



**LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA**  
Business Committee Conference Room - 2nd Floor Norbert Hill Center  
December 20, 2023  
9:00 a.m.

- I. Call to Order and Approval of the Agenda**
  
- II. Minutes to be Approved**
  - 1. December 6, 2023 LOC Meeting Minutes (pg. 2)
  
- III. Current Business**
  - 1. Drug and Alcohol Free Workplace Law Amendments (pg. 4)
  - 2. Onayoteʔa·ká niʔi Commission Bylaws (pg. 51)
  
- IV. New Submissions**
  - 1. SEOTS Bylaws Amendments (pg. 53)
  
- V. Additions**
  
- VI. Administrative Updates**
  
- VII. Executive Session**
  
- VIII. Recess/Adjourn**



**LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES**  
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center  
December 6, 2023  
9:00 a.m.

**Present:** Jameson Wilson, Marlon Skenandore, Jennifer Webster, Kirby Metoxen, Jonas Hill (Microsoft Teams)

**Others Present:** Clorissa N. Leeman, Grace Elliott, Carolyn Salutz, Keith Doxtator, Brooke Doxtator

**Others Present on Microsoft Teams:** Michelle Tipple, Wendy Alvarez, Rhiannon Metoxen, Mark W. Powless, Maureen Perkins, Carl Artman, Eric McLester, Jo Anne House, Katsitsiyo Danforth, Kristal Hill, Krystal John, Mark A. Powless, Matt Denny, Peggy Helm-Quest, Todd Vandenheuvel, Barbara Webster, Fawn Cottrell, Janice Decorah, Kaylynn Gresham, Rae Skenandore

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

Jameson Wilson called the December 6, 2023, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster approve the agenda; seconded by Kirby Metoxen. Motion carried unanimously.

**II. Minutes to be Approved**

**1. November 1, 2023 LOC Meeting Minutes**

Motion by Jennifer Webster to approve the November 1, 2023, LOC meeting minutes; seconded by Marlon Skenandore. Motion carried unanimously.

**III. Current Business**

**1. Audit Committee Bylaws Amendments**

Motion by Kirby Metoxen to accept the Audit Committee bylaws amendments and legislative analysis; and forward the Audit Committee bylaws amendments to the Oneida Business Committee for consideration; seconded by Marlon Skenandore. Jennifer Webster opposed. Motion carried.

*Jennifer Webster for the record statement: I just believe that we have to keep those separate. That position oversees the accounting department, the purchasing department and then I don't believe that position should then be on the Finance Committee. I think we*



*need to have our checks and balances and I think those should be separate because influence can happen whether they are a vice-chair or chair of the Audit Committee. Those need to be separate. Thank you.*

#### **IV. New Submissions**

##### **1. Drug and Alcohol Free Workplace Law Amendments**

Motion by Kirby Metoxen to deny the request to add the Drug and Alcohol Free Workplace Law Amendments to the Active Files List; seconded by Marlon Skenandore. Jennifer Webster opposed. Motion carried.

*Jennifer Webster for the record statement: There should not be a double standard for elected officials. Yes, we should figure out a process. We need to figure out a way. We all did take an oath to hold ourselves accountable. Thank you.*

#### **V. Additions**

#### **VI. Administrative Items**

#### **VII. Executive Session**

#### **VIII. Adjourn**

Motion by Jennifer Webster to adjourn at 9:24 a.m.; seconded by Marlon Skenandore. Motion carried unanimously.



Legislative Operating Committee  
December 20, 2023

# Drug and Alcohol Free Workplace Law Amendments

<b>Submission Date:</b> 9/7/22	<b>Public Meeting:</b> 2/15/23
<b>LOC Sponsor:</b> Kirby Metoxen and Jonas Hill	<b>Emergency Enacted:</b> N/A

**Summary:** *This item was carried over from last term. On August 30, 2022, the Legislative Operating Committee received a request from the Human Resources Department to add the Drug and Alcohol Free Workplace law amendments to its Active Files List. It is the policy of the Nation to establish a drug and alcohol-free workplace program that balances respect for individuals with the need to maintain an alcohol and drug-free environment. HRD indicated that with the Benton – Pre-Employment Drug Testing petition currently pending – which requests to remove or lower THC from the pre-employment drug testing requirements - they were directed by the Oneida Business Committee to work with the Oneida Law Office on potential proposed language to address this petition. HRD is requesting that the LOC now add this legislative item to the Active Files List so that the HRD can collaborate with the LOC on the consideration of potential amendments moving forward. The Legislative Operating Committee originally added this item to its Active Files List on September 7, 2022.*

**9/7/22 LOC:** Motion by Marie Summers to add the Drug and Alcohol Free Workplace law amendments to the Active Files List with Kirby Metoxen as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

**10/31/22:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Clorissa N. Leeman, Carolyn Salutz, Grace Elliott, Carl Artman, Peggy Van Gheem, Todd Vandenheovel, Matt Denny, Nic Reynolds, Josh Cottrell, Wendy Alvarez, Louise Cornelius, Lucy Neville, Brenda Mendolla-Buckley, Fawn Rasmussen, Kristal Hill, Rhiannon Metoxen. The purpose of this work meeting is to begin the consideration of potential amendments to the Drug and Alcohol Free Workplace law by reviewing and discussing the options for amendments provided by the Oneida Law Office.

**11/15/22:** *Work Meeting.* Present: David P. Jordan, Daniel Guzman King, Jennifer Webster, Clorissa N. Leeman, Carolyn Salutz, Grace Elliott, Carl Artman, Peggy Van Gheem, Todd Vandenheovel, Matt Denny, Nic Reynolds, Josh Cottrell, Wendy Alvarez, Lucy Neville, Lorna Skenandore, Chad Fuss, Fawn Rasmussen, Mary Cornelissen, Kristal Hill. The purpose of this work meeting was to continue the consideration of potential amendments to the Drug and Alcohol Free Workplace law by deciding on an option for amendments provided by the Oneida Law Office.

**12/1/22:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Cornelius, Daniel Guzman King, Clorissa N. Leeman, Grace Elliott, Carolyn Salutz, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the

updated proposed language for the amendments, as well as the Waiver of Exemption of Positive THC Test Results for Pre-Employment Drug Testing resolution.

**12/7/2 LOC:** Motion by Jennifer Webster to approve the draft of the Drug and Alcohol Free Workplace law amendments and direct that a legislative analysis be completed; seconded by Daniel Guzman King. Motion carried unanimously.

**12/21/22 LOC:** Motion by Jennifer Webster to approve the legislative analysis of the Drug and Alcohol Free Workplace law amendments; seconded by Daniel Guzman King. Motion carried unanimously.

**1/4/23 LOC:** Motion by Jennifer Webster to approve the public meeting packet for the proposed amendments to the Drug and Alcohol Free Workplace law and schedule a public meeting to be held on February 15, 2022; seconded by Kirby Metoxen. Motion carried unanimously.

**1/26/23:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Cornelius, Daniel Guzman King, Clorissa N. Leeman, Mary Cornelissen, Lucy Neville, Fawn Rasmussen, Grace Elliott, Kristal Hill, Peggy Van Gheem, Matt Denny, Whitney Wheelock, Carl Artman, Wendy Alvarez, Lorna Skenandore, Nic Reynolds, Mark Powless, Todd Vanden Heuvel, Carolyn Salutz. This was a work meeting held on Microsoft Teams. The purpose of this work meeting was to review the resolution regarding which employee positions should waive the proposed exemption for positive THC test results in pre-employment drug testing.

**2/15/23:** *Public Meeting Held.* Present: Jennifer Webster, Kirby Metoxen, Clorissa N. Leeman, Grace Elliott, Brooke Doxtator, Nancy Barton, Linda Dallas, Cathy L. Metoxen, Carol Silva, Dana Thyssen, Jessica Vandekamp, Joy Salzwedel, Kristal Hill, Lucy Neville, Mark Powless, Mary Graves, Mike Debraska, Monica Doxtator, Peggy Van Gheem, Robert Sundquist, Sidney White, Carrie Lindsay, Kristen Jorgenson-Dann, Rachel Fitzpatrick, Stefanie Reinke, Sherrole Benton. This public meeting was held in person in the Norbert Hill Center's Business Committee Conference Room as well as on Microsoft Teams. Six (6) individuals provided oral comments during this public meeting.

**2/22/23:** *Public Comment Period Closed.* Four (4) individuals provided written comments during the public comment period.

**10/4/23 LOC:** Motion by Jennifer Webster to add the Drug and Alcohol Free Workplace Law Amendments to the Active Files List with Kirby Metoxen and Jonas Hill as the sponsors; seconded by Jonas Hill. Motion carried unanimously.

#### **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: December 20, 2023  
 RE: Drug and Alcohol Free Workplace Law Amendments: Public Comment Review

On February 15, 2023, a public meeting was held regarding the proposed amendments to the Drug and Alcohol Free Workplace law (“the Law”). The public comment period was then held open until February 22, 2023. This memorandum is submitted as a review of the comments received during the public meeting and public comment period. The public meeting draft, public meeting transcript, and written comments received are attached to this memorandum for review.

### Comments 1 through 13 – Concern with Exemption for Positive THC Test Results:

#### 202.4. Application

**202.4-2. An employee is prohibited from the use of prohibited drugs and alcohol during working hours, when on-call, and when operating a vehicle owned by the Nation or a vehicle rented by the Nation.**

#### 202.8. Drug and Alcohol Testing

**202.8-4. All external applicants shall participate in pre-employment drug testing. A negative drug test result shall be required for employment eligibility.**

**(a) *Exemption for Positive THC Test Result.* An external applicant’s confirmed positive THC test result shall be exempted from the requirement of a negative drug test result for employment eligibility in the following circumstances:**

**(1) *External Applicants for Gaming Positions.* An external applicant receiving a confirmed positive test result for THC may qualify for employment if:**

**(A) the position mandates a background check in accordance with 5 O.C. 501.10;**

**(B) the position mandates licensing in accordance with 5 O.C. 501.11; and**

**(C) the position does not require a commercial driver’s license or job-related driving.**

**(2) *External Applicants for Non-Gaming Positions.* An external applicant receiving a confirmed positive test result for THC may qualify for employment if the position has not been identified as an employee position which waived the exemption for positive THC test results.**

**(A) The Oneida Business Committee shall adopt through resolution a list of all the non-gaming employment positions that waive the exemption for positive THC test results.**

**202.8-5. Each employee shall participate in reasonable suspicion and follow-up testing upon the request of an appropriate authority. A negative test result is required for unimpeded employment eligibility.**

**Nancy Barton (oral):** I wanted to participate today in the Drug and Alcohol Free Workplace law amendments. I haven't participated recently in the LOC. I go back as far as ten (10) years when Doug McIntyre worked in the LOC office and the issues at that time were we were part, people were participating in the public hearing and in the written comments. And at that time it was a common. I guess the dialogue that the Community members are general tribal Council members felt like they're participation wasn't being taken seriously and so that was one of the reasons why I discontinued my participation in the in the LOC process, specifically speaking about this law. You know, I did question how many active files were on the LOC list, and I'm concerned about this coming forward. There today I received a notice that on the quality of life agenda there was a request to pursue developing a detox and treatment center. After reading this law, there was no fiscal impact included, and I'm concerned about that because all of this would include liability and what is the risk of our employees coming to work under the influence of THC? I believe that each and every person has the right to do things that they wanna do in their own personal life. But when you are an employee. Being an employee is a privilege and we have a reputation. We have integrity. And the entities that are, I'm afraid that it will protect it would not protect would be retail gaming. Those people who operate vehicles and are heavy equipment.

**Nancy Barton (oral):** You know, try to talk to my grandchildren and my children, you know about the use of drugs and about being clean and about having a sober environment and home and lifestyle. And so this was very concerning to me that we would be wasting time at the LOC. It seemed like a very selfish. Umm. Law to come forward because you know, I don't think that it's common that people would agree to having this law come forward. There's, you know, two people here today. So those were the reasons why I decided to come here today and offer my my public comments. So thank you.

**Mike Debraska (oral):** Thank you, Michael Debraska an all nighter roll 10 number 10738. I have a number of reasons for wanting to comment on this particular amendment to the drug and alcohol policy changes. First off, I don't believe that there should be any changes made to this current drug and alcohol policy. Instead of eliminating the testing for marijuana, I believe we should be having more people subjected to it and having it done specifically for the casino, I think. Poses of a real detriment to the nation. What happens if somebody comes in high? And something happens. It's, as Nancy said, it's not only a liability issue. They are subjecting our money, making revenue stream to all kinds of issues. And I just don't believe this is a very good idea at all.

**Mike Debraska (oral):** Additionally, there were some comments at lines 58 and 59 on page four of the analysis. Hold on and that states. But the law required the law, then requires the unite of Business committee to adopt, through a resolution, a resolution, a list of all non gaming employment positions that waive the exemption for positive THC results. The law then maintains that requirement that each employee shall participate in reasonable suspicion and follow up testing upon the request of an appropriate authority. And that a negative test result is required to unimpeded is an impediment employment eligibility. So I just, I don't know, I I look at this and I say I think we're treading on some real real dangerous ground here. And I think this is going to be a very slippery slope for the tribe if they were to go ahead with us. So Umm, but as I said I'm, I'm just I'm not in favor of this. If anything, we should be expanding that list, not trying to do away with it. And as I understand, and again, I don't know. I know there's a labor shortage, but to lower the standards to this, I think especially for our money making operation I think is truly dangerous.

So and I have submitted my my questions via online in a Microsoft Word document that I sent them to the LOC e-mail address. Thank you.

**Mary Graves (oral):** Mary Graves: I'm Mary graves. Hi. I just have a I don't know if I have a comment or if I have a question, but I am not in support of taking THC off of. Umm, the pre employment drug screening and the proposed amendment has some listings for gaming as far as if the position mandates a background check or licensing and doesn't require a commercial driver's license. But for the external or not the non gaming positions, none of those things are required and I don't know how those things being required have anything to do with. A drug test because if you are smoking pot, that's not gonna show up on a background check unless you've been arrested, it's not gonna show up in the licensing application, and you probably already have your CDL, so it won't show up on that. So I don't know how putting those provisions in there addresses anything, and I'm concerned about the. Umm. You can buy weed now. Whether you're smoke it regular or you get it in a cartridge and vape it. Or you can put it under your tongue in a tincture. There's 100 different ways. That's an exaggeration that you can ingest THC. And there's just as many ways that you can. Counter act. The effects and be the drug test. So. I don't want to open the door to potentially employees using a tincture or. Vaping on their break and opening that door to it's OK. I passed my employment and as long as I don't act suspicious, nothing will happen to me and I don't know a lot about the drug itself. But I do have a friend that uses and when that person uses they are more focused than they were prior to, so a supervisor wouldn't necessarily know that they were higher than a kite. So those are my concerns and thank you.

**Mark Powless (oral):** Mark Powless: Thank you for the opportunity to speak. Mark Powless, general manager. I just want to state for the record that the areas that report to the general manager and I'll I'll run through those quickly, Big Bear Media, Comprehensive Health Division, Comprehensive Housing division, digital technology services, education and Training branch office, environmental, health, safety, land and Agriculture division, Governmental Services Division, Division of Public Works and. Tribal action plan we all met collectively to talk on this topic. All areas unanimously are opposed to allowing the hiring of individuals that test positive for THC. There are a number of of health factors and safety factors in our workplaces where we do not want to take the risk of having an individual under the influence of THC. Working in our workspaces, so again the areas reporting to the general manager unanimously are opposed to hiring any individuals that test positive for THC. Also, one additional note from a social aspect, there is a challenge with sending a message to our community that it is OK to use marijuana, particularly for our youth. Who can be negatively impacted in their physical and emotional development through the use of early marijuana use? It is very challenging for us to send that message to the Community that it's OK to use marijuana regardless of whether or not marijuana is approved in the state or not approved in the state. There are particular health factors for our youth when it comes to using. Marijuana. Thank you.

