



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA
Business Committee Conference Room - 2nd Floor Norbert Hill Center
March 6, 2024
9:00 a.m.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

1. February 21, 2024 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Back Pay Law Amendments (pg. 4)

IV. New Submissions

1. Conflict of Interest Law Amendments (pg. 34)
2. Budget and Finances Law Amendments (pg. 42)

V. Additions

VI. Administrative Updates

1. April 2, 2024 LOC Community Work Session Notice (pg. 55)
2. Certification of Amendments to Leasing Law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program (pg. 56)

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
February 21, 2024
9:00 a.m.

Present: Jameson Wilson, Kirby Metoxen, Jonas Hill

Excused: Jennifer Webster [*Approved Travel*], Marlon Skenandore [*Personal Time Off*]

Others Present: Clorissa N. Leeman, Grace Elliott, Keith Doxtator, Maureen Perkins, Bonnie Pigman, Lawrence Barton, Shannon Davis

Others Present on Microsoft Teams: Michelle Braaten, Justin Nishimoto, Rhiannon Metoxen, Reynold Danforth, Mark A. Powless Sr., Carolyn Salutz, Eric Boulanger, Fawn Billie, Jeremy King, Diana Wilson, Kristal Hill, Tavia Charles, Connie Herlache, Jeremy King, Fawn Cottrell, Todd Vanden Heuvel, Rae Skenandore, Brandon Yellowbird Stevens, Matt Denny

I. Call to Order and Approval of the Agenda

Jameson Wilson called the February 21, 2024, Legislative Operating Committee meeting to order at 9:03 a.m.

Motion by Jonas Hill approve the agenda; seconded by Kirby Metoxen. Motion carried unanimously.

II. Minutes to be Approved

1. February 7, 2024 LOC Meeting Minutes

Motion by Kirby Metoxen to approve the February 7, 2024, LOC meeting minutes; seconded by Jonas Hill. Motion carried unanimously.

III. Current Business

IV. New Submissions

1. Pardon and Forgiveness Screening Committee Bylaws Amendments

Motion by Kirby Metoxen to add the Pardon and Forgiveness Screening Committee bylaws amendments to the Active Files List with Jonas Hill as the sponsor; seconded by Jonas Hill. Motion carried unanimously.



2. Landlord Tenant Law Amendments

Motion by Kirby Metoxen to add the Landlord Tenant law amendments to the Active Files List with Jonas Hill as the sponsor; seconded by Jonas Hill. Motion carried unanimously.

V. Additions

VI. Administrative Items

1. Budget and Finances Law One Year Review Memorandum

Motion by Kirby Metoxen to approve the Budget and Finances Law One Year Review Memorandum and forward to the Oneida Business Committee; seconded by Jonas Hill. Motion carried unanimously.

VII. Executive Session

VIII. Adjourn

Motion by Kirby Metoxen to adjourn at 9:13 a.m.; seconded by Jonas Hill. Motion carried unanimously.



Legislative Operating Committee
March 6, 2024

Back Pay Law Amendments

Submission Date: 9/21/22	Public Meeting: 12/13/22
LOC Sponsor: Jonas Hill	Emergency Enacted: N/A

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

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

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

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

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

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

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

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

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

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

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

2/1/23 LOC: Motion by Maire Cornelius to accept the public comments and the public comment review memorandum and defer to a work meeting for further consideration; seconded by Daniel Guzman King. Motion carried unanimously.

2/1/23: *Work Meeting.* Present: David P. Jordan, Marie Cornelius, Danie Guzman King, Clorissa N. Leeman, Carolyn Salutz, Grace Elliott. The purpose of this work meeting was to review and consider the public comments received.

2/15/23 LOC: Motion by Jennifer Webster to accept the updated public comment review memorandum; seconded by Marie Cornelius. Motion carried unanimously.

3/14/23: *Work Meeting.* Present: David P. Jordan, Marie Cornelius, Jennifer Webster, Clorissa N. Leeman, Grace Elliott, Kristal Hill, Todd Vandenheuvel, Matt Denny, Josh Cottrell. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and consider the concerns brought up by HRD in their public comments.

10/4/23 LOC: Motion by Jennifer Webster to add the Back Pay Law Amendments to the Active Files List with Jonas Hill as the sponsor; seconded by Marlon Skenandore. 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 the draft of proposed amendments that went to public meeting and the corresponding comments that were received, and discuss and determine any revisions needed to the draft and the next steps for moving this legislative item forward.

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 updated draft of proposed amendments; and determine next steps for moving this legislative item forward. LOC decided that a work meeting should be scheduled with HRD, Oneida Law Office, and General Managers to review the updated language, and that an additional public meeting should be held.

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 memorandum received the Oneida Law Office regarding their question on statistics on the use of back pay in the Nation, and the question of whether to exclude wages earned from a back pay award is typical.

2/20/24: *Work Meeting.* Present: Jameson Wilson, Jonas Hill, Kirby Metoxen Clorissa Leeman, Kristal Hill, Maureen Perkins, Fawn Cottrell, Todd Vanden Heuvel, Wendy Alvarez, Whitney Wheelock, Marie Cornelius, Dana Thyssen, Matt Denny, Mark Powless, Peggy Van Gheem, Jeri Bauman. The purpose of this work meeting was for the LOC to review the updated proposed amendments to the Bay Pay law with HRD, the Oneida Law Office, and the general managers.

Next Steps:

- Approve the updated materials contained in the public meeting packet for the Back Pay Law Amendments, and forward the Back Pay Law Amendments to a public meeting to be held on April 12, 2024.

Title 2. Employment – Chapter 206
Tashakotikáyahke? kayanl/hsia?
back pay law
BACK PAY AND REINSTATEMENT

206.1. Purpose and Policy	206.5. Back Pay Calculation
206.2. Adoption, Amendment, Appeal	206.6. Back Pay Process
206.3. Definitions	
206.4. <u>Holding a Position Pending Appeals and Reinstatement</u>	

206.1. Purpose and Policy

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

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

206.2. Adoption, Amendment, ~~Appeal~~ Repeal

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

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

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

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

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

206.3. Definitions

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

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

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

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

(d) “Consequential damages” means damages that are not a direct and immediately result of an act, but a consequence of the initial act, including but not limited to penalties on early withdrawal of retirement account.

(e) “Earnings” includes vacation or personal time, shift differential, holiday pay, merit

38 increases, bonuses and incentives, employment benefits and income received during the
39 back pay period.

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

49 (g) “Extreme financial distress” means a situation in which an entity cannot generate
50 sufficient revenues or income, making it unable to meet or pay its financial obligations,
51 due to situations including, but is not limited to:

- 52 (1) natural or human-made disasters;
- 53 (2) United States Government shutdown;
- 54 (3) emergency proclamations; and
- 55 (4) economic downturn.

56 ~~(g)~~(h) “Involuntarily separated” means an employee removed from employment through
57 whatever means, other than a layoff, by the employer. This shall include, but is not limited
58 to investigative leave, suspension or termination.

59 ~~(h)~~(i) “Judiciary” means Oneida Nation Judiciary, which is the judicial system that was
60 established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later
61 authorized to administer the judicial authorities and responsibilities of the Nation by
62 Oneida General Tribal Council resolution GTC-03-19-17-A in accordance with Article V
63 of the Constitution and Bylaws of the Oneida Nation.

64 ~~(i)~~(j) “Nation” means the Oneida Nation.

65 ~~(j)~~(k) “Punitive damages” means monetary compensation awarded to an injured party that
66 goes beyond that which is necessary to compensate the individual for losses and that is
67 intended to punish the other party.

68 ~~(k)~~(l) “Reviewing party” means the area manager or the Trial Court.

69 ~~(l)~~(m) “Trial Court” means the Trial Court of the Oneida Nation Judiciary authorized to
70 administer the judicial authorities and responsibilities of the Nation by Oneida General
71 Tribal Council resolution GTC-03-19-17-A in accordance with Article V of the
72 Constitution and Bylaws of the Oneida Nation.

74 **206.4. Holding a Position Pending Appeals and Reinstatement**

75 ~~206.4-1. *Reinstatement to the Position the Employee was Terminated From.* Should an employee's~~
76 ~~appeal of a termination result in the termination being overturned, the reviewing party shall order~~
77 ~~the employee be reinstated to the position from which the employee was wrongfully terminated.~~

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

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

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

94 206.4-2. Requirement to Hold the Position Pending Litigation. When an employee is
95 ~~terminated~~involuntarily separated and thereafter appeals said ~~termination~~involuntary separation,
96 the disciplining supervisor may only fill the employee's former position with an interim or
97 temporary employee until the appeal has fully run its course, which includes any appeal timelines
98 to the area manager, the Trial Court, or the Appellate Court.

99 206.4-3.2. Amending the Position Description or Eliminating the Position Pending an Employee
100 Appeal. Notwithstanding the requirement to hold ~~the terminated~~an employee's position pending
101 an employee's appeal ~~of their termination~~ as provided in section 206.4-21, a supervisor or business
102 unit may amend the affected position description or eliminate the affected position while an
103 employment appeal is pending ~~where such actions are required to meet the Nation's business and~~
104 ~~employment needs to respond to extreme financial distress that could negatively impact the~~
105 Nation.

106 (a) The determination to amend an affected position description or eliminate an affected
107 position shall be approved by the Human Resources Executive Director and either the
108 ~~General Manager, Gaming General Manager, Retail General Manager, or the highest~~
109 ~~position in the employee's chain of command for non-divisional employees.;~~

110 (1) General Manager;

111 (2) Gaming General Manager;

112 (3) Retail General Manager; or

113 (4) the highest position in the employee's chain of command for non-divisional
114 employees.

115 206.4-3. Reinstatement to the Position the Employee was Involuntarily Separated From. Should
116 an employee's appeal of an involuntary separation result in the involuntary separation being
117 overturned, the reviewing party shall order the employee be reinstated to the position from which
118 the employee was involuntarily separated.

119 (a) In the event the position the employee was involuntarily separated from has been
120 eliminated, or the employee is no longer eligible for the position based on amendments to
121 the position description, the order to reinstate shall be deemed satisfied and the back pay
122 end date shall be the date of the reviewing party's decision.

124 **206.5. Back Pay Calculation**

125 206.5-1. *Back Pay Limitations.* Back pay calculations shall be made using the employee's last
126 wage in the position which they were ~~terminated~~involuntarily separated from. Back pay, in all
127 circumstances, shall be limited to the calculation set forth in this section. Back pay shall include
128 and be subject to the following as it is related to the employee:

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

131 (1) Reinstated employees shall be credited for vacation and personal time. If the

132 crediting of vacation and personal time would result in the employee exceeding the
133 accrual cap pursuant to the Nation's laws, rules and policies, then any amount over
134 that cap shall be provided as a cash payout. Non-reinstated employees shall be paid
135 out vacation and personal time in lieu of crediting personal and vacation time.

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

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

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

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

146 (e) *Merit Increases*. The hourly rate used to calculate back pay shall be increased
147 according to the merit increase system or standard used by the employee's supervisor
148 during the back pay period and shall include any increases from Oneida Business
149 Committee or General Tribal Council directives.

150 (1) The effective date of the employee's merit increase shall be the same as the
151 effective date for other employees in the same department. Retroactive increases
152 shall be calculated back to the retroactive date used for other employees in the same
153 department.

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

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

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

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

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

173 (B) An employee who is reinstated shall sign a waiver from Purchased
174 Referred Care authorizing a review of the back pay period to determine if
175 Purchased Referred Care services were rendered. If Purchased Referred Care
176 determines services were rendered during the back pay period, an employee
177 shall timely submit insurance information to Purchased Referred Care in
178 order for Purchased Referred Care to retroactively bill the insurance provider

179 to recoup funds for those services rendered during the back pay period.
180 (C) If the employee refuses to sign an authorization waiver from Purchased
181 Referred Care, the employee shall not be eligible to receive any back pay
182 award.

183 (2) *Flexible Benefit Plan Contributions.* If a terminated employee was contributing
184 to the Nation’s flexible benefit plan at the time of termination, the status of the
185 employee’s flex benefit plan shall be subject to the provisions of the Internal
186 Revenue Code.

187 (3) *Retirement Benefit Contributions.* In the event the employee was participating
188 in the Nation’s retirement plan at the time of involuntary separation, the employee
189 shall be responsible for contacting the retirement plan administrator and
190 reactivating contributions.

191 (A) The employee may choose whether to have the employee’s contribution
192 to the retirement plan that would have been made during the back pay period
193 deducted from the total back pay amount and deposited into the employee’s
194 retirement account.

195 (B) If the employee was eligible for employer matching contributions at the
196 time of involuntary separation and the employee chooses to make a
197 contribution through back pay, the Nation shall contribute the employer
198 match into the employee’s retirement account.

199 (C) If the employee was not participating in the Nation’s retirement plan or
200 chooses not to make contributions through the back pay process, then the
201 Nation shall not make employer match contributions into the employee’s
202 retirement account.

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

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

206 (A) Any unemployment compensation paid by the Nation to the State of
207 Wisconsin for an involuntarily separated employee shall be deducted from
208 the employee’s back pay award; or

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

214 (2) *Income Received Through Employment.* Except as provided in section 206.5-
215 1(h)(2)(B), income earned by an employee during the back pay period shall be
216 deducted from the total back pay amount.

217 (A) The employee shall provide information to verify the amount of or lack
218 of earned income and sign an affidavit attesting to the amount of or lack of
219 earned income.

220 (B) If the employee worked an additional job prior to being involuntarily
221 separated and continued working in the same capacity, the income earned
222 from that employment shall not be deducted from the total back pay amount
223 to the extent that the income is consistent with pre-involuntary separation
224 earnings. Where the employee worked the additional job, the employee shall
225 provide information from the employer to verify the income earned before

226 and during the back pay period.

227 206.5-2. *Payments Not Allowed.* The Nation shall not include the following in any back pay
228 amount:

- 229 (a) Punitive damages;
230 (b) Consequential damages;
231 (c) Attorney's or advocate's fees;
232 (d) Time when the employee would not have been eligible to work. An employee is not
233 eligible to work in circumstances including, but not limited to, the following:

234 (1) When an employee is on layoff or furlough status at the time of
235 ~~termination~~involuntary separation;

236 (2) When a position is eliminated or inactive as part of the Nation's response to
237 ~~an extreme financial force majeure event including, but not limited to:~~distress;

238 ~~(A) responses to war;~~

239 ~~(B) global health pandemics; and~~

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

241 (3) When an employee would have been on medical leave at the time of involuntary
242 separation; and

243 (4) When an employee would otherwise not be eligible to work in the position from
244 which they were ~~terminated~~separated from in accordance with the position
245 description based on:

246 (A) applicable grant requirements when the position is grant funded;

247 (B) applicable laws of the Nation including, but not limited to, the Vehicle
248 Driver Certification and Fleet Management law; and

249 (C) a criminal conviction;

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

253 206.5-3. *Back Pay Period.* Calculation of back pay begins on the day the employee is
254 involuntarily separated and ends on the day the employee is reinstated.

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

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

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

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

271
272 **206.6. Back Pay Process**

273 206.6-1. The Oneida Law Office shall develop necessary forms and procedures for the purpose of
274 implementing this law.

275 206.6-2. Internal departments shall cooperate as necessary with the Oneida Law Office in
276 providing information needed to assemble and prepare the back pay agreement.

277 206.6-3. A reasonable effort shall be made to complete the back pay agreement within thirty (30)
278 calendar days, starting the day after the party to the grievance action provides to the Oneida Law
279 Office a judgment ordering back pay or the results of an investigation or test showing the employee
280 is cleared of any wrongdoing.

281 206.6-4. An employee not receiving back pay in accordance with the back pay agreement may
282 seek enforcement by the Judiciary.

283

284 *End.*

285

286 Adopted - BC-05-24-06-PP

287 Amended - BC-06-23-10-F

288 Amended - BC-08-13-14-C

289 Amended - BC-10-26-16-A

290 Amended - BC- _ - _ - _ - _

ONEIDA NATION PUBLIC MEETING NOTICE**FRIDAY, APRIL 12, 2024, 12:15 pm**Norbert Hill Center-Business Committee Conference Room
N7210 Seminary Rd., Oneida, Wisconsin**Find Public Meeting Materials at**

Oneida-nsn.gov/government/register/public meetings

Send Public Comments to

LOC@oneidation.org

Ask Questions here

LOC@oneidation.org

920-869-4417

**BACK PAY LAW AMENDMENTS**

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

The Back Pay law amendments will:

- ◆ Include a new section in the law which provides for the reinstatement of employee who had an involuntary separation overturned and addresses such issues as:
 - ◆ requirement to hold a position pending litigation;
 - ◆ amending the position description or eliminating the position pending an employee appeal; and
 - ◆ reinstatement of an employee to the position the employee was involuntarily separated from;
- ◆ Clarify that back pay calculations shall be made using the employee's last wage in the position which they were involuntarily separated from.
- ◆ Clarify the circumstances in which an employee is not eligible to work, and therefore is not eligible for back pay.

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

PUBLIC COMMENT PERIOD CLOSES FRIDAY, APRIL 19, 2024

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



For more information on the proposed Back Pay law amendments please review the public meeting packet at oneida-nsn.gov/government/register/public meetings.



