Well Abandonment Law Amendments	
Workplace Violence Law Amendments	



TO: Legislative Operating Committee (LOC)  
FROM: Clorissa N. Leeman, Legislative Reference Office, Senior Staff Attorney  
DATE: February 1, 2023  
RE: Title Revision: Trust Scholarship Fund Policy Amendments to Higher Education Scholarship Law

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At the August 24, 2022, Oneida Business Committee meeting the Oneida Business Committee adopted a motion to direct the Legislative Operating Committee to consider adding the Higher Education Policy to their Active Files List, and to consider adding rule making authority to said policy.

On September 7, 2022, the Legislative Operating Committee added the Trust Scholarship Fund Policy amendments. The Trust Scholarship Fund Policy was added to the Active Files List under the assumption this law may be able to address the current Higher Education Scholarship policies.

After meeting with the Higher Education Department, it was clarified that the Trust Scholarship Fund Policy is completely separate from the Higher Education Scholarship, and therefore a new law would need to be drafted to address the Higher Education Scholarship. The Active Files List can now be revised and updated to accurately depict the legislative effort for this item.

**Requested Action**

Revise the Title on the Active Files List from Trust Scholarship Fund Policy Amendments to Higher Education Scholarship Law

# February 2023

February 2023

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

March 2023

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jan 29	30	31	Feb 1 8:30am LOC Prep (Microsoft Teams Meeting); 9:00am Legislative Operating Committee	2	3 9:00am Gift Card Law work meeting (Microsoft Teams Meeting) - Carolyn A. Salutz	4
5	6	7	8	9	10	11
12	13	14	15 8:30am LOC Prep (Microsoft Teams); 9:00am Legislative Operating 12:15pm PUBLIC MEETING:	16	17	18
19	20	21	22	23 1:30pm LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Leeman	24	25
26	27	28	Mar 1	2	3	4