**Mike Debraska (written):** I do not believe there should be any changes made to the current Drug & Alcohol Policy of the Oneida Nation with respect to the usage and testing for marijuana until the following comments and questions are answered properly. The comments and questions are as follows:



1. Currently, recreational use of marijuana is illegal in the State of Wisconsin. While medical, in certain instances is allowable for specific diseases, it will have a detrimental affect on the employment base and cause more dissention among employees, fund units, and departments as to who will be tested and when; and

**Mike Debraska (written):** 3.If the tribe no longer wishes to test or screen for the recreational use of marijuana of those who seek current and future employment with the tribe, could it affect the Gaming Compact with the State of Wisconsin? and

**Mike Debraska (written):** 4.Will the tribe attempting to change the current Drug & Alcohol policy affect current and future grant monies should the state be notified of this possible change? and

**Mike Debraska (written):** 5.Which departments and/or fund units will no longer have the testing/screening for possible marijuana use? and

**Mike Debraska (written):** 6.If police, first responders, and medical staff---this law will not apply to them or they are exempt, If specific employees, fund units, or departments could potentially be exempt from the testing, then isn't the tribe causing dissention amongst the employees, fund units and departments; and

**Mike Debraska (written):** 9.How will this potential change in testing to the current Drug & Alcohol Policy affect gaming if their employees are allowed to come into work high and potentially risk the damage of the reputation to our money making revenue source of the nation?

When the current questions and comments above are answered satisfactorily, then I may consider changing my view. Until then, if the LOC and BC seriously consider this change, it will all be brought forward by way of petition to be in front of GTC for their input along with the original requestor's name being used and the BC members who supported this idea.

Page 1 – Lines 17-18

Line 24

Page 2 – Lines 15-24 Sec. 3 Consolidation and Outreach

Page 4 – Lines 58-59 Sec. 7 – Other Considerations

Lines 89-92

**Julie Barton (written):** I respectfully request that these comments would be seriously considered in the decision making for the above law. I do not have a computer and also have arthritis in my hands.

When I first heard that a petition was submitted to “exempt” applicants/potential employees from positive THC test results, which I understand that this positive result would not prevent one from employment.

I was immediately concerned that the Oneida Nation would be taking steps backwards in the already difficult job of fighting drugs.

Many people have been extremely concerned about drug use and how it has progressed from THC to consuming our people which has led to the “hard stuff.”

The efforts to combat drug use began many years ago. Alcohol being the worst enemy than and now. Our community has drugs more dangerous and impairing of the body and mind, results being that drugs, including THC have been just the beginning of the worst, fentanyl etc.

Now someone wants to remove protections in place to weaken the goals of a “Drug Free: Community. Why would we need to change those efforts now when the law before us is only one significant part of the entire fight to combat what is dangerous to everyone.

These comments come from my many years (83) of experience working elsewhere and with the growth of our Oneida Nation. Also, I asked many people I know; family, friends, and professionals; mothers who have lost loved ones. THC seemed to be the introduction to the worst drugs. There is nothing that the THC adds anything to our quality of life or sovereignty to the Oneida Nation.

The drug lords (sellers) persuade the innocent that is OK to acquire a better “high” and the sadness begins in other words we as a Nation have lost those with addiction.

The Nation Chiefs and traditionalists say drug use is not native, there is no association to any tribal ceremonies. It is a mind changer and impairs judgement; experts who have done testing also found that by observation THC affects performance, slow reactions and ineffective in decision making. During my experience and education I observed these behaviors for which we should all be informed about so we don’t have issues beginning with THC, and observing those who may be under the influence. We can’t stand by while THC and other drugs take away our resources, our Oneida people.

Are we promoting drug use or impairment on the job. Is it now ok to be affected and serve our customers, taking care of babies. Under the influence pertains to almost every job. (2,000+)

THC as used as “recreational” has effects lasting 28 days. If the petition passes the employee can “light up” just before work.

I support the efforts of the medical and scientific research as a valuable medical treatment, lawful and legal and well regulated. If all good intentions are used we can let the expert forces do their job. Also CBD and hemp have nothing to with THC if done right.

What about Risk Management. Hopefully we can get their opinion? How do impaired employees affect risks overall. Is it Ok to be impaired while responsible for our valuable resources?

We are experiencing/expressing Sovereignty by having the Drug and Alcohol Workplace Law. Many people have tried and succeeded the difficult task of working toward the “Drug Free Environment.” This effort sounds impossible at times since we know we have it all around us. We’re losing future leaders and talents of promising youth, whom we count on to be our future leaders.

If the petition request is passed it will be a major “step backward” to having the “Good Mind, Body, and Spirit.” Please consider that over 2,000 employees are entrusted with the care of assets that flow through our enterprises daily, our well-being, our babies, elders, our future.

Where and when will a decision be made? I hope ASAP? A No Vote can be done/upheld by strong leadership of the LOC BC and/or GTC.

I also support random drug testing although not specific to the petition, it is part of the overall fight against the fight. This effort was tried in the 90’s but didn’t sit well enough to continue the effort, due to supposed legal issues. Drug testing (for many other drugs) is not considered to violate anyone’s rights, only to protect the tribe and employees as well as customers who may be served by impaired individuals.

If this petition passes and we are trying to fight the overall fight on drugs then what are we doing to all the efforts done now and in the future for a drug free Oneida?

We will have defeated the purpose. Much work is ahead in those efforts! Why give up or change now? We cannot go backward!

I respectfully submit my comments for you as decision makers. I lived in Chicago for 14 years, found a husband, had kids, but always wanted to go home. Then convinced my family and home Oneida would be good for us, and it is.

Many years of experience/employment in Chicago and Oneida have therefore I feel that is the basis for my comments the above allows me the background to share with you the LOC, also please consider that I gather much information from family, friends and professionals, especially focused on those who experienced the effects of those they loved and sometimes lost. THC was always just the beginning as loved ones advanced to the “hard stuff.” We must find the sellers as an important part of the fight the most dangerous.

If you need me to decipher the above, I will help as needed.

The utmost Thank you for your decision making authority to do the best for Oneida.

920-869-2294

### ***Response***

The commenters express a variety of concerns regarding potential implications of the proposed amendments to the Drug and Alcohol Free Workplace law, as well as general opposition to the Nation providing an exemption for positive THC test results in certain circumstances.

The proposed amendments to the Drug and Alcohol Free Workplace law focus on pre-employment drug testing. All external applicants are required to participate in pre-employment drug testing. [2 O.C. 202.8-4]. An external applicant is a person who is applying for a position and not currently

employed by the Nation. [2 O.C. 202.3-1(f)]. A negative drug test result is required for employment eligibility. *Id.* The proposed amendments then provide an exemption for positive THC test results in certain circumstances. This means that an external applicant's confirmed positive THC test result shall be exempted from the requirement of a negative drug test result for employment eligibility in the specific circumstances. [2 O.C. 202.8-4(a)]. An external applicant for a position in Gaming, who receives a confirmed positive test result for THC may still qualify for employment if: the position mandates a background check in accordance with 5 O.C. 501.10; the position mandates licensing in accordance with 5 O.C. 501.11; and the position does not require a commercial driver's license or job-related driving. [2 O.C. 202.8-4(a)(1)]. An external applicant for a non-Gaming position who receives a confirmed positive test result for THC may still qualify for employment if the position has not been identified as an employee position which waived the exemption for positive THC test results. [2 O.C. 202.8-4(a)(2)]. The Oneida Business Committee is delegated the responsibility to adopt through resolution a list of all the non-gaming employment positions that waive the exemption for positive THC test results. [2 O.C. 202.8-4(a)(2)(A)].

To clarify, the exemption for positive THC test results applies only to external applicants during pre-employment drug testing. Once an individual is hired by the Nation, the employee is prohibited from the use of prohibited drugs and alcohol during working hours, when on-call, and when operating a vehicle owned by the Nation or a vehicle rented by the Nation. [2 O.C. 202.4-2]. All employees of the Nation are required to participate in reasonable suspicion and follow-up testing upon the request of an appropriate authority. [2 O.C. 202.8-5]. A negative test result is required for unimpeded employment eligibility. *Id.*

The Legislative Operating Committee had great discussion regarding the fact that an external applicant's positive THC test result is not indicative of an individual's intent to continue the use of marijuana once they are hired as an employee of the Nation and the use of drugs is prohibited. The Legislative Operating Committee understands that external applicants may come from, or may have visited, states where the use of marijuana has been legalized. As of April 24, 2023, thirty-eight (38) states, three (3) territories and the District of Columbia allow the medical use of cannabis products; while as of November 8, 2023, twenty-four (24) states, two (2) territories and the District of Columbia have enacted measures to regulate cannabis for non-medical adult recreational use.<sup>1</sup>

Allowing an exemption for the pre-employment drug testing of external applicants is a policy decision for the Legislative Operating Committee to make. There are no recommend revisions to the proposed amendments to the Drug and Alcohol Free Workplace law, but it is within the purview of the Legislative Operating Committee to reconsider this policy decision.

### ***LOC Consideration***

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<sup>1</sup> Information found on the Nation Conference of State Legislatures website at [https://www.ncsl.org/health/state-medical-cannabis-laws#:~:text=Non%2DMedical%2FAdult%2DUse,medical%20adult%20\(recreational\)%20use.](https://www.ncsl.org/health/state-medical-cannabis-laws#:~:text=Non%2DMedical%2FAdult%2DUse,medical%20adult%20(recreational)%20use.)

## Comments 14 through 15 – Application to Elected Officials:

### 202.3. Definitions

**202.3-1. This section shall govern the definitions of words or phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.**

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

### 202.4. Application

**202.4-2. An employee is prohibited from the use of prohibited drugs and alcohol during working hours, when on-call, and when operating a vehicle owned by the Nation or a vehicle rented by the Nation.**

**Nancy Barton (oral):** I also have with me a application for elected positions and one of the questions on Page 3 at the bottom #7 is they ask you specifically. If within the last five years you've used illegal drugs and THC is included in that in the state of Wisconsin marijuana, anything that taste test positive for THC is still illegal. So for the business committee to allow this to come forward was very concerning to me that the business committee or the LOC would allow something that's illegal. And I don't know if you're endorsing it or how this got here. My understanding was that it was a negotiation for a petition that was submitted to go to GTC. But going back to the application for elected boards and ask you specifically if you've used controlled substances and it says, for example, marijuana, cocaine, crack cocaine, hash, narcotics and it asks you to answer yes or no to that question. So I I was very concerned about when. I saw this law coming forward, I.

**Cathy Metoxen (oral):** Cathy Metoxen: Cathy L. Metoxen. I remember being here years ago and I'm going to raise the same questions I raised back then again and one of the things that I look at is, is it gonna be across the board? Is it gonna be fair and equal? I'd like to know is there something specific in here about government officials and administration? You know, the administration, you know, top management, you know, because I've been in situations in this room where I've observed, you know, BC members staggering. And I hear, you know, the, the, the word is out there rumors and when people smell of alcohol the day after partying or something. I mean that all coincides together. And it's the same for. Marijuana, or THC or whatever it is you're looking at. And then I got a question too, is that? It's OK to use it if if that's my understanding of what you're. Creating this new amendment for is, does that include the doctors and the specialists and the nurses and everybody? It's gonna be OK for everybody across the board. And if I have a suspicion in this room in the middle of a meeting, can I stop the meeting and request that an individual sitting here at these tables here go to Saint Mary's and get tested just like an employees treated? How do we go about acting in a situation such as that? And is that being looked at and included? Because there

is a lot. Lot of things I I've. Oh, it doesn't sound like it. Umm, I've had a situations where I was with somebody and we dropped somebody off at a place where they go get tested and there was a guy walking funny. And I go what's wrong with him? And they said Ohh, he's probably got fake, you know, something on him for his test, you know, so there's all kinds of ways that people look to beat the system, so to speak. So I'm wondering how is that going to be looked at and included in this document for all of the above, including each and every business committee member and their assistance. Because people laugh about it. Of course it's funny, you know. But but people are more willing to sit behind closed doors and gossip and laugh about it than to actually deal with it because nobody wants to deal with family and friends. So that's a situation that I think needs to be included in here and I wanna be able to next time I see somebody who's acting suspicious. And according to this document, it says maybe under the influence of drugs and or alcohol. So specific observations concerning appearance, behavior, speech, or body orders well. If you can't even create a law for to protect our elderly cause, my understanding is there is no law specific to elder abuse right now, and I was helping people for 20 years. How are you gonna do a lot like this? That's gonna be fair and easy and simple to do because it's not a simple thing. And I don't, I don't agree with it either. There's not enough conversation about the situation and I'd like to be able to say I remember when so and so staggered down those steps. In the middle of a meeting, what's gonna happen in that situation? It should have been the people sitting next to him that could smell the Reek Ness. Because I heard it reeks up here, sometimes on individuals. And who's gonna actually do it and take care of it? Are you just using it to set up certain individuals? That's my question in my mind, through this whole thing, this needs to be more clearly looked at and taken apart, I would say. I guess that's all I have to say for now.

### ***Response***

The commenters question the proposed amendments to the Drug and Alcohol Free Workplace law application to members of the Oneida Business Committee or other elected entities.

The Drug and Alcohol Free Workplace law prohibits an employee of the Nation from the use of prohibited drugs and alcohol during working hours, when on-call, and when operating a vehicle owned by the Nation or a vehicle rented by the Nation. [2 O.C. 202.4-2]. An employee of the Nation is defined as any individual who is employed by the Nation and is subject to the direction and control of the Nation with respect to the material details of the work performed, or who has the status of an employee under the usual common law rules applicable to determining the employer-employee relationship. [2 O.C. 202.3-1(e)]. The Drug and Alcohol Free Workplace law further clarifies that an employee does not include elected or appointed officials, or individuals employed by a Tribally Chartered Corporation. *Id.* Therefore, the Drug and Alcohol Free Workplace law does not apply to elected officials, including members of the Oneida Business Committee.

There are no recommended revisions to the proposed amendments to the Drug and Alcohol Free Workplace law based on these comments.

### ***LOC Consideration***

### Comments 16 through 19 – Petition S. Benton – Pre-Employment Drug Testing:

**Mike Debraska (oral):** I had a list of questions like 9 or 10 different questions, but I'm just. I'm gonna submit those via e-mail, but there are some things that I took a look at within the drafts and within this law itself and I noticed one thing in Section 3 under the analysis, to draft one on page 2 at the top from line 16 through 25, it says representatives from the following departments or entities participated in the development of the amendments to the law. And this legislative analysis, including the Oneida Law Office, Human Resources Department, gaming and employee health nursing. So, I mean, they went through a pretty extensive list with within within the tribal structure itself. But the one thing that wasn't included on here was GTC. And again, I know this was done by way a petition, but I haven't seen a copy of the petition that was submitted. I don't know if a petition ever was submitted. It could be something that's just told to us and there's no justification for it. So I and within my comments, I also state that that I would like to see a copy of that. Umm, particular petition that was turned in for this?

**Sherrole Benton (oral):** So in that particular meeting where my where my petition was presented the, the, the, the room was pretty full. There were a lot of people there who were waiting to hear my petition and who I believe would have supported it and passed it. So This is why there was some kind of technicality that the some of the BC members at the time wanted to try out with some new GTC rules. And I agreed to that. So it ended up that my my petition wasn't heard in that particular GTC meeting, you know, like about five or six years ago. So This is why it's now been being developed this way. So I think that even if it, even if my petition were to go to the GTC meeting, I believe it would pass and then the BC and the organization would be doing this work anyways to amend the the the drug law policy. So I'm in support of it and I believe that many, many people are as well because we all know that.

**Mike Debraska (written):** 2. Who authorized the current Oneida Business Committee to negotiate with a petitioner and under what policy, procedure, SOP, by-law or law? I would also like a copy of the petition that was submitted to the BC for proof that a community member submitted one; and

**Mike Debraska (written):** 7. Why is the tribe even considering doing this for one individual brining forward what should have been deemed an illegal petition and denied immediately due to recreational use being illegal in the State of Wisconsin?

### *Response*

The commenters discuss and/or question the 2016 *Petition: Benton - Pre-Employment Drug Testing* and how it was handled or relates to the proposed amendments to the Drug and Alcohol Free Workplace law.

On November 21, 2016, the *Petition: Benton – Pre-Employment Drug Testing* was submitted to the Tribal Secretary's Office and has since been verified by the Trust Enrollments Department. On

January 13, 2017, the OBC accepted receipt of the petition and forwarded it for the appropriate analyses, including this legislative analysis. The purpose of the petition is, “to change pre-employment drug testing orders and reduce sensitivity to marijuana because tests for THC aren’t effective measurements for potential employee performance, nor habitual drug use; and THC stays in the body longer than opiates, alcohol, and other drugs.”

On August 30, 2022, the Legislative Operating Committee received a request from the Human Resources Department to add the Drug and Alcohol Free Workplace law amendments to its Active Files List. The Human Resources Department indicated that with the *Benton – Pre-Employment Drug Testing* petition currently pending, they were directed by the Oneida Business Committee to work with the Oneida Law Office on potential proposed language to address the concerns brought forth through this petition. The Legislative Operating Committee added this item to its Active Files List on September 7, 2022.