BACK PAY LAW 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 section in the law which provides for the reinstatement of employee who had involuntary separation overturned and addresses such issues as: <ul style="list-style-type: none"> ▪ Requirement to hold a position pending litigation [2 O.C. 206.4-1]; ▪ amending the position description or eliminating the position pending an employee appeal [2 O.C. 206.4-2]; ▪ Reinstatement to the position the employee was involuntarily separated from [2 O.C. 206.4-3]; ▪ Clarify that back pay calculations shall be made using the employee’s last wage in the position which they were terminated from [2 O.C. 206.5-1]; ▪ Clarify the circumstances in which an employee is not eligible to work, and therefore is not eligible for back pay [2 O.C. 206.5-2(d)].
Purpose	The purpose of this law is to set forth standards used in the reinstatement of an employee and the calculation of back pay for all employees of the Nation in accordance with the Nation’s law. [2 O.C. 206.1-1].
Affected Entities	Oneida Law Office, General Manager, Gaming General Manager, Retail General Manager, Human Resources Department Executive Director, Oneida Nation Judiciary, Employees of the Nation
Public Meeting	A public meeting was held on December 13, 2022, with a public comment period held open until December 20, 2022.
Fiscal Impact	A fiscal impact statement has not yet been requested.

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
 2 **A. Background.** The Back Pay law was originally adopted by the Oneida Business Committee in 2006
 3 through resolution BC-05-24-06-PP, and then amended through resolutions BC-06-23-10-F, BC-08-
 4 13-14-C, and BC-10-26-16-A. The purpose of the Back Pay law is to set forth standards used in the
 5 reinstatement of an employee and the calculation of back pay for all employees of the Nation in
 6 accordance with the Nation’s law. [2 O.C. 206.1-1]. It is the policy of the Nation to have consistent
 7 and standard procedures for the management of employee reinstatement and back pay. [2 O.C. 206.1-
 8 2].
- 9 **B. Request for Amendments.** On the September 14, 2022, the Oneida Business Committee adopted a
 10 motion to request the Legislative Operating Committee consider amendments to the Back Pay law. The
 11 Legislative Operating Committee added this legislative item to its Active Files List on September 21,
 12 2022.

SECTION 3. CONSULTATION AND OUTREACH

- 13
 14 **A.** Representatives from the following departments or entities participated in the development of the
 15 amendments to the Back Pay law and this legislative analysis:
 16
 17
 - Oneida Law Office;

- 18 ▪ Human Resources Department;
- 19 ▪ General Manager; and
- 20 ▪ Gaming Employee Services.
- 21 **B.** The following laws were reviewed in the drafting of this analysis:
- 22 ▪ Back Pay law;
- 23 ▪ Oneida Personnel Policies and Procedures;
- 24 ▪ Drug and Alcohol Free Workplace law;
- 25 ▪ Furlough law; and
- 26 ▪ Investigative Leave Policy.
- 27

28 **SECTION 4. PROCESS**

- 29 **A.** The development of the proposed amendments to the Back Pay law complies with the process set forth
- 30 in the Legislative Procedures Act (LPA).
- 31 ▪ On September 14, 2022, the Oneida Business Committee adopted a motion to request the
- 32 Legislative Operating Committee to add the Back Pay Policy to the active files agenda and to
- 33 release the confidential memo to the Legislative Reference Office as a confidential document.
- 34 ▪ On September 21, 2022, the Legislative Operating Committee added the Law to its Active Files
- 35 List.
- 36 ▪ On October 5, 2022, the Legislative Operating Committee approved the draft of the proposed
- 37 amendments to the Back Pay law and directed that a legislative analysis be developed.
- 38 ▪ On October 19, 2022, the Legislative Operating Committee approved the updated draft and
- 39 legislative analysis.
- 40 ▪ On November 2, 2022, the Legislative Operating Committee approved the public meeting
- 41 packet and forwarded the Back Pay law amendments to a public meeting to be held on
- 42 December 13, 2022.
- 43 ▪ The public meeting was held on December 13, 2022, in person in the Norbert Hill Center and
- 44 on Microsoft Teams. No individuals provided public comment during the public meeting.
- 45 ▪ The public comment period was held open until December 20, 2022. One (1) submission of
- 46 written comments was received during the public comment period.
- 47 ▪ On February 1, 2023, the Legislative Operating Committee to accepted the public comments
- 48 and the public comment review memorandum and deferred these items to a work meeting for
- 49 further consideration. The Legislative Operating Committee reviewed and considered these
- 50 comments later that same day.
- 51 ▪ On February 15, 2023, the Legislative Operating Committee accepted the updated public
- 52 comment review memorandum.
- 53 ▪ On October 4, 2023, the Legislative Operating Committee read the Back Pay law
- 54 amendments to its Active Files List for the 2023-2026 legislative term.
- 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 ▪ September 29, 2022: LOC work session;
- 58 ▪ October 13, 2022: LOC work session;
- 59 ▪ February 1, 2023: LOC work session;
- 60 ▪ March 14, 2023: LOC work session with HRD.
- 61 ▪ January 3, 2024: LOC work session.

- 62 ▪ January 17, 2024: LOC work session.
- 63 ▪ February 1, 2024: LOC work session.
- 64 ▪ February 20, 2024: LOC work session with HRD, Oneida Law Office, General Manager, and
- 65 Gaming Employee Services.
- 66

Back Pay Statistics

68 Employees of the Nation may receive back pay for a couple different reasons such as (1) overturned
69 suspensions, separations, and employment terminations; (2) an investigative leave that ends with the
70 employee returning to their position with no discipline; and (3) missed work time for reasonable suspicion
71 drug test that produces a negative result.

72
73 Below please find some statistics provided by the Oneida Law Office regarding employment appeals and
74 back pay awards related to each reason listed above.
75

Employment Appeals since January 1, 2022	
Appealed Terminations/Separations	21
Appealed Suspension	18
Back Pay Payments Since January 1, 2022	
Overtured Termination/Separation	9
Overtured Suspension	6
Return from Investigative Leave – No Discipline	1
Return from Drug Test with Negative Result	1

76
77
78
79 **SECTION 5. CONTENTS OF THE LEGISLATION**

80 **A. *Holding a Position Pending Appeals and Reinstatement.*** A new section added to the Law through
81 these amendments addresses reinstatement of an employee who was involuntarily separated. [2 O.C.
82 206.4]. This new section requires that when an employee is involuntarily separated and thereafter
83 appeals said involuntary separation, the disciplining supervisor may only fill the employee's former
84 position with an interim or temporary employee until the appeal has fully run its course, which includes
85 any appeal timelines to the area manager, the Trial Court, or the Appellate Court. [2 O.C. 206.4-1].
86 Additionally, this section of the Law provides that notwithstanding the requirement to hold an
87 employee's position pending the employee's appeal as provided in section 206.4-1, a supervisor or
88 business unit may amend the affected position description or eliminate the affected position while an
89 employment appeal is pending to respond to extreme financial distress that could negatively impact the
90 Nation. [2 O.C. 206.4-2]. Extreme financial distress is defined to mean a situation in which an entity
91 cannot generate sufficient revenues or income, making it unable to meet or pay its financial obligations,
92 due to situations including, but is not limited to, natural or human-made disasters; United States
93 Government shutdown; emergency proclamations; and economic downturn. [2 O.C. 206.3-1(g)].The
94 determination to amend an affected position description or eliminate an affected position is then
95 required to be approved by the Human Resources Department Executive Director and either the General
96 Manager, Gaming General Manager, Retail General Manager, or the highest position in the employee's
97 chain of command for non-divisional employees. [2 O.C. 206.4-2(a)]. This new section then goes on

98 to provide that should an employee's appeal of an involuntary separation result in the separation being
99 overturned, the reviewing party shall order the employee be reinstated to the position from which the
100 employee was involuntarily separated. [2 O.C. 206.4-3]. In the event the position the employee was
101 involuntarily separated from has been eliminated, or the employee is no longer eligible for the position
102 based on amendments to the position description, the order to reinstate shall be deemed satisfied and
103 the back pay end date shall be the date of the reviewing party's decision. [2 O.C. 206.4-3(a)].

104 ■ *Effect.* The overall purpose of this new section to the Law is to provide direction and clarification
105 on how the reinstatement of an employee who had an involuntary separation overturned is handled,
106 so that it can be handled in a consistent manner throughout the Nation.

107 **B. Back Pay Calculations.** The proposed amendments to the Law clarify that back pay calculations shall
108 be made using the employee's last wage in the position which they were involuntarily separated from.
109 [2 O.C. 206.5-1].

110 ■ *Effect.* This provision of the Law clarifies what wage of an employee should be used when
111 calculating back pay.

112 **C. Explanation of When an Employee is Not Eligible to Work.** The Law provides that the Nation shall
113 not include time when an employee would not have been eligible to work in the calculation of any back
114 pay amount. [2 O.C. 206.5-2(d)]. The proposed amendments to the Law provides greater clarification
115 by providing a list of examples of when an employee is not eligible to work, which includes such
116 circumstances such as when an employee is on layoff or furlough status at the time of termination;
117 when a position is eliminated or inactive as part of the Nation's response extreme financial distress;
118 when an employee would have been on medical leave at the time of the involuntary separation; and
119 when an employee would otherwise not be eligible to work in the position from which they were
120 separated from in accordance with the position description based on applicable grant requirements
121 when a position is grant funded, applicable laws of the Nation, including, but not limited to, the Vehicle
122 Driver Certification and Fleet Management law, and a criminal conviction. [2 O.C. 206.5-2(d)(1)-(4)].

123 ■ *Effect.* This provision of the Law clarifies when it should be considered that an employee is not
124 eligible to work, and therefore is not eligible for back pay.

125 SECTION 6. EXISTING LEGISLATION

127 **A. Related Legislation.** The following laws of the Nation are related to the Back Pay law:

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

132 ■ Section V.D of the Oneida Personnel Policies and Procedures specifically addresses
133 complaints, disciplinary actions and grievances. Section V.D.6 provides that any employee
134 who receives a disciplinary action which he/she believes is unfair may grieve the action.
135 Section V.D.6.f.5 then provides that the Oneida Personnel Commission may: uphold the
136 disciplinary action; or overturn the disciplinary action and either reinstate the employee with
137 full back pay for any lost time or reinstate the employee without back pay.

138 ■ The Back Pay law will now address the reinstatement of an employee who has an involuntary
139 separation overturned in section 206.4, as well as provide greater clarification on how back pay
140 is calculated in section 206.5.

- 141 ▪ *Drug and Alcohol Free Workplace Law.* It is the policy of the Nation to establish a drug and
142 alcohol-free workplace program that balances respect for individuals with the need to maintain an
143 alcohol and drug-free environment. [2 O.C. 202.1-1].
- 144 ▪ The Drug and Alcohol Free Workplace law provides that it is the employee’s responsibility to
145 cooperate with the requests made by Employee Health Nursing and the Medical Review
146 Officer. [2 O.C. 202.5-2(e)]. An employee who fails to cooperate and does not contact the
147 Medical Review Officer within twenty-four (24) hours of receiving contact shall not receive
148 back pay for any time between the date the Medical Review Officer placed the call until the
149 time the employee does return the call of the Medical Review Officer. *Id.*
- 150 ▪ The Drug and Alcohol Free Workplace law provides that during drug and alcohol testing for
151 reasonable suspicion, an employee shall be immediately removed from duty without pay at the
152 time of initiation of the reasonable suspicion drug and alcohol testing and specimen collection
153 until the employer is notified by Employee Health Nursing of negative results on both the drug
154 and alcohol tests, or Medical Review Officer verified negative test results. [2 O.C. 202.10-2].
155 If the employee is reinstated after confirmation of drug and alcohol testing results, back pay
156 shall be provided in accordance with the Back Pay law. [2 O.C. 202.10-3].
- 157 ▪ *Furlough Law.* The purpose of the Furlough law is to enable the Nation to implement a furlough
158 program in response to an interruption of governmental revenues or operations, insufficient treasury
159 funds or other emergencies/ unplanned events as determined by the Oneida Business Committee in
160 accordance with this law; establish a consistent and equitable process for implementation of a
161 furlough program; and incorporate Indian preference into the furlough program and require that it
162 be applied in accordance with this law. [2 O.C. 205.1-1].
- 163 ▪ The Furlough law provides that except when an employee successfully appeals being placed
164 on furlough status in violation of this law, employees placed in furlough status shall not be
165 eligible for back pay upon their return to work. [2 O.C. 205.8-6].
- 166 ▪ *Investigative Leave Policy.* The purpose of the Investigative Leave Policy is to address
167 investigative leave for employees undergoing work-related investigations. [2 O.C. 208.1-1].
- 168 ▪ The Investigative Leave Policy provides that an employee placed on investigative leave shall
169 not receive any wages or benefits unless placed in an alternative work assignment, and that if
170 the employee refuses the alternative work assignment and is returned to work, the employee
171 shall not receive any back pay or benefits. [2 O.C. 208.10-2].
- 172 ▪ The Investigative Leave Policy provides that an employee shall receive back pay and benefits
173 for the time the employee was on investigative leave pursuant to the Back Pay law if all of the
174 following occur: the employee was not offered an alternative work assignment when placed on
175 investigative leave; the employee is returned to his or her position; and the employee is not
176 disciplined based on the investigation. [2 O.C. 208.10-4].
- 177

178 **SECTION 7. OTHER CONSIDERATIONS**

- 179 **A. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all
180 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
181 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
182 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
183 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
184 completing the fiscal impact statement.

- 185 ▪ *Conclusion.* The Legislative Operating Committee has not yet directed that a fiscal impact
186 statement be completed.
187

Title 2. Employment – Chapter 206

~~BACK PAY~~

Tashakotikályahke? kayanl/hhsla?

back pay law

BACK PAY AND REINSTATEMENT

~~206.1. Purpose and Policy~~

~~206.2. Adoption, Amendment, Appeal~~

~~206.3. Definitions~~

~~206.4. Back Pay Calculation~~

~~206.5. Back Pay Process~~

~~206.1. Purpose and Policy~~

~~206.2. Adoption, Amendment, Appeal~~

~~206.3. Definitions~~

~~206.4. Holding a Position Pending Appeals and Reinstatement~~

~~206.5. Back Pay Calculation~~

~~206.6. Back Pay Process~~

1
2 **206.1. Purpose and Policy**

3 206.1-1. *Purpose.* The purpose of this law is to set forth standards used in the reinstatement of a
4 employee, and the calculation of back pay for all employees of the Nation in accordance with the
5 Nation’s law.

6 206.1-2. *Policy.* It is the policy of the Nation to have consistent and standard procedures for the
7 management of employee reinstatement and back pay.

8
9 **206.2. Adoption, Amendment, ~~Appeal~~ Repeal**

10 206.2-1. This law was adopted by the Oneida Business Committee by resolution BC-5-24-06-PP
11 and amended by resolutions BC-06-23-10-F, BC-08-13-14-C ~~and~~, BC-10-26-16-A, and BC- -
12 - - -.

13 206.2-2. This law may be amended or repealed by the Oneida Business Committee or the Oneida
14 General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

15 206.2-3. Should a provision of this law or the application thereof to any person or circumstances
16 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
17 to have legal force without the invalid portions.

18 206.2-4. In the event of a conflict between a provision of this law and a provision of another law,
19 the provisions of this law shall control.

20 206.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

21
22 **206.3. Definitions**

23 206.3-1. This section shall govern the definitions of words and phrases used within this law. All
24 words not defined herein shall be used in their ordinary and everyday sense.

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

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

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

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

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

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

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

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

51 (g) “Extreme financial distress” means a situation in which an entity cannot generate
52 sufficient revenues or income, making it unable to meet or pay its financial obligations,
53 due to situations including, but is not limited to:

- 54 (1) natural or human-made disasters;
- 55 (2) United States Government shutdown;
- 56 (3) emergency proclamations; and
- 57 (4) economic downturn.

58 ~~(g)~~(h) “Involuntarily separated” means an employee removed from employment through
59 whatever means, other than a layoff, by the employer. This shall include, but is not limited
60 to, investigative leave, suspension or termination.

61 ~~(h)~~(i) “Judiciary” means Oneida Nation Judiciary, which is the judicial system that was
62 established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later
63 authorized to administer the judicial authorities and responsibilities of the Nation by
64 Oneida General Tribal Council resolution GTC-03-19-17-A in accordance with Article V
65 of the Constitution and Bylaws of the Oneida Nation.

66 ~~(i)~~(j) “Nation” means the Oneida Nation.

67 ~~(j)~~(k) “Punitive damages” means monetary compensation awarded to an injured party that
68 goes beyond that which is necessary to compensate the individual for losses and that is
69 intended to punish the other party.

70 (l) “Reviewing party” means the area manager or the Trial Court.

71 (m) “Trial Court” means the Trial Court of the Oneida Nation Judiciary authorized to
72 administer the judicial authorities and responsibilities of the Nation by Oneida General
73 Tribal Council resolution GTC-03-19-17-A in accordance with Article V of the
74 Constitution and Bylaws of the Oneida Nation.

75 76 **206.4. Holding a Position Pending Appeals and Reinstatement**

77 206.4-1. Requirement to Hold the Position Pending Litigation. When an employee is involuntarily
78 separated and thereafter appeals said involuntarily separation, the disciplining supervisor may only
79 fill the employee's former position with an interim or temporary employee until the appeal has
80 fully run its course, which includes any appeal timelines to the area manager, the Trial Court, or

81 the Appellate Court.

82 206.4-2. Amending the Position Description or Eliminating the Position Pending an Employee
83 Appeal. Notwithstanding the requirement to hold an employee's position pending an employee's
84 appeal as provided in section 206.4-1, a supervisor or business unit may amend the affected
85 position description or eliminate the affected position while an employment appeal is pending to
86 respond to extreme financial distress that could negatively impact the Nation.

