



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA
Business Committee Conference Room - 2nd Floor Norbert Hill Center
February 7, 2024
9:00 a.m.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

1. January 17, 2024 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Drug and Alcohol Free Workplace Law Amendments (pg. 4)
2. Clean Air Policy Amendments (pg. 38)

IV. New Submissions

1. Boards, Committees, and Commissions Law (pg. 59)

V. Additions

VI. Administrative Updates

1. Legislative Operating Committee Fiscal Year 2024 First Quarter Report (pg. 78)
2. E-Poll Results: Approval of the March 6, 2024 LOC Community Meeting Notice (pg. 86)

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
January 17, 2024
9:00 a.m.

Present: Jameson Wilson, Jennifer Webster, Kirby Metoxen, Jonas Hill

Excused: Marlon Skenandore

Others Present: Clorissa N. Leeman, Melinda Danforth, Carolyn Salutz, Grace Elliott, Keith Doxtator, Brooke Doxtator, Maureen Perkins,

Others Present on Microsoft Teams: Jo Anne House, Katsitsiyo Danforth, Eric Boulanger, David P. Jordan, Fawn Billie, Maureen Metoxen, Nicole Rommel, Derrick King, Mark Powless, Tavia Charles, Todd Vandenheuvel, Kaylynn Gresham, Eric McLester, Rae Skenandore, Krystal John, Michelle Tipple

I. Call to Order and Approval of the Agenda

Jameson Wilson called the January 17, 2024, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster approve the agenda; seconded by Jonas Hill. Motion carried unanimously.

II. Minutes to be Approved

1. January 3, 2024 LOC Meeting Minutes

Motion by Kirby Metoxen to approve the January 3, 2024, LOC meeting minutes; seconded by Jennifer Webster. Motion carried unanimously.

III. Current Business

1. Clean Air Policy Amendments

Motion by Jennifer Webster to approve the updated public comment review memorandum, draft, and legislative analysis; seconded by Jonas Hill. Motion carried unanimously.

Motion by Jennifer Webster to approve the fiscal impact statement request memorandum and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by January 31, 2024; seconded by Kirby Metoxen. Motion carried unanimously.



IV. New Submissions

1. Short Term Rental Regulations

Motion by Jennifer Webster to add the Short-Term Rental law to the Active Files List with Jonas Hill as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

V. Additions

VI. Administrative Items

VII. Executive Session

VIII. Adjourn

Motion by Jennifer Webster to adjourn at 9:21 a.m.; seconded by Kirby Metoxen. Motion carried unanimously.



Legislative Operating Committee
February 7, 2024

Drug and Alcohol Free Workplace Law Amendments

Submission Date: 9/7/22	Public Meeting: 2/15/23
LOC Sponsor: Kirby Metoxen and Jonas Hill	Emergency Enacted: 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 Vandenheuvell, 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 Vandenheuvell, 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.
- 12/6/23:** *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Kirby Metoxen, Marlon Skenandore, Jonas Hill, Clorissa Leeman, Grace Elliott, Maureen Perkins, Fawn Cottrell, Kristal Hill. The purpose of this work meeting was to review the proposed amendments to the Drug and Alcohol Free Workplace law that went to public meeting.
- 12/20/23 LOC:** Motion by Jennifer Webster to accept the public comments and the public comment review memorandum and defer to a work meeting for further consideration; seconded by Marlon Skenandore. Motion carried unanimously.
- 12/20/23:** *Work Meeting.* Present: Jameson Wilson, Kirby Metoxen, Jennifer Webster, Jonas Hill, Marlon Skenandore, Clorissa Leeman, Brandon Yellowbird Stevens, Grace Elliott, Maureen Perkins, Kristal Hill, Fawn Cottrell. The purpose of this work meeting was to review and consider the public comments received.
- 1/3/24 LOC:** Motion by Jennifer Webster to approve the updated public comment review memorandum, draft, and legislative analysis; seconded by Jonas Hill. Motion carried unanimously.


Motion by Jennifer Webster to approve the fiscal impact statement request memorandum and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by January 17, 2024; seconded by Jonas Hill. Motion carried unanimously.

1/17/24: *Work Meeting.* Present: Marlon Skenandore, Jennifer Webster, Jonas Hill, Kirby Metoxen Clorissa Leeman, Carolyn Salutz (Microsoft Teams), Maureen Perkins (Microsoft Teams). The purpose of this work meeting was for the LOC to review the adoption packet materials for the Drug and Alcohol Free Workplace law amendments.

Next Steps:

- Approve the adoption packet for the Drug and Alcohol Free Workplace law amendments and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee
FROM: Jameson Wilson, LOC Chairperson 
DATE: February 14, 2024
RE: Adoption of Amendments to the Drug and Alcohol Free Workplace Law

Please find the following attached backup documentation for your consideration of the adoption of amendments to the Drug and Alcohol Free Workplace law:

1. Resolution: Amendments to the Drug and Alcohol Free Workplace Law
2. Statement of Effect: Amendments to the Drug and Alcohol Free Workplace Law
3. Drug and Alcohol Free Workplace Law Amendments Legislative Analysis
4. Drug and Alcohol Free Workplace Law Amendments Draft (Redline)
5. Drug and Alcohol Free Workplace Law Amendments Draft (Clean)
6. Drug and Alcohol Free Workplace Law Amendments Fiscal Impact Statement

Overview

Amendments to the Drug and Alcohol Free Workplace law are being sought to address exemptions to the pre-employment drug testing of external applicants. Drug and Alcohol Free Workplace law establishes a drug and alcohol-free workplace program that balances respect for individuals with the need to maintain an alcohol and drug-free environment. [2 O.C. 202.1-2].

Currently, the Drug and Alcohol Free Workplace law provides that each employee, as a condition of employment, shall participate in pre-employment, reasonable suspicion, and follow-up testing upon the request of an appropriate authority, and that a negative test result is required for employment eligibility. The proposed amendments to the Drug and Alcohol Free Workplace law require that all external and internal applicants participate in pre-employment drug testing, and that a negative drug test result shall be required for employment eligibility. [2 O.C. 202.8-4]. The amendments to the Drug and Alcohol Free Workplace law further 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 unless prohibited by an external licensing or grant requirement. [2 O.C. 202.8-4(a)]. 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 developed the proposed amendments to the Drug and Alcohol Free Workplace law through collaboration with representatives from the Oneida Law Office, Human Resources Department, Gaming, and Employee Health Nursing. The Legislative

Operating Committee held seven (7) work meetings on the development of the amendments to the Drug and Alcohol Free Workplace law.

The development of the amendments to the Drug and Alcohol Free Workplace law complies with all processes and procedures required by the Legislative Procedures Act, including the development of a legislative analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. [1 O.C. 109.6, 109.7, 109.8].

A public meeting on the proposed amendments to the Drug and Alcohol Free Workplace law was held on February 15, 2023. Six (6) individuals provided oral comments during the public meeting. The public comment period was then held open until February 22, 2023. Four (4) individuals provided written comments during the public comment period. The Legislative Operating Committee reviewed and considered the public comments received on December 20, 2023, and any changes have been incorporated into this draft.

The amendments to the Drug and Alcohol Free Workplace law will become effective on March 4, 2024.

Requested Action

Adopt the Resolution: Amendments to the Drug and Alcohol Free Workplace Law

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # Amendments to the Drug and Alcohol Free Workplace Law

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- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Drug and Alcohol Free Workplace law (“the Law”) was adopted by the Oneida Business Committee through 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
- WHEREAS,** 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; and
- WHEREAS** currently, the Law provides that each employee, as a condition of employment, shall participate in pre-employment, reasonable suspicion, and follow-up testing upon the request of an appropriate authority, and that a negative test result is required for employment eligibility; and
- WHEREAS,** the proposed amendments to the Law require that all external and internal applicants participate in pre-employment drug testing, and that a negative drug test result shall be required for employment eligibility; and
- WHEREAS,** the amendments to the Law further 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 unless prohibited by an external licensing or grant requirement; and
- WHEREAS,** 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; and
- WHEREAS,** all employees of the Nation are required to participate in reasonable suspicion and follow-up testing upon the request of an appropriate authority, and a negative test result is required for unimpeded employment eligibility; and
- WHEREAS,** the Legislative Operating Committee developed the proposed amendments to the Law through collaboration with representatives from the Oneida Law Office, Human Resources Department, Gaming, and Employee Health Nursing; and
- WHEREAS,** in accordance with the Legislative Procedures Act a legislative analysis and fiscal impact statement were completed for the proposed amendments to the Law; and

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49 **WHEREAS,** a public meeting for the proposed amendments to this Law was held on February 15,
50 2023,with six (6) individuals providing oral comments, and the public comment period for
51 the amendments to this Law was held open until February 22, 2023, with four (4) individuals
52 providing written comments; and

53
54 **WHEREAS,** the Legislative Operating Committee reviewed and considered the public comments
55 received on December 20, 2023, and any changes have been incorporated into this draft;
56 and

57
58 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts the amendments
59 to the Drug and Alcohol Free Workplace law which shall become effective on March 4, 2024.



Statement of Effect

Amendments to the Drug and Alcohol Free Workplace Law

Summary

This resolution adopts amendments to the Drug and Alcohol Free Workplace law 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 unless prohibited by an external licensing or grant requirement.

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

Date: January 15, 2024

Analysis by the Legislative Reference Office

This resolution adopts amendments to the Drug and Alcohol Free Workplace law. The Drug and Alcohol Free Workplace law establishes a drug and alcohol-free workplace program that balances respect for individuals with the need to maintain an alcohol and drug-free environment. [2 O.C. 202.1-2]. The amendments to the Drug and Alcohol Free Workplace law will 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 unless prohibited by an external licensing or grant requirement.

Adoption of any legislation is required to comply with the Legislative Procedures Act ("the LPA"), which was adopted by the General Tribal Council through resolution GTC-01-07-13-A for the purpose of providing a standardized process for the adoption of laws of the Nation. [1 O.C. 109.1-1]. The Drug and Alcohol Free Workplace law amendments complied with all processes and procedures required by the LPA, including the development of a legislative analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. [1 O.C. 109.6, 109.7, 109.8].

A public meeting on the proposed amendments to the Drug and Alcohol Free Workplace law was held on February 15, 2023. Six (6) individuals provided oral comments during the public meeting. The public comment period was then held open until February 22, 2023. Four (4) individuals provided written comments during the public comment period. The Legislative Operating Committee reviewed and considered the public comments received on December 20, 2023, and any changes have been incorporated into this draft.

The amendments to the Drug and Alcohol Free Workplace law will become effective on March 4, 2024.

Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws.



DRUG AND ALCOHOL FREE WORKPLACE LAW AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	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 unless prohibited by an external licensing or grant requirement. [2 O.C. 202.8-4(a)].
Purpose	The purpose of this 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. [2 O.C. 202.1-2].
Affected Entities	Human Resources Department, Oneida Nation employees.
Public Meeting	A public meeting was held on February 15, 2023. The public comment period was held open until February 22, 2023.
Fiscal Impact	A fiscal impact statement was provided by the Finance Administration on January 16, 2024.

SECTION 2. LEGISLATIVE DEVELOPMENT

A. Background. The Drug and Alcohol Free Workplace law was adopted by the Oneida Business Committee in 1994 through resolution BC-10-25-95-A and then amended through resolutions BC-10-20-99-A, BC-12-05-07-B, BC-12-11-13-F, and BC-04-12-17-C. 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. [2 O.C. 202.1-2].

B. Request for Amendments. 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 – which requests to remove 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. The Legislative Operating Committee added this item to its Active Files List on September 7, 2022.

SECTION 3. CONSULTATION AND OUTREACH

A. Representatives from the following departments or entities participated in the development of the amendments to the Law and this legislative analysis:

- Oneida Law Office;
- Human Resources Department;
- Gaming; and
- Employee Health Nursing.

B. The following laws were reviewed in the drafting of this analysis:

- Drug and Alcohol Free Workplace law;

- 24 ▪ Oneida Personnel Policies and Procedures.
25

26 **SECTION 4. PROCESS**

27 A. The development of the proposed amendments to the Drug and Alcohol Free Workplace law complies
28 with the process set forth in the Legislative Procedures Act (LPA).

- 29 ▪ On September 7, 2022, the Legislative Operating Committee added the Law to its Active Files
30 List.
31 ▪ On December 7, 2022, the Legislative Operating Committee approved the draft of the proposed
32 amendments to the Law and directed that a legislative analysis be developed.
33 ▪ On December 21, 2022, the Legislative Operating Committee approved the legislative analysis.
34 ▪ On January 4, 2023, the Legislative Operating Committee approved the public meeting packet
35 for the proposed amendments to the Drug and Alcohol Free Workplace law and scheduled a
36 public meeting to be held on February 15, 2022.
37 ▪ On February 15, 2023, the public meeting was held in the Norbert Hill Center’s Business
38 Committee Conference Room as well as on Microsoft Teams. Six (6) individuals provided oral
39 comments during this public meeting.
40 ▪ On February 22, 2023, the public comment period closed. Four (4) individuals provided written
41 comments during the public comment period.
42 ▪ On October 4, 2023 the Legislative Operating Committee elected for the 2023-2026 legislative
43 term added the Drug and Alcohol Free Workplace Law Amendments to the Active Files List
44 with Kirby Metoxen and Jonas Hill as the sponsors.
45 ▪ On December 20, 2023, the Legislative Operating Committee accepted the public comments
46 and the public comment review memorandum and defer to a work meeting for further
47 consideration. The Legislative Operating Committee then reviewed and considered these
48 public comments that same day.
49 ▪ On January 3, 2024, the Legislative Operating Committee approved the updated public
50 comment review memorandum, draft, and legislative analysis; and also approved the fiscal
51 impact statement request memorandum and forwarded the materials to the Finance Department
52 directing that a fiscal impact statement be prepared and submitted to the LOC by January 17,
53 2024.
54 ▪ On January 16, 2024, the Finance Administration provided the fiscal impact statement to the
55 Legislative Operating Committee.

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

- 58 ▪ October 31, 2022: LOC work meeting with the Oneida Law Office, Human Resources
59 Department, and Gaming.
60 ▪ November 15, 2022: LOC work meeting with the Oneida Law Office, Human Resources
61 Department, Employee Health Nursing, and Gaming.
62 ▪ December 1, 2022: LOC work session.
63 ▪ January 26, 2023: LOC work meeting with Oneida Law Office, Human Resources
64 Department, Gaming, and the General Manager.
65 ▪ December 6, 2023: LOC work session.
66 ▪ December 20, 2023: LOC work session.
67 ▪ January 17, 2024: LOC work session.

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SECTION 5. CONTENTS OF THE LEGISLATION

A. *Pre-Employment Drug Testing.* Currently, the Law provides that each employee, as a condition of employment, shall participate in pre-employment, reasonable suspicion, and follow-up testing upon the request of an appropriate authority, and that a negative test result is required for employment eligibility. The proposed amendments focus specifically on pre-employment drug testing and how positive THC test results are addressed by the Nation. The proposed amendments to the Law require that all external and internal applicants participate in pre-employment drug testing, and that a negative drug test result shall be required for employment eligibility. [2 O.C. 202.8-4]. The Law then further provides 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 unless prohibited by an external licensing or grant requirement. [2 O.C. 202.8-4(a)].

- *Effect.* The proposed amendments to the Law allow an individual who is seeking employment with the Nation to still be eligible to be hired if the individual tests positive for THC in most situations, unless prohibited by an external licensing or grant requirement. When developing these amendments, 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.¹ 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.*

SECTION 6. EXISTING LEGISLATION

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

- *Oneida Personnel Policies and Procedures.* The purpose of the Oneida Personnel Policies and Procedures is to provide for the Nation’s employee related policies and procedures including recruitment, selection, compensation and benefits, employee relations, safety and health, program and enterprise rules and regulations, and record keeping.

¹ 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).

- 106 ▪ Section V.D.3 of the Oneida Personnel Policies and Procedures provides that the Drug
107 and Alcohol Free Workplace Policy shall govern disciplinary actions warranting
108 termination for drug and alcohol related violations.

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110 **SECTION 7. OTHER CONSIDERATIONS**

111 **A. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all
112 legislation except emergency legislation [*1 O.C. 109.6-1*]. Oneida Business Committee resolution BC-
113 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
114 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
115 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
116 completing the fiscal impact statement.

- 117 ▪ *Conclusion.* A fiscal impact statement was provided by the Finance Administration on January 16,
118 2024.

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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.

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.

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 **202.6. Prohibited Behavior**

166 202.6-1. An applicant or employee of the Nation is in violation of this law if he or she:

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

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 and internal applicants shall
222 participate in pre-employment, ~~reasonable suspicion, and follow-up drug~~ testing ~~upon the request of~~
223 ~~an appropriate 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 unless prohibited by an external licensing or grant requirement.