Although the request from the Human Resources Department mentions the relation between the request for amendments to the Drug and Alcohol Free Workplace law and the *Petition: Benton – Pre-Employment Drug Testing*, it is important to note that ultimately the development of amendments to the Drug and Alcohol Free Workplace law is a separate legislative effort.

If the commenters have questions regarding how the Oneida Business Committee Secretary handled the *Petition: Benton – Pre-Employment Drug Testing*, it is recommended that the commenters reach out directly to the Nation’s Secretary for more information regarding this issue, as this is not information that the Legislative Operating Committee holds.

### ***LOC Consideration***

#### **Comments 20 through 22 – Expression of Support for Amendments:**

**Sherrole Benton (oral):** Sherrole Benton: Sherrole Benton. I'm the author of this petition, and when I wrote it. Uh, we. We were looking at the states around us, Umm, legalizing marijuana. And so eventually, the legalization of marijuana will will be well will happen in our state as well. So the reason why I wrote the petition for pre employment testing and and not looking for THC during pre employment. It's so that more, you know, more qualified people could be interviewed and hired for a positions. THC stays in the body in the body, it's stored in the fat cells of the body for up to seven years. So like you know, if a person had had been using, you know, a month ago or a year ago or several years ago, that's possibly gonna show up in a THC test, whereas other drugs and alcohol that are water soluble, those are washed out of the system within 24 to 72 hours. So people who are using harder drugs, like meth and heroin and other narcotics, they're they're they're passing those pre screening during pre employment testing. And they're the ones who are getting. That jobs, and then once they are in a job, you know, they become unreliable employees and you know a lot of supervisors that I talked with when I wrote this petition were really frustrated about that. And they said. They really wouldn't mind if someone who had tested positive for THC got through



the screening process and they could interview them, you know, and then have them on the probationary period for employment. So and as you can see in in in the in the law, once a person is employed, they would still be subject to in drug testing. You know, if there behavior and performance level are are not up to par.

...

So I'm in support of it and I believe that many, many people are as well because we all know that. You know a person who is who is using meth or heroin or other narcotics. You know, once they are on the job, they become unreliable. And this is this is affecting our revenue, it's affecting the quality and leadership and development of our employees. And so I think it's important to pass it, you know to to continue working on this and amend the law. Thank you.

**Lisa Liggins (written):** I'd like to share my general support for the proposed amendments to the law. I appreciate the work done by the Oneida Law Office, the Human Resources Department, Gaming, and Employee Health Nursing; I'm confident these proposed amendments will address the concerns raised by Sherrole Benton from her 2016 petition as well as the concerns raised by Gaming Management surrounding pre-employment drug screening.

**Sidney White (written):** Greetings, I would like to submit my comments for the DRUG AND ALCOHOL-FREE WORKPLACE LAW AMENDMENTS. I support the 'exemption for positive THC Test' in 202.8-4. In my professional role, community members share that THC is an effective alternative to prescription opioids in managing chronic pain. I personally observed the onset of the Opioid Crisis directly affecting our Oneida Nation, and greater northeastern Wisconsin Native, community in the past 15+ years of practice. The proliferation of providers freely providing prescription opioids was a direct contributing factor to the epidemic in our community. There are reasons bills were introduced such as H.R. 2917 (IH) - Opioid Crisis Accountability Act of 2019, S.2680 - Opioid Crisis Response Act of 2018, and the Support for Patients and Communities Act. The onset and cessation of prescription opioid abuse directly correlated with increased methamphetamine and heroin use within the area.

This created a subset of people that have effectively recovered from opioid use and methamphetamine/heroin use. In my clinical practice there is a significant amount of community members that suffer from chronic pain syndromes. Many community members have been through the system regarding pain management. Due to their recovery from opioid abuse, they have extreme trepidation and reluctance with prescription narcotics in management of their chronic pain conditions. THC provides these patients the opportunity to effectively manage their chronic pain conditions with avoidance of traditional medicine and low-grade long-term narcotic use. It allows our community members to become more physically active within the community as their pain is self-reported as managed better. The fear of relapse is a very real threat for this population with traditional medicine. The alternative for this subset is THC and managed chronic pain conditions or non-THC and increased pain and dysfunction.

Studies have consistently shown that with managing chronic pain, graded activity, and integration back into the work force consistently generates improved patient outcomes and wellbeing. It is my

hope that an ‘exemption for positive THC test’ would allow the recovering opioid addict that successfully manages chronic pain with THC use the opportunity to return to the Oneida Nation workforce.

Thank you for your time and consideration of my public comments regarding the proposed amendments.

Sincerely,  
Sidney J. White

### ***Response***

The commenters express general support for the proposed amendments the Drug and Alcohol Free Workplace law. There are no revisions recommended based on these comments.

### ***LOC Consideration***

## **Comment 23 – Clarification of Internal Applicant:**

### **202.3. Definitions**

**202.3-1. This section shall govern the definitions of words or phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.**

**(h) “Internal applicant” means a person who is applying for a position who is currently employed by the Nation, this includes those employed under a temporary status.**

### **202.11. Consequences for Prohibited Behavior**

**202.11-1. Either an internal applicant or an external applicant may decline the position at any time before being directed to EHN or other designated testing site for the applicant’s drug and alcohol testing.**

**202.11-2. *External Applicant.* If an external applicant fails to show at the testing site within the time allotted, or on the date of the scheduled test, or has engaged in prohibited behavior as listed at section 202.6 that has been documented, the employment offer shall be withdrawn. An external applicant shall not be eligible for hiring consideration for one hundred eighty (180) days from the date of the urine drug screening test.**

**202.11-3. *Internal Applicant.* If an internal applicant fails to show at the testing site within the time allotted, or on the date of the scheduled test, or has engaged in prohibited behavior as listed at section 202.6, the employment offer shall be withdrawn. The applicant shall be removed from duty and subject to respective consequences of this law. The applicant shall not be eligible for hiring consideration in a different position for one hundred eighty (180) days from the date of the urine drug screening test.**

**Lisa Liggins (written):** Clarification of the “Internal Applicant” is needed.

- The proposed changes to section 202.8-4. would require external applicants comply with pre-employment drug screening,
- If the intent of the amendments to 202.8-4. is that pre-employment drug screening is only for external applicants, the term, “internal applicant” could be deleted from the law entirely.
  - “Internal applicant” is defined in the law, then referenced in the sections regarding the application of the law and the regarding consequences for prohibited behavior.
  - Line 51 – definition of “internal applicant”
  - Line 287 – Section 202.11-1. references “internal applicant” declining a position before being directed to a testing site.
    - However if an “internal applicant” is no longer required to comply with pre-employment testing, this language should be revised and/or reference to “internal applicant” should be deleted.
  - Line 295 – Section 202.11-3. references consequences and “internal applicant” would face if they fail to show at the testing site as provided in the law.
    - However if an “internal applicant” is no longer required to comply with pre-employment testing, this language should be revised and/or reference to “internal applicant” should be deleted.
- If the intent of the amendments to 202.8-4. is that pre-employment drug screening is only for external applicants and internal applicants, then language in 202.8-4. should be revised.

### **Response**

The commenter asks that the application of the proposed amendments to section 202.8-4 of the Drug and Alcohol Free Workplace law be clarified on regard to pre-employment drug testing of internal applicants.

An internal applicant is a person who is applying for a position who is currently employed by the Nation, this includes those employed under a temporary status. [2 O.C. 202.3-1(h)]. The intent of the proposed amendments to section 202.8-4 of the Drug and Alcohol Free Workplace law was not to remove the requirement for internal applicants to participate in pre-employment drug testing when applying for a new position within the organization. It is intended though, that the exemption for positive THC test results for pre-employment drug testing apply only to external applicants.

In an effort to clarify this issue the following revision is recommended:

202.8-4. All external **and internal** applicants shall participate in pre-employment drug testing. A negative drug test result shall be required for employment eligibility.

(a) *Exemption for Positive THC Test Result.* An external applicant’s confirmed positive THC test result shall be exempted from the requirement of a negative drug test result for employment eligibility in the following circumstances:

(1) *External Applicants for Gaming Positions.* An external applicant receiving a confirmed positive test result for THC may qualify for employment if:

(A) the position mandates a background check in accordance with 5 O.C. 501.10;

- (B) the position mandates licensing in accordance with 5 O.C. 501.11; and
  - (C) the position does not require a commercial driver's license or job-related driving.
- (2) *External Applicants for Non-Gaming Positions.* An external applicant receiving a confirmed positive test result for THC may qualify for employment if the position has not been identified as an employee position which waived the exemption for positive THC test results.
- (A) The Oneida Business Committee shall adopt through resolution a list of all the non-gaming employment positions that waive the exemption for positive THC test results.

### ***LOC Consideration***

#### **Comment 24 – General Tribal Council Involvement in Legislative Process:**

**Mike Debraska (written):** 8. When will the requested changes be brought forward to General Tribal Council for their input and consideration, if at all, since many other departments and members of management were consulted? and;

#### ***Response***

The commenter questions if the proposed amendments to the Drug and Alcohol Free Workplace law will be brought before the General Tribal Council for consideration. No, the proposed amendments to the Drug and Alcohol Free Workplace law will not be brought forward to the General Tribal Council for consideration. The Legislative Operating Committee follows the process and procedures set forth by the Legislative Procedures Act, in which the proper time for an individual to provide input is during the public meeting and public comment period. [1 O.C. 109].

The General Tribal Council adopted the Legislative Procedures Act in 2013 to set forth the process for the development and adoption of laws of the Nation by the Oneida Business Committee and General Tribal Council. [1 O.C. 109.1-1]. The Legislative Procedures Act intends to ensure that there is a standard process for developing legislation for the Nation. [1 O.C. 109.1-2]. Although the Legislative Procedures Act is not construed to impede the constitutional right of a member of the Nation under Article III, Section 4 of the Oneida Nation Constitution and Bylaws to petition for a special meeting of the General Tribal Council, the lawmaking requirements provided by the Legislative Procedures Act do apply to all legislation considered by the Oneida Business Committee or the General Tribal Council. [1 O.C. 109.1-3, 109.1-1].

The legislative process begins when any person who is interested in pursuing the development of or amendment to a law of the Nation submits a written request for legislation to the Legislative

Reference Office, who then is responsible for placing the request for legislation on the agenda of the next duly called Legislative Operating Committee meeting. [1 O.C. 109.5-1, 109.5-2]. General Tribal Council delegated the Legislative Operating Committee the responsibility for the development of legislation of the Nation. [1 O.C. 109.4-2]. The Legislative Operating Committee is comprised of the five (5) Oneida Business Committee members who do not hold officer positions. [1 O.C. 110.4-1(b)]. Once the Legislative Operating Committee receives a request for legislation, the Legislative Operating Committee then either accepts or denies the request, except that the Legislative Operating Committee is not allowed to deny a request for legislation directed by a General Tribal Council law, resolution, or motion. [1 O.C. 109.5-2(a)-(b)].

Once the Legislative Operating Committee accepts a request for legislation and directs that legislation be developed in accordance with the Legislative Procedures Act, a draft of the legislation is created through research, review of other similar laws, collaboration with affected entities, and community engagement efforts. The Legislative Procedures Act provides guidance on how a law should be organized, such as different sections that need to be included in a law and what information needs to be addressed in each section, to ensure there is a consistent format amongst all laws of the Nation. [1 O.C. 109.11]. Once a draft of the proposed legislation is approved by the Legislative Operating Committee, a legislative analysis of the draft legislation is completed. [1 O.C. 109.7-1]. The purpose of the legislative analysis is to describe the important features of the legislation being considered and factual information to enable the Legislative Operating Committee to make informed decisions regarding legislation. [1 O.C. 109.3-1(g)]. A legislative analysis includes a statement of the legislation's terms and substance; intent of the legislation; a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations. *Id.*

Once a draft and legislative analysis are completed for proposed legislation, the Legislative Operating Committee moves forward with obtaining public review of the proposed legislation. The Legislative Operating Committee determines a public meeting date and then a public meeting notice is created that contains the date, time and place of the public meeting, the time period for the public comment period, and the name, address, phone number, and other appropriate information on where to submit comments on the proposed legislation. [1 O.C. 109.8-2]. At least ten (10) business days before the public meeting is held, the public meeting notice is published in the Kalihwisaks, while the public meeting notice, proposed draft of the legislation, legislative analysis, and fiscal impact statement if available, are published on the Oneida Register on the Nation's webpage found at the following location: <https://oneida-nsn.gov/government/register/>, and electronically noticed to all managers and directors. [1 O.C. 109.8-2]. The managers and directors who receive the public meeting materials are then required by the Legislative Procedures Act to direct employees of the Nation who have special knowledge or expertise on the proposed legislation to provide public comments. [1 O.C. 109.8-4(a)].

The public meeting on the proposed legislation is required to be presided over by at least one (1) member of the Legislative Operating Committee. [1 O.C. 109.8-3(a)]. The purpose of the public

meeting is to solicit oral comments from members of the community on the proposed legislation. [1 O.C. 109.8-3]. After the public meeting concludes, the Legislative Operating Committee holds open a public comment period for at least five (5) business days. [1 O.C. 109.8-1(a)]. During the public comment period individuals may submit written comments including data, views, arguments, or concerns to the Oneida Business Committee Secretary or the Legislative Reference Office in person or through United States mail, interoffice mail, e-mail, or fax. [1 O.C. 109.8-1(c), 109.4-4(b)].

Once the public comment period has concluded, the Legislative Operating Committee is required by the Legislative Procedures Act to fully consider all written comments and oral testimony received during the public comment period and any public meeting on the proposed legislation. [1 O.C. 109.8-4]. The Legislative Operating Committee accomplishes this responsibility through the development of a public comment review memorandum that provides the Legislative Operating Committee's consideration of every comment received, and demonstrates any changes made to the proposed legislation based on the public comments.

A fiscal impact statement is also required for all proposed legislation. [1 O.C. 109.6-1]. A fiscal impact statement provides an estimate of the total fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an individual or agency to comply with the law after implementation. [1 O.C. 109.3-1(c)]. The Legislative Operating Committee may direct that a fiscal impact statement be submitted by any agency who may receive funding if the legislation is enacted, may administer a program if the legislation is enacted, may have financial information concerning the subject matter of the legislation, or the Finance Department. [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-10-28-20-A, *Further Interpretation of 'Fiscal Impact Statement' in the Legislative Procedures Act*, provides further clarification on the process for directing a fiscal impact statement be completed. This resolution provides that upon final approval of draft legislation by the Legislative Operating Committee, the Legislative Operating Committee may direct the Finance Department or any agency who may receive funding if the legislation is enacted, may administer a program if the legislation is enacted, may have financial information concerning the subject matter of the legislation to provide a neutral and unbiased fiscal impact statement to the LOC within ten (10) business days for inclusion in adoption materials.

After all the requirements of the Legislative Procedures Act are met and the Legislative Operating Committee is satisfied with proposed legislation, the Legislative Operating Committee then forwards an adoption packet comprised of the proposed legislation, legislative analysis, fiscal impact statement, resolution, statement of effect, and an adoption memorandum to the Oneida Business Committee for consideration. [1 O.C. 109.9-1]. The Oneida Business Committee then either considers whether to approve or deny the adoption of the legislation or forwards the legislation to the General Tribal Council for consideration of adoption. [1 O.C. 109.9-1(a)-(b)]. A law is adopted, amended, or repealed upon the adoption of a resolution. [1 O.C. 109.9-2]. For those laws considered by the Oneida Business Committee a majority vote is required for the

adoption of the law, while amendments and repeals of a law are handled in accordance with the laws governing Oneida Business Committee action. [1 O.C. 109.9-2(a)]. The Oneida Business Committee utilizes Robert's Rules of Order, current edition, for the procedural rules of its meetings except as specifically modified by the Constitution and Bylaws of the Oneida Nation. [1 O.C. 117.4-1]. For those laws considered by the General Tribal Council, adoption, amendment, and repeal of laws are done in accordance with the laws governing General Tribal Council action. [1 O.C. 109.9-2(b)]. Any action by the General Tribal Council to overrule previous passed motions or resolution requires a two-thirds (2/3) vote. [1 O.C. 113.3-1(a)(3)].