87 (a) The determination to amend an affected position description or eliminate an affected
88 position shall be approved by the Human Resources Executive Director and either the:

89 (1) General Manager;

90 (2) Gaming General Manager;

91 (3) Retail General Manager; or

92 (4) the highest position in the employee's chain of command for non-divisional
93 employees.

94 206.4-3. Reinstatement to the Position the Employee was Involuntarily Separated From. Should
95 an employee's appeal of an involuntary separation result in the involuntary separation being
96 overturned, the reviewing party shall order the employee be reinstated to the position from which
97 the employee was involuntarily separated.

98 (a) In the event the position the employee was involuntarily separated from has been
99 eliminated, or the employee is no longer eligible for the position based on amendments to
100 the position description, the order to reinstate shall be deemed satisfied and the back pay
101 end date shall be the date of the reviewing party's decision.

102 **206.5. Back Pay Calculation**

103 206.45-1. Back Pay Limitations. Back pay shall only include the items identified calculations shall
104 be made using the employee's last wage in the position which they were involuntarily separated
105 from. Back pay, in all circumstances, shall be limited to the calculation set forth in this Section as
106 they relate to the employee. section. Back pay shall include and be subject to the following as it is
107 related to the employee:

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

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

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

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

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

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

127 (e) *Merit Increases*. The hourly rate used to calculate back pay shall be increased
128 according to the merit increase system/ or standard used by the employee's supervisor
129 during the back pay period and ~~will~~shall include any increases from Oneida Business
130 Committee or General Tribal Council directives.

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

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

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

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

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

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

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

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

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

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

172 (A) The employee may choose whether to have the employee's contribution

173 to the retirement plan that would have been made during the back pay period
174 deducted from the total back pay amount and deposited into the employee's
175 retirement account.

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

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

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

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

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

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

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

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

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

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

210 (a) Punitive damages;

211 (b) Consequential damages;

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

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

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

217 (2) When a position is eliminated or inactive as part of the Nation's response to
218 extreme financial distress;

(3) When an employee would have been on medical leave at the time of involuntary separation; and

(4) When an employee would otherwise not be eligible to work in the position from which they were separated from in accordance with the position description based on:

(A) applicable grant requirements when the position is grant funded;

(B) applicable laws of the Nation including, but not limited to, the Vehicle Driver Certification and Fleet Management law; and

(C) a criminal conviction;

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

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

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

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

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

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

206.56. Back Pay Process

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

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

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

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

End.

265 Amended - BC-06-23-10-F
266 Amended - BC-08-13-14-C
267 Amended - BC-10-26-16-A
268 Amended - BC- - - -

Title 2. Employment – Chapter 206
Tashakotikáyahke? kayan/ksla?
back pay law
BACK PAY AND REINSTATEMENT

206.1. Purpose and Policy	206.5. Back Pay Calculation
206.2. Adoption, Amendment, Appeal	206.6. Back Pay Process
206.3. Definitions	
206.4. Holding a Position Pending Appeals and Reinstatement	

1
2 **206.1. Purpose and Policy**
3 206.1-1. *Purpose.* The purpose of this law is to set forth standards used in the reinstatement of a
4 employee, and the calculation of back pay for all employees of the Nation in accordance with the
5 Nation’s law.
6 206.1-2. *Policy.* It is the policy of the Nation to have consistent and standard procedures for the
7 management of employee reinstatement and back pay.
8
9 **206.2. Adoption, Amendment, Repeal**
10 206.2-1. This law was adopted by the Oneida Business Committee by resolution BC-5-24-06-PP
11 and amended by resolutions BC-06-23-10-F, BC-08-13-14-C, BC-10-26-16-A, and BC-__-__-__-
12 __.
13 206.2-2. This law may be amended or repealed by the Oneida Business Committee or the Oneida
14 General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
15 206.2-3. Should a provision of this law or the application thereof to any person or circumstances
16 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
17 to have legal force without the invalid portions.
18 206.2-4. In the event of a conflict between a provision of this law and a provision of another law,
19 the provisions of this law shall control.
20 206.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
21
22 **206.3. Definitions**
23 206.3-1. This section shall govern the definitions of words and phrases used within this law. All
24 words not defined herein shall be used in their ordinary and everyday sense.
25 (a) “Appellate Court” means the branch of the Nation’s Judiciary delegated the authority
26 of final appeals within the Nation’s Judiciary, as authorized by Oneida General Tribal
27 Council resolution GTC-03-19-17-A in accordance with Article V of the Constitution and
28 Bylaws of the Oneida Nation.
29 (b) “Advocate” means a non-attorney person as provided by law and other person who is
30 admitted to practice law and is presented to the court as the representative or advisor to a
31 party.
32 (c) “Back pay” means money damages owed to the employee for a salary or wage to
33 compensate the employee as determined by the formulas set forth within this law.
34 (d) “Consequential damages” means damages that are not a direct and immediately result
35 of an act, but a consequence of the initial act, including but not limited to penalties on early
36 withdrawal of retirement account.
37 (e) “Earnings” includes vacation or personal time, shift differential, holiday pay, merit

38 increases, bonuses and incentives, employment benefits and income received during the
39 back pay period.

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

49 (g) “Extreme financial distress” means a situation in which an entity cannot generate
50 sufficient revenues or income, making it unable to meet or pay its financial obligations,
51 due to situations including, but is not limited to:

- 52 (1) natural or human-made disasters;
- 53 (2) United States Government shutdown;
- 54 (3) emergency proclamations; and
- 55 (4) economic downturn.

56 (h) “Involuntarily separated” means an employee removed from employment through
57 whatever means, other than a layoff, by the employer. This shall include, but is not limited
58 to investigative leave, suspension or termination.

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

64 (j) “Nation” means the Oneida Nation.

65 (k) “Punitive damages” means monetary compensation awarded to an injured party that
66 goes beyond that which is necessary to compensate the individual for losses and that is
67 intended to punish the other party.

68 (l) “Reviewing party” means the area manager or the Trial Court.

69 (m) “Trial Court” means the Trial Court of the Oneida Nation Judiciary authorized to
70 administer the judicial authorities and responsibilities of the Nation by Oneida General
71 Tribal Council resolution GTC-03-19-17-A in accordance with Article V of the
72 Constitution and Bylaws of the Oneida Nation.

73

74 **206.4. Holding a Position Pending Appeals and Reinstatement**

75 206.4-1. *Requirement to Hold the Position Pending Litigation.* When an employee is involuntarily
76 separated and thereafter appeals said involuntarily separation, the disciplining supervisor may only
77 fill the employee's former position with an interim or temporary employee until the appeal has
78 fully run its course, which includes any appeal timelines to the area manager, the Trial Court, or
79 the Appellate Court.

80 206.4-2. *Amending the Position Description or Eliminating the Position Pending an Employee*
81 *Appeal.* Notwithstanding the requirement to hold an employee's position pending an employee's
82 appeal as provided in section 206.4-1, a supervisor or business unit may amend the affected
83 position description or eliminate the affected position while an employment appeal is pending to
84 respond to extreme financial distress that could negatively impact the Nation.

85 (a) The determination to amend an affected position description or eliminate an affected
86 position shall be approved by the Human Resources Executive Director and either the:

- 87 (1) General Manager;
88 (2) Gaming General Manager;
89 (3) Retail General Manager; or
90 (4) the highest position in the employee's chain of command for non-divisional
91 employees.

92 206.4-3. *Reinstatement to the Position the Employee was Involuntarily Separated From.* Should
93 an employee's appeal of an involuntarily separation result in the involuntarily separation being
94 overturned, the reviewing party shall order the employee be reinstated to the position from which
95 the employee was involuntarily separated.

96 (a) In the event the position the employee was involuntarily separated from has been
97 eliminated, or the employee is no longer eligible for the position based on amendments to
98 the position description, the order to reinstate shall be deemed satisfied and the back pay
99 end date shall be the date of the reviewing party's decision.

100 101 **206.5. Back Pay Calculation**

102 206.5-1. *Back Pay Limitations.* Back pay calculations shall be made using the employee's last
103 wage in the position which they were involuntarily separated from. Back pay, in all circumstances,
104 shall be limited to the calculation set forth in this section. Back pay shall include and be subject to
105 the following as it is related to the employee:

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

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

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

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

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

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

123 (e) *Merit Increases.* The hourly rate used to calculate back pay shall be increased
124 according to the merit increase system or standard used by the employee's supervisor
125 during the back pay period and shall include any increases from Oneida Business
126 Committee or General Tribal Council directives.

127 (1) The effective date of the employee's merit increase shall be the same as the
128 effective date for other employees in the same department. Retroactive increases
129 shall be calculated back to the retroactive date used for other employees in the same
130 department.

131 (2) The most recent performance review issued to the employee prior to being

132 involuntarily separated shall be used to determine the level of merit increase.
133 However, if the employee appealed the performance review to the Human Resource
134 Department Manager prior to involuntary separation, a method under the Nation's
135 laws, rules and policies shall be used to determine the merit increase.

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

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

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

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

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

157 (C) If the employee refuses to sign an authorization waiver from Purchased
158 Referred Care, the employee shall not be eligible to receive any back pay
159 award.

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

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

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

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

176 (C) If the employee was not participating in the Nation's retirement plan or
177 chooses not to make contributions through the back pay process, then the
178 Nation shall not make employer match contributions into the employee's

179 retirement account.

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

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

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

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

191 (2) *Income Received Through Employment.* Except as provided in section 206.5-
192 1(h)(2)(B), income earned by an employee during the back pay period shall be
193 deducted from the total back pay amount.

194 (A) The employee shall provide information to verify the amount of or lack
195 of earned income and sign an affidavit attesting to the amount of or lack of
196 earned income.

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

204 206.5-2. *Payments Not Allowed.* The Nation shall not include the following in any back pay
205 amount:

206 (a) Punitive damages;

207 (b) Consequential damages;

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

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

211 (1) When an employee is on layoff or furlough status at the time of involuntary
212 separation;

213 (2) When a position is eliminated or inactive as part of the Nation's response to
214 extreme financial distress;

215 (3) When an employee would have been on medical leave at the time of involuntary
216 separation; and

217 (4) When an employee would otherwise not be eligible to work in the position from
218 which they were separated from in accordance with the position description based
219 on:

220 (A) applicable grant requirements when the position is grant funded;

221 (B) applicable laws of the Nation including, but not limited to, the Vehicle
222 Driver Certification and Fleet Management law; and

223 (C) a criminal conviction;

224 (e) Monies normally paid for additional duties while working where an alternate employee
225 assumed that function while the employee was involuntarily separated, unless the

226 additional duties are a part of such involuntarily separated employee’s regular schedule.
227 206.5-3. *Back Pay Period.* Calculation of back pay begins on the day the employee is
228 involuntarily separated and ends on the day the employee is reinstated.
229 (a) If the employee is reinstated but refuses to return to work, the back pay period ends on
230 the date reinstatement would have taken effect, but was refused by the employee.
231 (b) Back pay shall be calculated by taking the employee’s average hours worked during
232 the fifty-two (52) week period immediately preceding the date of the involuntary separation
233 and divide that amount by the number of weeks worked.
234 (1) If the employment prior to the involuntary separation was less than fifty-two
235 (52) weeks, the back pay shall be calculated by taking the employee’s average hours
236 worked and divide that amount by the number of weeks worked.
237 (2) If the involuntary separation period involves a fractional week, the indemnity
238 shall be paid for each day of a fractional week at the rate of the average number
239 of hours worked per day immediately prior to the involuntary separation. For the
240 purposes of this section, immediately prior means the twelve (12) full work weeks
241 immediately preceding the involuntary separation. Provided that, under extenuating
242 circumstances related to business needs of the Nation wherein the Oneida Law
243 Office determines that considering hours worked per day immediately prior would
244 be unfair, an alternative reasonable timeframe may be used.
245

246 **206.6. Back Pay Process**

247 206.6-1. The Oneida Law Office shall develop necessary forms and procedures for the purpose of
248 implementing this law.

249 206.6-2. Internal departments shall cooperate as necessary with the Oneida Law Office in
250 providing information needed to assemble and prepare the back pay agreement.

251 206.6-3. A reasonable effort shall be made to complete the back pay agreement within thirty (30)
252 calendar days, starting the day after the party to the grievance action provides to the Oneida Law
253 Office a judgment ordering back pay or the results of an investigation or test showing the employee
254 is cleared of any wrongdoing.

255 206.6-4. An employee not receiving back pay in accordance with the back pay agreement may
256 seek enforcement by the Judiciary.

257
258 *End.*
259

260 Adopted - BC-05-24-06-PP
261 Amended - BC-06-23-10-F
262 Amended - BC-08-13-14-C
263 Amended - BC-10-26-16-A
264 Amended - BC-__-__-__-__



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



AGENDA REQUEST FORM

- 1) Request Date: 2/16/24
- 2) Contact Person(s): Keith Doxtator
Dept: Finance
Phone Number: 920.707.0607 Email: kdoxtat1@oneidanation.org
- 3) Agenda Title: Conflict of Interest request
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
A request to add the Conflict of Interest law to your active files list. Please see memo for rationale.

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

- 1) memo
- 2) _____
- 3) _____
- 4) _____

- 5) Please list any laws, policies or resolutions that might be affected:
Conflict of Interest
- 6) Please list all other departments or person(s) you have brought your concern to:
LOC/Jameson to understand the process to request this change.
- 7) Do you consider this request urgent? Yes No
If yes, please indicate why:

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

Signature of Requester:

Please send this form and all supporting materials to:

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



MEMORANDUM

To: Legislative Operating Committee
From: Keith Doxtator
Date: February 16th, 2024
Subject: Request to Review: Conflict of Interest

Overview

This request is to add the Conflict of Interest Law to your Active Files list to review 217.5-4.(d):

Employees Contracting with the Nation as Independent Contractors. In addition to meeting the requirements of the Nation's independent contractor laws, policies and/or rules, employees that seek to contract with the Nation as an independent contractor may not, in any circumstance, whether as a prime contractor or a subcontractor:

(d) Contract with the Nation if the employee is employed by any of the following areas:

- (1) The Oneida Law Office;
- (2) The Internal Audit Department; and/or
- (3) The Oneida Finance Department.

Rationale for my request

I am as strong supporter of nearly all aspects of conflict of interest regulation. An individuals' personal interests - including their family, friendships, finances or social factors – should never compromise his or her judgement, decisions or actions in the workplace.

However, this law goes far beyond preventing a conflict, real or perceived, by categorically denying an employee of the three listed department the opportunity to partner with the Nation in clearly unrelated activities. Further the Nation may suffer the consequences when our employees' unrelated hobbies and talents are not able to be used for the Nation's benefit.

Finance Administration Office

Rae Skenandore

This issue has come to my attention because of a recent application of the law. Rae is an employee of the Finance Department. She *was* also an independent contractor for the Nation as a basket maker. This enriched our community from both our Arts programs being able to offer basket making classes, and to our longest tenured employees being offered a culturally significant token of Oneida appreciation. However, she is not able to continue to those services because of our Conflict of Interest Law. Budget analyst duties and basket making talents do not overlap; I cannot fathom what conflict is created, real or perceived, by the broader community willing to spend a moment to understand each of the two roles.

Potential Solutions

First, I fully support the conflict of interest policies and disclosure requirements imposed on our employee base. I'm extremely cautious when the employee duties are related to their independent contractor work. With that baseline, I'd propose one of two amendments:

1. To removed section (d) from the "may not, in any circumstance..." language, and/or potentially define when employees in these three departments are sufficiently performing contractor duties outside of the employee duties.
2. Add an Exemption (217.8) to allow for contractors performing culturally meaningful work – still sufficiently different than employee duties.

Request

I am humbly requesting to add the Conflict of Interest law to your active files list and to address this change timely, as your schedules and work priorities allow.

Title 2. Employment – Chapter 217

CONFLICT OF INTEREST

<p>217.1. Purpose and Policy</p> <p>217.2. Adoption, Amendment, Repeal</p> <p>217.3. Definitions</p> <p>217.4. General</p> <p>217.5. Organizational Conflicts of Interest</p>	<p>217.6. Penalties for Non-Disclosure of a Conflict of Interest</p> <p>217.7. Prohibited Activities Resulting from a Disclosed Conflict of Interest</p> <p>217.8. Exemptions</p>
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217.1. Purpose and Policy

217.1-1 *Purpose.* The purpose of this law is for the Nation to ensure that all employees, contractors, elected officials, officers, political appointees, appointed and elected members and all others who may have access to information or materials that are confidential or may be used by competitors of the Nation's enterprises or interests be subject to specific limitations to which such information and materials may be used in order to protect the interests of the Nation.

217.1-2. *Policy.* It is the policy of the Nation to assert its proprietary rights to client lists, trade secrets and any other confidential data generated, developed or commissioned for the Nation in the course of an employee's duties and responsibilities and that all employees, and prospective employees, be made aware of their obligation to uphold such rights. The Nation asserts that no persons who work for the Nation or are responsible for safeguarding its interests nor their relatives, associates, partners, or anyone connected with such persons should in any way benefit against or in competition with the Nation's interests without full and complete prior disclosure to the Nation.

217.2. Adoption, Amendment, Repeal

217.2-1. This law was adopted by the Oneida Business Committee by Resolution BC-06-10-98-C and amended by BC-02-08-17-B and BC-06-28-17-D.

217.2-2. 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.