227 202.8-5. Each employee shall participate in reasonable suspicion and follow-up testing upon the
228 request of an appropriate authority. A negative test result is required for unimpeded employment
229 eligibility.

230 202.8-6. *Dilution of Test Results.* In cases where a drug test result is diluted, a positive dilute of the
231 test result requires that the applicant or employee shall be given a confirmed positive test result,
232 while a negative dilute of the test result requires retesting. EHN shall notify the applicant or
233 employee of the required retesting.

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

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

238

239 **202.9. Refusal to Test**

240 202.9-1. Refusal to test is prohibited behavior as defined in section 202.6. Refusal to test carries
241 the same consequences as a confirmed positive test result. Examples of refusal to test include, but
242 are not limited to:

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

244 (b) Refusal to sign the required forms.

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

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

248 (e) Providing an insufficient sample of urine or breath.

249 (f) Failing to test or to re-test.

250 (g) Failing to appear within two (2) hours after an order or request is made for testing or re-
251 testing.

252 (h) Behaving in a confrontational or discourteous manner that disrupts the collection process.

253

254 **202.10. Reasonable Suspicion Testing Waiting Period**

255 202.10-1. This section applies only to current employees who meet the reasonable suspicion
256 standard. It does not apply to applicants of the Nation.

257 202.10-2 During drug and alcohol testing for reasonable suspicion, an employee shall be
258 immediately removed from duty without pay at the time of initiation of the reasonable suspicion
259 drug and alcohol testing and specimen collection until the employer is notified by EHN of negative
260 results on both the drug and alcohol tests, or MRO-verified negative test results.

261 202.10-3. When confirmation of test results are made available to the employer, the supervisor shall
262 notify the employee by telephone and by certified mail using the contact information provided by
263 the employee. The notice to the employee shall identify a reinstatement date if the test was
264 confirmed negative, or applicable consequences if the test was confirmed positive. If the employee
265 is reinstated, back pay shall be provided in accordance with the Back Pay law. However, if the
266 employee fails to return to work on the assigned reinstatement date as instructed in the notice from
267 the supervisor, the supervisor shall discipline the employee in accordance with the Nation's laws,
268 rules and policies governing employment, unless an extension is granted in writing by the supervisor
269 along with the reason for the extension. An employee who is ultimately terminated for failure to
270 return to work on his or her assigned reinstatement date shall not be eligible for employment for one
271 (1) year after the date of termination.

272

273 **202.11. Consequences for Prohibited Behavior**

274 202.11-1. Either an internal applicant or an external applicant may decline the position at any time
275 before being directed to EHN or other designated testing site for the applicant's drug and alcohol
276 testing.

277 202.11-2. *External Applicant.* If an external applicant fails to show at the testing site within the
278 time allotted, or on the date of the scheduled test, or has engaged in prohibited behavior as listed at
279 section 202.6 that has been documented, the employment offer shall be withdrawn. An external
280 applicant shall not be eligible for hiring consideration for one hundred eighty (180) days from the
281 date of the urine drug screening test.

282 202.11-3. *Internal Applicant.* If an internal applicant fails to show at the testing site within the time
283 allotted, or on the date of the scheduled test, or has engaged in prohibited behavior as listed at section
284 202.6, the employment offer shall be withdrawn. The applicant shall be removed from duty and
285 subject to respective consequences of this law. The applicant shall not be eligible for hiring
286 consideration in a different position for one hundred eighty (180) days from the date of the urine
287 drug screening test.

288 202.11-4. *Employee.* If an employee has engaged in prohibited behavior as listed in section 202.6-
289 1, and/or fails to cooperate by not responding to contact from the MRO within ten (10) business days
290 (which shall be deemed thereafter as a definite positive test), the employee shall be removed from
291 duty and subject to the respective consequences of this law.

292 202.11-5. *Consequences.*

293 (a) *First Violation.*

294 (1) Any employee who engages in prohibited behavior as defined in section 202.6
295 for the first time shall be removed from duty without pay and shall receive a
296 mandatory referral to ONEAP for an assessment. The ONEAP shall also determine
297 if the employee shall be subject to return-to-duty/follow-up testing. If follow-up
298 testing is required, the testing shall be at the employee's expense.

299 (2) The employee shall sign a Return-to-Work Agreement and submit the agreement
300 to his or her supervisor within ten (10) days or the employee shall be terminated and
301 ineligible for re-hire for one (1) year.

302 (A) When the supervisor signs the Return-to-Work Agreement the employee
303 shall be placed back on the work schedule by the next regularly scheduled
304 workday.

305 (3) Failure to comply with the signed Return-to-Work Agreement shall result in the
306 employee being terminated and ineligible for re-hire for one (1) year.

307 (b) *Second Violation.*

308 (1) Any employee who engages in prohibited behavior as defined in section 202.6 a
309 second time within his or her lifetime of employment with the Nation shall be
310 removed from duty without pay and shall receive a mandatory referral to ONEAP for
311 an assessment.

312 (2) The employee shall sign a Return-to-Work Agreement and submit it to the
313 employee's supervisor for signature within ten (10) days or the employee shall be
314 terminated and ineligible for re-hire for one (1) year. After a second violation the
315 employee shall not be placed back on the work schedule until:

316 (A) The employee receives approval from the ONEAP that they have
317 demonstrated sufficient progress in a treatment program that would indicate
318 the employee is drug and alcohol free within thirty (30) days of the employee
319 being removed from duty; and

320 (B) The employee completes a return-to-duty drug screening and alcohol test
321 at a SAMHSA-certified facility at their own expense, which shall be negative
322 within thirty (30) days of the employee being removed from duty;

323 (C) The ONEAP notifies the supervisor of the employee's eligibility to return
324 to work.

325 (3) As a condition of continuing employment, the employee shall participate in
326 follow-up testing with continued negative results as directed by the ONEAP and
327 listed in the Return-to-Work Agreement. All follow-up testing shall be at the
328 employee's expense.

329 (4) Failure to comply with the Return-to-Work agreement or follow up testing shall
330 result in the employee being terminated and ineligible for re-hire for one (1) year.

331 (c) *Third Violation.*

332 (1) Any employee who engages in prohibited behavior as defined in section 202.6 a
333 third time in his or her lifetime of employment with the Nation shall be terminated.
334 The employee shall not be eligible for employment unless he or she receives a
335 forgiveness pursuant to the Pardon and Forgiveness law. An employee that receives
336 forgiveness shall not be eligible for re-hire for one (1) year after the date of
337 termination.

338
339 **202.12. Re-hire**
340 202.12-1. A former employee that was terminated due to violations of this law shall provide, along
341 with the former employee's application for employment, the following:

342 (a) Proof of completion of a certified Alcohol and Other Drug Abuse program; and

343 (b) A negative drug screening and alcohol test at a SAMHSA-certified facility completed
344 within the last thirty (30) days. This drug screening and alcohol test shall be done at the
345 former employee's own expense.

346
347 **202.13. Other Potential Consequences**

348 202.13-1. The violation of this law may result in consequences to the employee beyond any
349 discipline or corrective action that may be taken. Other potential consequences include the
350 following:

351 (a) *Disqualification of Unemployment Benefits.* An employee who is terminated as a result
352 of a violation of this law may be ineligible for unemployment benefits.

353 (b) *Reduction of Workers Compensation Benefits.* An employee who incurs an injury in a
354 work-related accident that occurred while engaged in a violation of this law may have any
355 workers compensation benefits reduced.

356 (c) *Criminal Penalties.* An employee whose conduct violates state or federal criminal laws
357 may be referred to appropriate law enforcement for criminal prosecution.

358 (d) *Liability for Accidents.* An employee whose conduct in violation of this law causes an
359 accident may be held personally responsible for losses associated with the accident, and the
360 employee may be required to pay for those losses.

361

362 **202.14. Confidentiality**

363 202.14-1. Information related to the application of this law is confidential. Access to this
364 information is limited to those who have a legitimate “need to know” in compliance with relevant
365 laws and personnel policies and procedures.

366 202.14-2. All drug and alcohol testing information shall be maintained at EHN in confidential
367 records which are separate from the employee’s clinical and personnel files. The employee may
368 request a copy of the employee’s records. The records may be requested by a third party in
369 accordance with the Oneida Nation’s laws, rules and policies governing employment.

370

371 **202.15. Communication**

372 202.15-1. HRD shall communicate this law to all employees to ensure all employees are aware of
373 their role in supporting this law:

374 (a) All employees shall be given information on how to access this law.

375 (b) This law shall be reviewed in new employee orientation and other means, as deemed
376 appropriate by HRD.

377 (c) All employees shall sign an acknowledgment form stating they have received a copy of
378 this law, have read and understand it, and agree to follow this law.

379

380 *End.*

381

382 See GTC-01-31-94-B

383 Adopted – BC-08-17-94

384 Emergency Amended - BC-04-20-95-C

385 Adopted - BC-10-25-95-A (repealed previous versions)

386 Amended - BC-10-20-99-A

387 Amended - BC-12-05-07-B

388 Amended - BC-12-11-13-F

389 Emergency Amended - BC-10-26-16-D

390 Amended - BC-04-12-17-C

391 Amended – BC- - - -

392

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

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202.12. Re-hire
202.13. Other Potential Consequences
202.14. Confidentiality
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- 1
2 **202.1. Purpose and Policy**
3 202.1-1. *Purpose.* The Nation is committed to protecting the safety, health and well-being of all
4 employees, and other individuals in the workplace. The Nation recognizes that alcohol abuse and
5 drug use pose a significant health and safety threat to our customers and other employees. The Nation
6 also recognizes that alcohol and drug abuse and addiction are treatable illnesses. The Nation realizes
7 that early intervention and support may improve the success of rehabilitation.
8 202.1-2. *Policy.* It is the policy of the Nation to establish a drug and alcohol-free workplace program
9 that balances respect for individuals with the need to maintain an alcohol and drug-free environment.
10 The Nation encourages employees to voluntarily seek help for their personal drug and alcohol-
11 related problems.
12
13 **202.2. Adoption, Amendment, Repeal**
14 202.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-25-95-A
15 and amended by resolutions BC-10-20-99-A, BC-12-05-07-B, BC-12-11-13-F, BC-04-12-17-C, and
16 BC-__-__-__-__.
17 202.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the
18 Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
19 202.2-3. Should a provision of this law or the application thereof to any person or circumstances be
20 held as invalid, such invalidity shall not affect other provisions of this law which are considered to
21 have legal force without the invalid portions.
22 202.2-4. In the event of a conflict between a provision of this law and a provision of another law,
23 the provisions of this law shall control.
24 202.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
25
26 **202.3. Definitions**
27 202.3-1. This section shall govern the definitions of words or phrases as used within this law. All
28 words not defined herein shall be used in their ordinary and everyday sense.
29 (a) “Appropriate authority” means the Human Resources Department hiring representative,
30 immediate supervisor, EHN, MRO, and/or ONEAP who requests the drug and/or alcohol
31 testing for reasons of pre-employment, reasonable suspicion, and/or follow-up testing.
32 (b) “Business day” means Monday through Friday from 8:00am-4:30pm, excluding holidays
33 recognized by the Nation.
34 (c) “Confirmed positive test result” means a lab-confirmed drug test that is verified by the
35 MRO that exceeds the cut-off levels established by this law (levels established by the United
36 States Department of Health and Human Services), confirmed saliva testing, confirmed
37 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.
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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.

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.

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

223 (a) *Exemption for Positive THC Test Result.* An external applicant's confirmed positive THC
224 test result shall be exempted from the requirement of a negative drug test result for
225 employment eligibility unless prohibited by an external licensing or grant requirement.

226 202.8-5. Each employee shall participate in reasonable suspicion and follow-up testing upon the
227 request of an appropriate authority. A negative test result is required for unimpeded employment
228 eligibility.

229 202.8-6. *Dilution of Test Results.* In cases where a drug test result is diluted, a positive dilute of the
230 test result requires that the applicant or employee shall be given a confirmed positive test result,
231 while a negative dilute of the test result requires retesting. EHN shall notify the applicant or
232 employee of the required retesting.

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

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

237

238 **202.9. Refusal to Test**

239 202.9-1. Refusal to test is prohibited behavior as defined in section 202.6. Refusal to test carries
240 the same consequences as a confirmed positive test result. Examples of refusal to test include, but
241 are not limited to:

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

243 (b) Refusal to sign the required forms.

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

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

247 (e) Providing an insufficient sample of urine or breath.

248 (f) Failing to test or to re-test.

249 (g) Failing to appear within two (2) hours after an order or request is made for testing or re-
250 testing.

251 (h) Behaving in a confrontational or discourteous manner that disrupts the collection process.

252

253 **202.10. Reasonable Suspicion Testing Waiting Period**

254 202.10-1. This section applies only to current employees who meet the reasonable suspicion
255 standard. It does not apply to applicants of the Nation.

256 202.10-2 During drug and alcohol testing for reasonable suspicion, an employee shall be
257 immediately removed from duty without pay at the time of initiation of the reasonable suspicion
258 drug and alcohol testing and specimen collection until the employer is notified by EHN of negative
259 results on both the drug and alcohol tests, or MRO-verified negative test results.

260 202.10-3. When confirmation of test results are made available to the employer, the supervisor shall
261 notify the employee by telephone and by certified mail using the contact information provided by

262 the employee. The notice to the employee shall identify a reinstatement date if the test was
263 confirmed negative, or applicable consequences if the test was confirmed positive. If the employee
264 is reinstated, back pay shall be provided in accordance with the Back Pay law. However, if the
265 employee fails to return to work on the assigned reinstatement date as instructed in the notice from
266 the supervisor, the supervisor shall discipline the employee in accordance with the Nation's laws,
267 rules and policies governing employment, unless an extension is granted in writing by the supervisor
268 along with the reason for the extension. An employee who is ultimately terminated for failure to
269 return to work on his or her assigned reinstatement date shall not be eligible for employment for one
270 (1) year after the date of termination.

271
272 **202.11. Consequences for Prohibited Behavior**

273 202.11-1. Either an internal applicant or an external applicant may decline the position at any time
274 before being directed to EHN or other designated testing site for the applicant's drug and alcohol
275 testing.

276 202.11-2. *External Applicant.* If an external applicant fails to show at the testing site within the
277 time allotted, or on the date of the scheduled test, or has engaged in prohibited behavior as listed at
278 section 202.6 that has been documented, the employment offer shall be withdrawn. An external
279 applicant shall not be eligible for hiring consideration for one hundred eighty (180) days from the
280 date of the urine drug screening test.

281 202.11-3. *Internal Applicant.* If an internal applicant fails to show at the testing site within the time
282 allotted, or on the date of the scheduled test, or has engaged in prohibited behavior as listed at section
283 202.6, the employment offer shall be withdrawn. The applicant shall be removed from duty and
284 subject to respective consequences of this law. The applicant shall not be eligible for hiring
285 consideration in a different position for one hundred eighty (180) days from the date of the urine
286 drug screening test.

287 202.11-4. *Employee.* If an employee has engaged in prohibited behavior as listed in section 202.6-
288 1, and/or fails to cooperate by not responding to contact from the MRO within ten (10) business days
289 (which shall be deemed thereafter as a definite positive test), the employee shall be removed from
290 duty and subject to the respective consequences of this law.

291 202.11-5. *Consequences.*

292 (a) *First Violation.*

293 (1) Any employee who engages in prohibited behavior as defined in section 202.6
294 for the first time shall be removed from duty without pay and shall receive a
295 mandatory referral to ONEAP for an assessment. The ONEAP shall also determine
296 if the employee shall be subject to return-to-duty/follow-up testing. If follow-up
297 testing is required, the testing shall be at the employee's expense.

298 (2) The employee shall sign a Return-to-Work Agreement and submit the agreement
299 to his or her supervisor within ten (10) days or the employee shall be terminated and
300 ineligible for re-hire for one (1) year.

301 (A) When the supervisor signs the Return-to-Work Agreement the employee
302 shall be placed back on the work schedule by the next regularly scheduled
303 workday.

304 (3) Failure to comply with the signed Return-to-Work Agreement shall result in the
305 employee being terminated and ineligible for re-hire for one (1) year.

306 (b) *Second Violation.*

307 (1) Any employee who engages in prohibited behavior as defined in section 202.6 a
308 second time within his or her lifetime of employment with the Nation shall be
309 removed from duty without pay and shall receive a mandatory referral to ONEAP for
310 an assessment.