Once legislation is adopted through resolution by either the Oneida Business Committee or the General Tribal Council the law shall become effective ten (10) business days after the date of adoption unless a different effective date is specified. [1 O.C. 109.9-3]. The Legislative Operating Committee is then responsible for publishing the law in the Oneida Code of laws by the effective date. [1 O.C. 109.9-4]. The Oneida Code of Laws can be found on the Oneida Register on the Nation's website at the following location: <https://oneida-nsn.gov/government/register/laws/>. Any law adopted in substantial compliance with the Legislative Procedures Act is considered valid. [1 O.C. 109.10-1]. No law can be contested based on non-compliance with the procedural requirements of the Legislative Procedures Act after one (1) year from the effective date of the law. [1 O.C. 109.10-2].

### ***LOC Consideration***

**Title 2. Employment – Chapter 202**  
**DRUG AND ALCOHOL FREE WORKPLACE**

202.1. Purpose and Policy  
202.2. Adoption, Amendment, Repeal  
202.3. Definitions  
202.4. Application  
202.5. Shared Responsibility  
202.6. Prohibited Behavior  
202.7. Reasonable Suspicion  
202.8. Drug and Alcohol Testing

202.9. Refusal to Test  
202.10. Reasonable Suspicion Testing Waiting Period  
202.11. Consequences for Prohibited Behavior  
202.12. Re-hire  
202.13. Other Potential Consequences  
202.14. Confidentiality  
202.15. Communication

**202.1. Purpose and Policy**

202.1-1. *Purpose.* The Nation is committed to protecting the safety, health and well-being of all employees, and other individuals in the workplace. The Nation recognizes that alcohol abuse and drug use pose a significant health and safety threat to our customers and other employees. The Nation also recognizes that alcohol and drug abuse and addiction are treatable illnesses. The Nation realizes that early intervention and support may improve the success of rehabilitation.

202.1-2. *Policy.* It is the policy of the Nation to establish a drug and alcohol-free workplace program that balances respect for individuals with the need to maintain an alcohol and drug-free environment. The Nation encourages employees to voluntarily seek help for their personal drug and alcohol-related problems.

**202.2. Adoption, Amendment, Repeal**

202.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-25-95-A and amended by resolutions BC-10-20-99-A, BC-12-05-07-B, BC-12-11-13-F-~~and~~, BC-04-12-17-C, and BC- - - - -.

202.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

202.2-3. 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.

202.2-4. 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.

202.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**202.3. Definitions**

202.3-1. This section shall govern the definitions of words or phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Appropriate authority” means the Human Resources Department hiring representative, immediate supervisor, EHN, MRO, and/or ONEAP who requests the drug and/or alcohol testing for reasons of pre-employment, reasonable suspicion, and/or follow-up testing.

(b) “Business day” means Monday through Friday from 8:00am-4:30pm, excluding holidays recognized by the Nation.

(c) “Confirmed positive test result” means a lab-confirmed drug test that is verified by the MRO that exceeds the cut-off levels established by this law (levels established by the United States Department of Health and Human Services), confirmed saliva testing, confirmed evidential breath alcohol test results of 0.02 or greater; and/or refusal to test.



- 38 (d) “EHN” means the Oneida Employee Health Nursing Department.
- 39 (e) “Employee” means any individual who is employed by the Nation and is subject to the  
40 direction and control of the Nation with respect to the material details of the work performed,  
41 or who has the status of an employee under the usual common law rules applicable to  
42 determining the employer-employee relationship. “Employee” includes, but is not limited  
43 to; an individual employed by any program or enterprise of the Nation, but does not include  
44 elected or appointed officials, or individuals employed by a Tribally Chartered Corporation.  
45 For purposes of this law, individuals employed under an employment contract as a limited  
46 term employee are employees of the Nation, not consultants.
- 47 (f) “External applicant” means a person who is applying for a position and not currently  
48 employed by the Nation.
- 49 (g) “HRD” means the Human Resources Department and/or representatives performing  
50 Human Resources functions applicable to this law.
- 51 (h) “Internal applicant” means a person who is applying for a position who is currently  
52 employed by the Nation, this includes those employed under a temporary status.
- 53 (i) “MRO” means Medical Review Officer who is a licensed physician who is responsible  
54 for receiving and reviewing laboratory test results generated by an employer’s drug testing  
55 program and evaluating medical explanations for certain drug test results.
- 56 (j) “Nation” means the Oneida Nation.
- 57 (k) “NHTSA” means the National Highway Traffic Safety Administration.
- 58 (l) “ONEAP” means the Oneida Nation Employee Assistance Program which is a  
59 professional counseling program staffed by clinical social workers licensed by the State of  
60 Wisconsin which offers services to the Nation’s employees and family members.
- 61 (m) “Prohibited drug(s)” means marijuana, cocaine, opiates, amphetamines, phencyclidine  
62 (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substance  
63 included in Schedules I through V, as defined by Section 812 of Title 21 of the United States  
64 Code. This also includes prescription medication or over-the-counter medicine used in an  
65 unauthorized or unlawful manner.
- 66 (n) “Return-to-Work Agreement” means an agreement, developed by an ONEAP counselor  
67 and signed by the employee and the ONEAP counselor, and the referring supervisor, which  
68 sets out the actions the employee needs to complete in order to return to work and remain  
69 employed.
- 70 (o) “SAMHSA” means the United States Department of Health and Human Services,  
71 Substance Abuse and Mental Health Services Administration.
- 72 (p) “Supervisor” means the immediate supervisor, or person who has taken on the role of  
73 supervisor due to an absence that is responsible for performance review, corrective action,  
74 and day-to-day assignments of duties.
- 75 (q) “Work-related accident” means an unexpected event involving an employee that occurs  
76 in the employee’s working environment or during an activity related to work, that:
- 77 (1) results in an injury to the employee or another person that may require medical  
78 intervention by a police officer or emergency medical technician, or treatment at a  
79 medical facility,
- 80 (2) results in death of the employee or another person, or
- 81 (3) involves any property damage.
- 82

**202.4. Application**

202.4-1. This law applies to all applicants for employment, whether external or internal, and all employees during working hours, when on-call, and when operating a vehicle owned by the Nation or a vehicle rented by the Nation.

202.4-2. An employee is prohibited from the use of prohibited drugs and alcohol during working hours, when on-call, and when operating a vehicle owned by the Nation or a vehicle rented by the Nation.

202.4-3. An employee is prohibited from the use of intoxicants while on official business travel while the conference or meeting is in session.

202.4-4. An employee is not exempted from this law if they travel to another state, territory or country where the use of certain drugs is legal.

94

**202.5. Shared Responsibility**

202.5-1. A safe and productive drug and alcohol free workplace is achieved through cooperation and shared responsibility between the employer and an employee.

202.5-2. *Employee*. It is the employee's responsibility to:

(a) Be free from the effects of prohibited drugs, and/or alcohol during working hours, and/or when scheduled to be on-call.

(b) Refrain from the unlawful manufacture, distribution, dispensation or possession of any prohibited drugs while working.

(c) Comply with drug and alcohol testing if directed to do so upon the request of an appropriate authority.

(d) Confidentially report suspicious behavior of an employee immediately to the supervisor of the employee in question.

(e) Cooperate with the requests made by EHN and the MRO. The employee shall return the call of the MRO within twenty-four (24) hours of the call being made to the employee. An employee who fails to cooperate and does not contact the MRO within twenty-four (24) hours of receiving contact shall not receive back pay for any time between the date the MRO placed the call until the time the employee does return the call of the MRO.

(f) Sign a consent form to be tested for alcohol and drugs when requested by an appropriate authority.

(g) Provide the appropriate information to EHN in the event a medical condition prevents the employee from properly completing drug and alcohol testing so alternative drug and alcohol testing measures can be taken by EHN.

202.5-3. *Supervisor*. It is the supervisor's responsibility to:

(a) Be familiar with this law and any related policies and procedures.

(b) Investigate reported suspicious behaviors while maintaining the confidentiality of the person who reported the suspicious behavior.

(c) Promptly intervene with an employee who is believed to be under the influence of prohibited drugs and/or alcohol.

(d) Monitor the employee under the influence of prescription and/or over-the-counter medications that could compromise the safety of the employee, fellow employees, or the public.

(e) Send the employee through the contracted transportation service for reasonable suspicion drug and alcohol testing.

127

- 128 (f) Take appropriate action as outlined by this law.  
 129 (g) Sign the Return-to-Work Agreement along with the employee and ONEAP counselor  
 130 that was developed by ONEAP.  
 131 (h) Send a copy of the consent to submit to drug and alcohol testing form signed by the  
 132 employee to EHN.

133 202.5-4. *Supervisor and Employee.* A supervisor or an employee that fails to adhere to the  
 134 responsibilities of the supervisor or employee under this law may be subject to disciplinary action  
 135 or other consequences as explained in section 202.13.

136 202.5-5. *Off-duty Use of Prohibited Drugs or Alcohol.* Off-duty use of prohibited drugs or alcohol  
 137 may result in continued impairment during on-duty hours, which shall then constitute a violation of  
 138 this law. It is the employee's responsibility to understand the consequences of off-duty use, and take  
 139 steps to avoid the possibility of on-duty impairment. An employee who is called in for emergency  
 140 or unplanned work, excluding those on-call, and has been using prohibited drugs or drinking  
 141 alcoholic beverages prior to such a call, shall inform the employee's supervisor they cannot report,  
 142 and shall continue to decline to report until the effects of the prohibited drugs or alcohol have left  
 143 the employee's system. Such refusal to report shall not be viewed as improper, and disciplinary  
 144 action shall not arise from such refusal.

145 202.5-6. *Use of Controlled Substances That May Affect Safety or Performance.* An employee who  
 146 is taking or is under the influence of any controlled substances during working hours, including  
 147 prescription medication or over the counter medication, which may affect the employee's job  
 148 performance or safety of the employee, fellow employees, public, or assets of the Nation have the  
 149 following obligations:

- 150 (a) The employee shall notify the employee's immediate supervisor about the use of the  
 151 substance and possible work-related effects prior to commencing work.  
 152 (b) Upon request, the employee may be required to obtain a written statement of any work  
 153 restrictions or impact on performance or safety relating to the legal substances from the  
 154 employee's physician or pharmacist.  
 155 (c) An employee shall not sell or share his or her prescribed medications with any other  
 156 person, and shall not take medications that are prescribed to another person.  
 157 (d) It may be necessary for the employee's supervisor, area manager or EHN to consult with  
 158 the employee's personal physician, pharmacist or an MRO, with the employee's approval  
 159 or written authorization, to determine if the medication might impact the employee's  
 160 ability to perform the employee's job, or pose a hazard to other employees or to the  
 161 general public.  
 162 (e) The employee's duties may be temporarily modified for up to one hundred eighty (180)  
 163 days. Any modification of duties shall result in the appropriate modification of pay as  
 164 established by the Human Resources Department.  
 165

## 166 **202.6. Prohibited Behavior**

167 202.6-1. An applicant or employee of the Nation is in violation of this law if he or she:

- 168 (a) Uses, possesses, and/or sells prohibited drugs, or is under the influence of prohibited  
 169 drugs or alcohol while on duty. Notwithstanding section 202.11, any employee who is  
 170 caught using, possessing or selling prohibited drugs shall be immediately terminated from  
 171 employment with the Nation.

172 (b) Fails to inform his or her supervisor of being under the influence of prescription  
173 medication and/or over-the-counter medication(s) which may affect the employee's job  
174 performance or safety of the employee, fellow employees, public, or assets of the Nation.

175 (c) Uses unauthorized prescription drugs or intentionally misuses and/or abuses prescription  
176 medications.

177 (d) Refuses to test.

178 (e) Has a confirmed positive test result after completing a drug and/or alcohol test through  
179 EHN or a medical facility, or has a confirmatory test come back as positive.

## 180 181 **202.7. Reasonable Suspicion**

182 202.7-1. Establishing reasonable suspicion begins when the supervisor becomes aware either by  
183 personal observation and/or secondary reported observation that an employee may be under the  
184 influence of drugs and/or alcohol: this may include seeing or receiving a report that the employee  
185 has taken or possess prohibited drugs or prescription medication that is not specifically prescribed  
186 to that employee. In order to make a reasonable suspicion determination, the supervisor shall  
187 evaluate the following:

188 (a) Specific observations concerning appearance, behavior, speech, or body odors of the  
189 employee consistent with possible drug use or alcohol misuse.

190 (b) The observations may include indications of the chronic and withdrawal effects of  
191 prohibited drugs or alcohol.

192 202.7-2. The supervisor shall document his or her observations and discuss the matter with the  
193 employee. During this discussion, the supervisor may ask the employee for proof of a prescription.  
194 The employee shall comply with this request. If after a discussion with the employee, the supervisor  
195 continues to suspect the employee may currently still be under the influence or reasonable suspicion  
196 is otherwise established, the supervisor shall refer the employee for reasonable suspicion drug and  
197 alcohol testing.

198 202.7-3. A supervisor's decision made in regard to the reasonable suspicion drug and alcohol testing  
199 of an employee is final. An employee shall not appeal or challenge a supervisor's determination for  
200 reasonable suspicion drug and alcohol testing.

## 201 202 **202.8. Drug and Alcohol Testing**

203 202.8-1. Drug and alcohol tests are forensic in nature, meaning they are performed to formalize  
204 conditions of employment as described in this law. To ensure the accuracy and fairness of this law,  
205 all drug and alcohol testing shall be conducted according to SAMHSA guidelines for Federal  
206 Workplace Drug Testing Programs.

207 202.8-2. EHN or its designee shall use Federal Drug Administration approved urine tests and  
208 NHTSA certified evidential breath testing devices or NHTSA certified saliva-screening devices,  
209 operated by technicians whose training terminology, procedures, methods, equipment, forms, and  
210 quality assurance comply with best practices.

211 (a) Confirmation drug testing done on urine specimens shall be conducted by a laboratory  
212 which is certified by the U.S. Department of Health and Human Services using its  
213 confirmation methods and established cut-off levels. Laboratory-confirmed results shall  
214 undergo the verification process by a MRO.

215 (b) Confirmation breath alcohol testing shall be performed using an NHTSA certified  
216 evidential breath testing device.

217 (c) Confirmation drug testing done by saliva testing shall be performed using an NHTSA  
218 certified saliva test.

219 202.8-3. If an employee is involved in a work-related accident, he or she shall immediately inform  
220 his or her supervisor of the accident.

221 202.8-4. ~~Each employee, as a condition of employment,~~All external applicants shall ~~participate in~~  
222 ~~pre-employment, reasonable suspicion, and follow-up drug testing upon the request of an appropriate~~  
223 ~~authority.~~ A negative drug test result shall be required for employment eligibility.

224 (a) Exemption for Positive THC Test Result. An external applicant's confirmed positive THC  
225 test result shall be exempted from the requirement of a negative drug test result for  
226 employment eligibility in the following circumstances:

227 (1) External Applicants for Gaming Positions. An external applicant receiving a  
228 confirmed positive test result for THC may qualify for employment if:

229 (A) the position mandates a background check in accordance with 5 O.C.  
230 501.10;

231 (B) the position mandates licensing in accordance with 5 O.C. 501.11; and

232 (C) the position does not require a commercial driver's license or job-related  
233 driving.

234 (2) External Applicants for Non-Gaming Positions. An external applicant receiving  
235 a confirmed positive test result for THC may qualify for employment if the position  
236 has not been identified as an employee position which waived the exemption for  
237 positive THC test results.

238 (A) The Oneida Business Committee shall adopt through resolution a list of  
239 all the non-gaming employment positions that waive the exemption for  
240 positive THC test results.

241 202.8-5. Each employee shall participate in reasonable suspicion and follow-up testing upon the  
242 request of an appropriate authority. A negative test result is required for unimpeded employment  
243 eligibility.

244 202.8-6. *Dilution of Test Results.* In cases where a drug test result is diluted, a positive dilute of the  
245 test result requires that the applicant or employee shall be given a confirmed positive test result,  
246 while a negative dilute of the test result requires retesting. EHN shall notify the applicant or  
247 employee of the required retesting.

248 (a) If the re-test results in a negative-dilute, the applicant or employee shall be given a  
249 negative test result.

250 (b) If the re-test results in a positive-dilute, then the applicant or employee shall be given a  
251 positive test result.

252

## 253 **202.9. Refusal to Test**

254 202.9-1. Refusal to test is prohibited behavior as defined in section 202.6. Refusal to test carries  
255 the same consequences as a confirmed positive test result. Examples of refusal to test include, but  
256 are not limited to:

257 (a) Substituting, adulterating (falsifying), or diluting the specimen.

258 (b) Refusal to sign the required forms.

259 (c) Refusal to cooperate in the testing process in such a way that prevents completion of  
260 accurate testing and as directed by the collector.