217.2-3. 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.

217.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provision of this law shall control.

217.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.

217.3. Definitions

217.3-1. 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) "Agent" means a person who is authorized to act for or in place of another, which may include an employee, contractor, elected official, officer, political appointee, and appointed or elected member of the Nation.

(b) "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.

(c) “Contractor” means a person or business providing expertise, services, goods or guidance to the Nation.

(d) “Elected official” means a person elected to the Oneida Business Committee who does not hold an officer position.

(e) “Employee” means anyone employed by the Oneida Nation in one of the following employed capacities: full-time, part-time, emergency temporary, limited term or on a contractual basis.

(f) “Entity” means a department, program or service of the Nation.

(g) “Immediate family member” means an individual’s husband, wife, mother, father, step mother, step father, son, daughter, step son, step daughter, brother, sister, step brother, step sister, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law or sister-in-law and any of the these relations attained through legal adoption.

(h) “Member” means a person who serves on a board, committee, or commission of the Nation. It does not include the Oneida Business Committee or the governing body of a Tribally Chartered Corporation.

(i) “Nation” means the Oneida Nation.

(j) “Officer” means a person elected to the Oneida Business Committee holding the Chairperson, Vice Chairperson, Secretary, or Treasurer position.

(k) “Organizational conflict of interest” means that because of other activities or relationships with other parties, a potential contract or contractor is:

- (1) unable to render impartial assistance or advice to the Nation;
- (2) cannot perform a contract with the Nation in an objective way; or
- (3) has an unfair competitive advantage compared to others.

(l) “Political appointee” means a person who assists an elected member of the Oneida Business Committee in their daily activities and operations.

(m) “Third party agreement” means any agreement with the Pharmacy in which an insurance provider agrees to reimburse the Pharmacy for drugs and supplies sold to subscribers of a valid health plan of that insurance provider.

217.4. General

217.4-1. Scope.

(a) This law shall apply to agents, elected officials, officers, political appointees, employees, contractors, appointed or elected members or any other persons with whom they may be associated in personal, marital, familial, business, financial or other relationships.

(b) Under the protection of this law are the resources of the Nation, its enterprises, programs, business interests, financial information, trade secrets and any other information that could be used against the Nation or those duly authorized to represent its interests.

217.4-2. *Amendment of Documents.* The following documents shall be amended as required in order to implement this law:

- (a) The Nation's laws, rules and policies governing employment.
 - (1) Prospective employees shall disclose whether or not they have any conflicts of interest as defined in this law.
 - (2) Current employees shall disclose existing conflicts of interest, if any.
- (b) Persons or organizations contracting with the Nation shall include a provision in their contract reciting the prohibition against undisclosed conflicts of interest.
- (c) The Oneida Nation Secretary shall inform all elected officials, officers, political appointees, and elected or appointed members of the existence of this law in writing. All elected officials, officers, political appointees, and elected or appointed members shall disclose any conflicts of interest.

217.4-3. *Forms.* Forms shall be prepared upon which disclosures of conflicts which exist may be listed and returned to the Oneida Business Committee for action as indicated in this law. The Oneida Law Office shall be responsible for creating a standard form and any specialized forms required by this law. The Nation's Human Resource Department and the Office of the Oneida Nation Secretary shall be responsible for distributing and maintaining conflict of interest disclosure forms.

- (a) The Nation's Human Resource Department shall collect conflict of interest disclosure forms from all employees on an annual basis. Additionally, an employee shall disclose a conflict of interest as soon as the conflict arises.
- (b) The Office of the Nation's Secretary shall collect conflict of interest disclosure forms from all elected officials, officers, political appointees, and elected and appointed members on an annual basis. Additionally, an elected official, officer, political appointee, or elected or appointed member shall disclose a conflict of interest as soon as the conflict arises.

217.5. Organizational Conflicts of Interest

217.5-1. *Presumed Organizational Conflict of Interest.* It is presumed that there is an organizational conflict of interest any time that a business owned by the Nation or an employee of the Nation seeks to contract with the Nation.

217.5-2. *Maintaining Objectivity and Equal Access to Information.* The Nation shall maintain objectivity in contracting and shall provide all potential and actual contractors with equal access to information. Should an employee of the Nation also be an employee, officer, director, or agent of any business owned by the Nation, the said employee shall be restricted from participating in any part of the contract process, including but not limited to the bidding, selection, award and administration, for that business.

- (a) In the event that an employee has knowledge and experience that is critical to a contract and is restricted from participation based on an organizational conflict of interest, the said employee may only participate if the Nation and the contractor execute a conflict of interest mitigation plan.
- (b) An organizational conflict of interest mitigation plan shall require the conflicted employee's participation be limited to the specific components of the project/contract that require the employee's knowledge and/or experience.

217.5-3. *Biased Ground Rules.* Should the Nation contract with a business it owns to prepare ground rules for a subsequent project/contract, including but not limited to

preparing/writing specifications or work statements, said business may not compete for the subsequent project/contract.

217.5-4. *Employees Contracting with the Nation as Independent Contractors.* In addition to meeting the requirements of the Nation's independent contractor laws, policies and/or rules, employees that seek to contract with the Nation as an independent contractor may not, in any circumstance, whether as a prime contractor or a subcontractor:

- (a) Contract with the Nation within the same scope for which they are employed by the Nation.
- (b) Contract with any entity within the Nation that is within the same divisional budget and/or chain of command for which the employee is employed by the Nation.
- (c) Submit a bid to contract with Nation without receiving and submitting with the bid written notice from the employee's supervisor providing consent and approval to bid and that such bid and/or potential resultant contract will not interfere with the employees current responsibilities to the Nation.
- (d) Contract with the Nation if the employee is employed by any of the following areas:
 - (1) The Oneida Law Office;
 - (2) The Internal Audit Department; and/or
 - (3) The Oneida Finance Department.

217.6. Penalties for Non-Disclosure of a Conflict of Interest

217.6-1. *Employees.* If a supervisor is provided credible evidence that an employee has failed to disclose a conflict of interest, the employee shall be placed on leave pursuant to the Nation's Investigative Leave Policy, except that the duration of the investigation for an alleged conflict of interest shall be concluded within seven (7) days of the employee being placed on leave. A supervisor shall terminate an employee from his or her employment with the Nation when an investigation substantiates that the employee failed to disclose a conflict of interest.

217.6-2. *Elected Officials and Officers.* An elected official or officer who fails to disclose a conflict of interest may be subject to removal pursuant to the Removal Law or penalties pursuant to laws of the Nation regarding penalties.

217.6-3. *Elected or Appointed Members.* A member who fails to disclose a conflict of interest may be subject to penalties pursuant to laws of the Nation regarding penalties, and subject to removal pursuant to the Removal Law for elected members, or have their appointment terminated by the Oneida Business Committee pursuant to the law governing board, committees and commissions for appointed members.

217.6-4. *Political Appointees.* A political appointee that fails to disclose a conflict of interest may be subject to discipline at the discretion of the elected official the political appointee serves.

217.6-5. *Contracts.* An organization or a person who does not disclose conflicts of interest may be subject to termination of their contracts.

217.7. Prohibited Activities Resulting from a Disclosed Conflict of Interest

217.7-1. When an existing conflict of interest is disclosed, no employee, contractor, elected official, political appointee, officer, agent, or appointed or elected member may participate in:

- (a) the selection, award, or administration of a contract, including contracts supported by a Federal award; and/or
- (b) any other prohibited activities identified in any other law, policy or rule of the Nation.

217.7-2. Entities of the Nation shall develop standard operating procedures and/or work

standards outlining further prohibited activities resulting from disclosed conflicts of interest and means by which a party can alleviate or mitigate the conflict of interest.

(a) In the event arrangements are made to alleviate or mitigate the conflict of interest, it may become permissible for a party to participate under section 217.7-1(b) at the discretion of the division director and to the extent permitted by any applicable law, policy or rule. However, in all circumstances, such parties shall remain prohibited from participating under section 217.7-1(a).

217.8. Exemptions

217.8-1. Exemptions to this law are for the purpose of excluding activities of the Nation for which no conflict of interest can exist. These activities generally occur when the Nation is acting as a provider of services for which another will be making payments or reimbursing costs of providing the services. Exemptions shall be specifically identified within this law.

1 217.8-2. *Pharmacy.* This exemption shall be designed to relieve the Pharmacy and insurance
 2 providers from the requirements of the Conflict of Interest law while recognizing the unique
 3 relationship between the Pharmacy and insurance providers in third party payment agreements
 4 where no proprietary information of the Nation is provided to the insurance providers, and there
 5 is little or no opportunity for a conflict of interest between the insurance providers and the
 6 Nation. This exemption shall be designed to increase the attractiveness of the Pharmacy to
 7 subscribers of multiple insurance providers. This exemption shall apply solely to insurance
 8 providers seeking to enter into third party payment agreements with the Pharmacy.

9
 10 *End.*
 11

12
 13 Adopted - BC-06-10-98-C
 14 Emergency Amended - BC-04-12-06-JJ
 15 Emergency Amended - BC-09-27-06-E
 16 Emergency Amended – BC-08-10-16-M
 17 Amended - BC-02-08-17-B
 18 Amended – BC-06-28-17-D



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



AGENDA REQUEST FORM

- 1) Request Date: March 1, 2024
- 2) Contact Person(s): Clorissa Leeman
Dept: Legislative Referenece Office
Phone Number: (920) 869-4417 Email: cleeman@oneidanation.org
- 3) Agenda Title: Budget and Finances Law Amendments
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
The LOC met with the Treasurer and CFO on 2/7/247, to review the
Budget and Finance law, and determined the LOC should consider
adding this law to its Active Files List for amendments to be made.


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

- 1) Budget and Finances Law 3) _____
- 2) _____ 4) _____

- 5) Please list any laws, policies or resolutions that might be affected:

- 6) Please list all other departments or person(s) you have brought your concern to:
Treasurer and Chief Financial Officer, Oneida Business Committee
- 7) Do you consider this request urgent? Yes No
If yes, please indicate why:

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

Signature of Requester: 

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

Title 1. Government and Finances – Chapter 121

Twahwistatye'nítha?

We have a certain amount of money

BUDGET AND FINANCES

121.1. Purpose and Policy	121.7. Grants
121.2. Adoption, Amendment, Repeal	121.8. Debts
121.3. Definitions	121.9. Employment and Labor Allocations
121.4. Authority and Responsibilities	121.10. Budget Contingency Planning
121.5. Budget	121.11. Reporting
121.6. Expenditures and Assets	121.12. Enforcement

121.1. Purpose and Policy

121.1-1. *Purpose.* The purpose of this law is to set forth the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which:

- (a) institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets;
- (b) provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes;
- (c) identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects;
- (d) establish a framework for effective financial risk management; and
- (e) encourage participation by the Nation's membership.

121.1-2. *Policy.* It is the policy of the Nation to rely on balanced-based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement. The Nation shall use Generally Accepted Accounting Principles (GAAP), established by the Financial Accounting Standards Board, and the Governmental Accounting Standards Board (GASB) in accounting and reporting for the financial activities of the various entities of the Nation, unless they conflict with applicable legal requirements.

121.2. Adoption, Amendment, Repeal

121.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-08-17-C, and amended by resolution BC-05-11-22-B.

121.2-2. 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.

121.2-3. 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.

121.2-4. 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. Provided that, nothing in this law amends or repeals the requirements of resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting Requirements*.

121.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

121.3. Definitions

121.3-1. 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) “Balanced budget” means that the cost of current expenses and service provisions is equal to the forecasted current revenue sources.
- (b) “Capital contribution” means an act of giving money or assets to a company or organization.
- (c) “Capital expenditure” means any non-recurring and non-physical improvement as follows:
 - (1) Any item with a cost of five thousand dollars (\$5,000) or more and a useful life of one (1) year or more; or
 - (2) Items purchased together where none of the items individually costs more than two thousand dollars (\$2,000), but the total purchase price for all of the items is ten thousand dollars (\$10,000) or more.
- (d) “Capital improvement” means a non-recurring expenditure for physical improvements, including costs for:
 - (1) acquisition of existing buildings, land, or interests in land;
 - (A) Acquisition of existing buildings and land completed by the Oneida Land Commission are not included in this definition.
 - (2) construction of new buildings or other structures, including additions and major alterations;
 - (3) acquisition of fixed equipment;
 - (4) landscaping;
 - (5) physical infrastructure; and
 - (6) similar expenditures with a cost of five thousand dollars (\$5,000.00) or more and a useful life of one (1) year or more.
- (e) “CFO” means the Nation’s Chief Financial Officer, or their designee at their discretion.
- (f) “Debt” means the secured or unsecured obligations owed by the Nation.
- (g) “Debt Service Coverage Ratio” means a measurement of creditors available cash flow to pay debt obligations. This ratio evaluates if an entity has income capacity to service debts.
- (h) “Enterprise” means any area or activity of the Nation that is engaged in for the business of profit.
- (i) “Executive Manager” means a position of employment within the Nation that is the highest level in the chain of command under the Oneida Business Committee who is responsible for a department or division of the Nation, as identified by the Oneida Business Committee through the adoption of a resolution.
- (j) “Expenditure report” means a financial report which includes, but is not limited to, a statement of cash flows, revenues, costs and expenses, assets, liabilities, and a statement of financial position.
- (k) “Finance Administration” means the department of the Nation which consists of the Chief Financial Officer, Assistant Chief Financial Officer, the executive assistant to the Chief Financial Officer, and any other designated employee.
- (l) “Fiscal year” means the one (1) year period each year from October 1st to September

30th.

(m) “Fixed Charge Coverage Ratio” means a measurement of a creditors capacity of earnings level or ability to cover its fixed charges such as debt payments, interest expenses, and leases expenses. Financial institutions will evaluate this ratio for purposes of credit risk.

(n) “Fund unit” means any board, committee, commission, service, program, enterprise, department, office, or any other division or non-division of the Nation which receives an appropriation approved by the Nation.

(o) “Government service” means any area or activity of the Nation that is not expected to create revenue for the Nation and not expected to make a profit at any time.

(p) “Line item” means the specific account within a fund unit’s budget or category that expenditures are charged to.

(q) “Manager” means the person in charge of directing, controlling, and administering the activities of a fund unit.

(r) “Nation” means the Oneida Nation.

(s) “Secretary” means the Oneida Nation Secretary, or their designee at their discretion.

(t) “Treasurer” means the Oneida Nation Treasurer, or their designee at their discretion.

121.4. Authority and Responsibilities

121.4-1. *Oneida Business Committee*. The Oneida Business Committee shall:

- (a) oversee the development of the Nation’s budget;
- (b) oversee the implementation of the Nation’s budget;
- (c) develop priorities, a strategic plan, or broad goals to assist in guiding the budget; and
- (d) exercise the authority provided in Article IV, Section 1, of the Constitution and Bylaws of the Oneida Nation, as delegated to the Oneida Business Committee by the General Tribal Council.

121.4-2. *Treasurer*. In accordance with the Constitution and Bylaws of the Oneida Nation, the Nation’s Treasurer shall:

- (a) accept, receive, receipt for, preserve and safeguard all funds in the custody of the Nation, whether they be funds of the Nation or special funds for which the Nation is acting as trustee or custodian;
- (b) deposit all funds in such depository as the Nation shall direct and shall make and preserve a faithful record of such funds;
- (c) submit expenditure reports and other financial reports as deemed necessary by the Oneida Business Committee or the General Tribal Council at:
 - (1) the annual General Tribal Council meeting;
 - (2) the semi-annual General Tribal Council meeting; and
 - (3) other such times as may be directed by the Oneida Business Committee or the General Tribal Council; and
- (d) present the proposed draft budget to the General Tribal Council at the annual budget meeting.

121.4-3. *Chief Financial Officer*. The CFO shall:

- (a) ensure the Nation’s budget is properly implemented;
- (b) provide managers with monthly revenue and expense reports;

(c) assist with the submission and presentation of the Treasurer's report to the Oneida Business Committee, which shall specifically include any monthly variances that are either:

- (1) a difference of three percent (3%) or more from the adopted annual budget; or
- (2) fifty thousand dollars (\$50,000) or more in total;

(d) provide the Oneida Business Committee with information and reports as requested;

(e) present the Treasurer's report and hold financial condition meetings with the Nation's management on a minimum of a quarterly basis; and

(f) inform the appropriate Executive Manager of any fund unit which does not follow the budget development process guidelines or deadlines as set forth by the Treasurer.

121.4-4. *Managers.* Managers shall:

(a) ensure that their business units operate, on a day-to-day basis, in compliance with the budget adopted pursuant to this law;

(b) report to the CFO and their relevant Executive Manager explanations and corrective actions for any monthly variance that is either:

- (1) a difference of three percent (3%) or more from the adopted annual budget; or
- (2) fifty thousand dollars (\$50,000) or more in total;

(c) submit budget review reports to the CFO on a reasonable and timely basis not to exceed thirty (30) calendar days from the end of the month; and

(d) submit a budget for their fund unit in accordance with the budget schedule and guidelines as adopted by the Oneida Business Committee.

121.5. Budget

121.5-1. The Nation shall develop, adopt, and manage an annual budget. All revenues and expenditures of the Nation shall be in accordance with the annual budget.

(a) The Nation's budget shall be a balanced budget and not propose to spend more funds than are reasonably expected to become available to the Nation during that fiscal year.

(1) Underwriting debt resources or the utilization of existing debt instruments shall be expressly prohibited from use to balance the Nation's annual budget.