311 (2) The employee shall sign a Return-to-Work Agreement and submit it to the
312 employee's supervisor for signature within ten (10) days or the employee shall be
313 terminated and ineligible for re-hire for one (1) year. After a second violation the
314 employee shall not be placed back on the work schedule until:

315 (A) The employee receives approval from the ONEAP that they have
316 demonstrated sufficient progress in a treatment program that would indicate
317 the employee is drug and alcohol free within thirty (30) days of the employee
318 being removed from duty; and

319 (B) The employee completes a return-to-duty drug screening and alcohol test
320 at a SAMHSA-certified facility at their own expense, which shall be negative
321 within thirty (30) days of the employee being removed from duty;

322 (C) The ONEAP notifies the supervisor of the employee's eligibility to return
323 to work.

324 (3) As a condition of continuing employment, the employee shall participate in
325 follow-up testing with continued negative results as directed by the ONEAP and
326 listed in the Return-to-Work Agreement. All follow-up testing shall be at the
327 employee's expense.

328 (4) Failure to comply with the Return-to-Work agreement or follow up testing shall
329 result in the employee being terminated and ineligible for re-hire for one (1) year.

330 (c) *Third Violation.*

331 (1) Any employee who engages in prohibited behavior as defined in section 202.6 a
332 third time in his or her lifetime of employment with the Nation shall be terminated.
333 The employee shall not be eligible for employment unless he or she receives a
334 forgiveness pursuant to the Pardon and Forgiveness law. An employee that receives
335 forgiveness shall not be eligible for re-hire for one (1) year after the date of
336 termination.

337
338 **202.12. Re-hire**
339 202.12-1. A former employee that was terminated due to violations of this law shall provide, along
340 with the former employee's application for employment, the following:

341 (a) Proof of completion of a certified Alcohol and Other Drug Abuse program; and

342 (b) A negative drug screening and alcohol test at a SAMHSA-certified facility completed
343 within the last thirty (30) days. This drug screening and alcohol test shall be done at the
344 former employee's own expense.

345
346 **202.13. Other Potential Consequences**
347 202.13-1. The violation of this law may result in consequences to the employee beyond any
348 discipline or corrective action that may be taken. Other potential consequences include the
349 following:

350 (a) *Disqualification of Unemployment Benefits.* An employee who is terminated as a result
351 of a violation of this law may be ineligible for unemployment benefits.

352 (b) *Reduction of Workers Compensation Benefits.* An employee who incurs an injury in a
353 work-related accident that occurred while engaged in a violation of this law may have any
354 workers compensation benefits reduced.

355 (c) *Criminal Penalties.* An employee whose conduct violates state or federal criminal laws
356 may be referred to appropriate law enforcement for criminal prosecution.

357 (d) *Liability for Accidents.* An employee whose conduct in violation of this law causes an
358 accident may be held personally responsible for losses associated with the accident, and the
359 employee may be required to pay for those losses.

360

361 **202.14. Confidentiality**

362 202.14-1. Information related to the application of this law is confidential. Access to this
363 information is limited to those who have a legitimate “need to know” in compliance with relevant
364 laws and personnel policies and procedures.

365 202.14-2. All drug and alcohol testing information shall be maintained at EHN in confidential
366 records which are separate from the employee’s clinical and personnel files. The employee may
367 request a copy of the employee’s records. The records may be requested by a third party in
368 accordance with the Oneida Nation’s laws, rules and policies governing employment.

369

370 **202.15. Communication**

371 202.15-1. HRD shall communicate this law to all employees to ensure all employees are aware of
372 their role in supporting this law:

373 (a) All employees shall be given information on how to access this law.

374 (b) This law shall be reviewed in new employee orientation and other means, as deemed
375 appropriate by HRD.

376 (c) All employees shall sign an acknowledgment form stating they have received a copy of
377 this law, have read and understand it, and agree to follow this law.

378

379 *End.*

380

381 See GTC-01-31-94-B
382 Adopted – BC-08-17-94
383 Emergency Amended - BC-04-20-95-C
384 Adopted - BC-10-25-95-A (repealed previous versions)
385 Amended - BC-10-20-99-A
386 Amended - BC-12-05-07-B
387 Amended - BC-12-11-13-F
388 Emergency Amended - BC-10-26-16-D
389 Amended - BC-04-12-17-C
390 Amended – BC- _ - _ - _
391



MEMORANDUM

To: Legislative Operating Committee

From: Keith Doxtator

Date: January 16th, 2024

Subject: Fiscal Impact for: Drug and Alcohol Free Workplace Law Amendments

I. Estimated Fiscal Impact Summary:

Request: Amendments to Drug and Alcohol Free Workplace Law		
Implementing Agency	Employee Health Human Resources Grants	
Estimated Impact	Current Fiscal Year	Ten Year Estimate
Total Estimated Fiscal Impact	Minimal	Minimal

II. Background:

The Drug and Alcohol Free Workplace Law was adopted by the Oneida Business Committee in 1994 through resolution BC-10-25-95-A and then amended through resolutions BC-10-20-99-A, BC-12-05-07-B, BC-12-11-13-F, and BC-04-12-17-C. 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. [2 O.C. 202.1-2].

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 – which requests to remove 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. The Legislative Operating Committee added this item to its Active Files List on September 7, 2022.

The LOC is considering amendments to the Drug and Alcohol Free Workplace Law, summarized as:

- All external and internal applicants being subject to pre-employment drug screening.
- Adding an exemption for positive THC test results to the pre-employment drug screening, unless prohibited by an external licensing or grant requirement.

III. **Methodology and Assumptions:**

Not Part of the Amendments

Throughout the comment period and discussions for this amendment, there appeared to be many misassumptions or misunderstandings of what these amendments accomplish. The proposed exemption only applies to pre-employment drug screenings. Once employed, each employee will still be subject to the same prohibition from the use of prohibited drugs. In short, past use of THC is not indicative of future intent. In this fiscal impact review, there is not a change to drug use allowed during employment, and I will assume employees comply with our laws and regulations accordingly.

Grant Requirements

One of the first questions posed to the organization was what type of grant requirements are involved within the Nation that may factor into this decision.

Some of the grants received require Oneida to comply with the Drug Free Workplace Act of 1988. However, this was clarified by Chief Council to indicate that “the federal law and regulations require a policy, not a prohibition or testing. The Nation has a policy regarding use of alcohol or drugs in the workplace.” The drug-free certification required by some federal grant applications assures that *once hired*, an employee would not engage in unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in conducting any activity with such grant; our current policy complies with this requirement.

If there were a unique aspect to a specific grant detailing positive THC test results for an applicant, then further tracking would need to be developed, however no such instances requiring further tracking currently occur.

Insurance Implications

Risk inquired with our insurance carriers to determine is this amendment would impact any of our policy coverages or impacts. Short answer – no, it would not.

Additional comment from VP of Tribal First: In theory, liability exposure could extend to a circumstance where an employee who was actually under the influence and the employer knew or should have known were to cause harm to a claimant. However, the liability determination in such an event would depend on whether he or she was intoxicated at the time of the incident, not necessarily whether he or she had ever been under influence at any time. To the extent that claimant could allege negligent hiring practice because the employer had express knowledge of THC usage due to a positive screen, but nonetheless offered employment, I don't see that type of argument succeeding on its merit in most cases. Technology isn't advanced enough to determine when a prospective employee was under the influence. Plus, cannabis is mostly legal now across the states in some format, medically or recreationally if not both, and so it's hard to imagine an increase in potential EPLI exposure if they hired someone despite a positive output. I also don't think there is exposure related to prior candidates who may have been denied employment due to a positive screen. Those who test THC usage are not in and of themselves a stand-alone protected class, and so my guess is any such claim, however unlikely, would not succeed either.

IV. Financial Impact:

There does not appear to be a change to the amount, nor type of pre-employment screens done. There is not a difference to the standards we're holding our workforce accountable to. There does not appear to be any additional liability by widening the scope of our acceptable applicants.

While there doesn't appear to be any additional financial consideration, I cannot rule out the management anecdotes of hiring a THC user that does not comply with the Nation's drug policy as an employee. There may be additional turnover and related costs, although minimal.

Finance Administration Office**V. Recommendation:**

Finance does not provide a recommendation for this request. Rather our aim is to disclose the financial impact and allow the BC to weigh the value to cost among all its priorities.

Please contact Finance with any follow up questions.



Legislative Operating Committee
February 7, 2024

Clean Air Policy Amendments

Submission Date: 1/18/23	Public Meeting: 12/15/23
LOC Sponsor: Jennifer Webster	Emergency Enacted: N/A

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

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

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

2/1/23 LOC: Motion by Marie Cornelius to approve the draft of the Clean Air policy amendments and direct that a legislative analysis be completed; seconded by Daniel Guzman King Motion carried unanimously.

2/20/23: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Marie Cornelius, Clorissa N. Leeman, Debra Danforth, Michelle Tipple, Victoria Flowers, Brittany Nicholas, Kristal Hill. This was a work meeting held on Microsoft Teams. The purpose of this work meeting was to review and discuss the proposed draft of amendments to the Clean Air Policy all allow the Comprehensive Health Division and the Environmental, Health, Safety, Land, And Agriculture Division the opportunity to provide input on the proposed amendments.

3/20/23: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Cornelius, Clorissa N. Leeman, Debra Danforth, Michelle Tipple, Victoria Flowers, Brittany Nicholas, James Petitjean, James Snitgen, Debra Powless, Timothy Skenandore, Carl Artman, Kristal Hill. This was a work meeting held on Microsoft Teams. The purpose of this work meeting was to review and discuss the proposed draft of amendments to the Clean Air Policy all allow the stakeholders the opportunity to provide input on the proposed amendments before the LOC makes a policy decision as to what direction to go with the amendments.

7/10/23 LOC: Motion by Jennifer Webster to approve the updated draft and legislative analysis of the Clean Air Policy amendments; seconded by Kirby Metoxen. Motion carried unanimously.

10/4/23 LOC: Motion by Jonas Hill to add the Clean Air Policy Amendments to the Active Files List with Jennifer Webster as the sponsor; seconded by Marlon Skenandore. Motion carried unanimously.

10/18/23: *Work Meeting.* Present: Jameson Wilson, Marlon Skenandore, Jennifer Webster, Jonas Hill, Clorissa Leeman, Grace Elliott, Maureen Perkins, Fawn Cottrell. The purpose of this work meeting was for the new Legislative Operating Committee to review and approve the draft and legislative analysis for the proposed amendments to the Clean Air Policy.

11/1/23 LOC: Motion by Jennifer Webster to approve the public meeting packet for the Clean Air Policy Amendments with noted change to the public meeting notice, and forward the Clean Air Policy Amendments to a public meeting to be held on December 15, 2023; seconded by Kirby Metoxen. Motion carried unanimously.

11/1/23: *Phone Call.* Present: Clorissa Leeman, Krystal John. The purpose of this phone call was to follow up on the comments made by Attorney Krystal John during the LOC meeting in regard to the Clean Air Policy Amendments.

12/15/23: *Public Meeting Held.* Present: Jameson Wilson, Jonas Hill, Kirby Metoxen, Clorissa Leeman, Maureen Perkins, Michelle Tipple, Peggy Helm-Quest, Brooke Doxtator, Jim Snitgen. Present on Microsoft Teams: Joel Maxam, Katsitsiyo Danforth, Mark W. Powless, Brittany Nicholas, David Jordan, Kristal Hill, Sharon Mousseau, Mollie Passon, Stefanie Reinke, Debra Santiago, Jennifer Webster, Nina Vang, Grace Elliott, Victoria Flowers. Two (2) individuals provided public comment during this public meeting.

12/26/23: *Public Comment Period Closed.* Four (4) individuals provided written comments during the public comment period.

1/3/24 LOC: Motion by Jennifer Webster to accept the public comments and the public comment review memorandum and defer to a work meeting for further discussion; seconded by Marlon Skenadore. Motion carried unanimously.

1/3/24: *Work Meeting.* Present: Jameson Wilson, Marlon Skenandore, Jennifer Webster, Jonas Hill, Kirby Metoxen Clorissa Leeman, Carolyn Salutz, Kristal Hill, Maureen Perkins, Fawn Cottrell. The purpose of this work meeting was for the LOC to review and consider the public comments received.

1/17/24 LOC: Motion by Jennifer Webster to approve the updated public comment review memorandum, draft, and legislative analysis; seconded by Jonas Hill. Motion carried unanimously.


Motion by Jennifer Webster to approve the fiscal impact statement request memorandum and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by January 31, 2024; seconded by Kirby Metoxen. Motion carried unanimously.

2/1/24: *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Kirby Metoxen Clorissa Leeman, Carolyn Salutz, Kristal Hill, Maureen Perkins, Fawn Cottrell. The purpose of this work meeting was for the LOC to review the adoption materials for the Clean Air Policy Amendments.

Next Steps:

- Approve the Clean Air Policy Amendments adoption packet and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee
FROM: Jameson Wilson, LOC Chairperson 
DATE: February 14, 2024
RE: Adoption of Amendments to the Clean Air Policy

Please find the following attached backup documentation for your consideration of the adoption of amendments to the Clean Air Policy:

1. Resolution: Amendments to the Clean Air Policy
2. Statement of Effect: Amendments to the Clean Air Policy
3. Clean Air Policy Amendments Legislative Analysis
4. Clean Air Policy Amendments Draft (Redline)
5. Clean Air Policy Amendments Draft (Clean)
6. Clean Air Policy Amendments Fiscal Impact Statement

Overview

Amendments to the Clean Air Policy are being sought to clarify and provide additional exemptions to the prohibition against smoking, address how violations of this law by employees are handled, and make other minor drafting changes. The Clean Air Policy provides a healthy working and learning environment within buildings and vehicles owned and operated by the Nation by prohibiting smoking. [4 O.C. 411.1-1]. The amendments to the Clean Air Policy:

- Include a new exemption to the prohibition of smoking, which is a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco product, unless prohibited by Oneida Retail or the terms and conditions of the lease or land or building assignment. [4 O.C. 411.4-2(b)(3)];
- Clarify the exemption to the prohibition of smoking for residential buildings owned by the Nation only applies if not otherwise prohibited by a lease or rental agreement. [4 O.C. 411.4-2(b)(2)];
- Eliminate the requirement that a suspension for a second violation of this law be one (1) week in length, providing the supervisor and HRD greater flexibility in determining a suspension length that best fits the violation. [4 O.C. 411.4-4(b)(2)]; and
- Make other minor drafting changes, such as changing the title from the Clean Air Policy to the Clean Air law.

The Legislative Operating Committee developed the proposed amendments to the Clean Air Policy through collaboration with representatives from the Oneida Law Office, Gaming, Retail, Comprehensive Health Division, and Environmental, Health, Safety, Land, and Agriculture Division. The Legislative Operating Committee held six (6) work meetings on the development of the amendments to the Clean Air Policy.

The development of the amendments to the Clean Air Policy complies with all processes and procedures required by the Legislative Procedures Act, including the development of a legislative analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. *[1 O.C. 109.6, 109.7, 109.8].*

A public meeting on the proposed amendments to the Clean Air Policy was held on December 15, 2023. Two (2) individuals provided oral comments during the public meeting. The public comment period was then held open until December 26, 2023. Four (4) individuals provided written comments during the public comment period. The Legislative Operating Committee reviewed and considered the public comments received on January 3, 2024, and any changes have been incorporated into this draft.

The amendments to the Clean Air Policy will become effective on February 28, 2024.