261 (d) Failing to remain at the testing site until the testing process is complete.

- 262 (e) Providing an insufficient sample of urine or breath.  
263 (f) Failing to test or to re-test.  
264 (g) Failing to appear within two (2) hours after an order or request is made for testing or re-  
265 testing.  
266 (h) Behaving in a confrontational or discourteous manner that disrupts the collection process.  
267

#### 268 **202.10. Reasonable Suspicion Testing Waiting Period**

269 202.10-1. This section applies only to current employees who meet the reasonable suspicion  
270 standard. It does not apply to applicants of the Nation.

271 202.10-2 During drug and alcohol testing for reasonable suspicion, an employee shall be  
272 immediately removed from duty without pay at the time of initiation of the reasonable suspicion  
273 drug and alcohol testing and specimen collection until the employer is notified by EHN of negative  
274 results on both the drug and alcohol tests, or MRO-verified negative test results.

275 202.10-3. When confirmation of test results are made available to the employer, the supervisor shall  
276 notify the employee by telephone and by certified mail using the contact information provided by  
277 the employee. The notice to the employee shall identify a reinstatement date if the test was  
278 confirmed negative, or applicable consequences if the test was confirmed positive. If the employee  
279 is reinstated, back pay shall be provided in accordance with the Back Pay law. However, if the  
280 employee fails to return to work on the assigned reinstatement date as instructed in the notice from  
281 the supervisor, the supervisor shall discipline the employee in accordance with the Nation's laws,  
282 rules and policies governing employment, unless an extension is granted in writing by the supervisor  
283 along with the reason for the extension. An employee who is ultimately terminated for failure to  
284 return to work on his or her assigned reinstatement date shall not be eligible for employment for one  
285 (1) year after the date of termination.  
286

#### 287 **202.11. Consequences for Prohibited Behavior**

288 202.11-1. Either an internal applicant or an external applicant may decline the position at any time  
289 before being directed to EHN or other designated testing site for the applicant's drug and alcohol  
290 testing.

291 202.11-2. *External Applicant.* If an external applicant fails to show at the testing site within the  
292 time allotted, or on the date of the scheduled test, or has engaged in prohibited behavior as listed at  
293 section 202.6 that has been documented, the employment offer shall be withdrawn. An external  
294 applicant shall not be eligible for hiring consideration for one hundred eighty (180) days from the  
295 date of the urine drug screening test.

296 202.11-3. *Internal Applicant.* If an internal applicant fails to show at the testing site within the time  
297 allotted, or on the date of the scheduled test, or has engaged in prohibited behavior as listed at section  
298 202.6, the employment offer shall be withdrawn. The applicant shall be removed from duty and  
299 subject to respective consequences of this law. The applicant shall not be eligible for hiring  
300 consideration in a different position for one hundred eighty (180) days from the date of the urine  
301 drug screening test.

302 202.11-4. *Employee.* If an employee has engaged in prohibited behavior as listed in section 202.6-  
303 1, and/or fails to cooperate by not responding to contact from the MRO within ten (10) business days  
304 (which shall be deemed thereafter as a definite positive test), the employee shall be removed from  
305 duty and subject to the respective consequences of this law.

306 202.11-5. *Consequences.*

- 307 (a) *First Violation.*  
308 (1) Any employee who engages in prohibited behavior as defined in section 202.6  
309 for the first time shall be removed from duty without pay and shall receive a  
310 mandatory referral to ONEAP for an assessment. The ONEAP shall also determine  
311 if the employee shall be subject to return-to-duty/follow-up testing. If follow-up  
312 testing is required, the testing shall be at the employee's expense.  
313 (2) The employee shall sign a Return-to-Work Agreement and submit the agreement  
314 to his or her supervisor within ten (10) days or the employee shall be terminated and  
315 ineligible for re-hire for one (1) year.  
316 (A) When the supervisor signs the Return-to-Work Agreement the employee  
317 shall be placed back on the work schedule by the next regularly scheduled  
318 workday.  
319 (3) Failure to comply with the signed Return-to-Work Agreement shall result in the  
320 employee being terminated and ineligible for re-hire for one (1) year.
- 321 (b) *Second Violation.*  
322 (1) Any employee who engages in prohibited behavior as defined in section 202.6 a  
323 second time within his or her lifetime of employment with the Nation shall be  
324 removed from duty without pay and shall receive a mandatory referral to ONEAP for  
325 an assessment.  
326 (2) The employee shall sign a Return-to-Work Agreement and submit it to the  
327 employee's supervisor for signature within ten (10) days or the employee shall be  
328 terminated and ineligible for re-hire for one (1) year. After a second violation the  
329 employee shall not be placed back on the work schedule until:  
330 (A) The employee receives approval from the ONEAP that they have  
331 demonstrated sufficient progress in a treatment program that would indicate  
332 the employee is drug and alcohol free within thirty (30) days of the employee  
333 being removed from duty; and  
334 (B) The employee completes a return-to-duty drug screening and alcohol test  
335 at a SAMHSA-certified facility at their own expense, which shall be negative  
336 within thirty (30) days of the employee being removed from duty;  
337 (C) The ONEAP notifies the supervisor of the employee's eligibility to return  
338 to work.  
339 (3) As a condition of continuing employment, the employee shall participate in  
340 follow-up testing with continued negative results as directed by the ONEAP and  
341 listed in the Return-to-Work Agreement. All follow-up testing shall be at the  
342 employee's expense.  
343 (4) Failure to comply with the Return-to-Work agreement or follow up testing shall  
344 result in the employee being terminated and ineligible for re-hire for one (1) year.
- 345 (c) *Third Violation.*  
346 (1) Any employee who engages in prohibited behavior as defined in section 202.6 a  
347 third time in his or her lifetime of employment with the Nation shall be terminated.  
348 The employee shall not be eligible for employment unless he or she receives a  
349 forgiveness pursuant to the Pardon and Forgiveness law. An employee that receives  
350 forgiveness shall not be eligible for re-hire for one (1) year after the date of  
351 termination.

352  
353 **202.12. Re-hire**  
354 202.12-1. A former employee that was terminated due to violations of this law shall provide, along  
355 with the former employee’s application for employment, the following:  
356 (a) Proof of completion of a certified Alcohol and Other Drug Abuse program; and  
357 (b) A negative drug screening and alcohol test at a SAMHSA-certified facility completed  
358 within the last thirty (30) days. This drug screening and alcohol test shall be done at the  
359 former employee’s own expense.

360  
361 **202.13. Other Potential Consequences**

362 202.13-1. The violation of this law may result in consequences to the employee beyond any  
363 discipline or corrective action that may be taken. Other potential consequences include the  
364 following:  
365 (a) *Disqualification of Unemployment Benefits.* An employee who is terminated as a result  
366 of a violation of this law may be ineligible for unemployment benefits.  
367 (b) *Reduction of Workers Compensation Benefits.* An employee who incurs an injury in a  
368 work-related accident that occurred while engaged in a violation of this law may have any  
369 workers compensation benefits reduced.  
370 (c) *Criminal Penalties.* An employee whose conduct violates state or federal criminal laws  
371 may be referred to appropriate law enforcement for criminal prosecution.  
372 (d) *Liability for Accidents.* An employee whose conduct in violation of this law causes an  
373 accident may be held personally responsible for losses associated with the accident, and the  
374 employee may be required to pay for those losses.

375  
376 **202.14. Confidentiality**

377 202.14-1. Information related to the application of this law is confidential. Access to this  
378 information is limited to those who have a legitimate “need to know” in compliance with relevant  
379 laws and personnel policies and procedures.  
380 202.14-2. All drug and alcohol testing information shall be maintained at EHN in confidential  
381 records which are separate from the employee’s clinical and personnel files. The employee may  
382 request a copy of the employee’s records. The records may be requested by a third party in  
383 accordance with the Oneida Nation’s laws, rules and policies governing employment.

384  
385 **202.15. Communication**

386 202.15-1. HRD shall communicate this law to all employees to ensure all employees are aware of  
387 their role in supporting this law:  
388 (a) All employees shall be given information on how to access this law.  
389 (b) This law shall be reviewed in new employee orientation and other means, as deemed  
390 appropriate by HRD.  
391 (c) All employees shall sign an acknowledgment form stating they have received a copy of  
392 this law, have read and understand it, and agree to follow this law.

393  
394 *End.*

396 See GTC-01-31-94-B  
397 Adopted – BC-08-17-94



- 398 Emergency Amended - BC-04-20-95-C
- 399 Adopted - BC-10-25-95-A (repealed previous versions)
- 400 Amended - BC-10-20-99-A
- 401 Amended - BC-12-05-07-B
- 402 Amended - BC-12-11-13-F
- 403 Emergency Amended - BC-10-26-16-D
- 404 Amended - BC-04-12-17-C
- 405 ~~Amended - BC- - - -~~
- 406



**LEGISLATIVE OPERATING COMMITTEE  
PUBLIC MEETING**  
**Drug and Alcohol Free Workplace Law Amendments**  
Norbert Hill Center Business Committee Conference Room and Microsoft Teams  
February 15, 2023 12:15 p.m.

**Present:** Jennifer Webster, Kirby Metoxen, Clorissa N. Leeman, Grace Elliott, Brooke Doxtator, Nancy Barton, Linda Dallas, Cathy L. Metoxen. Microsoft Teams: Carol Silva, Dana Thyssen, Jessica Vandekamp, Joy Salzwedel, Kristal Hill, Lucy Neville, Mark Powless, Mary Graves, Mike Debraska, Monica Doxtator, Peggy Van Gheem, Robert Sundquist, Sidney White, Carrie Lindsay, Kristen Jorgenson-Dann, Rachel Fitzpatrick, Stefanie Reinke, Sherrole Benton.

**Jennifer Webster:** Good Afternoon. The time is 12:15 p.m. and today's date is Wednesday, February 15, 2023. I'll now call to order the public meeting for the proposed amendments to the Drug and Alcohol Free Workplace law amendments.

Anything you can do about the echo?

Okay, 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 Wednesday, February 22, 2023.

In attendance from the LOC is myself Jenny Webster and Council member Kirby Metoxen.

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 person. This time limit shall be applied equally to all persons.

We will now begin today's public meeting for the proposed amendments to the Drug and Alcohol Free Workplace law.

The purpose of the Drug and Alcohol Free Workplace law is to establish a drug and alcohol-free workplace program that balances respect for individuals with the need to maintain an alcohol and drug-free environment. Amendments to this law are being proposed to provide that an external applicant's confirmed positive THC test result shall be exempted from the requirement of a negative drug test result for pre-employment eligibility in certain circumstances.

Those who wish to speak please come to the microphone in the room, or you can raise your hand if you're on Zoom. Please state your name when making a comment.

First up to speak is Nancy Barton. Nancy, go ahead. You have five (5) minutes. Kirby, if you could do the timer.

**Nancy Barton:** I wanted to participate today in the Drug and Alcohol Free Workplace law amendments. I haven't participated recently in the LOC. I go back as far as ten (10) years when Doug McIntyre worked in the LOC office and the issues at that time were we were part, people were participating in the public hearing and in the written comments. And at that time it was a common. I guess the dialogue that the Community members are general tribal Council members felt like they're participation wasn't being taken seriously and so that was one of the reasons why I discontinued my participation in the in the LOC process, specifically speaking about this law. You know, I did question how many active files were on the LOC list, and I'm concerned about this coming forward. There today I received a notice that on the quality of life agenda there was a request to pursue developing a detox and treatment center. After reading this law, there was no fiscal impact included, and I'm concerned about that because all of this would include liability and what is the risk of our employees coming to work under the influence of THC? I believe that each and every person has the right to do things that they wanna do in their own personal life. But when you are an employee. Being an employee is a privilege and we have a reputation. We have integrity. And the entities that are, I'm afraid that it will protect it would not protect would be retail gaming. Those people who operate vehicles and are heavy equipment. I also have with me a application for elected positions and one of the questions on Page 3 at the bottom #7 is they ask you specifically. If within the last five years you've used illegal drugs and THC is included in that in the state of Wisconsin marijuana, anything that taste test positive for THC is still illegal. So for the business committee to allow this to come forward was very concerning to me that the business committee or the LOC would allow something that's illegal. And I don't know if you're endorsing

it or how this got here. My understanding was that it was a negotiation for a petition that was submitted to go to GTC. But going back to the application for elected boards and ask you specifically if you've used controlled substances and it says, for example, marijuana, cocaine, crack cocaine, hash, narcotics and it asks you to answer yes or no to that question. So I I was very concerned about when I saw this law coming forward, I. You know, try to talk to my grandchildren and my children, you know about the use of drugs and about being clean and about having a sober environment and home and lifestyle. And so this was very concerning to me that we would be wasting time at the LOC. It seemed like a very selfish. Umm. Law to come forward because you know, I don't think that it's common that people would agree to having this law come forward. There's, you know, two people here today. So those were the reasons why I decided to come here today and offer my my public comments. So thank you.

**Jennifer Webster:** Thank you, Nancy. Is there anybody else in the room that would like to speak before I go to the online? Nobody's coming forward, so online I see. Mike, wouldn't you state your name? And your you can go ahead and thank you.

**Mike Debraska:** Thank you, Michael Debraska an Oneida roll 10 number 10738. I have a number of reasons for wanting to comment on this particular amendment to the drug and alcohol policy changes. First off, I don't believe that there should be any changes made to this current drug and alcohol policy. Instead of eliminating the testing for marijuana, I believe we should be having more people subjected to it and having it done specifically for the casino, I think. Poses of a real detriment to the nation. What happens if somebody comes in high? And something happens. It's, as Nancy said, it's not only a liability issue. They are subjecting our money, making revenue stream to all kinds of issues. And I just don't believe this is a very good idea at all. I had a list of questions like 9 or 10 different questions, but I'm just. I'm gonna submit those via e-mail, but there are some things that I I took a look at within the drafts and within this law itself and I noticed one thing in Section 3 under the analysis, to draft one on page 2 at the top from line 16 through 25, it says representatives from the following departments or entities participated in the development of the amendments to the law. And this legislative analysis, including the Oneida Law Office, Human Resources Department, gaming and employee health nursing. So, I mean, they went through a pretty extensive list with within within the tribal structure itself. But the one thing that wasn't included on here was GTC. And again, I know this was done by way a petition, but I haven't seen a copy of the petition that was submitted. I don't know if a petition ever was submitted. It could be something that's just told to us and there's no justification for it. So I I and within my comments, I also state that that I would like to see a copy of that. Umm, particular petition that was turned in for this? Additionally, there were some comments at lines 58 and 59 on page four of the analysis. Hold on and that states. But the law required the law, then requires the unite of Business committee to adopt, through a resolution, a resolution, a list of all non gaming employment positions that waive the exemption for positive THC results. The law then maintains that requirement that each employee shall participate in reasonable suspicion and follow up testing upon the request of an

appropriate authority. And that a negative test result is required to unimpeded is an impediment employment eligibility. So I just, I don't know, I I look at this and I say I think we're treading on some real real dangerous ground here. And I think this is going to be a very slippery slope for the tribe if they were to go ahead with us. So Umm, but as I said I'm, I'm just I'm not in favor of this. If anything, we should be expanding that list, not trying to do away with it. And as I understand, and again, I don't know. I know there's a labor shortage, but to lower the standards to this, I think especially for our money making operation I think is truly dangerous. So and I have submitted my my questions via online in a Microsoft Word document that I sent them to the LOC e-mail address. Thank you.

**Jennifer Webster:** If there anybody online or in the room that would provide that would like to provide comments? Sherrole Benton, your hand is raised, please state your name and go ahead.