(b) The budget shall align with any strategic plan, broad goals, or priorities developed and adopted by the Oneida Business Committee on behalf of the Nation.

(c) The Nation's corporate entities shall not be included in the Nation's budget.

121.5-2. *Content of the Budget.* The Nation's budget shall include the following information:

(a) Estimated revenues to be received from all sources;

(b) The individual budgets of each fund unit;

(c) A description of each line item within each fund unit's budget;

(d) The estimated expenditures by each fund unit; and

(e) Summary of employment position counts including prior year, current year, and budgeted year.

121.5-3. *Fund Categories.* The Nation's budget shall include, but not be limited to, the following categories of fund accounts:

(a) *General Fund.* The General Fund account is the Nation's main operating fund which is used to account for all financial resources not accounted for in other funds.

(b) *Permanent Executive Contingency Fund.* The Permanent Executive Contingency Fund account is used by the Nation to prevent default on debt and to sustain operations during times of extreme financial distress.

(c) *Grant Reserve Fund.* The Grant Reserve Fund account is used by the Nation to pre-fund the expenditures of grants upon receipt.

121.5-4. *Budget Adoption Procedure.* The Nation shall develop and adopt its budget according to the following procedures:

(a) *Budget Schedule and Guidelines.* The Treasurer shall develop the necessary guidelines, including specific timelines and deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets. The Treasurer shall submit the guidelines to the Oneida Business Committee for review and approval through the adoption of a resolution.

(1) The budget schedule and guidelines shall include at least one (1) opportunity for community input from the Nation's membership on what should be included in the upcoming fiscal year budget.

(2) Each fund unit shall be responsible for complying with the budget schedule and guidelines to submit a proposed budget to the Treasurer. The Finance Administration shall not submit any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee.

(3) The Oneida Business Committee shall set a deadline through the adoption of a resolution for when the Treasurer shall submit their budget guidelines to the Oneida Business Committee for review and approval.

(b) *Annual Proposed Budgets.* The Treasurer shall receive, review, and compile the proposed budgets from all the fund units into the Nation's draft budget. The Treasurer shall present the Nation's draft budget to the Oneida Business Committee for review each year to ensure that it is consistent with the Nation's strategic plan, broad goals, and budget strategy.

(1) *Notification of Budget Increase or Decrease.* The Treasurer shall identify in the budget guidelines a percentage of an increase or decrease in a fund unit's budget from the prior year budget that is required to be noticed to the Oneida Business Committee. The Treasurer shall notify the Oneida Business Committee of any fund units whose proposed budget increased or decreased by this percentage.

(c) *Final Draft Budget.* The Oneida Business Committee shall work with the Treasurer, CFO, and managers to compile a final draft budget to be presented to the General Tribal Council. The Oneida Business Committee shall approve, by resolution, the final draft budget to be presented to the General Tribal Council.

(d) *Community Meetings.* Once the Oneida Business Committee has approved the final draft budget, the Treasurer shall hold, at a minimum, two (2) community informational meetings to present the contents of the final draft budget that will be presented to the General Tribal Council.

(e) *Budget Adoption.* The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. The General Tribal Council shall be responsible for adopting the Nation's budget.

(1) *Continuing Budget Resolution.* In the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution for a period of time not to exceed three (3) months, until such time as a budget is adopted by the General Tribal Council. If the General Tribal Council does not adopt a budget within three (3) months of the

adoption of the continuing budget resolution, then the Oneida Business Committee shall adopt the Nation's budget.

(2) *Emergency Budget Adoption.* In the event that the Nation proclaims an emergency, in accordance with the Emergency Management law, that stays in effect for at least one (1) month and prevents the presentation to and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget.

121.5-5. *Amendments to the Nation's Budget.* After the budget is adopted, amendments of the budget shall not be permitted unless it is necessary to avoid a budget deficit. The Treasurer and CFO shall identify when forecasted revenue and forecasted expenses are impacted in a manner which creates a deficit for the current fiscal year. The CFO shall provide the Oneida Business Committee a written fiscal analysis and any input on the potential budget amendment. The Oneida Business Committee shall be responsible for adopting an amendment to the budget through resolution of the Nation. The Oneida Business Committee shall present notification of the budget amendment at the next available General Tribal Council meeting.

121.6. Expenditures and Assets

121.6-1. *Authority to Expend Funds.* The Oneida Business Committee shall have the authority to expend appropriated funds in accordance with the Nation's adopted budget pursuant to the Procurement Rule Handbook developed by the Purchasing Department. The authority to expend funds is then necessarily delegated to other managers, including Executive Managers of the Nation who manage budgets pursuant to their job descriptions based on the Procurement Rule Handbook.

121.6-2. *Procurement Rule Handbook.* The Purchasing Department is delegated rulemaking authority in accordance with the Administrative Rulemaking law to develop a Procurement Rule Handbook which provides the sign-off process and authorities required to expend funds on behalf of the Nation.

121.6-3. *Fees and Charges.* A program or service of the Nation funded through Tribal contribution may charge fees for their services to cover operational costs.

(a) Before charging fees for services, a program or service shall first determine the full cost of providing the program or service. The full cost of providing a program or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation.

(b) Fees and charges may cover the full cost of service or goods whenever such fee or charge would not present an undue financial burden to the recipient.

(c) Programs and services charging fees may offer fee waivers, provided that the program or service has developed a standard operating procedure which outlines fee waiver eligibility and requirements.

121.6-4. *Unbudgeted Expenditures.*

(a) *Approval of Unbudgeted Expenditures.* A fund unit shall not make an unbudgeted expenditure unless approval is granted by the Oneida Business Committee. The CFO shall provide the Oneida Business Committee a written fiscal analysis and any input on the potential unbudgeted expenditure. The Oneida Business Committee shall approve any unbudgeted expenditure through the adoption of a resolution prior to the expenditure being made by a fund unit.

(b) *Notification of Unbudgeted Expenditures.* The Oneida Business Committee shall set through resolution a threshold amount for unbudgeted expenditures that require

notification by the Oneida Business Committee to the General Tribal Council at the next available General Tribal Council meeting.

(c) *Unbudgeted Supplemental Funding.* In the event that the Nation receives any supplemental or emergency funding of two hundred and fifty thousand dollars (\$250,000) or more, the Oneida Business Committee shall develop and adopt, through resolution, a spending plan to guide expenditures of the supplemental funding in accordance with any provided guidance for the supplemental funding and audit compliance.

121.6-5. *Obligated Future Expenditures.* Notwithstanding an approved multi-year contract, no fund unit shall obligate the Nation to make any future expenditures beyond the current budget year unless the fund unit identifies, and the Oneida Business Committee approves through the adoption of a resolution, the source and extent of any future funds that are recommended to be held in reserve to meet that future obligation.

121.6-6. *Unexpended Funds.*

(a) *Unexpended Capital Improvement Funds.* Unexpended capital improvement funds shall carry over to the next fiscal year's budget, provided that such funds are required to remain appropriated for the same purpose as originally budgeted until the project is complete. Once a capital improvement project is complete, any remaining unexpended funds shall be returned to the General Fund.

(b) *Unexpended Capital Expenditure Funds.* The Treasurer shall ensure that all unexpended capital expenditure funds are reallocated to the fiscal year budget two (2) years out from the fiscal year in which the funds were unexpended. Such unexpended funds shall be returned to the General Fund.

121.6-7. *Capital Contributions.* Any capital contributions made by the Nation shall be identified in the annual budget.

(a) Any reassignment of a loan provided by the Nation into a capital contribution shall be noticed to the General Tribal Council.

121.6-8. Assets of the Nation shall not be divested, or borrowed against, to balance the annual budget.

121.6-9. *Capital Improvements.*

(a) *Capital Improvement Plan for Government Services.* The Oneida Business Committee shall develop, and the General Tribal Council shall approve, a capital improvement plan for government services.

(1) The capital improvement plan for government services shall cover a period of five (5) to ten (10) years and shall include any risks and liabilities.

(2) The capital improvement plan for government services shall be reassessed once every five (5) years. The Oneida Business Committee shall provide a status report and recommendation for any improvements that have not been completed or that have been modified at the time of the reassessment.

(b) *Capital Improvement Plan for Enterprises.* Capital improvement plans for enterprises may be brought forward as needed, provided that the Oneida Business Committee shall approve all capital improvement plans for enterprises.

(c) *Capital Improvement Plan Implementation.* Capital improvement plans for government services and enterprises shall be implemented, contingent on available funding capacity.

121.7. Grants

121.7-1. *Expending Grant Funds.* Grant funds shall be expended according to any non-negotiable grant requirements and guidelines of the granting agency.

(a) Grant funds may be utilized for, but not limited to, the following:

- (1) purchases;
- (2) travel;
- (3) training;
- (4) hiring grant required positions;
- (5) incentives and retention efforts; and
- (6) any other requirements attached to the funds as a condition of the Nation's acceptance of the grant funds.

(b) Grant funds may be utilized for an expenditure even when other policies of the Nation do not allow for Tribal contribution to make that same expenditure, if only grant funds are utilized for the expenditure and all requirements or obligations of the grant are met. Provided that, grant funds may be subject to the requirements of the budget contingency plan and any cost containment initiatives adopted by the Oneida Business Committee.

121.7-2. *Exhaustion of Non-Tribal Funds.* When grant funds provide for forward funding as applicable to a function for which the Nation's funds have also been appropriated, those grant funds shall be used before appropriating the Nation's funds unless the Nation's funds are needed to make up an otherwise shortfall in the overall fund unit budget or there is a restriction on the grant funds that provide otherwise.

121.7-3. *Grant Reporting.* At the time of submission of proposed annual budgets, any fund unit which receives grant funding shall submit a status report of the grant funding received to the Oneida Business Committee. The status report shall include, but not be limited to:

- (a) information on the progress of the utilization of the grant funds;
- (b) the number of employees the grant funding supports fully or partially; and
- (c) compliance with obligations of the grant funding.

121.7-4. *Grant Reserve Fund Account.* The Oneida Business Committee shall maintain a Grant Reserve Fund account within the ownership investment report to be used to pre-fund the expenditures of grants upon receipt. The Grant Reserve Fund account shall be an obligated fund, that is fully funded with separately identified cash resources.

(a) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve, the level of funds required in the Grant Reserve Fund account relative to the scale of grant dollars we receive on an annual basis.

(b) The Treasurer shall set aside funds within the budget in the Grant Reserve Fund account until the established level has been achieved.

121.7-5. *Grant Funded Positions.* If the grant funding for a fully grant funded position is eliminated, then the position shall be eliminated. To transition a position from grant funding to being funded through the Nation's budget, a manager shall follow the standard procedure for seeking the development and approval of a new position in the Nation's annual budget and labor allocations.

121.8. Debts

121.8-1. *General.* The acquisition of debt by the Nation shall be processed in accordance with sound fiscal diligence. The Nation shall comply with all relevant federal and state banking laws, rules, and policies applicable to the credit agreement.

(a) Any debt instrument utilized by the Nation shall not exceed the life of what is being encumbered.

121.8-2. *Acquisition of Debt.* Any debt underwritten by the Nation for ten million dollars (\$10,000,000) or more shall be noticed to the General Tribal Council at the next available meeting prior to the execution of the credit agreement encumbering all pledges of repayment.

(a) If emergency circumstances exist which prevents the notice of the acquisition of debt to the General Tribal Council, the Oneida Business Committee may proceed with the acquisition of debt.

121.8-3. *Use of Debt.* Credit proceeds may be utilized for project capital, general use, financing of equity, and all unspecified uses. Compliance with debt covenants is required to avoid credit default.

121.8-4. *Credit Ratios.* Maintaining fiscally responsible prudent credit ratios is consistent with effective budget management and financial control.

(a) *Debt Service Coverage Ratio.* The Debt Service Coverage Ratio shall not exceed the acceptable range as defined by low-risk debt financing options at the specific financial institution.

(b) *Fixed Charge Coverage Ratio.* The Fixed Charge Coverage Ratio shall be maintained at the acceptable range as defined by low-risk debt financing options at the specific financial institution.

121.8-5. *Corporate Debt.* The Nation shall not be obligated to any debt obligations of its corporate entities.

121.9. Employment and Labor Allocations

121.9-1. *Employment Cap.* The Treasurer and CFO shall identify a maximum number of full-time equivalent (FTE) employees to be employed by the Nation. The Oneida Business Committee shall have the authority to approve this employment cap, and any amendments thereto, through the adoption of a resolution. The employment cap shall be reviewed annually by the Oneida Business Committee.

(a) Employment positions that are fully funded through grants shall not be included in the employment cap.

(b) The Nation shall not exceed the number of FTE employees identified in the employment cap.

121.9-2. *Labor Allocations List.* The Treasurer, CFO, Executive Managers, and the Executive Human Resources Director shall utilize the Nation's employment cap to develop a labor allocations list. The labor allocations list shall identify the number of FTE employees each employment area of the Nation is allocated. The Oneida Business Committee shall have the authority to adopt the labor allocation list, and any amendments thereto, through the adoption of a resolution. The Oneida Business Committee shall review the labor allocations list on an annual basis.

(a) The total number of FTE employees identified in the labor allocations list shall not exceed the Nation's employment cap.

(b) The Treasurer, CFO, Executive Managers, and Executive Human Resources Director shall develop a standard operating procedure which identifies a process for the consideration of requests to revise the labor allocations list. The Oneida Business Committee shall approve this standard operating procedure, and any amendments thereto, through the adoption of a resolution.

121.9-3. *Unbudgeted Positions.* Any position which has not been specifically budgeted for and included in the labor allocation list shall be prohibited. Budgeted labor dollars and approved positions shall not be transferrable in any form.

(a) *Exception.* The Oneida Business Committee may authorize an unbudgeted position for a fund unit. The CFO shall provide the Oneida Business Committee a written fiscal analysis and any input on the potential unbudgeted position. The Oneida Business Committee shall authorize the unbudgeted position through the adoption of a resolution.

121.10. Budget Contingency Planning

121.10-1. *Budget Contingency Plan.* The Oneida Business Committee shall work with the CFO, Executive Managers, and managers to create a budget contingency plan which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation.

(a) Extreme financial distress includes, but is not limited to:

- (1) natural or human-made disasters;
- (2) United States Government shutdown;
- (3) emergency proclamations; and
- (4) economic downturns.

(b) The Oneida Business Committee shall approve the budget contingency plan, and any amendments thereto, through the adoption of a resolution.

121.10-2. *Cost Saving Tools.* As part of the budget contingency plan, the Oneida Business Committee may require the use of cost saving tools, provided that the use of such complies with all laws of the Nation. Cost saving tools may include, but are not limited to, the use of the following:

- (a) stabilization funds;
- (b) reductions of expenditures;
- (c) furloughs; and
- (d) layoffs.

121.10-3. When the Oneida Business Committee determines that the Nation is under extreme financial distress, the Oneida Business Committee shall be responsible for implementing the budget contingency plan.

121.10-4. *Permanent Executive Contingency Fund Account.* The Oneida Business Committee shall maintain a Permanent Executive Contingency Fund account within the ownership investment report to be used to prevent default on debt and to sustain operations during times of extreme financial distress. The Permanent Executive Contingency Fund account shall be a restricted fund.

(a) The Permanent Executive Contingency Fund account shall consist of a minimum reserve of one (1) year of operating expenses to ensure continuity of business for the Nation.

(b) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve through the adoption of a resolution, the percentage of the annual budget that shall be set aside in the Permanent Executive Contingency Fund account until the established level has been achieved.

(c) Funds in the Permanent Executive Contingency Fund account may only be used when the Oneida Business Committee has determined that the Nation is under extreme financial distress for the following purposes and only to the extent that alternative funding sources are unavailable:

- (1) payments to notes payable to debt service, both principal and interest, and applicable service fees;
- (2) employee payroll, including all applicable taxes;
- (3) payments to vendors for gaming and retail;
- (4) payments to vendors for governmental operations;
- (5) payments to any other debt; and
- (6) to sustain any of the Nation's other operations during implementation of the budget contingency plan.

121.11. Reporting

121.11-1. *Monthly Reporting.* The Treasurer shall provide monthly reports and quarterly operational reports from direct reports to the Oneida Business Committee in accordance with the Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee meeting held for the acceptance of such reports.

- (a) The Treasurer's monthly reports shall include revenue and expense summaries.

121.11-2. *Annual and Semi-Annual Reporting to the General Tribal Council.* The Treasurer shall report on all receipts and expenditures and the amount and nature of all funds in their possession and custody, at the annual and semi-annual General Tribal Council meetings, and at such other times as requested by the General Tribal Council or the Oneida Business Committee.

- (a) The Treasurer reports shall include an independently audited annual financial statement that provides the status or conclusion of all the receipts and debts in possession of the Treasurer including, but not limited to, all corporations owned in full or in part by the Nation.

121.11-3. *Audits.* The Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Nation's Audit law, the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB), of randomly selected fund units or of fund units deemed necessary by the Oneida Business Committee or Internal Audit Department. Each fund unit shall offer its complete cooperation to the Internal Audit Department. The Oneida Business Committee may, as it deems necessary, contract with an independent audit firm to conduct such audits.

121.12. Enforcement

121.12-1. *Compliance and Enforcement.* All employees and officials of the Nation shall comply with and enforce this law to the greatest extent possible.

- (a) The Executive Managers shall notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. A list of any fund units of an elected entity which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council.