Requested Action

Adopt the Resolution: Amendments to the Clean Air Policy

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # Amendments to the Clean Air Policy

- 1
2
3
- 4 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe
5 recognized by the laws of the United States of America; and
6
- 7 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
8
- 9 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,
10 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
11
- 12 **WHEREAS,** the Clean Air Policy (“the Law”) was adopted by motion of the Oneida Business Committee
13 on May 25, 1994, and amended by resolutions BC-02-24-10-I, BC-05-28-14-A; and
14
- 15 **WHEREAS,** the purpose of this Law is to provide a healthy working and learning environment within
16 buildings and vehicles owned and operated by the Nation by prohibiting smoking; and
17
- 18 **WHEREAS** currently, the Law provides that no person may smoke in any building owned or operated
19 by the Nation, in any vehicle owned or operated by the Nation, or within thirty (30) feet of
20 any building owned or operated by the Nation, except that a person may smoke within thirty
21 (30) feet of the retail outlets or any gaming establishments; and
22
- 23 **WHEREAS,** the Law provides various exemptions from the prohibition against smoking; and
24
- 25 **WHEREAS,** the amendments to the Law provide a new exemption to the prohibition of smoking, which
26 is a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco product,
27 unless prohibited by Oneida Retail or the terms and conditions of the lease or land or
28 building assignment; and
29
- 30 **WHEREAS,** the amendments to the Law further clarify the exemption to the prohibition of smoking for
31 residential buildings owned by the Nation only applies if not otherwise prohibited by a lease
32 or rental agreement; and
33
- 34 **WHEREAS,** the amendments to the Law eliminate the requirement that a suspension for a second
35 violation of this law be one (1) week in length, providing the supervisor and HRD greater
36 flexibility in determining a suspension length that best fits the violation; and
37
- 38 **WHEREAS,** the amendments to the Law make other minor drafting changes, such as changing the title
39 from the Clean Air Policy to the Clean Air law; and
40
- 41 **WHEREAS,** the Legislative Operating Committee developed the proposed amendments to the Law
42 through collaboration with representatives from the Oneida Law Office, Gaming, Retail,
43 Comprehensive Health Division, and Environmental, Health, Safety, Land, and Agriculture
44 Division; and
45
- 46 **WHEREAS,** in accordance with the Legislative Procedures Act a legislative analysis and fiscal impact
47 statement were completed for the proposed amendments to the Law; and

48
49 **WHEREAS,** a public meeting for the proposed amendments to this Law was held on December 15,
50 2023,with two (2) individuals providing oral comments, and the public comment period for
51 the amendments to this Law was held open until December 26, 2023, with four (4)
52 individuals providing written comments; and
53
54 **WHEREAS,** the Legislative Operating Committee reviewed and considered the public comments
55 received on January 3, 2023, and any changes have been incorporated into this draft; and
56
57 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts the amendments
58 to the Clean Air law which shall become effective on February 28, 2024.



Statement of Effect
Amendments to the Clean Air Policy

Summary

This resolution adopts amendments to the Clean Air Policy to clarify and provide additional exemptions to the prohibition against smoking, address how violations of this law by employees are handled, and make other minor drafting changes.

Submitted by: Clorissa N. Leeman, Senior Staff Attorney, Legislative Reference Office
Date: January 22, 2024

Analysis by the Legislative Reference Office

This resolution adopts amendments to the Clean Air Policy. The purpose of the Clean Air Policy is to provide a healthy working and learning environment within buildings and vehicles owned and operated by the Nation by prohibiting smoking. [4 O.C. 411.1-1]. The amendments to the Clean Air Policy:

- Include a new exemption to the prohibition of smoking, which is a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco product, unless prohibited by Oneida Retail or the terms and conditions of the lease or land or building assignment. [4 O.C. 411.4-2(b)(3)];
- Clarify the exemption to the prohibition of smoking for residential buildings owned by the Nation only applies if not otherwise prohibited by a lease or rental agreement. [4 O.C. 411.4-2(b)(2)];
- Eliminate the requirement that a suspension for a second violation of this law be one (1) week in length, providing the supervisor and HRD greater flexibility in determining a suspension length that best fits the violation. [4 O.C. 411.4-4(b)(2)]; and
- Make other minor drafting changes, such as changing the title from the Clean Air Policy to the Clean Air law.

Adoption of any legislation is required to comply with the Legislative Procedures Act (“the LPA”), which was adopted by the General Tribal Council through resolution GTC-01-07-13-A for the purpose of providing a standardized process for the adoption of laws of the Nation. [1 O.C. 109.1-1]. The Clean Air Policy amendments complied with all processes and procedures required by the LPA, including the development of a legislative analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. [1 O.C. 109.6, 109.7, 109.8].

A public meeting on the proposed amendments to the Clean Air Policy was held on December 15, 2023. Two (2) individuals provided oral comments during the public meeting. The public comment period was then held open until December 26, 2023. Four (4) individuals provided written comments during the public comment period. The Legislative Operating Committee reviewed and considered the public comments received on January 3, 2024, and any changes have been incorporated into this draft.

The amendments to the Clean Air Policy will become effective on February 28, 2024.

Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws.



CLEAN AIR POLICY AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> ▪ Include a new exemption to the prohibition of smoking, which is a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco product, unless prohibited by Oneida Retail or the terms and conditions of the lease or land or building assignment. [4 O.C. 411.4-2(b)(3)]; ▪ Clarify the exemption to the prohibition of smoking for residential buildings owned by the Nation only applies if not otherwise prohibited by a lease or rental agreement. [4 O.C. 411.4-2(b)(2)]; ▪ Eliminate the requirement that a suspension for a second violation of this law be one (1) week in length, providing the supervisor and HRD greater flexibility in determining a suspension length that best fits the violation. [4 O.C. 411.4-4(b)(2)]; and ▪ Make other minor drafting changes.
Purpose	The purpose of this law is to provide a healthy working and learning environment within buildings and vehicles owned and operated by the Nation by prohibiting smoking. [4 O.C. 411.1-1].
Affected Entities	Oneida Nation employees and community members.
Public Meeting	A public meeting was held on December 15, 2023. The public comment period was held open until December 26, 2023.
Fiscal Impact	A fiscal impact statement was provided by the Finance Department on January 30, 2024.

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A. Background.** The Clean Air Policy was originally adopted by the Oneida Business by motion on May
- 3 25, 1994, and then amended through resolutions BC-02-24-10-I, and BC-05-28-14-A. The purpose of
- 4 the Clean Air Policy is to provide a healthy working and learning environment within buildings and
- 5 vehicles owned and operated by the Nation by prohibiting smoking. [4 O.C. 411.1-1]. It is the policy
- 6 of the Nation to commit to promoting health and wellness in all forms, by prohibiting smoking. [4 O.C.
- 7 411.1-2].
- 8 **B. Request for Amendments.** On January 10, 2023, the LOC received a request from Retail to consider
- 9 amendments to the Clean Air Policy to create an exemption for the prohibition from smoking in any
- 10 building of the Nation for smoking cigars and tobacco in pipes within a premise designated by retail as
- 11 a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco product and in which
- 12 the smoking of only cigars and tobacco in pipes is permitted. The Legislative Operating Committee
- 13 added the Clean Air Policy amendments to its Active Files List on January 18, 2023.

SECTION 3. CONSULTATION AND OUTREACH

- 14
- 15
- 16 **A.** Representatives from the following departments or entities participated in the development of the
- 17 amendments to the Clean Air Policy and this legislative analysis:

- 18 ▪ Oneida Law Office;
- 19 ▪ Gaming;
- 20 ▪ Retail;
- 21 ▪ Comprehensive Health Division; and
- 22 ▪ Environmental, Health, Safety, Land, and Agriculture Division.

- 23 **B.** The following laws were reviewed in the drafting of this analysis:
- 24 ▪ Oneida Personnel Policies and Procedures.

25

26 **SECTION 4. PROCESS**

- 27 **A.** The development of the proposed amendments to the Clean Air Policy complies with the process set
28 forth in the Legislative Procedures Act (LPA).

- 29 ▪ On January 18, 2023, the Legislative Operating Committee added the Clean Air Policy
30 amendments to its Active Files List.
- 31 ▪ On February 1, 2023, the Legislative Operating Committee approved the draft of the proposed
32 amendments to the Clean Air Policy and directed that a legislative analysis be developed.
- 33 ▪ On July 10, 2023, the Legislative Operating Committee approved the updated draft and
34 legislative analysis.
- 35 ▪ On October 4, 2023, the Legislative Operating Committee readded the Clean Air Policy
36 amendments to its Active Files List for the 2023-2026 legislative term.
- 37 ▪ On November 1, 2023, the Legislative Operating Committee approved the public meeting
38 packet for the Clean Air Policy Amendments with noted change to the public meeting notice,
39 and forwarded the Clean Air Policy Amendments to a public meeting to be held on December
40 15, 2023.
- 41 ▪ On December 15, 2023, the public meeting was held. Two (2) individuals provided oral
42 comments during the public meeting.
- 43 ▪ The public comment period was held open until December 26, 2023. Four (4) individuals
44 provided written comments during the public comment period.
- 45 ▪ On January 3, 2024, the Legislative Operating Committee accepted the public comments and
46 the public comment review memorandum and deferred these items to a work meeting for
47 further discussion. The Legislative Operating Committee held a work meeting to review and
48 consider the public comments later this same day.
- 49 ▪ On January 17, 2024, the Legislative Operating Committee approved the updated public
50 comment review memorandum, draft, and legislative analysis; and approved the fiscal impact
51 statement request memorandum and forwarded the relevant materials to the Finance
52 Department directing that a fiscal impact statement be prepared and submitted to the LOC by
53 January 31, 2024.
- 54 ▪ The Finance Department provided the fiscal impact statement on January 30, 2024.

- 55 **B.** At the time this legislative analysis was developed the following work meetings had been held
56 regarding the development of the amendments to this Law:

- 57 ▪ January 26, 2023: LOC work session;
- 58 ▪ February 20, 2023: LOC work session with the Comprehensive Health Division and the
59 Environmental, Health, Safety, Land, and Agriculture Division; and
- 60 ▪ March 20, 2023: LOC work session with the Comprehensive Health Division, Retail, Gaming,
61 Oneida Law Office, and the Environmental, Health, Safety, Land, and Agriculture Division.

- 62 ▪ October 18, 2023: LOC work session.
- 63 ▪ January 3, 2024: LOC work session.
- 64 ▪ February 1, 2024: LOC work session.

65

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

67 **A. *Exemptions to the Prohibition of Smoking.*** The proposed amendments to the Clean Air Policy include
68 a new exemption to the prohibition of smoking, which is a tobacco store, on or in premises controlled
69 by Oneida Retail, that sells tobacco product, unless prohibited by Oneida Retail or the terms and
70 conditions of the lease or land or building assignment. [4 O.C. 411.4-2(b)(3)]. Previously, the Clean
71 Air Policy only included exemptions to the prohibition of smoking for cultural usage, all gaming areas
72 in any building of the Nation, and residential buildings that are owned by the Nation. [4 O.C. 411.4-
73 2(a)-(b)(1)-(2)]. The proposed amendments also provide clarification that the exemption for residential
74 buildings owned by the Nation only applies if not otherwise prohibited by a lease or rental agreement.
75 [4 O.C. 411.4-2(b)(2)].

- 76 ▪ *Effect.* An additional exemption was added to the Clean Air Policy in an effort to provide Retail
77 with an opportunity to pursue the development of a cigar bar in one of the Oneida One Stop retail
78 locations. Clarification was added to the exemption for residential buildings in recognition that a
79 lease or rental agreement may further prohibit smoking within a residential building owned by the
80 Nation.

81 **B. *Violations of the Clean Air Policy.*** The proposed amendments to the Clean Air Policy clarify that any
82 employee of the Nation who violates this law during their work hours may be subject to disciplinary
83 action in accordance with the Nation’s laws and policies governing employment, which is the Oneida
84 Personnel Policies and Procedures. [4 O.C. 411.4-4(b)]. The proposed amendments to the Clean Air
85 Policy then demonstrates that the disciplinary action an employee may be subject to includes a written
86 warning for a first-time violation; a suspension without pay for a second violation; or termination from
87 employment for any violation thereafter. [4 O.C. 411.4-4(b)(1)-(3)]. Previously, the Clean Air
88 Policy provided that a first violation of this law would result in a reprimand, but the Clean Air Policy
89 was not specific as to what that reprimand would consist of. Additionally, the Clean Air Policy
90 previously provided that a second violation of this law would result in a suspension for one (1) week.
91 The proposed amendments to the Clean Air Policy eliminated the one (1) week requirement for
92 suspensions and instead provide the supervisor with discretion to determine the appropriate length of
93 the suspension. The Oneida Personnel Policies and Procedures requires that a supervisor consult with
94 the Executive Director of the Human Resources Department to mutually determine the appropriate
95 length of the suspension, and that any suspension be limited to a maximum of three (3) weeks. [Oneida
96 Personnel Policies and Procedures Section V.D.5.f.1].

- 97 ▪ *Effect.* This proposed amendments to the Clean Air Policy provide greater clarification as to how
98 violations of this law are addressed for employees who violate the Clean Air Policy during their
99 work hours.

100

101 **SECTION 6. EXISTING LEGISLATION**

102 **A. *Related Legislation.*** The following laws of the Nation are related to the Clean Air Policy:

- 103 ▪ *Oneida Personnel Policies and Procedures.* The purpose of the Oneida Personnel Policies and
104 Procedures is to provide for the Nation’s employee related policies and procedures including

105 recruitment, selection, compensation and benefits, employee relations, safety and health, program
106 and enterprise rules and regulations, and record keeping.

- 107 ▪ Section V.D of the Oneida Personnel Policies and Procedures specifically addresses
108 complaints, disciplinary actions and grievances. Section V.D.2.b of the Oneida Personnel
109 Policies and Procedures provides that a supervisor is required to initiate disciplinary actions
110 commensurate with the seriousness of the unsatisfactory performance, and a supervisor must
111 consider each disciplinary action in progressive order and justify a deviance from that
112 recommended progression.
- 113 ▪ The proposed amendments to the Clean Air Policy clarify that any employee of the Nation who
114 violates this law during their work hours may be subject to disciplinary action in accordance
115 with the Nation’s laws and policies governing employment, which is the Oneida Personnel
116 Policies and Procedures. [4 O.C. 411.4-4(b)].

117

118 **SECTION 7. OTHER CONSIDERATIONS**

119 **A. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all
120 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
121 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
122 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
123 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
124 completing the fiscal impact statement.

- 125 ▪ *Conclusion.* The Finance Department provided a fiscal impact statement on January 30, 2024.

126

Title 4. Environment and Natural Resources – Chapter 411

CLEAN AIR ~~POLICY~~

411.1. Purpose and Policy

~~411.2. Adoption, Amendment, Conflicts~~~~411.2. Adoption, Amendment, Repeal~~

411.3. Definitions

411.4. Regulation of Smoking

3#

411.1. Purpose and Policy

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

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

34#

411.2. Adoption, Amendment, ~~Conflicts~~Repeal

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

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

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

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

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

4:#

411.3. Definitions

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

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

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

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

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

(e) “Nation” means the Oneida Nation.

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

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

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66# ~~(2)~~ (2) a vaporized liquid from an electronic cigarette, whether the liquid contains
67# or does not contain nicotine.

68# (f) ~~“Tribe”~~(g) “Tobacco product” means ~~the Oneida Tribe~~any form of ~~Indians of~~
69# ~~Wisconsin~~tobacco prepared in a manner suitable for smoking.

6 : #

6 ; # 411.4. Regulation of Smoking

72# 411.4-1. ~~Except as provided in 411.4-1(b)(1) and 411.4-2, no~~Prohibition of Smoking. No person
73# may smoke:

74# (a) in any building owned or operated by the ~~Tribe~~Nation;

75# (b) within thirty (30) feet of any building owned or operated by the ~~Tribe~~Nation.
76# Receptacles for disposing of smoking materials shall be maintained at least thirty (30) feet
77# from the main entrances of the building; ~~or~~

78# (1) Exception. A person may smoke within thirty (30) feet of the ~~Oneida One~~
79# ~~Stop~~retail outlets or any gaming establishments. ~~Receptacles for disposing of~~
7 : # smoking materials may be maintained within thirty (30) feet of the entrances of
7 ; # these buildings.

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

83# 411.4-2. Exemptions. The following exemptions shall apply to the prohibition of smoking:

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

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

8 : # (1) all gaming areas in any ~~Tribal~~building of the Nation;

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

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

95# (2) residential buildings that are owned by the ~~Tribe~~Nation, including, but not
96# limited to, single-family dwellings, two-~~(2)~~ family dwellings, and multiple-family
97# dwellings; ~~unless otherwise prohibited by a lease or rental agreement; and~~

98# (3) a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco
99# product, unless prohibited by Oneida Retail or the terms and conditions of the lease
9 : # or land or building assignment.

9 ; # 411.4-3. Posting and Notices. All ~~Tribal~~buildings of the Nation, except for those ~~listed in~~
: 2# exempted by section 411.4-2(b),) of this Law, shall be posted as “Non-Smoking” on entrances. ~~In~~
: 3# addition, the hallways, restroom facilities, and other public areas of these buildings may also be
: 4# posted as “Non-Smoking.” ~~Signs shall be large enough that they can be viewed and read thirty~~
: 5# (30) feet from the building.

: 6# 411.4-4. Violations.

: 7# (a) Any building manager or designated agent of the ~~Oneida Business Committee~~Nation
: 8# may file for injunctive relief with the ~~Tribe’s judicial system~~Nation’s Judiciary against any
: 9# person who repeatedly or willfully violates this ~~policy~~law.