**Sherrole Benton:** Sherrole Benton. I'm the author of this petition, and when I wrote it. Uh, we. We were looking at the states around us, Umm, legalizing marijuana. And so eventually, the legalization of marijuana will will be well will happen in our state as well. So the reason why I wrote the petition for pre employment testing and not looking for THC during pre employment. It's so that more, you know, more qualified people could be interviewed and hired for a positions. THC stays in the body in the body, it's stored in the fat cells of the body for up to seven years. So like you know, if a person had had been using, you know, a month ago or a year ago or several years ago, that's possibly gonna show up in a THC test, whereas other drugs and alcohol that are water soluble, those are washed out of the system within 24 to 72 hours. So people who are using harder drugs, like meth and heroin and other narcotics, they're they're they're passing those pre screening during pre employment testing. And they're the ones who are getting. That jobs, and then once they are in a job, you know, they become unreliable employees and you know a lot of supervisors that I talked with when I wrote this petition were really frustrated about that. And they said. They really wouldn't mind if someone who had tested positive for THC got through the screening process and they could interview them, you know, and then have them on the probationary period for employment. So and and as you can see in in in the in the law, once a person is employed, they would still be subject to in drug testing. You know, if there behavior and performance level are are not up to par. So in that particular meeting where my where my petition was presented the, the, the, the room was pretty full. There were a lot of people there who were waiting to hear my petition and who I believe would have supported it and passed it. So This is why there was some kind of technicality that the some of the BC members at the time wanted to try out with some new GTC rules. And I agreed to that. So it ended up that my my petition wasn't heard in that particular GTC meeting, you know, like about five or six years ago. So This is why it's now been being developed this way. So I think that even if it, even if my petition were to go to the GTC meeting, I believe it would pass and then the BC and the organization would be doing this work anyways to amend the the the drug law policy. So I'm in support of it and I believe that many, many people are as well because we all know that. You know a person who is who is using

meth or heroin or other narcotics. You know, once they are on the job, they become unreliable. And this is this is affecting our revenue, it's affecting the quality and leadership and development of our employees. And so I think it's important to pass it, you know to to continue working on this and amend the law. Thank you.

**Jennifer Webster:** Thank you Sherrole. Is there anybody else online or in the room that would like to speak? Cathy, did you want to speak? Would you like to Cathy? Okay, go ahead, you have five (5) minutes. Kirby, if you can start the timer.

Cathy, if you try the other speaker.

**Cathy Metoxen:** you, you stopped the clock?

**Jennifer Webster:** Cathy, if you want some time, I do have somebody online that would like to speak, let them speak, okay.

**Cathy Metoxen:** Sorry.

**Jennifer Webster:** No worries. We can come back to you. Okay, online I see Mary Graves. State your name and please go ahead.

**Mary Graves:** I'm Mary graves. Hi. I just have a I don't know if I have a comment or if I have a question, but I am not in support of taking THC off of. Umm, the pre employment drug screening and the proposed amendment has some listings for gaming as far as if the position mandates a background check or licensing and doesn't require a commercial driver's license. But for the external or not the non gaming positions, none of those things are required and I don't know how those things being required have anything to do with. A drug test because if you are smoking pot, that's not gonna show up on a background check unless you've been arrested, it's not gonna show up in the licensing application, and you probably already have your CDL, so it won't show up on that. So I don't know how putting those provisions in there addresses anything, and I'm concerned about the. Umm. You can buy weed now. Whether you're smoke it regular or you get it in a cartridge and vape it. Or you can put it under your tongue in a tincture. There's 100 different ways. That's an exaggeration that you can ingest THC. And there's just as many ways that you can. Counter act. The effects and be the drug test. So. I don't want to open the door to potentially employees using a tincture or. Vaping on their break and opening that door to it's OK. I passed my employment and as long as I don't act suspicious, nothing will happen to me and I don't know a lot about the drug itself. But I do have a friend that uses and when that person uses they are more focused than they were prior to, so a supervisor wouldn't necessarily know that they were higher than a kite. So those are my concerns and thank you.

**Jennifer Webster:** Thank you Mary. Cathy Metoxen, now you're prepared. Please state your name and go ahead.

**Cathy Metoxen:** Cathy L. Metoxen. I remember being here years ago and I'm going to raise the same questions I raised back then again and one of the things that I look at is, is it gonna be across the board? Is it gonna be fair and equal? I'd like to know is there something specific in here about government officials and administration? You know, the administration, you know, top management, you know, because I've been in situations in this room where I've observed, you know, BC members staggering. And I hear, you know, the, the, the word is out there rumors and when people smell of alcohol the day after partying or something. I mean that all coincides together. And it's the same for. Marijuana, or THC or whatever it is you're looking at. And then I got a question too, is that? It's OK to use it if that's my understanding of what you're. Creating this new amendment for is, does that include the doctors and the specialists and the nurses and everybody? It's gonna be OK for everybody across the board. And if I have a suspicion in this room in the middle of a meeting, can I stop the meeting and request that an individual sitting here at these tables here go to Saint Mary's and get tested just like an employees treated? How do we go about acting in a situation such as that? And is that being looked at and included? Because there is a lot. Lot of things I I've. Oh, it doesn't sound like it. Umm, I've had a situations where I was with somebody and we dropped somebody off at a place where they go get tested and there was a guy walking funny. And I go what's wrong with him? And they said Ohh, he's probably got fake, you know, something on him for his test, you know, so there's all kinds of ways that people look to beat the system, so to speak. So I'm wondering how is that going to be looked at and included in this document for all of the above, including each and every business committee member and their assistance. Because people laugh about it. Of course it's funny, you know. But but people are more willing to sit behind closed doors and gossip and laugh about it than to actually deal with it because nobody wants to deal with family and friends. So that's a situation that I think needs to be included in here and I wanna be able to next time I see somebody who's acting suspicious. And according to this document, it says maybe under the influence of drugs and or alcohol. So specific observations concerning appearance, behavior, speech, or body orders well. If you can't even create a law for to protect our elderly cause, my understanding is there is no law specific to elder abuse right now, and I was helping people for 20 years. How are you gonna do a lot like this? That's gonna be fair and easy and simple to do because it's not a simple thing. And I don't, I don't agree with it either. There's not enough conversation about the situation and I'd like to be able to say I remember when so and so staggered down those steps. In the middle of a meeting, what's gonna happen in that situation? It should have been the people sitting next to him that could smell the Reek Ness. Because I heard it reeks up here, sometimes on individuals. And who's gonna actually do it and take care of it? Are you just using it to set up certain individuals? That's my question in my mind, through this whole thing, this needs to be more clearly looked at and taken apart, I would say. I guess that's all I have to say for now.

**Jennifer Webster:** Thank you Cathy, Next online we have Mark Powless. Mark, state your name, please go ahead.

**Mark Powless:** Thank you for the opportunity to speak. Mark Powless, general manager. I just want to state for the record that the areas that report to the general manager and I'll I'll run through those quickly, Big Bear Media, Comprehensive Health Division, Comprehensive Housing division, digital technology services, education and Training branch office, environmental, health, safety, land and Agriculture division, Governmental Services Division, Division of Public Works and. Tribal action plan we all met collectively to talk on this topic. All areas unanimously are opposed to allowing the hiring of individuals that test positive for THC. There are a number of of health factors and safety factors in our workplaces where we do not want to take the risk of having an individual under the influence of THC. Working in our workspaces, so again the areas reporting to the general manager unanimously are opposed to hiring any individuals that test positive for THC. Also, one additional note from a social aspect, there is a challenge with sending a message to our community that it is OK to use marijuana, particularly for our youth. Who can be negatively impacted in their physical and emotional development through the use of early marijuana use? It is very challenging for us to send that message to the Community that it's OK to use marijuana regardless of whether or not marijuana is approved in the state or not approved in the state. There are particular health factors for our youth when it comes to using. Marijuana. Thank you.

**Jennifer Webster:** Thank you Mark. Clorissa, question for clarification. Are participants able to speak twice? Sherrole has her hand up again. Do we have a limit?

**Sherrole Benton:** Jenny, I'm sorry. I forgot to lower my hand from the first time.

**Jennifer Webster:** Oh, okay, alright. Is there anybody else that would like to provide comments this morning? Seeing nobody at the mic in the room or signed up, I see nobody online that is rady with the hand raised us to share comments. But what they're being no more speakers. The public meeting for the proposed drug and alcohol free workplace is now closed at 12:43 PM. Again, written comments may be submitted until close of business day on Thursday, February 22nd, 2023, thank you for attending and have a good day.

**-End of Meeting-**



**From:** [Lisa A. Liggins](#)  
**To:** [LOC](#)  
**Subject:** Public Comment on DRUG AND ALCOHOL FREE WORKPLACE LAW AMENDMENTS  
**Date:** Wednesday, February 15, 2023 3:04:43 PM

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### Draft 1(Redline to Current) – PM Draft 2023 02 15

- I'd like to share my general support for the proposed amendments to the law. I appreciate the work done by the Oneida Law Office, the Human Resources Department, Gaming, and Employee Health Nursing; I'm confident these proposed amendments will address the concerns raised by Sherrole Benton from her 2016 petition as well as the concerns raised by Gaming Management surrounding pre-employment drug screening.
- Clarification of the "Internal Applicant" is needed.
  - The proposed changes to section 202.8-4. would require *external applicants* comply with pre-employment drug screening,
  - If the intent of the amendments to 202.8-4. is that pre-employment drug screening is **only** for external applicants, the term, "internal applicant" could be deleted from the law entirely.
    - "Internal applicant" is defined in the law, then referenced in the sections regarding the application of the law and the regarding consequences for prohibited behavior.
    - Line 51 – definition of "internal applicant"
    - Line 287 – Section 202.11-1. references "internal applicant" declining a position before being directed to a testing site.
      - However if an "internal applicant" is no longer required to comply with pre-employment testing, this language should be revised and/or reference to "internal applicant" should be deleted.
    - Line 295 – Section 202.11-3. references consequences and "internal applicant" would face if they fail to show at the testing site as provided in the law.
      - However if an "internal applicant" is no longer required to comply with pre-employment testing, this language should be revised and/or reference to "internal applicant" should be deleted.
  - If the intent of the amendments to 202.8-4. is that pre-employment drug screening is **only** for external applicants *and* internal applicants, then language in 202.8-4. should be revised.

Lisa Liggins  
Secretary  
Oneida Business Committee

**TO:** LOC **\*\*VIA E-MAIL\*\***

**FROM:** Michael T. Debraska – Oneida Roll #10738

**DATE:** February 15, 2023

**RE:** Written comments on requested Drug & Alcohol Policy Changes

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I do not believe there should be any changes made to the current Drug & Alcohol Policy of the Oneida Nation with respect to the usage and testing for marijuana until the following comments and questions are answered properly. The comments and questions are as follows:

1. Currently, recreational use of marijuana is illegal in the State of Wisconsin. While medical, in certain instances is allowable for specific diseases, it will have a detrimental affect on the employment base and cause more dissention among employees, fund units, and departments as to who will be tested and when; and
2. Who authorized the current Oneida Business Committee to negotiate with a petitioner and under what policy, procedure, SOP, by-law or law? I would also like a copy of the petition that was submitted to the BC for proof that a community member submitted one; and
3. If the tribe no longer wishes to test or screen for the recreational use of marijuana of those who seek current and future employment with the tribe, could it affect the Gaming Compact with the State of Wisconsin? and
4. Will the tribe attempting to change the current Drug & Alcohol policy affect current and future grant monies should the state be notified of this possible change? and
5. Which departments and/or fund units will no longer have the testing/screening for possible marijuana use? and
6. If police, first responders, and medical staff---this law will not apply to them or they are exempt, If specific employees, fund units, or departments could potentially be exempt from the testing, then isn't the tribe causing dissention amongst the employees, fund units and departments; and
7. Why is the tribe even considering doing this for one individual brining forward what should have been deemed an illegal petition and denied immediately due to recreational use being illegal in the State of Wisconsin?
8. When will the requested changes be brought forward to General Tribal Council for their input and consideration, if at all, since many other departments and members of management were consulted? and;
9. How will this potential change in testing to the current Drug & Alcohol Policy affect gaming if their employees are allowed to come into work high and potentially risk the damage of the reputation to our money making revenue source of the nation?

When the current questions and comments above are answered satisfactorily, then I may consider changing my view. Until then, if the LOC and BC seriously consider this change, it will all be brought forward by way of petition to be in front of GTC for their input along with the original requestor's name being used and the BC members who supported this idea.

Page 1 – Lines 17-18

Line 24

Page 2 – Lines 15-24    Sec. 3 Consolidation and Outreach

Page 4 – Lines 58-59    Sec. 7 – Other Considerations

Lines 89-92

Greetings, I would like to submit my comments for the **DRUG AND ALCOHOL-FREE WORKPLACE LAW AMENDMENTS**. I support the 'exemption for positive THC Test' in 202.8-4. In my professional role, community members share that THC is an effective alternative to prescription opioids in managing chronic pain. I personally observed the onset of the Opioid Crisis directly affecting our Oneida Nation, and greater northeastern Wisconsin Native, community in the past 15+ years of practice. The proliferation of providers freely providing prescription opioids was a direct contributing factor to the epidemic in our community. There are reasons bills were introduced such as H.R. 2917 (IH) - Opioid Crisis Accountability Act of 2019, S.2680 - Opioid Crisis Response Act of 2018, and the Support for Patients and Communities Act. The onset and cessation of prescription opioid abuse directly correlated with increased methamphetamine and heroin use within the area.

This created a subset of people that have effectively recovered from opioid use and methamphetamine/heroin use. In my clinical practice there is a significant amount of community members that suffer from chronic pain syndromes. Many community members have been through the system regarding pain management. Due to their recovery from opioid abuse, they have extreme trepidation and reluctance with prescription narcotics in management of their chronic pain conditions. THC provides these patients the opportunity to effectively manage their chronic pain conditions with avoidance of traditional medicine and low-grade long-term narcotic use. It allows our community members to become more physically active within the community as their pain is self-reported as managed better. The fear of relapse is a very real threat for this population with traditional medicine. The alternative for this subset is THC and managed chronic pain conditions or non-THC and increased pain and dysfunction.

Studies have consistently shown that with managing chronic pain, graded activity, and integration back into the work force consistently generates improved patient outcomes and wellbeing. It is my hope that an 'exemption for positive THC test' would allow the recovering opioid addict that successfully manages chronic pain with THC use the opportunity to return to the Oneida Nation workforce.

Thank you for your time and consideration of my public comments regarding the proposed amendments.

Sincerely,

Sidney J. White

1.

2/21/23

To: Canada Nation Legislative Operating Comm.

Public Comments submitted in Reference to Amendments to Drug & Alcohol Free Workplace Law.

I respectfully request that these comments would be seriously considered in the decision making for the above law. I do not have a computer and also have arthritis in my hands.

When I first heard that a petition was submitted to "exempt" applicants/potential employees from positive THC test results, which I understand that this positive result would not prevent one from employment.

I was immediately concerned that the Canada Nation would be taking steps backwards in the already difficult job of fighting drugs.

Many people have been extremely concerned about drug use and how it has progressed from THC to ~~can~~ consuming our people what has led to the "hard stuff."

2.

The efforts to combat drug use began many years ago, alcohol ~~by~~ being the worst enemy then and now. ~~Our~~ Our community has drugs more dangerous and impairing of the body and mind, results being that drugs, including THC have been just the beginning of the worst, pentamyl etc.

Now someone wants to remove protections in place to weaken the goals of a "Drug Free" Community. Why would we need to change those efforts now when the law before us is only ~~an~~ one significant part of the entire fight to combat what is dangerous to ~~our~~ everyone.

These comments come from my many years (83) of experience working elsewhere and with the growth of our Oneida Nation. Also, I asked many people I know: family, friends, and professionals; mothers who have lost loved ones. THC seemed to be the introduction to the worst drugs. There is nothing that the THC + Alcohol anything to our quality of life or sovereignty to the Oneida Nation.

30

The Drug lords (Dealers) persuade the innocent that it is OK to acquire a better "High" and the Sadness begins in other words we as a Nation have lost those with Addictions.

The Nation Chiefs and traditionalists say drug use is not Native, there is no Association to any tribal Ceremonies. It is a mind changer and impairs judgment; experts who have done testing also find that by observation THC affects performance, slow reactions and ineffectual in decision making. During my Experiences & Education I observed these behaviors for which we should all be informed about so we don't have ~~to~~ ~~the~~ issues beginning with THC, & observing those who may be under the influence, we can't stand by while THC & Other Drugs take away our resources for Okeida people.

Are we promoting drug use & impairment on the job. Is it now OK to be affected & serve our <sup>one who's</sup> customers, taking care of babies. Under the influence pertains to almost every job. (2000+)

THC as used as ~~meds~~ 3/4  
 "Recreational" has effects lasting 28 days  
 If the petition passes the employee  
 Can "light up" just before work..

I support the efforts of the  
 Medical & Scientific Research as  
 a valuable medical treatment, lawful  
 & legal and well regulated. If all  
 good intentions are used we can let  
 the expert forces do their job  
 Also CBQ and hemp have nothing  
 to do with THC if done right.

What about Risk Management. Hopefully  
 we can get their opinion? How do  
 impaired employees affect risks overall  
 Is it OK to be impaired while  
 responsible for our valuable resources?