121.12-2. *Violations.* Violations of this law shall be addressed using the applicable enforcement tools provided by the Nation's laws and policies including, but not limited to, those related to employment with the Nation, conflicts of interest, ethics, and removal from an elected position.

121.12-3. *Civil or Criminal Charges.* This law shall not be construed to preclude the Nation from pursuing civil or criminal charges under applicable law. Violations of applicable federal or state civil or criminal laws, or any laws of the Nation, may be pursued in a court having jurisdiction over any such matter.

End.

Adopted – BC-02-08-17-C
Emergency Amended – BC-11-24-20-E
Emergency Amended – BC-05-12-21-C
Emergency Extension – BC-11-10-21-B
Amended – BC-05-11-22-B
Emergency Amended – BC-10-26-22-D (Expired)



LEGISLATIVE OPERATING COMMITTEE

COMMUNITY WORK SESSION

TUESDAY, APRIL 2

12PM – 1:30PM

NORBERT HILL CENTER

BUSINESS COMMITTEE CONFERENCE ROOM

N7210 Seminary Rd, Oneida, WI 54155



Please join the Legislative Operating Committee for a community work session to review the current Eviction and Termination Law and collect input regarding potential amendments to the law.

Register at LOC@oneidanation.org for a Teams invite.

Bring your own lunch.



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





TO: Oneida Business Committee
FROM: Jameson Wilson, Legislative Operating Committee Chairman 
DATE: March 6, 2024
RE: Certification of Amendments to the Leasing Law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program

The Legislative Operating Committee reviewed the certification packet provided by the for amendments to the Leasing law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program (“Rule”). The Legislative Operating Committee is responsible for certifying a proposed rule after determining the authorized agency has complied with the requirements for certification stated in section 106.7-2 of the Administrative Rulemaking law, and forwarding the rule to the Oneida Business Committee for consideration of adoption. [1 O.C. 106.7-3]. Certification by the Legislative Operating Committee means:

- The certification packet provided by the Comprehensive Housing Division and Oneida Land Commission for the Rule contained all documentation required by the Administrative Rulemaking law for a complete administrative record;
- The promulgation of the amendments to the Rule complied with the procedural requirements contained in the Administrative Rulemaking law; and
- The amendments to the Rule did not exceed the rulemaking authority granted under the law for which the Rule is being promulgated. [1 O.C. 106.7-2].

The purpose of the Rule is to expand the services being offered by the Nation through a program in which the prospective lessee buyer initiates a purchase where the buyer purchases the improvements; the Nation purchases the land per the Land Management’s Land Acquisition for Residential Leasing Standard Operating Procedure; and the buyer then enters into a HIP residential lease for the land through the Comprehensive Housing Division (“CHD”). [Rule 1.1-1 and 1.6-1].

The proposed amendments to the Rule:

- Eliminate the two hundred and fifty thousand dollar (\$250,000) maximum value allowed for the total purchase price after the tax assessed value of the land is deducted, and instead provide that the maximum value for improvements shall be determined by the Oneida Land Commission on an annual basis each fiscal year. [Rule 1.5-1(a)];
- Eliminate the requirement that an offer to purchase contain a contingency related to the home inspection, which is an examination of the improvements, construction, condition, and internal systems to establish the structural and mechanical integrity completed by a certified home inspector. [Rule 1.7-4(a)]; and
- Provide that the survey required by the contingencies in the offer to purchase may be completed using the Nation’s vendor to be completed within twenty-one (21) calendar days of receipt of an accepted offer to purchase. [Rule 1.7-4(a)(4)].

The Rule was developed in accordance with the Leasing law, which was adopted for purposes of setting forth the Nation’s authority to issue, review, approve, and enforce leases. [6 O.C. 602.1-1]. The Leasing law delegates authority to the Oneida Land Commission and Land Management

to jointly develop rules related to obtaining residential, agricultural, or business leases. [6 O.C. 602.5-1]. Land Management is defined in the Leasing law as “the Division of Land Management or other entity responsible for entering into leases of tribal land”. [6 O.C. 602.3-1(i)]. According to the Real Property law, the Comprehensive Housing Division is the entity responsible for processing all residential leases of Tribal land. [6 O.C. 601.9-1]. Therefore, the Comprehensive Housing Division is Land Management for purposes of the rulemaking authority delegated under the Leasing law.

The Legislative Operating Committee certified the Rule on March 6, 2024. The amendments to the Rule would become effective immediately upon adoption by the Oneida Business Committee in accordance with section 106.9-1 of the Administrative Rulemaking law.

Requested Action

Consider the adoption of amendments to the Leasing law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program.

Comprehensive Housing Division

PO BOX 68
Oneida, WI 54155
920-869-2227 Fax 920-869-2836



To: Legislative Operating Committee

From: Lisa Rauschenbach, Comprehensive Housing Division Director

Date: February 15, 2024

Subject: Request for Certification of Procedural Compliance of proposed amendments of the Homeownership by Independent Purchase program Rule No. 6 – Title 6. Property and Land – Chapter 602.

I have reviewed and approve of the proposed amendments for Homeownership by Independent Purchase program Rule No. 6 – Title 6. Property and Land – Chapter 602. Included are Oneida Land Commission minutes also approving proposed amendments.

This is a request to approve the proposed amendments to the above existing rule.

In accordance with the Administrative Rulemaking law, a public meeting was held for this rule on November 16, 2023 for which the comment period expired on December 5, 2023.

The following attachments are included for you review:

1. Draft of amended Rule # 6 Homeownership by Independent Purchase
2. Summary Report
3. Public Meeting Notice
4. Copy of Public Notice in Kalihwisaks Page 28
5. Public meeting sign in sheet
6. Public meeting transcription

To: Oneida Land Commission
From: Comprehensive Housing Division
Re: Leasing Law Rule #6 – Homeownership through Independent Purchase Program (HIPP) Amendments
Date: December 5, 2023

CHD is proposing to amend the HIP rule to remove the maximum improvement purchase of \$250,000 and change it to having Land Commission determine that amount annually due to the market fluctuating from one extreme to another due to covid. Our recommendation at this point would be that after the rule is approved that Land Commission determine the maximum amount for HIPP improvements be \$425,000, which aligns with the current HUD § 184 loan maximum. The current limit is \$250,000 and would not buy much of a home in the present market. We are also asking Land Commission to determine the maximum amount for a HIPP land purchase annually to allow for market based increases to the price of acquiring land.

Finally, it was suggested that we add discussion around removing contingencies, specifically the home inspection at the option of the tribal member, from the offer to purchase that would allow HIPP offers to be more competitive. The topic was included in the public meeting notice and the feedback we collected encouraged keeping the home inspection as a mandatory requirement in the HIPP process. CHD only considered allowing tribal citizen buyers to waiver the home inspection to assist the Oneida citizen in being more competitive while using the HIP process. CHD agree with the feedback collected that the home inspection should remain a requirement within the HIPP process to ensure that any home purchased subject to a residential lease with the Nation is in a safe and habitable condition for our tribal citizens.

I have attached the transcribed dialog of the public hearing that was held on November 16, 2023 at the Comprehensive Housing Division. There were no additional written comments submitted during the public comment period. No revisions were made to the rule as a result of the public meeting and comment period.



Oneida Land Commission

Regular Meeting
5:00 p.m. Tuesday, December 26, 2023
Little Bear Conference Room & Microsoft Teams

Agenda

I. CALL TO ORDER AND ROLL CALL

II. ADOPT THE AGENDA

III. TASK LIST

IV. READING OF MINUTES

- A. Approve the December 11, 2023, regular Oneida Land Commission meeting minutes pg. 3**
Sponsor: Sherrole Benton

V. TABLED BUSINESS

VI. OLD BUSINESS

VII. NEW BUSINESS

VIII. REPORTS (FY-22 DEADLINES Q1-FEB 1, SEMI-ANNUAL-APR, Q2-MAY 3, Q3-AUG 2, ANNUAL-SEPT, Q4-NOV 1)

IX. EXECUTIVE SESSION

A. ACQUISITIONS

- 1. Accept the Restricted Fee Legislation presentation pg. 9**
Sponsor: Krystal John
- 2. Accept the Land Acquisition Budget update pg. 21**
Sponsor: Lauren Hartman
- 3. Determine next steps regarding File # 12202301R pg. 30**
Sponsor: Lauren Hartman

4. Determine next steps regarding File # 12202301C pg. 38
Sponsor: Lauren Hartman

X. ADJOURNMENT

Oneida Land Commission Agenda Request

Regular Land Commission meetings are held the second and fourth Monday of each month. The deadline for submitting agenda items for consideration at a Regular Land Commission meeting is 4:30 p.m. on the Wednesday preceding the meeting date.

1. Meeting Date:

2. General Information:

Session: Open Executive – See Open Records and Open Meetings law §107.4, then choose one:

Choose One

Agenda Header:

Requested Action (please describe):

3. Supporting Materials

Resolution Report Other – list below

1.

3.

2.

4.

4. Submission:

Authorized Sponsor:

Name, Title / Dept.

Primary Requestor/Submitter:

Name, Title / Dept. or Tribal Member



Oneida Land Commission

Regular Meeting
5:00 p.m. Monday, December 11, 2023
Little Bear Conference Room & Microsoft Teams

Minutes

Present: Chair John Danforth, Vice Chair Sidney White, Secretary Sherrole Benton, Commissioners: Patricia Cornelius, Jennifer Hill, Frederick Muscavitch;

Excused: Donald McLester;

Others Present: Brooke Doxtator, Victoria Flowers, Lauren Hartman, Michelle Hill, Krystal John, Eric McLester, Nicole Rommel, Danielle White, Diane Wilson;

I. CALL TO ORDER AND ROLL CALL

Meeting called to order by Chair John Danforth at 5:00 p.m.

II. ADOPT THE AGENDA

Motion by Frederick Muscavitch to adopt the agenda with one addition at the beginning of executive session [1) IX.A. GTC Annual Presentation], seconded by Sidney White. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

III. TASK LIST

IV. READING OF MINUTES

A. Approve the November 27, 2023, regular Oneida Land Commission meeting minutes

Sponsor: Sherrole Benton

Motion by Frederick Muscavitch to approve the November 27, 2023, regular Oneida Land Commission meeting minutes, seconded by Sidney White. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

V. TABLED BUSINESS

VI. OLD BUSINESS**A. Determine next steps regarding Draft OLC OBC Joint meeting agenda**

Sponsor: Frederick Muscavitch

Motion by Sidney White to direct the Oneida Land Commission Chair to schedule to Joint meetings in January and February of 2024 for a 1-to-2-hour period, seconded by Frederick Muscavitch. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

For the record: Tehassi Hill, OBC Liaison agreed to the Joint meetings in the 12/11/23 regular Oneida Land Commission meeting.

VII. NEW BUSINESS**A. Determine next steps regarding the Leasing Law Rule #6 – Homeownership by Independent Purchase (HIP) Program**

Sponsor: Michelle Hill

Motion by Sidney White to approve title 6 602 1.5-1 (a) proposed changes which will be approved by the Oneida Land Commission on an annual basis, seconded by Patricia Cornelius. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

Motion by Sidney White to set the HIPP improvements be \$425,000 which aligns with the current HUD 184 loan maximum for FY-2024, seconded by Jennifer Hill. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

Motion by Sidney White to have Land Management staff update the HIPP corresponding standard operating procedure to increase the max amount of Land Acquisition to the current market, seconded by Sherrole Benton. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

B. Adopt resolution entitled Packerland Drive Easement (6H-1123 a/k/a 433 T 2128) for Brown County

Sponsor: Diane Wilson

Motion by Frederick Muscavitch to adopt the resolution contingent upon it being split into two separate resolutions, seconded by Patricia Cornelius. Motion carried:

Ayes: John Danforth, Frederick Muscavitch
Opposed: Sherrole Benton
Abstained: Patricia Cornelius, Jennifer Hill, Sidney White

C. Approve Service Line Agreement – Wisconsin Public Service – W1013 Ranch Road (Tribal Tract # 433 T 2003)

Sponsor: Diane Wilson

Motion by Sidney White to approve the service line agreement to Wisconsin Public Service for W1013 Ranch Road (Tribal Tract # 433 T 2003), seconded by Jennifer Hill. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

D. Approve Service Line Agreement – WE Energies – W1013 Ranch Road (Tribal Tract # 433 T 2003)

Sponsor: Diane Wilson

Motion by Sidney White to approve the service line agreement to WE Energies for W1013 Ranch Road (Tribal Tract # 433 T 2003), seconded by Patricia Cornelius. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

E. Approve Service Line Agreement – Wisconsin Public Service – N6468 Rymer Road (Tribal Tract # 433 T 2003)

Sponsor: Diane Wilson

Motion by Sidney White to approve the service line agreement to Wisconsin Public Service for N6468 Rymer Road (Tribal Tract # 433 T 2003), seconded by Jennifer Hill. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

F. Approve Service Line Agreement – WE Energies – Red Willow Flat Residential Development (Tribal Tract # 433 T 2089)

Sponsor: Diane Wilson

Motion by Sidney White to approve the service line agreement to WE Energies for Red Willow Flat Residential Development (Tribal Tract # 433 T 2089), seconded by Frederick Muscavitch. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

VIII. REPORTS (FY-22 DEADLINES Q1-FEB 1, SEMI-ANNUAL-APR, Q2-MAY 3, Q3-AUG 2, ANNUAL-SEPT, Q4-NOV 1)

Motion by Patricia Cornelius to go into executive session at 5:42 p.m., seconded by Jennifer Hill. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

Motion by Sherrole Benton to come out of executive session at 6:34 p.m., seconded by Patricia Cornelius. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

IX. EXECUTIVE SESSION

A. GTC Annual Presentation

Sponsor: John Danforth

Motion by Frederick Muscavitch to approve the GTC Annual presentation with the side-by-side map and reduction of years to the last three years, seconded by Patricia Cornelius. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

B. ACQUISITIONS

1. Accept the Land Acquisition Budget update

Sponsor: Lauren Hartman

Motion by Frederick Muscavitch to accept the Land Acquisition Budget update as information, seconded by Sidney White. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

2. Approve the Final Report for File # 07201401V

Sponsor: Lauren Hartman

Motion by Frederick Muscavitch to approve the Final Report for File # 07201401V, seconded by Sidney White. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

3. Determine next steps regarding File # 07202207V

Sponsor: Lauren Hartman

Motion by Sidney White to make an offer of [REDACTED] to [REDACTED] per acre for File # 07202207V, seconded by Patricia Cornelius. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

4. Discuss Criteria and Contingencies

Sponsor: Frederick Muscavitch

Motion by Frederick Muscavitch to accept the Criteria and Contingencies as information and defer to January 8, 2024, seconded by Patricia Cornelius. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch, Sidney White

C. Confidential Discussion (no backup)

Sponsor: Frederick Muscavitch

Note: No action taken on this item.

X. ADJOURNMENT

Motion by Frederick Muscavitch to adjourn at 6:38 p.m., seconded by Patricia Cornelius. Motion carried:
Ayes: Sherrole Benton, Patricia Cornelius, Jennifer Hill, Frederick Muscavitch,
Sidney White

Roll call for the record:

*Present: Chair John Danforth, Vice Chair Sidney White, Secretary Sherrole Benton, Commissioners:
Patricia Cornelius, Jennifer Hill, Frederick Muscavitch*

DRAFT

Minutes prepared by Brooke Doxtator, Boards, Committees, and Commissions Supervisor
Minutes approved as presented _____.

Sherrole Benton, Secretary
Oneida Land Commission

NOTICE OF
PUBLIC MEETING

TO BE HELD
November 16, 2023 9am—10am
IN THE
CHD Conference Room
2913 Commissioner Steet, Oneida, WI 54155

In accordance with the Administrative Rulemaking Law, the Comprehensive Housing Division and the Oneida Land Commission are hosting this Public Meeting to gather feedback from the community regarding the following rule:

Home by Independent Purchase (HIP) Program

This is a proposal to amend the rule by:

- ◆ Oneida Land Commission will determine the maximum purchase price for improvement value and land value annually
- ◆ Considering removing requirements for home inspections

To obtain copies of the Public Meeting documents for this proposal, please visit www.oneida-nsn.gov/Register/PublicMeetings.

PUBLIC COMMENT PERIOD
OPEN UNTIL December 4, 2023

During the Public Comment Period, all interested persons may submit written comments and/or a transcript of any testimony/spoken comments made during the Public Meeting. These may be submitted to The Comprehensive Housing Division by U.S. mail, interoffice mail, e-mail or fax.

Comprehensive Housing Division
2913 Commissioner Street, Oneida, WI 54155
mhill@oneidanation.org
Phone: 920-869-2227
Fax: 920-869-2836

Summary Report for [insert name of rule]

Original effective date: 02-22-2016

Amendment effective date: asap

Name of Rule: Home Independent Purchase

Name of law being interpreted: Leasing Law

Rule Number: #6

Other Laws or Rules that may be affected: Acquisition Sop for HIP
Residential Leasing Rule

Brief Summary of the proposed rule:

Land Commission will determine maximum purchase price for improvement value and land value annually. Consider removing requirement of a home inspection.

Statement of Effect: Obtained after requesting from the Legislative Reference Office.

Financial Analysis: See Attached. \emptyset undetermined impact at this time but could increase the level of foreclosures

Note: In addition- the agency must send a written request to each entity which may be affected by the rule- asking that they provide information about how the rule would financially affect them.

The agency must include each entity's response in the financial analysis. If the agency does not receive a response within 10 business days after the request is made, the financial analysis can note which entities did not provide a response.