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- : : # (b) An employee of the TribeNation who violates this policylaw during his or her their
 : ; # work hours may be subject to the following disciplinary action in accordance with the
 ; 2 # Nation's laws and policies governing employment:
 ; 3 # (1) reprimanded written warning for a first-time violation;
 ; 4 # (2) suspended without pay for one (1) week for a second violation; or
 ; 5 # (3) terminated from employment for any violation thereafter.
 ; 6 #
 ; 7 # *End.*
 ; 8 #
 ; 9 #

Adopted ~~5~~ OBC motion on 05-25-94, ~~motion, grace~~ Grace period for thirty (30) feet until shelters complete, except
 ; : # for at educational facilities where minors are present.
 ; ; # Amended – BC-02-24-10-I
 32 2 # Amended – BC-05-28-14-A
 32 3 # Amended – BC - - -

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

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

411.3. Definitions
411.4. Regulation of Smoking

3#

4# **411.1. Purpose and Policy**

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

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

33#

34# **411.2. Adoption, Amendment, Repeal**

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

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

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

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

44# 411.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

45#

46# **411.3. Definitions**

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

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

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

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

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

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

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

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

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

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

63#

64# **411.4. Regulation of Smoking**

65# 411.4-1. *Prohibition of Smoking.* No person may smoke:

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- 66# (a) in any building owned or operated by the Nation;
67# (b) within thirty (30) feet of any building owned or operated by the Nation. Receptacles
68# for disposing of smoking materials shall be maintained at least thirty (30) feet from the
69# main entrances of the building; or
6 :# (1) *Exception*. A person may smoke within thirty (30) feet of the retail outlets or
6 ;# any gaming establishments. Receptacles for disposing of smoking materials may
72# be maintained within thirty (30) feet of the entrances of these buildings.
73# (c) in any vehicle owned or operated by the Nation.
- 74# 411.4-2. *Exemptions*. The following exemptions shall apply to the prohibition of smoking:
75# (a) *Cultural Usage*. The reasonable burning of tobacco, sage, cedar, and/or sweetgrass
76# shall be exempted for cultural usage. Employees working in the vicinity of this cultural use
77# shall be notified prior to use.
78# (b) *Exempted Locations*. The following locations shall be exempted from the prohibition
79# of smoking:
7 :# (1) all gaming areas in any building of the Nation;
7 ;# (A) Smoking and non-smoking employee break rooms shall be provided in
82# these buildings and shall have separate ventilation.
83# (B) Employees shall not smoke while working in these buildings, other than
84# in the provided break room.
85# (2) residential buildings that are owned by the Nation, including, but not limited
86# to, single-family dwellings, two (2) family dwellings, and multiple-family
87# dwellings, unless otherwise prohibited by a lease or rental agreement; and
88# (3) a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco
89# product, unless prohibited by Oneida Retail or the terms and conditions of the lease
8 :# or land or building assignment.
- 8 ;# 411.4-3. *Posting and Notices*. All buildings of the Nation, except for those exempted by section
92# 411.4-2(b) of this Law, shall be posted as “Non-Smoking” on entrances. In addition, the hallways,
93# restroom facilities, and other public areas of these buildings may also be posted as “Non-
94# Smoking.” Signs shall be large enough that they can be viewed and read thirty (30) feet from the
95# building.
- 96# 411.4-4. *Violations*.
97# (a) Any building manager or designated agent of the Nation may file for injunctive relief
98# with the Nation’s Judiciary against any person who repeatedly or willfully violates this
99# law.
9 :# (b) An employee of the Nation who violates this law during their work hours may be
9 ;# subject to the following disciplinary action in accordance with the Nation’s laws and
: 2# policies governing employment:
: 3# (1) written warning for a first-time violation;
: 4# (2) suspended without pay for a second violation; or
: 5# (3) terminated from employment for any violation thereafter.
: 6#
: 7# *End*.
: 8#
-
- : 9# Adopted – OBC motion on 05-25-94, Grace period for thirty (30) feet until shelters complete, except for at educational
: :# facilities where minors are present.

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- ; # Amended – BC-02-24-10-I
- ; 2# Amended – BC-05-28-14-A
- ; 3# Amended – BC __ - __ - __ - __



MEMORANDUM

To: Legislative Operating Committee

From: Keith Doxtator

Date: January 30th, 2024

Subject: Fiscal Impact for: Clean Air Policy Amendments

I. Estimated Fiscal Impact Summary:

Request: Amendments to Clean Air Policy		
Implementing Agency	Retail Comprehensive Housing Human Resources	
Estimated Impact	Current Fiscal Year	Ten Year Estimate
Total Estimated Fiscal Impact	None	None

II. Background:

The Clean Air Policy was originally adopted by the Oneida Business Committee by motion on May 25th, 1994, and then amended through resolutions BC-02-24-10-I, and BC-05-28-14-A. The purpose of the Clean Air Policy is to provide a health working and learning environment within buildings and vehicles owned and operated by the Nation by prohibiting smoking. It is the policy of the Nation to commit to promoting health and wellness in all forms, by prohibiting smoking.

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

The LOC is considering amendments to the Clean Air Policy, summarized as:

- A new exemption to the prohibition of smoking, which is a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco product, unless prohibited by Oneida Retail or the terms and conditions of the lease or land or building assignment.
- Clarify the exemption to the prohibition of smoking for residential buildings owned by the Nation only applies if not otherwise prohibited by a lease or rental agreement.
- Eliminate the requirement that a suspension for a second violation of this law be one (1) week in length, providing the supervisor and HRD greater flexibility in determining a suspension length that best fits the violation.

III. **Methodology and Assumptions:**

New Exemption for Retail

I've requested input from Retail and relying on their expertise specific to this FIS within Retail.

Residential Exemption

This exemption for residential buildings already exists, and the amendment clarifies that further restrictions may be imposed by a lease or rental agreement. I will assume no fiscal impact as this exemption reversal (assuming pertinent in the lease or rental agreement) will result in the same process and enforcement of any other Nation owned building.

Violations

The only change here is from a mandatory one-week suspension to an indeterminate length suspension.

IV. **Financial Impact:**

Retail has confirmed there is no financial impact to their operations within these amendments.

There is no process or enforcement change to comply with the original pre-exemption language, and no fiscal impact will result for housing leases or rental agreements.

Finance Administration Office

Suspension length changes are indeterminate, and rather minimal. The impact may only be the difference from one-week to future practices, and these are rather infrequent and non-consequential in scale compared to the size of our personnel budgets.

V. Recommendation:

Finance does not provide a recommendation for this request. Rather our aim is to disclose the financial impact and allow the BC to weigh the value to cost among all its priorities.

Please contact Finance with any follow up questions.

Legislative Operating Committee



Agenda Request Form

- 1) Request Date: 2-07-24
- 2) Contact Person(s): Larry Barton, Treasurer Dept: OBC
Phone Number: 920-869-4394 Email: lbarton2@oneidanation.org
- 3) Agenda Title: _____
- 4) Detailed description of the item and the reason/justification it is being brought before the Committee
Business Committee motion made January 10, 2024 to defer bds, cmt. coms law to the LOC for revision
regarding eligibility for any and all veterans.

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

- 1) BC motion of 1-10-24
- 2) Bd. Cmt. Com. Law
- 3) _____
- 4) _____
- 5) Please List any laws, ordinances or resolution that might be affected:

- 6) Please List all other departments or person(s) you have brought your concern to:

- 7) Do you consider this request urgent? Yes No
If yes, please indicate why: Veterans should be held in high regard for their services.

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

Signature of Requester: _____

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

DRAFT

- E. **Enter the e-poll results into the record regarding the adopted BC resolution # 12-19-23-A Updated Oneida Business Committee 2023-2026 Term Assignment to Standing Committees (00:13:23)**

Sponsor: Lisa Liggins, Secretary

Motion by Jennifer Webster to enter the e-poll results into the record regarding the adopted BC resolution # 12-19-23-A Updated Oneida Business Committee 2023-2026 Term Assignment to Standing Committees, seconded by Marlon Skenandore. Motion carried:

Ayes: Lawrence Barton, Jonas Hill, Marlon Skenandore, Jennifer Webster,
Jameson Wilson, Brandon Yellowbird-Stevens

Not Present: Lisa Liggins, Kirby Metoxen

VII. APPOINTMENTS

- A. **Determine next steps regarding three (3) vacancies - Oneida Nation Veteran Affairs Committee (00:14:00);(02:22:53)**

Sponsor: Lisa Liggins, Secretary

Motion by Jennifer Webster to defer item VII.A. until after executive session, seconded by Jameson Wilson. Motion carried:

Ayes: Lawrence Barton, Jonas Hill, Marlon Skenandore, Jennifer Webster,
Jameson Wilson, Brandon Yellowbird-Stevens

Not Present: Lisa Liggins, Kirby Metoxen

Item VII.B. was addressed next.

Motion by Jennifer Webster to accept the selected applicants and to appoint Kerry Metoxen and Benjamin Skenandore to the Oneida Veterans Affairs Committee with a term ending December 31, 2027, and for the Secretary to re-notice the remaining vacancy, seconded by Jonas Hill. Motion carried:

Ayes: Lawrence Barton, Jonas Hill, Jennifer Webster, Jameson Wilson

Not Present: Lisa Liggins, Kirby Metoxen, Marlon Skenandore, Brandon Yellowbird-Stevens

* Motion by Lawrence Barton to defer the Board, Committees, Commissions law to the Legislative Operating Committee for a revision of the eligibility on the Board, Committees, Commissions law for any and all veterans to serve on any and all veterans related committees to have open eligibility with no exclusions, seconded by Jennifer Webster. Motion carried:

Ayes: Lawrence Barton, Jonas Hill, Jennifer Webster, Jameson Wilson

Not Present: Lisa Liggins, Kirby Metoxen, Marlon Skenandore, Brandon Yellowbird-Stevens

Item XII.A.1. was addressed next.

Title 1. Government and Finances – Chapter 105
Laotiyaniłhslaʔshúha katyohkwaya tú·seʔ
Their laws of the groups we have
BOARDS, COMMITTEES, AND COMMISSIONS

105.1. Purpose and Policy	105.10. Bylaws
105.2. Adoption, Amendment, Repeal	105.11. Electronic Polling
105.3. Definitions	105.12. Reporting Requirements
105.4. Creation of an Entity	105.13. Stipends, Reimbursement and Compensation
105.5. Applications	105.14. Confidential Information
105.6. Vacancies	105.15. Conflicts of Interest
105.7. Appointment to an Entity	105.16. Use of the Nation's Assets
105.8. Election to an Entity	105.17. Dissolution of an Entity
105.9. Oath of Office	105.18. Enforcement

105.1. Purpose and Policy

105.1-1. It is the purpose of this law to govern boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions.

(a) This law shall not apply to the Oneida Business Committee, or standing committees of the Oneida Business Committee.

(b) This law does not apply to Tribal corporations due to the corporate structure and autonomy of those entities.

105.1-2. It is the policy of the Nation to have consistent and standard procedures for choosing and appointing or electing the most qualified persons to boards, committees and commissions, for creation of bylaws governing boards committees and commissions, and for the maintenance of information created by and for boards, committees and commissions.

105.2. Adoption, Amendment, Repeal

105.2-1. This law was adopted by the Oneida Business Committee by resolution BC-05-14-97-F and amended by resolutions BC-09-27-06-E, BC-09-22-10-C, BC-09-26-18-C, and BC-08-12-20-B.

105.2-2. This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

105.2-3. 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.

105.2-4. 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.

105.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

105.3. Definitions

105.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Application" means the form by which a person seeks to be appointed to fill a vacancy on an entity.

(b) "Appointment" means the process by which a person is chosen to fill a vacancy on an

entity by the Oneida Business Committee.

(c) "Business day" means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays recognized by the Nation.

(d) "Bylaws" means a document which provides a framework for the operation and management of a board, committee, or commission of the Nation chiefly for the government of its members and the regulation of its affairs.

(e) "Conference" means any training, seminar, meeting, or other assembly of persons which is not an assembly of the entity.

(f) "Confidential information" means all information or data, whether printed, written, or oral, concerning business or customers of the Nation, disclosed to, acquired by, or generated by a member of an entity in confidence at any time during their elected or appointed term or during their employment.

(g) "Conflict of interest" means any interest, real or apparent, whether it be personal, financial, political, or otherwise, in which an elected official, officer, political appointee, employee, contractor, or appointed or elected member, or their immediate family members, friends or associates, or any other person with whom they have contact, have that conflicts with any right of the Nation to property, information, or any other right to own and operate activities free from undisclosed competition or other violation of such rights of the Nation. In addition, conflict of interest also means any financial or familial interest an elected official, officer, political appointee, employee, contractor, or appointed or elected member or their immediate family members may have in any transaction between the Nation and an outside party.

(h) "Direct report" means a position which requires direct contact and supervision by the Oneida Business Committee because of the position, the duties, or the services provided. Direct reports shall be identified by the Oneida Business Committee through resolution

(i) "Entity" means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose members are appointed by the Oneida Business Committee or elected by the Nation's membership.

(j) "E-poll" means an electronic poll, which is the act of delivering an e-mail to all members of an entity, in order to seek a response which identifies a vote in favor of, opposing, or abstaining to an issue requiring approval by the entity.

(k) "Joint meeting" means a meeting with the Oneida Business Committee.

(l) "Nation" means the Oneida Nation.

(m) "Per Diem" means the payment made by the Nation to offset the costs of being on travel on behalf of the Oneida Nation.

(n) "Political appointee" means a person appointed by a member of the Oneida Business Committee to provide assistance with the Oneida Business Committee member's daily activities and operations.

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

(p) "Stipend" means the amount paid by the Oneida Nation to a person serving on a board, committee, or commission of the Nation in order to compensate the individual for his or her contribution of time, effort, and work for his or her board, committee, or commission

for the betterment of the Nation.

(q) "Subcommittee" means a subgroup of an entity; which is comprised of fewer than all members of the entity; which is designated one (1) or more specific responsibilities on behalf of the entity.

(r) "Substantiated complaint" means a complaint or allegation in a complaint that was found to be valid by clear and convincing evidence.

(s) "Task Force or Ad Hoc" means a group of persons gathered to pursue a single goal, the accomplishment of which means the disbanding of the group. The goal is generally accomplished in a short time period, i.e. less than one year, but the goal itself may be long-term.

(t) "Vacancy" means any position on any board, committee or commission caused by resignation, end of term, removal, termination, or creation of a new position.

105.4. Creation of an Entity

105.4-1. An entity of the Nation shall be created by a resolution or law adopted by the Oneida Business Committee or General Tribal Council.

105.4-2. The law or resolution establishing the entity shall state the purpose of the entity and all powers and responsibilities delegated to the entity.

105.4-3. The Oneida Business Committee shall be responsible for drafting the initial bylaws of the entity.

105.5. Applications

105.5-1. The Oneida Business Committee shall approve all applications to serve on an entity of the Nation. All application materials shall be available in the Business Committee Support Office and any other location specified by the Business Committee Support Office.

(a) All applications shall include:

(1) a statement explaining the attendance requirements of section 105.12-3; and

(2) a section regarding disclosures of conflicts of interest.

(b) An additional application form shall be required for those entities that require a background investigation. This background investigation application shall include the applicant's social security number and any other information required for a background investigation. The background investigation application shall be solely used for the background investigation and not included in the application materials that are then shared with the Oneida Business Committee, entity, and/or the Election Board.

105.5-2. Applications shall be filed with the Business Committee Support Office by 4:30 p.m. of the deadline date.

105.5-3. Within eight (8) days after the posted deadline for filing applications, the Business Committee Support Office shall notify all persons who have filed an application of the date his or her application was received and if his or her application met the deadline to be considered for the election or appointment.

105.5-4. Applications for elected positions shall be verified according to the Nation's laws and/or policies governing elections. Applications for appointed positions shall be verified by the Business Committee Support Office as needed or as required in the bylaws of the entity.

105.5-5. *Insufficient Applicants.* In the event that there are an insufficient number of applicants after the deadline date has passed for appointed positions, the Business Committee Support Office may repost for an additional time period.

- (a) If the number of applicants is equal to or less than the number of vacancies then it shall be determined to be an insufficient number of applicants.
- (b) The Business Committee Support Office shall notify the Oneida Business Committee if a position will be reposted for an additional time period.
- (c) In the event of reposting, prior applicants will be considered to have filed applications within the deadline period.
- (d) The Oneida Business Committee may elect to include within the pool of appointed persons late applications.

105.6. Vacancies

105.6-1. The manner by which an individual fills a vacancy, either through election or appointment, shall determine that member's status as an appointed or elected official, despite the entity's classification as an appointed or elected entity pursuant to the entity's bylaws.