We are experiencing/expressing Sovereignty  
 by having the Drug + Alcohol Workplace  
 Law. ~~We~~ Many people have tried  
 & succeeded the difficult ~~task~~ test of  
 Working toward the "Drug Free Environment"  
 This effort sounds impossible at times  
 since we know we have it all around  
 us. We're losing future leaders and talents  
 of promising youth, whom we count on  
 to ~~be~~ be our future leaders



1

(B) (5)

If the petition request is passed it will be a major "Step backward" to having the "Good mind, ~~Body~~ Body + Spirit". Please consider that over 2000 Employees are entrusted with the Care of Assets that flow through our enterprises daily, our Well-being, our babies, elders, our future,

Where + When will a decision ~~will~~ be made? I hope ASAP?  
 A no ~~no~~ vote can be done/upheld by strong leadership of the LOC BC and/or GTC.

I also support Random Drug testing, Although not specific to the petition, it is part of the overall fight against the fight. This effort was tried in the 90's but didn't ~~it~~ well <sup>enough</sup> to continue the effort, due to supposed legal issues. Drug testing (for many other drugs) is not considered to violate anyone's rights, only to protect the tribe + employees as well as customers who may be served by impaired individuals.

If this petition is passed and we are trying to fight the overall fight on drugs then what are we doing to all the efforts done now + in the future for a Drug free oneida?

46

We will have defeated the purpose.  
 Much work is ahead in those efforts!  
 Why give up or change now?  
 We cannot go backward!

I respectfully submit my comments  
 to you as decision makers.

I lived in Chicago for 14 years, found  
 a husband <sup>and</sup> kids but always wanted  
 to go home. Then I realized my  
 family ~~was~~ and home <sup>in</sup> would be  
 good for us, and it is.

Many years of experience/employment  
 in Chicago & Ohio, ~~and~~ therefore I feel  
 that <sup>the</sup> ~~background~~ <sup>background</sup> my comments above allows  
 me the ~~background~~ background to share

with you the DOC. Also please  
 consider that I gathered much information  
 from family, friend & professionals,  
 especially focused on those who

experienced the effects of those they  
 loved & sometimes lost. THC was  
 always just the beginning as loved ones  
 advanced to the "hard stuff".

We must find the sellers as <sup>an</sup>  
 important part of the fight <sup>the most dangerous</sup>

If you need me to decipher the above, I will  
 keep as needed

The Utmost Thank you for your  
 decision making authority to do the best  
 for Ohio

720-869-2294





Legislative Operating Committee  
December 20, 2023

# OnΛyoteʔa·ká niʔi Commission Bylaws

<b>Submission Date:</b> 11/1/23	<b>Public Meeting:</b> N/A
<b>LOC Sponsor:</b> Jameson Wilson	<b>Emergency Enacted:</b> N/A <b>Expires:</b> N/A

**Summary:** *On July 24, 2023 the General Tribal Council adopted a motion to support the OnΛyoteʔa·ká niʔi Project Plan, and directed the Oneida Business Committee to create a board, committee, or commission to manage the Project Plan in accordance with the Boards, Committees, and Commissions law.*

**11/1/23 LOC:** Motion by Jennifer Webster to add the OnΛyoteʔa·ká niʔi Commission Bylaws to the Active Files List with Jameson Wilson as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

**11/1/23:** *Work Meeting.* Present: Jameson Wilson, Kirby Metoxen, Jennifer Webster, Marlon Skenandore, Jonas Hill, Clorissa Leeman, Grace Elliott, Fawn Cottrell, Kristal Hill, Maureen Perkins. The purpose of the discussion during this work meeting was to set a priority for this legislative item. The LOC designated this as a high priority.

**11/2/23:** *Business Committee Work Session.* Present: Tehassi Hill, Brandon Yellowbird-Stevens, Lisa Liggins, Larry Barton, Jameson Wilson, Kirby Metoxen, Jonas Hill, Marlon Skenandore, Clorissa Leeman, Aliskwet Ellis, Danelle Wilson, Fawn Billie, Fawn Cottrell, Jo Anne House, Keith Doxtator, Kristal Hill, Kristine Hill, Maureen Perkins, Melinda Danforth, Rhiannon Metoxen, Lisa Summers. The OBC discussed next steps for moving the OnΛyoteʔa·ká niʔi Project Plan forward and how the LOC will now be developing the bylaws. Discussed the need to get the bylaws adopted and the Commission set up so that they can be involved in the preparation of the Project Plan to the GTC. The OBC discussed various issues in the proposed bylaws that may need to be addressed.

**11/27/23:** *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Marlon Skenandore, Jonas Hill, Clorissa Leeman, Grace Elliott, Fawn Cottrell, Maureen Perkins. The purpose of this work meeting was to begin reviewing the draft bylaws.

**12/6/23:** *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Marlon Skenandore, Kirby Metoxen, Clorissa Leeman, Carolyn Salutz, Grace Elliott, Fawn Cottrell, Maureen Perkins, Kristal Hill. The purpose of this work meeting was to continue reviewing the draft bylaws.

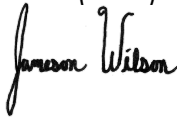
## Next Steps:

- Remove the OnΛyoteʔa·ká niʔi Commission Bylaws from the Active Files List.



## Memorandum

To: Legislative Operating Committee (LOC)

From: Jameson Wilson, LOC Chair 

Date: December 7<sup>th</sup>, 2023

Re: Request to remove the On<sup>^</sup>yote a<sup>^</sup>ka ni<sup>?</sup>i Commission Bylaws from the Active Files List

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The purpose of this request is to ask the LOC to remove the On<sup>^</sup>yote a<sup>^</sup>ka ni<sup>?</sup>i Commission Bylaws from the Active Files List.

### **Background:**

On Wednesday, November 1, 2023, the LOC added the On<sup>^</sup>yote a<sup>^</sup>ka ni<sup>?</sup>i Commission Bylaws to the LOC's Active Files List with Jameson Wilson, LOC Chair, as the sponsor of that legislation. On Wednesday, December 6, 2023, the LOC reviewed and made changes to the draft On<sup>^</sup>yote a<sup>^</sup>ka ni<sup>?</sup>i Commission Bylaws. After further consideration on identifying the most effective and efficient method for creating an entity that will manage the On<sup>^</sup>yote a<sup>^</sup>ka ni<sup>?</sup>i Project Plan, it is suggested to develop a charter as a standing committee of the Oneida Business Committee (OBC).

Creating a charter instead of a Board, Committee or Commission (BCC) will address some of the concerns the LOC had with creating an entity under the BCCs law. Furthermore, the work that the LOC had completed regarding the changes made to the draft bylaws will be implemented in the development of the charter. The project team for the On<sup>^</sup>yote a<sup>^</sup>ka ni<sup>?</sup>i Project Plan will work on the creation of the charter and will be meeting on Thursday, December 14<sup>th</sup>, 2023 to discuss that prospect.

### **Requested Action:**

Remove the On<sup>^</sup>yote a<sup>^</sup>ka ni<sup>?</sup>i Commission Bylaws from the LOC's Active Files List at the LOC meeting on Wednesday, December 20, 2023.



## AGENDA REQUEST FORM

- 1) Request Date: November 13, 2023
- 2) Contact Person(s): Diane S Hill  
Dept: SEOTS  
Phone Number: 414-517-8097 Email: dhil@oneidanation.org
- 3) Agenda Title: SEOTS Bylaws
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
Update the Southeastern Wisconsin Oneida Tribal Services Advisory Board Bylaws  
\_\_\_\_\_  
\_\_\_\_\_

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

- |                                   |                               |
|-----------------------------------|-------------------------------|
| 1) <u>2020 02 12 SEOTS Bylaws</u> | 3) <u>Draft Bylaw changes</u> |
| 2) <u>2023 11 13 Memo to LOC</u>  | 4) _____                      |

- 5) Please list any laws, policies or resolutions that might be affected:  
Chapter 105 BCC Law, BC Resolution 04-13-22-B
- 6) Please list all other departments or person(s) you have brought your concern to:  
\_\_\_\_\_
- 7) Do you consider this request urgent?     Yes     No  
If yes, please indicate why:  
\_\_\_\_\_

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

Signature of Requester: *Diane Hill*

*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



## Memorandum

TO: Jameson Wilson, LOC Chair

FROM: Diane S Hill, SEOTS Chair

DATE: November 13, 2023

RE: Southeastern Wisconsin Oneida Tribal Services Advisory Board Bylaw Amendments

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The purpose of this memorandum is to request amendments to the Southeastern Wisconsin Oneida Tribal Services Advisory Board bylaws.

According to 7-1 of our bylaws we are required to review our bylaws on an annual basis. After reviewing the bylaws, we identified the following areas needing amendments:

- Updating to Article I., 1-7. Trainings and Conferences.
- Updates to Article II. Officers responsibilities.
- Updates to Article III. Meetings.
- Updates to Article V. Stipends and Compensation.
- Updates to Article VI. Records and Reporting.

Please note this isn't an all-inclusive list of changes as we anticipate there may be additional amendments as we go through the formal process.

*Diane Hill*

12/11/2023

## SOUTHEASTERN WISCONSIN ONEIDA TRIBAL SERVICES (SEOTS) ADVISORY BOARD BYLAWS

### Article I. Authority

- 1-1. *Name.* The name of this entity shall be the Southeastern Wisconsin Oneida Tribal Services (SEOTS) Advisory Board and may be referred to interchangeably as SEOTS or the Board.
- 1-2. *Establishment.* The Board was established through resolution BC-4-4-94-A, which was adopted by the Oneida Business Committee on April 4, 1994 pursuant to the authority delegated it under Article IV, Section 1 of the Oneida Nation Constitution.
- 1-3. *Authority.* The Board was established for purposes of providing advice and constructive input to the Southeastern Wisconsin Oneida Tribal Services (SEOTS) Director working in partnership to formulate social services programs for the Oneida people residing in Southeastern Wisconsin by, including, but not limited to:
- (a) Acting as an ambassador for the SEOTS program by promoting its mission whenever possible;
  - (b) Reviewing the SEOTS program's budget;
  - (c) Guiding and advising the SEOTS administration;
  - (d) Adhering to the appropriate chain of command in any and all relative communications with the Oneida Business Committee; and
  - (e) Carrying out all other powers and/or duties delegated to SEOTS by the laws and/or policies of the Nation.
- 1-4. *Office.* The official mailing address of the Board shall be:  
Southeastern Wisconsin Oneida Tribal Services Advisory Board  
c/o Southeastern Wisconsin Oneida Tribal Services  
5233 W. Morgan Avenue  
Milwaukee, WI 53220
- 1-5. *Membership.*
- (a) *Number of Members.* The Board shall consist of seven (7) members who shall serve three (3) year terms.
  - (b) *Appointment.* Board members shall be appointed in accordance with the Boards, Committees and Commissions law.
    - (1) Each member shall hold office until his/her terms expires, he/she resigns, or his/her appointment is terminated in accordance with the Boards, Committees and Commissions law.
      - (A) *Term Expiration.* Although a member's term has expired, he or she shall remain in office until a successor has been sworn in by the Oneida Business Committee.

- (B) *Resignation.* A member may resign at any time verbally at a meeting or by delivering written notice to the Oneida Business Committee Support Office and the Board Chairperson or Chairperson's designee. The resignation is deemed effective upon acceptance by motion of a Board member's verbal resignation or upon delivery of the written notices.
- (c) *Vacancies.* Vacancies on the Board shall be filled in accordance with the Boards, Committees and Commissions law.
- (1) The Board Chairperson shall provide the Oneida Business Committee recommendations on all applications for appointment by the executive session in which the appointment is intended to be made.
- (d) *Qualifications of Members.* Board members shall meet the following qualifications:
- (1) Be an enrolled member of the Nation;
- (2) Be at least eighteen (18) years of age or over; and
- (3) Reside within one (1) of the following six (6) Southeastern Wisconsin Counties: Milwaukee, Racine, Kenosha, Waukesha, Ozaukee and Washington.
- 1-6. *Termination.* A Board member may have his or her appointment terminated in accordance with the Boards, Committees and Commissions law.
- (a) Upon majority vote of the members in attendance at a Board meeting of an established quorum, the Board may, by formal motion and action, request that the Oneida Business Committee terminate a member's appointment for one (1) or more of the following reasons:
- (1) Accumulating four (4) unexcused absences from regularly scheduled meetings within a twelve (12) month period.
- (A) An absence shall be deemed unexcused if a member fails to provide written notice of his or her pending absence to a Board Officer at least thirty (30) minutes before the missed meeting.
- (2) Failing to attend at least fifty percent (50%) of the regularly scheduled meetings within a twelve (12) month period for any reason.
- (3) Using alcohol while performing official responsibilities of the Board or using illegal drugs at any time.
- (4) Violating these bylaws and/or any other laws of the Nation.
- (5) Receiving a felony conviction while serving on the Board.
- 1-7. *Trainings and Conferences.* Board members shall be required to attend mandatory trainings and/or conferences in the following areas:
- (a) Robert's Rules of Order;
- (b) **Oneida Language Classes**
- i. **SOP:**
- (c) New Board Member Orientation by the SEOTS Director **and/or Officers.**



- (d) Regardless of the number of trainings/conferences that he or she is required to attend, no member shall be eligible to receive stipends for attending more than five (5) full days of mandatory trainings/conferences per year.

## Article II. Officers

2-1. *Officers.* The Board shall consist of the following Officers: Chairperson, Vice-Chairperson and Secretary.

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

- (a) Call and preside over all meetings of the Board.
- (b) Vote only in case of a tie.
- (c) Sign all correspondence of the Board.
- (d) Submit quarterly reports to the Oneida Business Committee, as well as annual and semi-annual reports to the Oneida General Tribal Council, in accordance with the Boards, Committees and Commissions law; and attend or designate a Board member to attend the Oneida Business Committee meeting where SEOTS' quarterly report appears on the agenda.
- (e) Assign sub-committees as necessary and maintain Board functions and responsibilities.
- (f) Prepare and follow scheduled order of business.
- (g) Perform **operational/administrative functions** from time-to-time as requested by the Director of SEOTS, who is of management staff of the Oneida Nation; as required by the Constitution of the Oneida Nation; per the direction of the Oneida General Tribal Council; or as provided for by the laws of the Nation.
  - i. **Driving Clearance:**
  - ii. **Building Clearance:**

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

- (a) Perform the Chairperson's duties under section 2-2 of these bylaws, in the absence or incapacity of the Chairperson.
  - (1) In the case of termination of appointment, resignation or death of the Chairperson, the Vice-Chairperson shall become the Chairperson for the remainder of the Chairperson's term.
- (b) Notify the Oneida Business Committee Support Office of any Board vacancies or planned vacancies in accordance with the Boards, Committees and Commissions law.
- (c) Perform **operational/administrative functions** from time-to-time as requested by the Director of SEOTS, who is of management staff of the Oneida Nation; as required by the Constitution of the Oneida Nation; per the direction of the Oneida General Tribal Council; or as provided for by the laws of the Nation.

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

- (a) Provide notice of meeting agendas, documents, and minutes to all Board members, as well as the public, in accordance with these bylaws and the Nation's Open Records and Open Meetings law.
- ~~(b) Record and review the minutes of the Board's meetings and submit recorded minutes to the Oneida Business Committee Support Office in accordance with these bylaws.~~
- (c) Maintain files for all minutes, reports and correspondence to and from the Board in accordance with the Open Records and Open Meetings law.
- ~~(d) Submit signed and completed A/P Check Request Forms, Minutes Approved Signature Sheets, and Meeting Attendance Sheets to the appropriate recipient.~~
- (e) 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.
- (f) Perform **operational/administrative functions** from time-to-time as requested by the Director of SEOTS, who is of management staff of the Oneida Nation; as required by the Constitution of the Oneida Nation; per the direction of the Oneida General Tribal Council; or as provided for by the laws of the Nation.

2-5. *Selection of Officers.* Officers of the Board shall serve one (1) year terms.

- (a) Any member of the Board may self-nominate or be nominated for the offices of Chairperson, Vice-Chairperson or Secretary.
- (b) Elections of Officers shall take place at the first regular Board meeting of an established quorum in March of each year by majority vote of the members in attendance.
- (c) 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.
- (d) Board members may hold only one (1) Officer position per Officer term.

2-6. *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 Purchasing Policies and Procedures*, for Area Directors/Enterprise Directors.
- (b) All Board Officers have sign-off authority and (2) Officers shall be required to sign-off on all budgetary requests, except as follows:
  - (1) The Oneida Business Committee Support Office shall have sign-off authority over requests for stipends, travel per diem and business expense reimbursement.

- (c) Travel shall be approved by majority vote of the members in attendance at a regular or emergency Board meeting of an established quorum.