Financial Analysis for [Insert Name of Rule]

Type of Cost	Description/Comment	Dollar Amount
Start Up Costs		0
Personnel		0
Office		0
Documentation Costs		0
Estimate of time necessary for an individual or agency to comply with the rule after implementation		0
Other, please explain		
Total	Annual Net Revenue	0



Statement of Effect

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

Summary

The amendments to the Leasing Law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program:

- Eliminate the two hundred and fifty thousand dollar (\$250,000) maximum value allowed for the total purchase price after the tax assessed value of the land is deducted, and instead provide that the maximum value for improvements shall be determined by the Oneida Land Commission on an annual basis each fiscal year. *[Rule 1.5-1(a)]*;
- Eliminate the requirement that an offer to purchase contain a contingency related to the home inspection, which is an examination of the improvements, construction, condition, and internal systems to establish the structural and mechanical integrity completed by a certified home inspector. *[Rule 1.7-4(a)]*; and
- Provide that the survey required by the contingencies in the offer to purchase may be completed using the Nation’s vendor to be completed within twenty-one (21) calendar days of receipt of an accepted offer to purchase. *[Rule 1.7-4(a)(4)]*.

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

Date: October 25, 2023

Analysis by the Legislative Reference Office

The Administrative Rulemaking law provides authorized agencies the opportunity to promulgate rules interpreting the provisions of any law enforced or administered by it; provided that, a rule may not exceed the rulemaking authority granted under the law for which the rule is being promulgated. *[1 O.C. 106.4-1]*. Rulemaking authority is defined as the delegation of authority to authorized agencies found in the Nation’s laws, other than the Administrative Rulemaking law, which allows authorized agencies to implement, interpret and/or enforce a law of the Nation. *[1 O.C. 106.3-1(i)]*. An authorized agency is defined as “any board, committee, commission, department, program or officer of the Nation that has been granted rulemaking authority.” *[1 O.C. 106.3-1(a)]*.

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

The Leasing law further provides that Land Management shall develop, and the Oneida Land Commission shall approve, the format and requirements set out in the lease document applications for different types of leases, as well as additional procedures and processes to be followed when offering and awarding lease documents. [6 O.C. 602.5-1(a)].

The purpose of the Leasing Law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program (“the Rule”) is to expand the services being offered by the Nation through the creation of a program in which the prospective lessee buyer initiates a purchase where the buyer would purchase the improvements and the Nation, subject to available funding, would purchase the land pursuant to the process and eligibility requirements set forth in the Land Management’s Land Acquisition for Residential Leasing Standard Operating Procedure. [Rule 1.1-1 and 1.6-1]. Under this Rule the buyer would then enter a HIP residential lease for the land through the Comprehensive Housing Division. [Rule 1.1-1].

The proposed amendments to the Leasing Law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program:

- Eliminate the two hundred and fifty thousand dollar (\$250,000) maximum value allowed for the total purchase price after the tax assessed value of the land is deducted, and instead provide that the maximum value for improvements shall be determined by the Oneida Land Commission on an annual basis each fiscal year. [Rule 1.5-1(a)];
- Eliminate the requirement that an offer to purchase contain a contingency related to the home inspection, which is an examination of the improvements, construction, condition, and internal systems to establish the structural and mechanical integrity completed by a certified home inspector. [Rule 1.7-4(a)]; and
- Provide that the survey required by the contingencies in the offer to purchase may be completed using the Nation’s vendor to be completed within twenty-one (21) calendar days of receipt of an accepted offer to purchase. [Rule 1.7-4(a)(4)].

Conclusion

There are no legal bars to adopting the proposed amendments to the Leasing Law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program.¹

¹ This analysis did not include a review or analysis of the Land Management’s Land Acquisition for Residential Leasing Standard Operating Procedure referenced within the Rule. Provided it does not conflict with the Nation’s laws or the authority granted therein, there are no legal bars to adopting the proposed amendments to the Rule.

ONEIDA JUDICIARY**Tsi nu téshakotiya?tolétha?****TRIAL COURT****NOTICE OF INTENT
TO GARNISH****Debtor's Names:****Alonzo Frias****Arthur Skenandore**

First published notice 11/23

Payment can be made either in person at the Oneida Trial Court located at
2630 West Mason Street, Green Bay, WI 54303;
 or by mailing said payment to Oneida Trial Court P.O. Box 19, Oneida, WI 54155

Oneida entities owed a debt: ONEIDA TRIAL COURT**NOTICE OF****PUBLIC MEETING****TO BE HELD****November 14, 2023, at 11am
IN THE****Land Management/Conservation Conference Room
470 Airport Drive, Oneida, WI 54155**

In accordance with the Administrative Rulemaking Law, Land Management and the Oneida Land Commission is hosting this Public Meeting to gather feedback from the community regarding the following rule.

TOPIC:**This is a proposal to create a rule by:**

- Replacing the current Standard Operation Procedure format to formalize through the Rulemaking process;
- Delegate Land Commission's decision making the Land Management Division Director so that requests can be responded to more timely
- Creating an Appeal process to the Oneida Land Commission;
- Creating an evaluation team to consider any land use impacts or terms and conditions that should be imposed; and
- Incorporating the Land Use Permit process for temporary structures into the Land Use License process as needed.

To obtain copies of the Public Meeting documents for this proposal, please visit www.oneida-nsn.gov/Register/PublicMeetings.

**PUBLIC COMMENT PERIOD
OPEN UNTIL November 24, 2023**

During the Public Comment Period, all interested persons may submit written comments and/or a transcript of any testimony/spoken comments made during the Public Meeting. These may be submitted to Oneida Land Management by U.S. mail, interoffice mail, e-mail or fax.

Oneida Land Management
PO Box 365, Oneida, WI 54155
dwilson@oneidanation.org • Phone: 920-869-6614

NOTICE OF**PUBLIC MEETING****TO BE HELD****November 16, 2023 9am—10am
IN THE****CHD Conference Room
2913 Commissioner Street, Oneida, WI 54155**

In accordance with the Administrative Rulemaking Law, the Comprehensive Housing Division and the Oneida Land Commission are hosting this Public Meeting to gather feedback from the community regarding the following rule:

Home by Independent Purchase (HIP) Program**This is a proposal to amend the rule by:**

- Oneida Land Commission will determine the maximum purchase price for improvement value and land value annually
- Considering removing requirements for home inspections

To obtain copies of the Public Meeting documents for this proposal, please visit www.oneida-nsn.gov/Register/PublicMeetings.

**PUBLIC COMMENT PERIOD
OPEN UNTIL December 4, 2023**

During the Public Comment Period, all interested persons may submit written comments and/or a transcript of any testimony/spoken comments made during the Public Meeting. These may be submitted to The Comprehensive Housing Division by U.S. mail, interoffice mail, e-mail or fax.

Comprehensive Housing Division
2913 Commissioner Street, Oneida, WI 54155
mhill@oneidanation.org
Phone: 920-869-2227
Fax: 920-869-2836

Name	Address
Connor Kestell	
Duke Suri	

Good morning. The time is 9:10 a.m. and today's date is November 16, 2023. I will now call the public meeting for the Leasing Law Rule No. 6 – Homeownership by Independent Purchase Program to order.

Comprehensive Housing Division is hosting this public meeting to gather feedback from the community regarding this rule. All persons who wish to present oral testimony will need to register on the sign-in sheet at the back of the room.

Written comments may be submitted to CHD in person, by U.S. mail, interoffice mail, email or fax as provided on the public meeting notice. These comments must be received by close of business on December 4, 2023.

In attendance from the CHD is: Myself, Michelle Hill Residential Sales and Realty Area Manager, Lisa Rauschenbach, the Division Director, Jenny Garcia, Residential Leasing Specialist, Danielle White, Residential Leasing Specialist, Grace Delgado, Loan officer, and Mariea King, Executive Assistance to the Director.

Please note that CHD will not be responding to public comments at this time. CHD will consider all comments received and will provide a written response to each comment in a public comment review memorandum. In addition, I understand some people in attendance would like to discuss funding of mortgage programs. Please be advised the funding of mortgage programs occurs through a separate process that is not a part of this rule. This public meeting is only for the purpose of the collecting input regarding the HIP process. CHD is available to schedule separate meeting times to discuss CHD's current efforts to implement new loans programs and/or bring back loan programs previously offered. We will begin today's public meeting for Leasing Law Rule #6 – regarding HIP now.

The amendments we are proposing are, Home by Independent Purchase (HIP) Program This is a proposal to amend the rule by: In the HIP rule there is a set limit for the maximum purchase amount for a home and land value annually there is a set amount in the current rule. What we are proposing is that land commission determines that amount annually at their land commission meeting. Instead of having it in a rule because when it is in the rule we have to go through this process to change the amounts and with the market going up and down that is why we want land commission to do it. Then, we wont have to go through this process and we are also; a consideration in our HIP process, a home inspection is required so the consideration is to remove that entirely from our process. Those are things we are proposing to change in our HIP rule.

Who would like to comment first.

Ahh hello Conner Kestell great pleasure to be here. I did have a question about the HIP program. I talked about it earlier here, is there a way, as you mentioned housing prices going up and down with the market, is there a way to combine the HIP program with the loan through Comprehensive Housing, to keep the interest rates low. It's a win win opportunity

the land it's already going to be leased land once it's closed on so it fits the requirement and members will be able to buy a house at 2 1/2 or 2% if you're a veteran without having to worry about what today's prices maybe because at today's prices I personally don't know anybody who is looking to buy a house, who can afford it. Food for thought.

So the way it is you will make your comment and questions and then we will transcribe them we will respond to you guys in written form, so we will mail you the answers. Because today is just the comment period. Like I mentioned earlier if you want to meet after and have an actual meeting to discuss what we are talking about we can totally do that.

Yeah that was my comment. Food for thought.

Yeah this is just so you understand. Just being clear.

Oh yeah

So my question is, Deke Sury Veteran here at Oneida Nation. So I have talked to several individuals yet separately about the HIP program and the Veteran loan and so forth and my question is how can we have these multiple programs work together. So that is my question how can we bridge the gap between multiple programs so they can work together on behalf of the nation because like I said the answers I got yesterday they don't work together. Unless your getting the I don't know what the name is the section 184 187 works together with the HIP loan, but the veteran loan does not. So I am just trying to get an answer how can we get these programs to work together and how can we work outside of Bay Bank on behalf of the veteran for a VA loan.

So

Ok so what we do is because it's from 9-10 and we went, we started a little bit late due to technical difficulties. So then we just wait because other people might show up. Um if you want to stay you can, but we can set up a meeting with you if you if you want to come back after that. Would you like to come back at 9:30?

Or

I can't unfortunately I have a very busy and I don't have time after ten

We can set up a meeting anytime. I am not trying to stress you out. We can set up that meeting anytime. We can make it happen.

Um

I do have a comment.

I think getting rid of the home inspection I would assume assume you guys are getting rid of the home inspection due to the quick sale that is going on right now in the housing market. I don't think get rid of home inspection is a good idea and the only reason I think that is because inspections are important you're going to miss a lot of stuff and the only thing I can see is people are going to be disgruntled that things were missed even though they made the decisions themselves. I believe getting rid of the home inspections is a bad idea. Its never a bad idea to cover your own behind. You're cutting off the ability to do that by getting rid. I do

however think that getting rid of the 250 as a rule is a good idea. Those are my comments and changes.

I just wanted to say it says IF Bay Bank is the lender and like I said with the phone calls I made yesterday with all the paper work I was reading through that Bay Bank is the lender so I don't know if that is something that has changed because I see the word if in there. So that is just another thing to proposed ..like I said with the multiple phone calls I made yesterday with Bay Bank and here it sounds like Bay Bank is the sole provider. And I see the word if in there so I don't know if something has changed. I just wanted some clarification on that if something has changed I would like to know.

Other than that those are the two changes correct is the just the home inspection and the 250,000 dollar cap.

So proposed changes

So definitely the land commission determining those annual maximum purchases.

The home inspection isn't anything, it's more of a proposal from somebody in our process wanted us to include that for people to hear to get your opinion on what you think.

11:54 Its not that were, that piece of it is really just proposing to see what if people came we always hope people show up for the comment period so I am happy the two of you did because often nobody shows up. But yeah that part is really just a proposal change. The first part yes that is more than likely going to change that Land Commission determines.

Yeah I definitely agree with Conner that should as far as having that inspection I think it should definitely stay in there because if you miss something it could be acritical error of something that could be rather costly boy oh boy that dollar amount could go 30,40 thousand.

We appreciate you coming in and caring enough to provide comment.

Yeah this is really important stuff.

We always try to encourage in our legislative processes when we do a public hearing we do our best toi think people may not understand the legislative process so they may not understand public hearings and the role that plays in our rule making process because that is your voice at table. That is exactly what we want. We want oneida's voice at the table.

As far as that concerned comment or food for thought on that one 9 oclock on a Thursday is kinda rough for people to come in or get on teams is incredibly difficult.

Valid point. I was just tryna get it amended we want it amended to make it more available. I could have totally did it after hours.

28:49

According to the Administrative Rule Making Law it is at my discretion if I want to respond to your comments.

I then read the rule that speaks to allowing me to respond to public hearing comments.

I would like to say that the rule and financing portion 1.4-6 so that speaks to the financing of CHD and that it is a part of our Vet Loan.

So we can have two different funding sources CHD and Bay Bank.

Then we go on to a lengthy conversation that ultimately does clarify that the CHD vet loan and the HIP process can work together because per the HIP process on the day of closing that land becomes tribal land therefore allowing the Vet loan to work hand in hand with the HIP process. The piece of the Vet loan that was in question was because we do not do loans on individual fee land.

9:10AM—Michelle Hill: This time is 910 and today's date is November 16th, 2023. I will now call the public meeting for leasing model #6 home ownership by independent purchase program to order, comprehensive Housing division is hosting this public meeting to gather feedback from the community regarding this rule. All persons who wish to present oral testimony will need to register on the sign in sheet at the back of the room. Written comments may be submitted to CHD in person, by US mail, Interoffice, email, and faxed as provided on the public meeting Notice, which is a city.

These comments must be received by close of Business day on December 4th, 2023. In attendance from CHD is myself Michelle Hill, and I'm the residential sales and Realty Area manager and then Lisa Rauschenbach is the division director. Jenny Garcia is the residential leasing specialist. Danielle White is the residential leasing specialist. Grace Delgado is our loan officer and Mariea King is the executive assistant to the director. OK, please note that CHD will not be responding to public comments at this time. CHD will consider all comments received, and will provide a written response to each comment in public comment review Memorandum.

In addition, I understand some people in attendance will likely discuss funding of mortgage programs. Please be advised that funding mortgage program goes to a separate process that is not part of the rule.

The public meeting is only for the purpose of collecting input regarding the hip process. CHD is available to schedule separate meetings, meeting times, to discuss CHD current efforts to implement new loan programs, and, or, bring back loan programs previously offered. We will begin today's public meeting for leasing law Rule #6 regarding the HIP, now. The amendment that we are proposing are, Umm, in the HIP rule, there's a set limit for the Maximum purchase amount for a home, and land value annually, are, that there's a set amount in the current rule. What we're proposing is that, land Commission determines that amount annually, at their land Commission meeting, instead of having it in a rule, because when it's in a rule, we have to go through this process to change the amounts, and with the market going up and down, that's why we want Land Commission to do it. And we wont have to go through this process, and we're also, a consideration in our HIP process, a home inspection is required, so the consideration is to, remove that requirement in our process and those are the things that we are proposing to change in our HIP rule. Who would like to comment first?

Mariea G. King 3 minutes 30 seconds

Connor Kestell—Hello Connor Costello. Great. Glad to be here.

Uh, I did have a question about the HIP program as a whole and I had talked about earlier here, if there was a way, because you had mentioned that housing prices are going up and down with the market, if there is a way to combine the HIP program with the loan through comprehensive housing to keep interest rates low, it's a win-win opportunity, ya know, getting the land, it's already gonna be leased land once it's closed on. So it fits the requirement and members are able to buy houses at 2 1/2 or 2% if their veteran, (without having to work with today's price today, 8%) because at today's prices I personally don't know anybody that's looking to buy a house, can't afford it, food for thought.

Response

The HIP and the loan through Comprehensive Housing do work together. We wouldn't "combine" the programs, but they are two programs through our office that can work together.

Mariea G. King 4 minutes 22 seconds

Michelle Hill—Yeah, So the way it is is, you know, make your comment and your questions and then transcribe them. We will respond to you guys in in written form, so the answers because today is just the comment period like we mentioned earlier, if you want to meet after and have an actual meeting to discuss what we're talking about, we can totally do that.

Mariea G. King 4 minutes 44 seconds

Connor Kestell—Yeah, that was my comment.

Mariea G. King 4 minutes 45 seconds

Michelle Hill—Yeah, thought this is just, just, so you understand, just being Clear.

Mariea G. King 4 minutes 52 seconds

Deke Suri—So, my question is, Deke Suri, veteran here, at Oneida nation and my question is, so I talked to several individuals yesterday, separately, about the hit program, the veteran loan, and so forth, and now with my question is, how can we have these multiple programs work together, so that, that's my question. How can we bridge the gap between multiple programs, so they can work together on behalf of the nation? Because right now, like I said that the, the answers, I got yesterday, they don't work together, unless you're getting the, I don't know what the, the name of the section, 184 or 74, together with the HIP Loan, but however the veteran one does not. So, I'm just trying to get an answer of, how can we get these programs to work together, and then, also, be able to Work outside of Bay Bank, on behalf of the veteran, for a VA loan.