105.6-2. A position on an entity shall be considered vacant in the following situations:

- (a) *End of Term.* A vacancy is effective as of 4:30 p.m. of the last day of the month in which the term ends.
 - (1) Although a position is considered vacant once the term ends, the member of the entity may remain in office until the member's successor has been sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity.
- (b) *Removal.* Removal is effective, pursuant to any law and/or policy of the Nation regarding removal.
- (c) *Termination of Appointment.* A termination is effective upon a two-thirds (2/3) majority vote of the Oneida Business Committee in favor of a member's termination of appointment.
- (d) *Resignation.* A resignation is effective upon:
 - (1) Deliverance of a letter to the Business Committee Support Office and to the Chairperson of the entity, or designee; or
 - (2) Acceptance by motion of the entity of a verbal resignation.
- (e) *New Positions.* Vacancies on new entities are effective upon adoption of bylaws.

105.6-3. An entity shall notify the Business Committee Support Office as soon as the entity learns that a position has or will become vacant. All notices of vacancy shall be sent to the entities for clarification or confirmation prior to notification to the Oneida Business Committee.

105.6-4. The Business Committee Support Office shall forward the notice of vacancy to the Secretary. The Secretary shall request and receive approval from the Oneida Business Committee to post the notice of vacancy. The Business Committee Support Office shall post notice of vacancies at the following times:

- (a) *End of Term.* Automatically sixty (60) days prior to completion of the term.
- (b) *Removal.* No later than the next Oneida Business Committee meeting following the effective date of the removal.
- (c) *Resignation.* No later than the next Oneida Business Committee meeting following the Business Committee Support Office's receipt of notice of an effective resignation from the entity.
- (d) *New Positions.* Upon one of the following conditions:
 - (1) if not specified, immediately upon creation of entity or adoption of bylaws, whichever is later, or

(2) upon date specified when creating the entity.

(e) *Termination of appointment.* No later than the next Oneida Business Committee meeting following the effective date of the termination.

105.6-5. Notice of vacancies shall be posted by the Business Committee Support Office in all official media outlets of the Nation, as determined by the Oneida Business Committee, as well as any other location deemed appropriate by the Secretary.

105.7. Appointment to an Entity

105.7-1. *Appointment Selection.* The following procedures shall be used to determine how the applicant for an appointed position is selected:

(a) Within eight (8) business days after the posted deadline for submitting an application, or within twenty-one (21) days of the posted deadline if the entity requires a background investigation to be completed as part of the application process, the Business Committee Support Office shall:

(1) deliver all applications, along with a summary of qualifications to hold office, and the results of the background investigation if required, to each member of the Oneida Business Committee as well as the entity's Chairperson; and

(2) place the appointment for the entity on the next executive session portion of the agenda of a regular or special Oneida Business Committee meeting in which the appointment is intended to be made; or

(3) if delays in compiling the applications, summary of qualifications, or results of any investigations exist, request additional time from the Oneida Business Committee to complete requirements of section 105.7-1(a)(1)-(2).

(b) Each member of the Oneida Business Committee shall review the application materials prior to executive session and be prepared to discuss and select an applicant for appointment.

(1) The entity's Chairperson may review the application materials and submit to the Business Committee Support Office a recommendation to the Oneida Business Committee of an applicant for appointment.

(A) The recommendation shall be submitted to the Business Committee Support Office in accordance with the submission deadlines for the Oneida Business Committee meeting in which the appointment is intended to be made.

(c) The Oneida Business Committee shall have a full and complete discussion of the merits and qualifications of the potential applicants, and any recommendation made by the Chairperson of the entity, during executive session. After completing a thorough discussion, the Oneida Business Committee shall:

(1) select an applicant for appointment, or

(2) ask the Oneida Nation's Secretary to re-notice the vacancy because of ineligible, unqualified, or under qualified applicants.

(d) All appointments shall be made by the Oneida Business Committee during the open session of a regular or special Oneida Business Committee meeting. The Oneida Business Committee shall not appoint an applicant who fails to meet the requirements set out in the entity's bylaws.

(e) During the open session of the regular or special Oneida Business Committee meeting, a member of the Oneida Business Committee may make a motion to appoint an individual.

Oneida Business Committee members may:

- (1) accept the selected applicant and vote to appoint the individual to the vacant position, or
- (2) reject the selected applicant and vote to oppose the appointment of the individual.

(f) If the Oneida Business Committee rejects the selected applicant, the matter will be deferred to the next Oneida Business Committee meeting where another applicant may be recommended by the Oneida Business Committee, or the Oneida Business Committee may direct the vacancy to be re-posted. When a vacancy is re-posted under this section, all applications from the first posting shall be considered to have been filed within the deadline period.

105.7-2. *Notification of Appointment.* Once an individual is selected for appointment at an Oneida Business Committee meeting, the Nation's Secretary shall notify all applicants of the final status of their application.

- (a) The Nation's Chairperson shall forward a list of all applicants to the Nation's Secretary and the final decision regarding the selection after the procedures for selection of an applicant described in section 105.7-1 are completed.
- (b) The Nation's Secretary shall include on the notice to the applicant selected for appointment the following paragraph: "The Oneida Nation reports all income paid by the Oneida Nation in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

105.7-3. *Declination of Appointment.* An individual who has been selected for appointment to an entity by the Oneida Business Committee may decline the appointment.

- (a) An individual may decline an appointment to an entity in the following ways:
 - (1) Delivery of a letter stating that the individual wishes to decline the appointment to the Business Committee Support Office; or
 - (2) The failure to take the oath of office within thirty (30) days of being selected for appointment by the Oneida Business Committee.
- (b) The Business Committee Support Office shall notify the Oneida Business Committee if an individual declines an appointment to an entity. The Oneida Business Committee shall then use the original pool of applications for the vacancy posting and the process outlined in section 105.7-1 to select another applicant for appointment.

105.7-4. *Termination of Appointment.* An appointed member of an entity serves at the discretion of the Oneida Business Committee. Upon the recommendation of a member of the Oneida Business Committee or the entity, a member of an appointed entity may have his or her appointment terminated by the Oneida Business Committee.

- (a) A two-thirds majority vote of the Oneida Business Committee shall be required in order to terminate the appointment of an individual.
- (b) The Oneida Business Committee's decision to terminate an appointment is final and not subject to appeal.

105.8. Election to an Entity

105.8-1. All elected positions shall be nominated at a caucus called by the Oneida Election Board, or apply for ballot placement, in accordance with the Nation's laws and/or policies governing elections, except where an entity's bylaws allow for a vacancy to be filled by appointment.

(a) When the Election Board notifies an applicant or nominee that he or she is eligible to be placed on the ballot, the following paragraph shall be included: "The Oneida Nation reports all income paid by the Nation in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

105.8-2. All other processes for the election of a member of an entity shall be as directed by the Nation's laws and/or policies governing elections.

105.9. Oath of Office

105.9-1. All appointed and elected positions are official upon taking an oath during a regular or special Oneida Business Committee meeting, or at an alternative time and location as determined by the Secretary. All rights and delegated authorities of membership in the entity shall vest upon taking the oath. The Nation's Secretary shall notify the chosen persons when they shall appear for taking the oath.

(a) When taking an oath, the appointed or elected member shall appear in person to take his or her oath, except if granted permission by the Secretary to appear through video conferencing, or through other telecommunications.

(b) If an oath is administered outside of an Oneida Business Committee meeting, a quorum of Oneida Business Committee members shall be present to witness the oath.

105.9-2. The Oneida Business Committee shall approve wording of oaths. Any revisions of oaths shall be approved by the Oneida Business Committee prior to usage. Oaths shall be kept on file by the Business Committee Support Office.

105.9-3. Originals of the signed oath, or electronic copies of the originals of the signed oath, shall be maintained by the Business Committee Support Office. Copies of the oath shall be forwarded to the new member of the entity and the entity.

105.9-4. The following oath is the standard oath to be used unless a specific oath for the entity is pre-approved by the Oneida Business Committee: I, [name], hereby promise to uphold the laws and regulations of the Oneida Nation, the General Tribal Council, and the Oneida Nation Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people with honor, respect, dignity, and sincerity and will strictly maintain confidential information. I will carry out the duties and responsibilities as a member of the [entity name], and all recommendations shall be made in the best interest of the Oneida Nation as a whole.

105.9-5. All oaths shall be sufficient to make the appointed or elected member of an entity aware of their duty to the Nation and as members of the entity.

105.10. Bylaws

105.10-1. All entities of the Nation shall have bylaws that conform to the requirements of this law. Bylaws shall become effective upon approval of the Oneida Business Committee, unless where General Tribal Council approval is additionally required.

(a) All existing entities shall comply with this format and present bylaws for adoption

within a reasonable time after creation of the entity, or within a reasonable time after adoption of this law.

(b) Bylaws shall contain at least the minimum information required by law, although more information is not prohibited.

(c) *Exception.* Task Forces and Ad Hoc Committees are excepted from the requirement to have bylaws. However, these entities shall have, at minimum, mission or goal statements for completion of the task.

105.10-2. *Articles.* Bylaws shall contain, at a minimum, the following Articles:

- (a) Article I. Authority.
- (b) Article II. Officers.
- (c) Article III. Meetings.
- (d) Article IV. Expectations.
- (e) Article V. Stipends and Compensation.
- (f) Article VI. Records and Reporting.
- (g) Article VII. Amendments.

105.10-3. *Sections.* Articles shall be divided into "sections" as set out.

(a) "Article I. Authority" shall consist of the following:

(1) *Name.* The full name of the entity shall be stated, along with any short name that will be officially used.

(2) *Establishment.* This section shall state the citation and name, if any, of the creation document.

(3) *Authority.* This section shall state the purpose for which the entity was created and what, if any, authority the entity is delegated.

(4) *Office.* There shall be listed the official office or post box of the entity.

(5) *Membership.* The following information shall be in this section:

(A) Number of members on the entity;

(B) If members on the entity are elected or appointed, and how a member is elected or appointed;

(C) How vacancies are filled; and

(D) Qualifications for membership on the entity.

(i) In order to qualify for membership on an entity, a person shall meet the minimum age requirements set forth for status as a qualified voter of the Nation, unless a law, policy, or directive sets forth a minimum age requirement.

(6) *Termination or Removal.* This section shall identify causes for termination or removal, if any, in addition to those already identified in laws and/or policies of the Nation.

(7) *Trainings and Conferences.* This section shall describe any trainings and/or conferences that the entity deems necessary for members to responsibly serve the entity, if any.

(b) "Article II. Officers" shall consist of the following:

(1) *Chairperson and Vice-Chairperson.* This section creates the chairperson and vice-chairperson positions of the entity. Other officer positions may also be created here.

(2) *Responsibilities of the Chairperson.* Because of the importance of this position, all duties and responsibilities of the chairperson, as well as limitations of the

chairperson shall be specifically listed here.

(3) *Responsibilities of the Vice-Chairperson.* Because of the importance of this position, all duties and responsibilities of the vice-chairperson, as well as limitations of the vice-chairperson shall be specifically listed here.

(4) *Responsibilities of Additional Officers.* There may be additional sections as needed for every officer position created in subsection one (1) above. These sections shall state all duties and responsibilities of the officer, as well as any limitations of the officer.

(5) *Selection of Officers.* This section shall identify how a member of the entity shall be selected for an official officer position in the entity.

(6) *Purchases and Travel.* This section shall identify how the entity shall approve purchases or travel on behalf of the entity.

(A) An entity shall follow the Nation's policies and procedures regarding purchasing and sign-off authority.

(B) Upon formal approval of a purchase by an entity, the Business Committee Support Office shall have official budgetary sign off authority for the entity.

(C) An entity shall approve a member's request to travel on behalf of the entity by majority vote at a regular or emergency meeting of the entity.

(7) *Personnel.* This section shall state the entity's authority for hiring personnel, if any, and the duties of such personnel.

(c) "Article III. Meetings" shall consist of the following:

(1) *Regular meetings.* This section shall identify when and where regular meetings shall be held, and how the entity shall provide notice of the meeting agenda, documents, and minutes.

(2) *Emergency meetings.* This section shall identify what constitutes an emergency meeting, how emergency meetings shall be called, and how the entity shall provide notice of the emergency meeting.

(A) All bylaws shall include a provision requiring that within seventy-two (72) hours after an emergency meeting, the entity shall provide the Nation's Secretary with notice of the meeting, the reason for the emergency meeting, and an explanation of why the matter could not wait for a regular meeting.

(3) *Joint Meetings.* This section shall identify if joint meetings shall be held, the frequency and location of joint meetings, and how the entity shall provide notice of the meeting agenda, documents, and minutes.

(4) *Quorum.* This section shall identify how many members of an entity create a quorum.

(5) *Order of Business.* This section sets out how the agenda will be set up.

(6) *Voting.* This section shall identify voting requirements, such as, but not limited to:

(A) the percentages that shall be needed to pass different items;

(B) if, and when, the chairperson is allowed to vote;

(C) if the use of an e-poll is permissible; and

(D) if the use of and e-poll is permissible, who will serve as the Chairperson's designee for the responsibility of conducting an e-poll, if a designee is utilized.

- (d) "Article IV. Expectations" shall consist of the following information:
- (1) *Behavior of Members*. This section shall identify the behavioral expectations and requirements of a member of the entity, and identify how the entity shall enforce these behavioral expectations.
 - (2) *Prohibition of Violence*. This section shall prohibit any violent intentional act committed by a member of the entity that inflicts, attempts to inflict, or threatens to inflict emotional or bodily harm on another person, or damage to property, and set forth any further expectations regarding the prohibition of violence.
 - (3) *Drug and Alcohol Use*. This section shall prohibit the use of alcohol and prohibited drugs for a member of an entity when acting in their official capacity, and set forth any further expectations regarding the use of prohibited drugs and alcohol.
 - (4) *Social Media*. This section shall identify expectations for the use of social media in regards to official business of the entity.
 - (5) *Conflict of Interest*. This section shall state any standards and expectations additional to those required by law of the Nation in regards to conflicts of interest and how they are handled, as well as requirements related to prohibited activities resulting from disclosed conflicts of interest, and means by which a party can alleviate or mitigate the conflict of interest.
- (e) "Article V. Stipends and Compensation" shall consist of the following information:
- (1) *Stipends*. This section shall include a comprehensive list of all stipends members are eligible to receive and the requirements for collecting each stipend, if any in addition to those contained in this law.
 - (2) *Compensation*. This section shall include details regarding all other forms of compensation members are eligible to receive and the requirements for collecting such compensation, if any in addition to those contained in this law.
- (f) "Article VI. Records and Reporting" shall consist of the following information:
- (1) *Agenda Items*. Agenda items shall be maintained in a consistent format as identified by this section.
 - (2) *Minutes*. Minutes shall be typed and in a consistent format designed to generate the most informative record of the meetings of the entity. This may include a summary of action taken by the entity. This section shall identify the format for minutes, and a reasonable timeframe by which minutes shall be submitted to the Business Committee Support Office.
 - (3) *Attachments*. Handouts, reports, memoranda, and the like may be attached to the minutes and agenda, or may be kept separately, provided that all materials can be identified to the meeting in which they were presented. This section shall identify how records of attachments shall be kept.
 - (4) *Oneida Business Committee Liaison*. Entities shall regularly communicate with the Oneida Business Committee member who is their designated liaison. This section shall identify a format and frequency for communication which may be as the liaison and entity agree to, but not less than that required in any law or policy on reporting developed by the Oneida Business Committee or Oneida General Tribal Council. The purpose of the liaison relationship is to uphold the ability of the liaison to act as a support to that entity.
 - (5) *Audio Recordings*. An entity shall audio record all meetings. This section shall

state how the entity shall audio record meetings, and how the entity shall maintain the audio records.

(A) *Exception.* Audio recordings of executive session portions of a meeting shall not be required.

(g) "Article VII. Amendments" consists of:

(1) *Amendments to Bylaws.* This section shall describe how amendments to the bylaws are made. Any amendments to bylaws shall conform to the requirements of this and any other policy of the Nation. Amendments to bylaws shall be approved by the Oneida Business Committee, in addition to the General Tribal Council when applicable, prior to implementation.

105.11. Electronic Polling

105.11-1. An entity may utilize an e-poll when approval of an action may be required before the next available meeting agenda of the entity.

105.11-2. *Conducting an E-Poll.* The Chairperson of the entity, or designee, shall e-mail the e-poll to all members of the entity. Requests for an e-poll shall be sent only from an official e-mail address of the entity. The e-poll's message shall include the following information:

(a) The e-mail subject line shall begin with "E-poll Request:" and include a short title describing the purpose of the request.

(b) The body of the e-poll shall contain the following elements:

(1) An executive summary of the reason for the request and why the request cannot be presented at the next available meeting of the entity;

(2) A proposed motion which shall be in bold and identified in a separate paragraph by the words "Requested Action;"

(3) All attachments in *.pdf format, which are necessary to understand the request being made; and

(4) A deadline date for a response to be returned regarding the results of the electronic poll which shall be in bold and identified in a separate paragraph by the words "Deadline for Response."