2-7. *Personnel.* The Board shall not have authority to hire personnel for the benefit of the Board.

### Article III. Meetings

3-1. *Regular Meetings.* The Board's regular meetings shall be held on the 2nd Monday of each month, beginning at 6:00 p.m., in the SEOTS building located in Milwaukee, Wisconsin.

- (a) The meeting date, time and location may change from time-to-time as determined by a majority vote of the members consisting of no less than a Board quorum so long as notice is provided to all members in writing and, along with the public, in accordance with the Open Records and Open Meetings law, prior to implementation of the new date, time and/or location.

~~(b) The annual meeting schedule shall be posted in the SEOTS office, on the Nation's website and in the Kalihwisaks.~~

~~(c) The Secretary shall provide notice of meeting agendas, documents and minutes to all Board members in writing and, along with the public, in accordance with the Open Records and Open Meetings law.~~

3-2. *Emergency Meetings.* Emergency meetings may convene as needed outside of regular meeting times when time sensitive issues require immediate action.

- (a) Board Officers may call emergency meetings so long as they provide notice to the entire Board via telephone call and in writing a minimum of twenty-four (24) hours prior to the beginning of the meeting.

(1) Notice provided to members via email must be sent to the official Oneida Nation email address that was provided to each member to conduct business electronically on behalf of the Board.

(2) Notice of emergency meetings shall further be provided to all members, as well as the public, in accordance with the Open Records and Open Meetings law.

- (b) Within seventy-two (72) hours after an emergency meeting, the Board 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 with the Oneida Business Committee shall be held on an as needed basis per the approval of the Oneida Business Committee.

- (a) Notice of the joint meeting agenda, documents and minutes shall be provided, and the joint meeting conducted, in accordance with resolution BC-03-27-19-D titled, Oneida Business Committee Joint Meetings with

Boards, Committees and Commissions – Definitions and Impact, as may be amended from time-to-time hereafter.

- 3-4. *Quorum.* A quorum shall consist of at least four (4) Board members, one of which shall be the Chairperson or the Vice-Chairperson.
- (a) The Board shall not conduct any official action without the presence of a quorum.
  - (b) In lieu of the Chairperson and Vice-Chairperson, the Secretary may complete the quorum for meetings that are called pursuant to section 2-4(e) of these bylaws.
- 3-5. *Order of Business.* The order of business, as far as applicable, shall be as follows:
- (a) Call to Order
  - (b) Adopt the Agenda
  - (c) Approval of Minutes
  - (d) Old Business
  - (e) New Business
  - (f) SEOTS Director's Report (once a month)
  - (g) Other Business
  - (h) Executive Session
  - (i) Adjournment
- 3-6. *Voting.* Decisions of the Board shall be based upon a majority vote of members in attendance at a regular or emergency Board meeting of an established quorum.
- (a) The Chairperson, or Board Officer presiding in lieu of the Chairperson, shall not be allowed to vote unless a tie needs to be broken.
  - (b) E-polls are allowed so long as conducted in accordance with the Boards, Committees and Commissions law.
    - (1) The Vice-Chairperson shall serve as the Chairperson's designee for the responsibility of conducting e-polls in the Chairperson's absence or discretion.

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

- 4-1. *Behavior of Members.* While acting on behalf of the Board, members are prohibited from:
- (a) Bullying;
  - (b) Name calling;
  - (c) Using excessive profanity; and/or
  - (d) Engaging in other disrespectful behavior deemed inappropriate by the Board.
  - (e) *Enforcement.* A member who violates this or any other section of these bylaws and/or any governing law of the Nation, may be subject to one or more of the following:
    - (1) If deemed violent or threatening during a Board meeting, dismissal from the meeting by the Chairperson or Vice-Chairperson.

- (A) If the unwanted behavior escalates after dismissal, the proper authorities will be called.
  - (2) By majority vote of the members present at a Board meeting of an established quorum, the Board's recommendation to the Oneida Business Committee for the termination of his or her appointment.
  - (3) Disciplinary action in accordance with any law of the Nation governing sanctions and penalties for appointed officials.
- 4-2. *Prohibition of Violence.* Intentionally violent acts committed by a Board member that inflict, attempt to inflict, or threaten to inflict emotional or bodily harm on another person, or damage to property are strictly prohibited.
- 4-3. *Drug and Alcohol Use.* Alcohol use while performing official responsibilities of the Board or use of illegal drugs at any time by a Board member is prohibited.
  - (a) Any member discovered to be under the influence of alcohol or an illegal drug while attending a Board meeting or event will, along with any other possible action under section 4-1, be dismissed by the Chairperson or Vice-Chairperson from that meeting/event.
- 4-4. *Social Media.* Members shall comply with the Nation's Social Media Policy, their oath of office and the following when using social media on behalf or as a representative of the Board.
  - (a) Use of the SEOTS Advisory Board Facebook Page.
    - (1) If a post by a Board member on any social media platform is made and it is perceived in a negative or inappropriate way, that Board member shall be counseled in the following meeting.
    - (2) If a post is made by a community member and is perceived in a negative or inappropriate way, one (1) of the three (3) administrators will delete the comment or post. That community member will be contacted by an administrator. If the conflict cannot be resolved, the Board will decide how to proceed at the following Board meeting.
- 4-5. *Conflict of Interest.* Board members shall comply with all laws and policies of the Nation governing conflicts of interest.

## **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) One (1) meeting stipend per month, provided that:
    - (1) A quorum was established;
    - (2) The meeting of the established quorum lasted for a minimum of one (1) hour; and

- (3) The member collecting the stipend was **physically/virtually** present for the entire meeting of the established quorum.
- (b) A stipend for attending a Judiciary hearing if the member's attendance was required by official subpoena.
- (c) A stipend for attending a duly called joint meeting between the Board and the Oneida Business Committee, provided that:
  - (1) A quorum was established by the Board;
  - (2) The joint meeting of the established quorum lasted for at least one (1) hour; and
  - (3) The member collecting the stipend was physically present for the entire joint meeting.
- (d) A stipend for each day of attendance at a conference or training, provided that:
  - (1) The member attended a full day of training or was present at the conference for a full day; and
  - (2) The member's attendance at the conference or training was mandated by law, bylaws or resolution.

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

#### **Article VI. Records and Reporting**

6-1. *Agenda Items.* Agendas shall be maintained in a consistent format furnished by the Oneida Business Committee Support Office.

6-2. *Minutes.* ~~Minutes shall be typed and in a consistent format designed by the Oneida Business Committee Support Office to generate the most informative record of the Board's meetings.~~

- (a) Within thirty (30) days of Board approval, the Secretary shall submit the minutes to the Oneida Business Committee Support Office for filing.

6-3. *Attachments.* Handouts, reports, memoranda and the like shall be attached to the minutes and agenda of the meeting in which they were presented to be maintained in accordance with the Open Records and Open Meetings law.

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 liaison, but no less than that required in any law or policy on reporting developed by the Oneida Business Committee or Oneida General Tribal Council.

- (b) The purpose of the liaison relationship is to uphold the ability of the liaison to act as support to the Board.

6-5. *Audio Recordings.* All meetings of the Board shall be audio recorded using a device approved and/or furnished by the Oneida Business Committee Support Office.

- (a) Audio recordings shall be maintained on the network in accordance with the Open Records and Open Meetings law.
  - (1) *Exception.* Audio recordings of executive session portions of a meeting shall not be required.

#### **Article VII. Amendments**

7-1. *Amendments.* These bylaws may be amended by majority vote of the members in attendance at a Board meeting of an established quorum.

- (a) Proposed amendments to these bylaws must be presented at one Board meeting and cannot be approved until a subsequent Board meeting.
  - (1) A majority vote of the members in attendance at a Board meeting of an established quorum is required before bylaws amendments will be forwarded to the Oneida Business Committee for approval.
- (b) Amendments shall be approved by the Oneida Business Committee and/or the General Tribal Council, before implementation.
- (c) 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.
- (d) The Board shall conduct a review of its bylaws 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 February 12, 2020, by the Secretary of the Oneida Business Committee's signature.

  
 Lisa Summers, Secretary  
 Oneida Business Committee





# Southeastern Wisconsin Oneida Tribal Services Advisory Board



**Regular Meeting**  
**6:00 p.m. Monday, November 13, 2023**  
**5233 Morgan Ave., Milwaukee WI 53220**  
**Teleconference**

## Minutes

### Regular Meeting

**Present:** Chair: Diane S Hill, Vice-Chair: Michael A Coleman

**Members:** Judy Dordel, Kathleen M (Kitty) Hill

**Excused:** Natysa R Reed, Debra Fabian

**Unexcused:** Lloyd D Ninham

**Others:** Bonnie Pigman, Trisha Patton, Jameson Wilson, Maureen S Pekins

### I. CALL TO ORDER

Meeting called to order by Diane S Hill at 6:01 p.m.

### II. ROLL CALL

**Chair:** Chair: Diane S Hill, Vice-Chair: Michael A Coleman

**Commissioners:** Judy Dordel, Kathleen M (Kitty) Hill

### III. ADOPT THE AGENDA

Motion by Kathleen M (Kitty) Hill to approve the November 13, 2023 Southeastern Wisconsin Oneida Tribal Services Advisory Board agenda, seconded by Michael A Coleman. Motion carried:

Ayes: Michael A Coleman, Judy Dordel, Kathleen M (Kitty) Hill

Motion by Michael A Coleman to move up item VII.A., seconded by Judy Dordel. Motion carried:

Ayes: Michael A Coleman, Judy Dordel, Kathleen M (Kitty) Hill

### IV. APPROVAL OF MINUTES

#### A. Approve October 16, 2023 Southeastern Wisconsin Oneida Tribal Services Advisory Board regular meeting minutes pg.

Sponsor: Lloyd D Ninham

Motion by Michael A Coleman to approve the October 16, 2023 Southeastern Wisconsin Oneida Tribal Services Advisory Board regular meeting minutes, seconded by Judy Dordel Motion carried:

Ayes: Michael A Coleman, Judy Dordel, Kathleen M (Kitty) Hill

*Item VII.A addressed next*

## V. OLD BUSINESS

### A. Annual review of the Southeastern Wisconsin Oneida Tribal Services Advisory Board Bylaws, submit LOC Agenda Request form to get on Active Files list. Approve **REVISED LOC Active Files Request and memo to LOC.**

Sponsor: Lloyd D Ninham

*EXCERPT FROM SEPTEMBER 6, 2023:* Motion by Michael A Coleman to accept the changes as identified in the discussion on the ByLaws presented by the Chair and for the Recording Clerk to provide the changes to the Legislative Reference Office Attorney for drafting into a redline version which is to be brought back on a future agenda when ready, seconded by Judy Dordel. Motion carried:

*EXCERPT FROM OCTOBER 16, 2023:* Motion by Kathleen M (Kitty) Hill to approve the LOC Agenda Request form (obtaining the Chairs signature) to get the Southeastern Wisconsin Oneida Tribal Services Advisory Board Bylaws on the Active Files List, seconded by Michael A Coleman. Motion carried:

Motion by Michael A Coleman to accept and approve changes to the Southeastern Wisconsin Oneida Tribal Services Advisory Board Bylaws for Legislative Operating Committee agenda, seconded by Kathleen M (Kitty) Hill. Motion carried:

Ayes: Michael A Coleman, Judy Dordel, Kathleen M (Kitty) Hill

### B. Strategic Planning

Sponsor: Debra Fabian

*EXCERPT FROM JULY 10, 2023:* Motion by Debra Fabian to table Strategic Planning discussion until after the FY 2024 Southeastern Wisconsin Oneida Tribal Services Advisory Board Budget is approved, seconded by Michael Coleman. Motion carried:

Motion by Michael A Coleman to table to the December 11, 2023 Southeastern Wisconsin Oneida Tribal Services Advisory Board meeting, seconded by Kathleen M (Kitty) Hill. Motion carried:

Ayes: Michael A Coleman, Judy Dordel, Kathleen M (Kitty) Hill

### C. Determine next steps for ideas/activities for fundraisers

Sponsor: Kathleen (Kitty) Hill

*EXCERPT FROM SEPTEMBER 6, 2023:* Motion by Michael A Coleman to defer the ideas/activities for fundraisers discussion to the October 9, 2023 (rescheduled to October 16, 2023) Southeastern Wisconsin Oneida Tribal Services Advisory Board regular meeting, seconded by Lloyd D Ninham. Motion carried.

*EXCERPT FROM OCTOBER 16, 2023:* For the record: accepted the discussion as information

Motion by Michael A Coleman to accept the ICS activity for October 9, 2023 (Breakfast with Santa) event for SEOTS Board members to be in attendance, seconded by Judy Dordel. Motion carried:

Ayes: Michael A Coleman, Judy Dordel, Kathleen M (Kitty) Hill

**D. Approve Indigenous Biz Con Reports and pay training stipends to attendee's**

Sponsor: Bonnie Pigman

*EXCERPT FROM OCTOBER 16, 2023:* Motion by Michael A Coleman to approve Indigenous Biz Con Reports and pay training stipends to attendee's, seconded by Lloyd D Ninham Motion carried:

Motion by Kathleen M (Kitty) Hill to table to the December 11, 2023 meeting agenda, seconded by Judy Dordel Motion carried:

Ayes: Michael A Coleman, Judy Dordel, Kathleen M (Kitty) Hill

**VI. NEW BUSINESS****VII. REPORTS AND ANNOUNCEMENTS (2024 DEADLINES Q1-FEB 6, SEMI-ANNUAL, Q2-APR 30, Q3-AUG 6, ANNUAL-SEPT, Q4-NOV 5)****A. SEOTS Manager's October 2023 Report pg.**

Sponsor: Trisha Patton

Motion by Michael A Coleman to accept the SEOTS Manager's Report October 2023, seconded by, seconded by Kathleen M (Kitty) Hill Motion carried:

Ayes: Michael A Coleman, Judy Dordel, Kathleen M (Kitty) Hill

*Item V.A addressed next*

**B. SEOTS September 30, 2023 Month End Revenue and Expense Report**

Sponsor: Lloyd D Ninham

Motion by Kathleen M (Kitty) Hill to accept the Southeastern Wisconsin Oneida Tribal Services Advisory Board September 30, 2023 Month End Revenue and Expense Report, seconded by Judy Dordel Motion carried:

Ayes: Michael A Coleman, Judy Dordel, Kathleen M (Kitty) Hill

**VIII. OTHER BUSINESS****IX. EXECUTIVE SESSION****X. NEXT REGULAR MEETING DATE:****A. SEOTS Meetings**

1. December 11, 2023 6:00 pm, 5233 Morgan Ave., Milwaukee

**B. GTC Meetings**

1. January 15, 2024 6:00 pm (Annual)

**XI. ADJOURNMENT**

Motion by Michael A Coleman to adjourn at 7:01 pm, seconded by Judy Dordel. Motion carried:  
Ayes: Michael A Coleman, Judy Dordel, Kathleen M (Kitty) Hill

Roll call for the record:

**Present:** Chair: Diane S Hill, Vice-Chair: Michael A Coleman

**Members:** Judy Dordel, Kathleen (Kitty) Hill,

Minutes prepared by Bonnie Pigman, Recording Clerk

Minutes approved as presented/corrected on \_\_\_\_\_.

\_\_\_\_\_  
Lloyd D Ninham, Secretary

Southeastern Wisconsin Oneida Tribal Services Advisory Board

# December 2023

December 2023

Su	Mo	Tu	We	Th	Fr	Sa
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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						

January 2024

Su	Mo	Tu	We	Th	Fr	Sa
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14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
Nov 27	28	29	30	Dec 1
4 2:00pm Intro to: Oneida Higher Education Scholarship Code (Microsoft Teams Meeting) - Grace L. Elliott	5	6 8:30am LOC Prep Meeting (Microsoft Teams) 9:00am Legislative Operating Committee 1:30pm LOC Work Session (Microsoft) 5:30pm Legislative Operating Committee	7	8
11	12	13	14	15 12:15pm PUBLIC MEETING: Clean Air Policy Amendments (BC_Conf_Room) - LOC
18 8:30am Real Property Law Amendments (Microsoft Teams Meeting) - Grace L. Elliott	19	20 8:30am LOC Prep Meeting (Microsoft Teams Meeting); 9:00am Legislative Operating Committee Meeting (Microsoft) 1:30pm LOC Work Session (Microsoft)	21	22 12:00pm Christmas Eve
25 8:00am Christmas	26	27	28 1:00pm LOC Work Session (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Clorissa N. Leeman	29