(A) E-poll requests shall be open for response not less than one (1) hour and no more than twenty-four (24) hours.

(B) The time frame for responses shall be determined by the Secretary of the entity, or designee, based on urgency, scheduling, and any other pertinent factors.

105.11-3. *Response to an E-Poll.* Only the member of an entity shall respond to an e-poll. A response from a member of an entity shall be valid if received from an official e-mail address of the entity. No responses from unknown e-mails or personal e-mails shall be accepted. An e-poll request shall receive responses from a majority of members of the entity in order to be an official vote.

(a) E-polls that receive at least a majority of supporting votes by the deadline are considered to be approved.

(b) E-polls for which insufficient responses were received by the deadline are considered to have failed to receive support, and result in a denied request.

(c) E-polls that result in a denied request may be reconsidered by the entity at the next available meeting.

(d) The Chairperson, or designee, shall monitor all responses and deadline dates for

responses.

105.11-4. *Entering an E-Poll in the Record.* Both approved and denied e-poll requests shall be placed on the next meeting agenda of the entity to be entered into the record. The agenda item shall contain the following information:

- (a) Original e-poll request and all supporting documentation;
- (b) A summary of the e-poll results identifying each member of the entity and his or her response; and
- (c) A copy of any comment by a member of the entity if comments are made beyond a vote.

105.12. Reporting Requirements

105.12-1. *Minutes.* All minutes shall be submitted to the Business Committee Support Office within a reasonable time after approval by the entity, as identified in the entity's bylaws.

- (a) Actions taken by an entity are valid upon approval of the action by vote, unless the bylaws of the entity otherwise require minutes to be approved by the entity before the actions are valid.
- (b) Minutes shall be filed according to this section, and any specific directions within approved bylaws.
- (c) No action or approval of minutes is required by the Oneida Business Committee on minutes submitted by an entity unless specifically required by the bylaws of that entity.

105.12-2. *Standard Operating Procedures.* All standard operating procedures established by an entity shall be submitted to the Business Committee Support Office, where they shall be kept on file.

105.12-3. *Quarterly Reports to the Oneida Business Committee.* Entities shall provide quarterly reports to the Oneida Business Committee in accordance with the quarterly reporting schedule approved by the Oneida Business Committee. All quarterly reports shall be approved by official entity action before they are submitted. The quarterly reports shall not contain any information that conflicts with any law, resolution, or policy of the Nation. At least one (1) member of the entity shall attend the Oneida Business Committee meeting where the quarterly report is an agenda item. Quarterly reports shall follow a format prescribed by the Oneida Business Committee and contain the following information:

- (a) *Contact Information.* The name of the entity, the member submitting the report, the Oneida Business Committee liaison; and a list of the members and their titles, term expiration dates and contact information.
- (b) *Meetings.* When and how often the entity is holding meetings and whether any emergency meetings have been held.
 - (1) If emergency meetings were held, the report shall indicate the basis of the emergency for each meeting.
- (c) *Accomplishments.* Details of what the entity has accomplished that quarter, including any special events held during the reporting period and any travel by the members and/or staff.
- (d) *Goals.* Details of both the entity's long term goals, the entity's goals for the next quarter, and projected quarterly activities.
- (e) *Budget.* The amount of the entity's budget, the status of the budget at that quarter, the amount of each stipend a member may be eligible to receive, how the budget is being utilized by the entity, and projected budgetary uses for the next quarter.

(f) *Requests.* Details of any requests to the Oneida Business Committee.

(g) *Other.* And any other information deemed appropriate by the entity, as well as any other information required by a law or policy of the Nation.

105.12-4. *Annual and Semi-Annual Reports to the General Tribal Council.* Entities shall provide annual reports to the Oneida General Tribal Council based on their activities during the previous fiscal year, and semi-annual reports based on their activities during the current fiscal year. All annual and semi-annual reports shall follow a format prescribed by the Oneida Business Committee.

(a) Annual and semi-annual reports shall contain information on the number of substantiated complaints against all members of the entity.

(b) Each entity with oversight of a department shall also submit annual and semi-annual reports for each department the entity oversees.

105.12-5. Any failure to comply with the reporting requirements may result in the Oneida Business Committee placing a hold on the release of a stipend payment.

105.13. Stipends, Reimbursement and Compensation

105.13-1. Stipends and reimbursement for expenses shall follow the procedures as set out in this section and according to procedures for payment as set out by the Nation, unless otherwise declined by the entity through its bylaws, or declined by a member.

105.13-2. The Oneida Business Committee shall set stipend amounts by resolution. The Oneida Business Committee shall periodically review the amounts provided for stipends and, based on the availability of funds, shall adjust those amounts accordingly by amending the resolution. Stipends are paid in the form of cash or cash equivalent, which may include, but is not limited to, gift cards.

105.13-3. *Meeting Stipends.* A member of an entity shall only receive a meeting stipend for a regular or emergency meeting where a quorum has been established in accordance with the duly adopted bylaws of that entity, that lasts for at least one (1) hour, and the member collecting the stipend is present for the entire meeting. Meetings can occur in person, by telephone, through videoconferencing, or through other telecommunications.

(a) *Meeting Stipends for an Appointed Entity.* An individual serving on an appointed entity shall be paid no more than twelve (12) meeting stipends per fiscal year.

(b) *Meeting Stipends for an Elected Entity.* An individual serving on an elected entity shall be paid no more than twenty-four (24) meeting stipends per fiscal year.

(c) *Demonstrating Presence During a Meeting.* An entity shall demonstrate the presence of its members during a meeting by taking roll call on the record at both the beginning and conclusion of a meeting.

(d) *Technological Issues Affecting Presence During a Meeting.* If a member of an entity experiences a technological issue during a regular or emergency meeting held by telephone, through videoconferencing, or through other telecommunications, and the technological issue disrupts the member's presence during the meeting, the member shall notify the entity of the technological issue as soon as possible.

(1) An exemption to the stipend eligibility requirement to be present for the entire meeting may be granted if the entity certifies by a majority vote that the member was present for a majority of the meeting despite the technological issue which disrupted the member's presence during the meeting.

105.13-4. *Joint Meeting Stipends.* A member of an entity shall only receive a stipend for a joint meeting where a quorum has been established in accordance with the duly adopted bylaws of that

entity, that lasts for at least one (1) hour, and the member collecting the stipend is present for the entire meeting. Joint meetings can occur in person, by telephone, through videoconferencing, or through other telecommunications.

(a) An individual shall receive a stipend for his or her attendance at a duly called joint meeting.

(1) A joint meeting stipend does not count towards the limitation on meeting stipends as provided for in section 105.13-3(a)-(b).

(b) *Demonstrating Presence During a Joint Meeting.* An entity shall demonstrate the presence of its members during a joint meeting by taking roll call on the record at both the beginning and conclusion of a joint meeting.

(c) *Technological Issues Affecting Presence During a Joint Meeting.* If a member of an entity experiences a technological issue during a joint meeting held by telephone, through videoconferencing, or through other telecommunications, and the technological issue disrupts the member's presence during the joint meeting, the member shall notify the entity of the technological issue as soon as possible.

(1) An exemption to the stipend eligibility requirement to be present for the entire joint meeting may be granted if the entity certifies by a majority vote that the member was present for a majority of the joint meeting despite the technological issue which disrupted the member's presence during the joint meeting.

105.13-5. *Oneida Judiciary Hearings.* A member of an entity shall receive a Judiciary hearing stipend if the member's attendance at the Judiciary hearing is required by official subpoena.

105.13-6. *Hearings of an Entity.* A member of an entity that maintains hearing authority may obtain a hearing stipend for conducting hearings administered by the entity. A hearing consists of all functions related to the resolution of the matter notwithstanding the amount of time it takes to resolve the matter, including, but not limited to, any continuations of the hearing and decision drafting.

105.13-7. *Other Stipends.* The Oneida Business Committee shall determine if, and when, any other stipends are appropriate to compensate members of entities for their official actions. All possible stipends shall be included in the Oneida Business Committee resolution which sets stipend amounts.

105.13-8. *Conferences and Training.* A member of any entity, elected or appointed, shall be reimbursed in accordance with the Nation's policy for travel and per diem, for attending a conference or training. Provided that:

(a) A member shall be eligible for a stipend for attending a conference or training, when attendance at the conference or training is required by law, bylaw or resolution.

(1) The amount of the stipend a member is eligible to receive for attendance at a conference or training shall be dependent on whether the member attended up to four (4) hours of a conference or training, or more than four (4) hours of a conference or training.

(b) A member shall not be eligible for a conference and training stipend if that training is not required by law, bylaw or resolution.

(c) No stipend payments shall be made for those days spent traveling to and from the conference or training.

105.13-9. *Business Expenses.* All members of entities shall be eligible for reimbursement for normal business expenses naturally related to membership in the entity.

105.13-10. *Task Force and Ad Hoc Subcommittees.* Members of task force, ad hoc committees

and subcommittees shall not be eligible for stipends unless specific exception is made by the Oneida Business Committee or the Oneida General Tribal Council.

105.14. Confidential Information

105.14-1. All members of an entity shall maintain in a confidential manner all information obtained through their position on the entity. The Nation requires that all members of an entity who have access to the Nation's confidential information be subject to specific limitations in order to protect the interest of the Nation and ensure that no persons engaged in by the Nation, nor their relatives or associates, benefit from the use of confidential information.

(a) Confidential information shall be considered and kept as the private and privileged records of the Nation and will not be divulged to any person, firm, corporation, or other entity except by direct written authorization of the Oneida Business Committee.

(b) A member of an entity will continue to treat as private and privileged any confidential information, and will not release any such information to any person, firm, corporation, or other entity, either by statement, deposition, or as a witness, except upon direct written authority of Oneida Business Committee, and the Nation shall be entitled to an injunction by any competent court to enjoin and restrain the unauthorized disclosure of such information. Such restriction continues after termination of the relationship with the Nation and the entity.

(c) Upon completion or termination of his or her elected or appointed term of membership in an entity, for any cause whatsoever, the member of the entity will surrender to the Nation, in good condition, all records kept by the member of the entity.

(d) No member of an entity shall disclose confidential information acquired by reason of his other relationship or status with the Nation for his or her personal advantage, gain, or profit, or for the advantage, gain, or profit of a relative or associate.

105.14-2. Any records created or obtained while as an official of an entity are the property of the Nation and shall only be removed or destroyed by approval from a majority vote of the entity at a duly called meeting. All removal or destruction of documents shall be made in accordance with the Nation's laws and policies governing open records and open meetings.

105.14-3. *Official Oneida Nation E-mail Address.* Each member of an entity shall be provided an official Oneida e-mail address upon election or appointment for the purpose of conducting business of the entity electronically.

(a) If a member is also an employee of the Nation, he or she shall receive a separate e-mail address from his or her regular work e-mail address.

(b) A member of an entity shall have thirty (30) days upon election or appointment to an entity to activate his or her official e-mail address.

(c) An individual who holds a position as an ad hoc or alternate member of an entity shall be exempt from the requirement to be provided an official e-mail address, unless determined that an e-mail address is necessary for the role and responsibilities of the ad hoc or alternate member.

(d) A member of an entity shall sign an acknowledgment form provided by the Nation's Secretary indicating notice of the Nation's applicable computer and media related laws, policies and rules. The Nation's Secretary shall maintain a record of all such acknowledgment forms.

(e) A member of an entity shall exclusively use his or her official e-mail address to electronically conduct any business of the entity, and shall not use a personal or work e-

mail address to electronically conduct any business of the entity.

(f) Immediately upon receipt of notice of an entity vacancy, the Nation's Secretary shall instruct the Management Information Systems department to disable the e-mail address for the member having vacated the position.

105.15. Conflicts of Interest

105.15-1. All members of an entity are required to adhere to the Nation's laws and policies governing conflicts of interest.

105.15-2. A member of an entity shall disclose a conflict of interest to the Nation's Secretary as soon as the conflict arises and update a conflict of interest disclosure form with the Nation's Secretary on an annual basis.

(a) Upon receiving information of a potential conflict of interest, the Nation's Secretary shall request a determination from the Oneida Law Office whether further action shall be taken by the Nation regarding the status of the official.

105.15-3. *Ineligibility Due to Conflicts of Interest.* Due to the potential for a real or perceived conflict of interest to exist, the following individuals shall not be eligible to serve on an appointed or elected entity:

- (a) political appointees;
- (b) an employee of the Nation's Internal Audit Department, Finance Administration, Law Office, Business Committee Support Office, or Intergovernmental Affairs and Communications; and
- (c) an employee who serves as a direct report to the Oneida Business Committee or General Manager.

105.16. Use of the Nation's Assets

105.16-1. Entities shall maintain all bank accounts for the Nation's funds in the name of the Oneida Nation. Bank accounts will be reflected on the Oneida Nation's books in accordance with Generally Accepted Accounting Principles.

105.16-2. Each member of an entity shall comply with the system of internal accounting controls sufficient to provide assurances that:

- (a) all transactions are executed in accordance with management's authorization; and
- (b) access to assets is permitted only in accordance with management's authorization; and
- (c) all transactions are recorded to permit preparation of financial statements in conformity with Generally Accepted Accounting Principles or other applicable criteria.

105.16-3. Any evidence of noncompliance with any policy regarding the use of tribal assets shall be immediately reported to the Internal Audit department. If the Internal Audit department finds evidence of noncompliance they shall notify the Oneida Law Office, who will then make a determination of further action to be taken, if any.

105.17. Dissolution of an Entity

105.17-1. *Dissolution of a Task Force or Ad Hoc Committee.* A task force or ad hoc committee dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the materials generated by a task force or ad hoc committee shall be forwarded to the Business Committee Support Office for proper disposal within two (2) weeks of the dissolution.

105.17-2. *Dissolution of an Entity.* All other entities of the Nation shall be dissolved only by motion of the Oneida General Tribal Council or the Oneida Business Committee.

105.17-3. *Notice of Dissolution.* Within five (5) business days of the Oneida General Tribal Council or the Oneida Business Committee taking official action to dissolve an entity, the Oneida Business Committee shall provide the entity written notice of the dissolution.

105.17-4. *Management of Records and Materials.* All chairpersons and secretaries of dissolved entities shall be responsible for closing out open business of the entity and forwarding all materials and records to the Business Committee Support Office for proper storage and disposal within two (2) weeks of dissolution. The entity shall not alter or destroy any records. The Business Committee Support Office may utilize the assistance of the Records Management Department and/or any other appropriate department for the storage and disposal of the records and materials.

(a) The entity may request the Oneida Business Committee to grant a one (1) week extension of the time allowed to close out open business of the entity and forward all materials and records to the Business Committee Support Office.

105.18. Enforcement

105.18-1. Any member of an entity found to be in violation of this law may be subject to:

- (a) sanctions and penalties in accordance with any laws or policies of the Nation governing sanctions and/or penalties;
- (b) removal pursuant to any laws or policies of the Nation's governing removal, if the individual is a member of an elected entity; or
- (c) termination of appointment by the Oneida Business Committee, if the individual is a member of an appointed entity.

End.

Adopted - BC-08-02-95-A
 Amended - BC-05-14-97-F
 Emergency Amended - BC-04-12-06-JJ
 Amended - BC-09-27-06-E (permanent adoption of emergency amendments)
 Amended – BC-09-22-10-C
 Amended – BC-09-26-18-C
 Emergency Amended – BC-03-11-20-B
 Emergency Amended – BC-03-17-20-C
 Amended – BC-08-12-20-B



Legislative Operating Committee Fiscal Year 2024 First Quarter Report October 2023 – December 2023

Legislative Operating Committee Guiding Principles

The Legislative Operating Committee set forth the following guiding principles to provide clarity and direction on the Legislative Operating Committee’s legislative efforts during the 2023-2026 legislative term:

- Re-indigenize our legislative foundation with Tsi? Niyukwaliho TÁ.
- Build an effective team through collaboration with departments, communities, and affected entities.
- Enhance community involvement through outreach and communication.
- Exercise our sovereignty through the development of community focused laws that promote Tsi? Niyukwaliho TÁ.
- Create a strategy driven agenda reflecting Oneida community values that align with the Oneida Business Committee’s Strategic Plan.

Legislative Operating Committee Action on Legislative Requests

During the FY24 First Quarter the Legislative Operating Committee added fifty-three (53) legislative items to its Active Files List. Two (2) legislative items were denied during the FY24 First Quarter.

As a result of the *2020-2023 LOC Active Files List Outstanding Items Review*, on October 4, 2023, the Legislative Operating Committee added the following items to the Active Files List:

- All Terrain Vehicle Law Amendments;
- Back Pay Law Amendments;
- Business Corporations Law;
- Cemetery Law Amendments;
- Clean Air Policy Amendments;
- Code of Ethics Law Amendments;
- Credit Collections Law;
- Domestic Animals Law Amendments;
- Drug and Alcohol Free Workplace Law Amendments;
- Elder Protection Law;
- Endowments Law Amendments;
- Environmental Review Law;
- Eviction and Termination Law Amendments;

- Fire Signs Law;
- Furlough Law Amendments;
- Gift Card Law;
- Guardianship Law;
- Higher Education Scholarship Law;
- Hunting, Fishing, and Trapping Law Amendments;
- Investigative Leave Policy Amendments;
- Law Enforcement Ordinance Amendments;
- Layoff Policy Amendments;
- Local Land Use Regulation Reimbursement Policy Repeal;
- Marijuana Law;
- Misappropriation of Funds Law;
- Oneida Land Trust Law;
- Oneida Language Law;
- Oneida Personnel Policies and Procedures Amendments;
- On-Site Waste Disposal Law Amendments;
- Probate Law;
- Public Use of Tribal Land Law Amendments;
- Real Property Law Amendments;
- Recycling and Solid Waste Disposal Law Amendments;
- Sanction and Penalties Law;
- Taxation Law;
- Traffic Law;
- Tribal Environmental Response Law Amendments;
- Tribal Environmental Quality Review Law Amendments;
- Tribal Sovereignty in Data Research Law;
- Two Spirit Inclusion Law;
- Water Resources Law Amendments;
- Well Abandonment Law Amendments;
- Workplace Violence Law Amendments;
- Finance Committee Bylaws Amendments;
- Oneida Election Board Bylaws Amendments;
- Oneida Nation Veteran Affairs Committee Bylaws Amendments;
- Oneida Personnel Commission Bylaws Amendments; and
- Oneida Trust Enrollment Committee Bylaws Amendments.

On October 4, 2022, the Legislative Operating Committee also added the Audit Committee Bylaws Amendments to the Active Files List.

On November 1, 2023, the Legislative Operating Committee added the following items to the Active Files List:

- Oneida Nation Commission on Aging Bylaws Amendments;

- Oneida General Welfare Law Amendments;
- Onlayoteʔa·ká niʔi Commission Bylaws.

On November 1, 2023, the Legislative Operating Committee denied the request to add the Southeastern Wisconsin Oneida Tribal Services Advisory Board Bylaws Amendments to the Active Files List due to a lack of information included in the request, and sent the request back to SEOTS with a request to bring forward clarification on what they are looking for in potential amendments.

On December 6, 2023, Legislative Operating Committee denied the request to add the Drug and Alcohol Free Workplace Law Amendments to the Active Files List. The Legislative Operating Committee denied this request due to the fact that the Drug and Alcohol Free Workplace law amendments applies to employees of the Nation, and members of the Oneida Business Committee are elected officials and not employees; and in an effort to prioritize other legislative efforts.

On December 20, 2023, the Legislative Operating Committee added the SEOTS Bylaws Amendments to the Active Files List.

FY24 First Quarter Legislative Accomplishments

The Legislative Operating Committee brought forward one set of bylaws for amendment during the FY24 First Quarter.

Audit Committee Bylaws Amendments

On December 13, 2023, the Oneida Business Committee adopted amendments to the Audit Committee Bylaws. The amendments to the Audit Committee Bylaws:

- Eliminated the prohibition of the Oneida Business Committee Treasurer from serving on the Audit Committee. [*Bylaws Section 1-4.b.1*]; and
- Clarified that if serving on the Audit Committee, the Oneida Business Committee Treasurer shall not serve as Chairperson or Vice-Chairperson of the Audit Committee. [*Bylaws Section 2-1.a*].

FY24 First Quarter Community Outreach Efforts

Focusing on its guiding principle to enhance community involvement through outreach and communication, during the FY24 First Quarter the Legislative Operating Committee held one community outreach event.

On December 6, 2023, from 5:30 p.m. through 7:30 p.m. the Legislative Operating Committee held a community meeting in the Norbert Hill Center's cafeteria. Topics discussed during the community meeting included brief overview of the legislative process as well as a discussion of the following topics:

- Elder Protection Law;
- Oneida Language Law; and the
- Higher Education Scholarship Law.

The purpose of the community meeting was to collect comments, suggestions, questions, expectations, and concerns to be considered and utilized in the development the above-mentioned new laws for the Nation. All of these laws are in the early stages of development meaning there was no drafts of these proposed laws developed at the time of the community meeting, but the Legislative Operating Committee wanted to provide an opportunity for the community to share opinions early on in the legislative process to better gain perspective on the needs of the community.

Nearly sixty (60) people attended the community meeting and participated in the legislative process.

The Legislative Operating Committee intends to hold community outreach events on a quarterly basis.

FY24 First Quarter Legislative Highlights

The Legislative Operating Committee would like to highlight its work on the following legislative items during the FY24 First Quarter:

All Terrain Vehicle Law Amendments

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

Back Pay Law Amendments

The Legislative Operating Committee held two (2) work meeting regarding this legislative matter.

Business Corporations Law

The Legislative Operating Committee held two (2) work meeting during the FY24 First Quarter regarding this legislative matter.

Cemetery Law Amendments

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

Clean Air Policy Amendments

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter. On November 1, 2023, the Legislative Operating Committee

approve the public meeting packet for the Clean Air Policy Amendments and forward the Clean Air Policy Amendments to a public meeting to be held on December 15, 2023. A public meeting on the proposed amendments to the Clean Air Policy was held on December 15, 2023. Two (2) individuals provided oral comments during the public meeting. The public comment period was then held open until December 26, 2023. Four (4) individuals provided written comments during the public comment period.

Domestic Animals Law Amendments

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

Drug and Alcohol Free Workplace Law Amendments

The Legislative Operating Committee held two (2) work meeting during the FY24 First Quarter regarding this legislative matter. On December 20, 2023, the Legislative Operating Committee accepted the public comments and the public comment review memorandum and deferred these items to a work meeting for further consideration.

Elder Protection Law

The Legislative Operating Committee held three (3) work meeting during the FY24 First Quarter regarding this legislative matter. On December 6, 2023, the Legislative Operating Committee held a community meeting where this legislative matter was a topic of discussion.

Eviction and Termination Law Amendments

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

Higher Education Scholarship Law

The Legislative Operating Committee held five (5) work meeting during the FY24 First Quarter regarding this legislative matter. On December 6, 2023, the Legislative Operating Committee held a community meeting where this legislative matter was a topic of discussion.

Hunting, Fishing, and Trapping Law Amendments

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

Onayoteʔa·ká niʔi Commission Bylaws

The Legislative Operating Committee held four (4) work meeting during the FY24 First Quarter regarding this legislative matter. On December 20, 2023, the Legislative Operating Committee removed this legislative matter from its Active Files List.

Oneida Land Trust Law

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

Oneida Language Law

The Legislative Operating Committee held four (4) work meeting during the FY24 First Quarter regarding this legislative matter. On December 6, 2023, the Legislative Operating Committee held a community meeting where this legislative matter was a topic of discussion.

Oneida Nation Commission on Aging Bylaws Amendments

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

Oneida Nation Veterans Affairs Committee Bylaws Amendments

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

Oneida Personnel Policies and Procedures

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

On-Site Waste Disposal Law Amendments

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

Public Use of Tribal Land Law Amendments

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

Real Property Law Amendments

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

Sanctions and Penalties Law

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

Tribal Environmental Response Law Amendments

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

Tribal Environmental Quality Review Law Amendments

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

Water Resources Law Amendments

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

Well Abandonment Law Amendments

The Legislative Operating Committee held one (1) work meeting during the FY24 First Quarter regarding this legislative matter.

FY24 First Quarter Legislative Operating Committee Meetings

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

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

- October 4, 2023 – Regular meeting;
- October 18, 2023 – Regular meeting;
- November 1, 2023 – Regular meeting;
- December 6, 2023 – Regular meeting; and
- December 20, 2023 – Regular meeting.

The November 15, 2023, Legislative Operating Committee meetings was canceled.

In addition to attending the Legislative Operating Committee meetings in person, individuals provided the opportunity to attend the Legislative Operating Committee meeting through Microsoft Teams. Anyone who would like to access the Legislative Operating Committee meeting through Microsoft Teams can provide their name, phone number or e-mail address to LOC@oneidanation.org by the close of business the day before a meeting of the Legislative Operating Committee to receive the link to the Microsoft Teams meeting.

For those who may be unable to attend the Legislative Operating Committee meeting either in person or on Microsoft Teams, an audio recording of the Legislative Operating Committee meeting is made available on the Nation's website after the meeting concludes.

Goals for FY24 Second Quarter

During the FY24 Second Quarter the Legislative Operating Committee will focus its legislative efforts on the following matters:

1. Adoption of the Clean Air Policy Amendments.

2. Adoption of the Drug and Alcohol Free Workplace Law Amendments.
3. Develop a draft for the Higher Education Scholarship Law.
4. Develop a draft for the Oneida Language Law.
5. Develop a draft for the Elder Protection Law.
6. Hold a LOC community meeting and community work session.
7. Produce an informational video on the legislative process.

Legislative Reference Office

The Legislative Reference Office's mission is to provide support for the Legislative Operating Committee in developing clear and consistent legislation that reflects the Nation's values, builds upon the Nation's strong foundation, and reaffirms our inherent sovereignty. During the FY24 First Quarter the Legislative Reference Office was staffed by the following individuals:

- Clorissa N. Leeman, Senior Legislative Staff Attorney.
 - Contact: cleeman@oneidanation.org
- Carolyn Salutz, Legislative Staff Attorney.
 - Contact: csalutz@oneidanation.org
- Grace Elliott, Legislative Staff Attorney.
 - Contact: gelliott@oneidanation.org

Legislative Operating Committee Contact Information

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

- Jameson Wilson, LOC Chairman
jwilson@oneidanation.org
- Kirby Metoxen, LOC Vice-Chairman
kmetox@oneidanation.org
- Jennifer Webster, LOC Member
jwebste1@oneidanation.org
- Jonas Hill, LOC Member
jhill1@oneidanation.org
- Marlon Skenandore, LOC Member
mksenan1@oneidanation.org

January 29, 2024 Legislative Operating Committee E-Poll Results

Approval of the March 6, 2024 LOC Community Meeting Notice

E-POLL REQUEST: Approval of the March 6, 2024 LOC Community Meeting Notice

LOC
 To Jameson J. Wilson; Jennifer A. Webster; Jonas G. Hill; Kirby W. Metoxen; Marlon G. Skenandore
 Cc Fawn J. Billie; Fawn L. Cottrell; Kristal E. Hill; Maureen S. Perkins; Clorissa N. Leeman

☺ Reply Reply All Forward 📧 ⋮
 Mon 1/29/2024 1:16 PM

Vote by clicking Vote in the Respond group above.
 This message was sent with High importance.

📎 2024 03 06 LOC Community Meeting Notice.pdf
 3 MB

Good Afternoon Legislative Operating Committee.

Good Afternoon Legislative Operating Committee,

This e-mail serves as the e-poll for the approval of the March 6, 2024, community meeting notice.

EXECUTIVE SUMMARY

Focusing on its guiding principle to *enhance community involvement through outreach and communication*, the Legislative Operating Committee has made it a goal to hold community meetings on a quarterly basis.

The Legislative Operating Committee intends to hold a community meeting on March 6, 2024, from 5:30 p.m. through 7:30 p.m. in the Norbert Hill Center's cafeteria. Topics discussed during the community meeting included brief overview of the legislative process as well as a discussion of the following topics:

- Oneida Personnel Policies and Procedures Amendments;
- Sanctions and Penalties law; and
- Eviction and Termination law.

Attached to this e-poll please find the notice for the Legislative Operating Committee's March 6, 2024, community meeting. The LOC is now being asked to approve by e-poll the Legislative Operating Committee's March 6, 2024, community meeting notice.

An e-poll is necessary for this matter because the next Legislative Operating Committee meeting is not until February 7, 2024, and the submission deadline for inclusion in the next Kalihwisaks edition is February 1, 2024.

REQUESTED ACTION

- Approve the Legislative Operating Committee community meeting notice and schedule the community meeting to take place on March 6, 2024.

DEADLINE FOR RESPONSE

January 29, 2024 at 7:00 p.m.

All supporting documentation has been attached to this email for your convenience.



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

E-POLL RESULTS:

This e-poll was unanimously approved by Jennifer Webster, Marlon Skenandore, Jonas Hill, Jameson Wilson, and Kirby Metoxen.

RE: E-POLL REQUEST: Approval of the March 6, 2024 LOC Community Meeting Notice



Jennifer A. Webster

To LOC; Jameson J. Wilson; Jonas G. Hill; Kirby W. Metoxen; Marlon G. Skenandore
Cc Fawn J. Billie; Fawn L. Cottrell; Kristal E. Hill; Maureen S. Perkins; Clorissa N. Leeman

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**Approve,
Jenny**

Re: E-POLL REQUEST: Approval of the March 6, 2024 LOC Community Meeting Notice



Marlon G. Skenandore

To Jennifer A. Webster; LOC; Jameson J. Wilson; Jonas G. Hill; Kirby W. Metoxen
Cc Fawn J. Billie; Fawn L. Cottrell; Kristal E. Hill; Maureen S. Perkins; Clorissa N. Leeman

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Approve

Marlon

Re: E-POLL REQUEST: Approval of the March 6, 2024 LOC Community Meeting Notice



Jonas G. Hill

To Marlon G. Skenandore; Jennifer A. Webster; LOC; Jameson J. Wilson; Kirby W. Metoxen
Cc Fawn J. Billie; Fawn L. Cottrell; Kristal E. Hill; Maureen S. Perkins; Clorissa N. Leeman

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Approve

Approve: E-POLL REQUEST: Approval of the March 6, 2024 LOC Community Meeting Notice



Jameson J. Wilson

To LOC

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Mon 1/29/2024 4:04 PM

[The sender responded: Approve.](#)

Re: E-POLL REQUEST: Approval of the March 6, 2024 LOC Community Meeting Notice



Kirby W. Metoxen

To Jonas G. Hill; Marlon G. Skenandore; Jennifer A. Webster; LOC; Jameson J. Wilson
Cc Fawn J. Billie; Fawn L. Cottrell; Kristal E. Hill; Maureen S. Perkins; Clorissa N. Leeman

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Approve



LEGISLATIVE OPERATING COMMITTEE

COMMUNITY MEETING

WEDNESDAY, MARCH 6

5:30PM - 7:30PM

NORBERT HILL CENTER CAFETERIA

N7210 Seminary Rd, Oneida, WI 54155



Please join the Legislative Operating Committee (LOC) for a community meeting to gather input regarding the development or amendment of laws for the Nation:

- ◆ **Oneida Personnel Policies and Procedures Amendments**
- ◆ **Sanctions and Penalties Law**
- ◆ **Eviction and Termination Law Amendments**

The LOC will have a brief overview of the legislative process prior to the discussion of the above mentioned topics. The LOC encourages everyone to come participate in the legislative process by providing comments, suggestions, and questions that the LOC can consider and utilize in the development or amendment of laws for the Nation.

LOC members will provide food during this community event. Community members are welcome to bring a dish to pass.



LEGISLATIVE OPERATING COMMITTEE MEMBERS



Jameson Wilson
LOC Chairman



Kirby Metoxen
LOC Vice Chairman



Jennifer Webster
LOC Member



Marlon Skenandore
LOC Member



Jonas Hill
LOC Member



February 2024

February 2024

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March 2024

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30	31					

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
Jan 29	30	31	Feb 1 9:00am LOC Work Session (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Clorissa N. Leeman	2
5	6	7 8:30am LOC Prep Meeting (Microsoft Teams Meeting; 9:00am Legislative Operating Committee Meeting (Microsoft 1:30pm LOC Work Session (Microsoft	8	9
12 1:30pm Draft Guardianship Law (BC_Exec_Conf_Room) - Grace L. Elliott	13 1:00pm Real Property Law Amendments (Microsoft Teams Meeting) - Grace L. Elliott	14	15 1:30pm LOC Work Session (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Clorissa N. Leeman	16
19	20 1:30pm LOC Work Session (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Clorissa N. Leeman	21 8:30am LOC Prep Meeting (Microsoft Teams Meeting; BC_Conf_Room) - 9:00am Legislative Operating Committee Meeting (Microsoft Teams Meeting;	22	23
26	27	28	29 1:30pm LOC Work Session (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Clorissa N. Leeman	Mar 1