Response

As mentioned above the programs do work together.

Mariea G. King 6 minutes 4 seconds

Michelle Hill—OK, So then what we do is because it's from 9 to 10 and we went, we started a little bit late due to technical difficulties. So then we just wait, because other people might show up and have time. If you would like to stay you can but we, we, could set up a meeting with you, If you want to come back, and that, would you like to come back at like 1030? Or?

Mariea G. King 6 minutes 31 seconds

Deke Suri—So, I I can't unfortunately because I have a very busy day sitting still. I don't have time after 10.

Mariea G. King 6 minutes 40 seconds

Michelle Hill—We can the meeting anytime. The that's not, there's not. I'm not trying to stress you out, so we can set up that meeting anytime the meeting can happen.

Mariea G. King 6 minutes 53 seconds

Connor Kestell—Which I do have a comment. I think getting rid of the home inspection, I, I, would assume, assume, you guys are getting rid of the home inspection due to the quick sale that's going on right now and the housing market. I don't think getting rid of any inspections are a good idea. And the only reason I think that is because inspections are important. You're going to miss a lot of stuff, and the only thing I can see is people are going to be disgruntled that things were missed, even though they made the decision themselves. I believe getting rid of the home inspection is a bad idea. There's never a bad, Bad idea to cover your own behind. You're cutting off the ability to do that by getting. I do, however, think getting rid of the uh, the 250 as a rule is a good idea. Think it's a good idea, especially the base housing markets. Those are my comments on the changes.

Response

Removing the Home Inspection from the HIP process wasn't an added amendment it was put on the hearing to receive feed back from community members if that change were to be made. At this time it is not a proposed amendment.

Mariea G. King 7 minutes 47 seconds

Deke Suri—Umm And then I, I just wanted to stay in here and says if Bay Bank is Lender now, I'd, like I said, with the phone calls that I made yesterday, and with the paperwork I was reading through. Said the Bay Bank is the lender, so I don't know if that's something that has changed, because I see the word, if, in there. So that's just another thing, that another the post closing here is having to catch it.

Like I said, for the multiple phone calls I made yesterday between Bay Bank and here, it sounds like the sole property there and it's Bay Bank, and I see the word if, in there. So, I don't know if something changes, the paperwork, statements that I have been provided, so I just wanted some clarification on that. If that has changed, then I'd like to know.

Response

The Veteran Loan through CHD does work with HIP. The documents explaining the HIP process do focus on Bay Bank being the lender due to the fact that CHD funding is subject to availability. Bay Bank will always be one of the lenders that coincides with the HIP process. Currently there is Veteran funding for the Veteran Loan program. The Veteran Loan program does have the ability to work together with the HIP program.

Mariea G. King 8 minutes 36 seconds

Michelle Hill—Which right now... But I, definitely will, for sure. And even, you know, like a lot of your questions are pertaining to our discussion, we would have too. But for the meeting purposes, we've just gotta listen, we just gotta listen. When would you be interested in meeting? Would it be both of you or just you or?

Mariea G. King 9 minutes 27 seconds

Connor to Deke: I can do anytime Monday afternoon.

Deke Suri—Have anything available Monday afternoon?

Michelle Hill—Monday afternoon. Yep.

Connor Kestell—Yeah, I'm busy 9:30 to 10:30 on Monday.

Deke Suri—One o'clock

Michelle Hill—1:00 o'clock will work

Deke Suri—Here?

Michelle Hill—Yep, I'm gonna set That up now and so both of you?

Deke/Connor—Yes

Mariea G. King 9 minutes 55 seconds

Michelle Hill—Now are we meeting with both of you as tribal members or?

Deke/Connor—Yes, Yes (laughing)

Mariea G. King 10 minutes 2 seconds

Connor Kestell—**I'm not here as an official attack. I'm here as a tribal member.**

Deke Suri- yes, when asked if here as a tribal member

Michelle Hill—Ohh OK we will.

Connor Kestell—How much time do you want to set aside for that meeting?

Michelle Hill—I guess, depending I would, I would comfortably set aside an hour and a half. I think that discussions will be enough, if it's shorter than that, obviously.

Connor Kestell—And I don't know how much PTO to put in?

Michelle Hill—Yep, And if it's less than that, like, you know, that's fine too, just to make sure we cover our bases in those discussions. We got something to look forward to, the discussions.

Mariea G. King 10 minutes 49 seconds

Connor Kestell—Other than that, those are the only two changes correct, is just to the home inspection and the \$200,000 cap?

Response- There is one amendment change which is that Land Commission determines annual maximum home purchase amount. The home inspection was put in as a way to get input from the community.

Mariea G. King 10 minutes 58 seconds

Michelle Hill—Umm, so that's the only proposed changes. So definitely the, the, Land Commission determining those annual maximum purchases. Umm, the home inspection isn't anything, it's more of a proposal from somebody, somebody in our process, wanted us to include that for people to hear it, to get your opinion on what you think. It's not that we're, that piece of it is really just proposing, to see what, if people came. You know, we always hope people show up for the for the comment period. So I'm happy the two of you did, because often nobody shows up. But yeah, it's really, truly that piece of it is really, truly just a proposal piece, that we're looking to hear opinions. So, the first part, yes, that's more than likely gonna change that land Commission determining.

Mariea G. King 12 minutes 2 seconds

Deke Suri—Yeah, I definitely agree with Connor on that. As far as having that inspection, that I think it should definitely stay in there, because if you missed some critical errors, something that could be very costly. Well, boy, oh boy, that dollar amount can Go up 20, thirty, \$40,000 dollars for just a couple.

Response

Removing the Home Inspection may improve timelines for a sooner closing. However, CHD feels it may also increase a risk to the homeowner about the condition of the home.

Mariea G. King 12 minutes 20 seconds

Connor Kestell—Yeah, I know. That's what you get on my house in Virginia. And just part of the wall of right now at the back door. It's well, it's what's 13,000.

Mariea G. King 12 minutes 33 seconds

Michelle Hill—Well, yeah, we appreciate you coming in and providing and caring, caring enough, to come in and give out comment.

Mariea G. King 12 minutes 43 seconds

Connor Kestell—That's important stuff is happening.

Mariea G. King 12 minutes 46 seconds

Michelle Hill—No, we always try to encourage in our in our legislative processes, when we do a public hearing, we do our best to, improve government and thought I think people, they may not understand the legislative process. So, they might not understand public hearings and the role that, that plays, because that's your voice, uh, being heard in that rulemaking process and making our own laws so. That's what we want. That's exactly what we want. We want Oneidas voice at the table on these things called.

Mariea G. King 13 minutes 25 seconds

Connor Kestell—As far as that's concerned. Comment or food for thought on that one, 9:00 o'clock on a Thursday is kind of rough for a lot of people to be able to come here and get on teams.

Michelle Hill—Valid point.

Connor Kestell—Its incredibly difficult. Especially, if you're not coming in an official capacity, you have to either find flex hours or PTO for it, so, that bars a lot of people from showing up.

Mariea G. King 13 minutes 49 seconds

Michelle Hill—I appreciate that because now that you say that, yeah, I was, we were trying to get this amended. We want it amended, to make it more available, right, so I think I just looked at like, when can we do it, you know lets get it done, and Yep, that's a valid point, I could have totally have done it after hours.

Mariea G. King 14 minutes 15 seconds

Connor Kestell—Whatever the general consensus is for lunch hours wouldn't be a bad idea either.

Michelle Hill—Yeah

Connor Costello—11 to Noon or something like that. Can you guys push yours back an hour to facilitate this? Like (unclear mumble) or after hours, that way no one has to stay too late. Using Public comments if no one shows up, they don't stay that long.

Mariea G. King 14 minutes 33 seconds

Michelle Hill—Yeah. So well, it's a set time, you know, it's from 9 to 10. So it's like that time frame, but yeah good input. Thank you. I think I'll consider that on the next one. Yeah, Assuming laws will be, the way I believe laws are written, we develop whatever process we're developing. Uh, for example, HIP was developed in 2016. Markets change. Things change. Process changes. This will be the Second Amendment on HIP rule, so they Evolve things evolve. We our laws and rules and processes all have to Evolve with that.

Mariea G. King 15 minutes 22 seconds

Michelle Hill—Muffles...Maybe someone else will show up

Response to request about public hearing times

CHD will take your recommendations in consideration for future public hearings.

Mariea G. King 15 minutes 37 seconds

Michelle Hill—I'm sure glad I didn't have to record it on my phone. I don't even know how to do that. And also learn how to work teams. Even I'm in it, I was trying not to be in it. That cam wheres that camera at, don't look.

Mariea G. King 16 minutes 5 seconds

Michelle Hill—Like you guys, are taking Kerry's position?

Mariea G. King 16 minutes 11 seconds

Connor Kestell—I am

Michelle Hill—You are.

Mariea G. King 16 minutes 11 seconds

Connor Kestell—Yeah, He retired on Halloween.

Mariea G. King 16 minutes 18 seconds

Michelle Hill—OK, Yep

Mariea G. King 16 minutes 19 seconds

Connor Costello—(Points to Deke) He's the commander that the VFW.

Mariea G. King 16 minutes 20 seconds

Michelle Hill—Okay, Ohh, you're two different. OK. Yeah, that's that makes sense. Alright, Veteran affairs and then VFW, okay good to know. Yeah, Kerry was awesome.

[Muffles, people in room are having their own discussions, not great audio from 16 minute 39 second mark until 18 minute 58 second mark]

Mariea G. King 18 minutes 58 seconds

Connor Kestell—Transferring funds?

Michelle Hill—Yeah, nobody's transferring funds.

Michelle Hill—This is just this really hard because like I really want to have a whole conversation. So it's like just so you know, it's really hard for me not to respond. I have all the answers.

DW: Don't say that.

Michelle Hill—I'm just kidding. I would take that back, it was a joke. I was joking.

Connor Kestell— I have all the answers, all of them.

Unknown—Michelle Hill, don't have to ask leasing

Michelle Hill—I might have all the answers. I just don't have all the solutions. Maybe, that's what I mean. Just kidding.

Michelle Hill—That's OK, I can just be me. That's fine. As long as that thing is working. Wait. Is it working?

DW—Its is catching all your stuff?

Michelle Hill—Effectively is it working effectively?

DW—No

Michelle Hill—That's what scares me

DW—We're going to the hospital. We've transferred funds,

GD—someone going to jail.

DW—Jail

Michelle Hill—If you get a notice that we have to redo our meeting. I apologize to You.

Response – CHD held our first public hearing at CHD using TEAMS to record and transcribe. CHD was completely unaware at how poorly TEAMS transcribed meetings. CHD then went back and watched the meeting and transcribed to the best of our ability.

Mariea G. King 21 minutes 15 seconds (Starts of Muffled talking occurs amongst people in the room until) Mariea G. King 21 minutes 51 seconds

Mariea G. King 21 minutes 51 seconds

Connor Kestell—You have the flyer for this public meeting.

Mariea G. King 21 minutes 53 seconds

Michelle Hill—Yes

Connor Kestell—Can I see that?

Michelle Hill—You can have a copy.

From this time Mariea G. King 21 minutes 57 seconds through Mariea G. King 22 minutes 44 seconds (looking to get Connor a clean copy of the Flier)

Mariea G. King 22 minutes 48 seconds

Connor Kestell—So there was a bit of miscommunication. Uh in an email from Rebecca, its says I will talk to our manager and see if HIP purchases are possible With Veterans here at CHD, and get back to you on that. There is a public meeting on a HIP rule this month. Maybe you can attend and ask questions and add comments. There was a bit of a misunderstanding about what this meeting was about. Just want to bring that to Your attention.

Response - CHD followed the public hearing format and it was posted in the Kalihwisaks as such

Mariea G. King 23 minutes 11 seconds

Michelle Hill—You can ask questions in the comments.

Mariea G. King 23 minutes 15 seconds

Connor Kestell—But its not because you Don't get anything back. I think that was my misunderstanding. You're always working it back eventually, correct ?

Mariea G. King 23 minutes 20 seconds

Michelle Hill—Yeah

Mariea G. King 23 minutes 20 seconds

Connor Kestell—In an Email, Right?

Mariea G. King 23 minutes 21 seconds

Michelle Hill—Yes

Connor Kestell--It is less of a public forum, so.

Mariea G. King 23 minutes 41 seconds through Mariea G. King 28 minutes 48 seconds (During this time, people in room have their own side conversations)

Mariea G. King 28 minutes 48 seconds

Michelle Hill—Um, so is reading in the administrative rule. Please, based on your comment just now. So, I just read because this is all part of the administrative rule making law. And so, I wanted to see how the public hearing was defined in the

rule. And it speaks to the public hearing and the public, umm, comment time. And the way we've been trained in this process is that we just take comment and then we write it out and respond right, well, right here it actually says that it's at my discretion. So, if I wanted to respond to your comments that I could umm. I just want to make sure so that, I don't want to do this wrong. It says the authorized agency holding the public meeting shall have representative to preside at the meeting. Who shall briefly describe the rule, which is the subject of the public meeting and the nature of the rules and requirements, and then open the meeting for comments, which is what we did. And then it says, the authorizing agency providing representatives not required to comment or respond to the comments at the meeting but may at his or her discretion.

Connor Kestell—Thank You for taking the time to find that.

Michelle Hill—Yeah, I wanted to make sure um with what I'd like to say is that if you look at the Rule, and the financing portion, **1.4 dash 6.**

So that's speaks to the financing to CHD can be a part of with our VET loan can be a part of that HIP Process. Can be, yeah.

Connor Kestell—So, we are not, we have two different funding sources, we could have Bay bank & CHD?

Michelle Hill—**Correct**

Connor Kestell—So, they can work together.

Michelle Hill—**Yes,** so hold on, hold on, Becky, when she was responded to you, she wanted to make certain before she answered you.

Mariea G. King 31 minutes 37 seconds

Connor Kestell—No, he had the same deal. I was looking at him because of his questions like

Michelle Hill—But your question is different because you were talking about the Veterans Affairs Office right, so?

(Deke Suri & Connor Costello both make hand gestures of no and not really & shake their heads no @31:46 minute mark)

Michelle Hill—That's where we're, this is where we're getting mixed up. That's why I wanted to clarify because I thought you were with his office.

[Deke is shaking head no, and states No—Not on the transcribe]

Michelle Hill—So, you're talking about this office when you're talking about...

Deke Suri—No, No, I was talking about veterans loans, separate from actually what is authorized at Bay Bank, specifically the Veterans loan, not a veteran's loan inside the Oneida, Don't wanna say jurisdiction, but inside of the you know, right?

Michelle Hill—Inside Oneidas Veteran Loan

Deke Suri—Oneida Vets, they're they're completely different.

Michelle Hill—OK

Deke Suri—So, they're the verbiage is set up

Michelle Hill—Is Bay Bank, What did bay Bank...

Mariea G. King 32 minutes 24 seconds

Deke Suri—They don't have a veteran's loan office,

Michelle Hill—Correct

Deke Suri—that, that can hand that handles that. So I have to actually go outside of Bay Bank for a veteran's loan

Michelle Hill—Becausetribal land [(?) not clear here]

Deke Suri—It, right now its Not. But with HIP it could be.

Deke Suri—It's inside the reservation boundaries.

Michelle Hill—Why wouldn't You go through Us then?

Deke Suri—Because of the way it's worded, it has to be owned. The land has be entrusted, the way it's written.

Michelle Hill—Whats written, I don't understand

Deke Suri—the verbiage for the VA Loan through Oneida, through Oneida

Michelle Hill—OK, I see what you're saying?

Connor Kestell—Yeah, So that was my original question was for CHD's loan to help work with the HIP program. So that the....

Michelle Hill—Got It

Connor Kestell—Correct, So everybody gets what they want

Michelle Hill—So the way that it's written in HIP, could OK, it becomes tribal land.

Deke Suri—Yes

Michelle Hill—In that process

Deke Suri—Yes

Michelle Hill—That's why we could do it

Connor/Deke—Right

Michelle Hill—So, if you were gonna go buy. A piece of land, not through the HIP program. You were gonna go off, It's, OK. So, there's the reservation. We don't own all of our land.

Deke/Connor—Right

Michelle Hill—So you're gonna go buy a piece of land, that we don't own?

Deke Suri—Right

Michelle Hill—That's what the veteran's loan cannot do, right?

Deke Suri—Exactly

Michelle Hill—But because of this HIP process and that Loan, you can, because it becomes Tribal Land, that day that you'll close.

Deke Suri--Okay

Michelle Hill—That's how those two merge. So now that I understand what you're saying, that's what that, and Becky wanted to make sure, that we gave you that correct answer. So, I'm really glad we have this. The reason I went to check the rule is because I know your time is valuable as is all of ours. So, I wanted as long as you're here and if we could talk, that's what I wanted to do. So, I wanted to make sure I could do that legally. I can do that legally. Understanding what you're saying, that can all work. What you're talking about, it goes together.

Deke Suri—Both of them?

Michelle Hill—Yes, The Oneida Vet loan here, can do the HIP process. It could do that because the day that you close. it becomes tribal land.

Mariea G. King 34 minutes 39 seconds

Deke Suri—OK

Michelle Hill—That's why

Connor to Deke—Because Tribal leased land

Deke Suri—Right, OK, but I have to, do I start them simultaneously or do I start the HIP one first? So it follows up. So they they they end at the same time?

Michelle Hill—Yeah, we'll

Deke Suri—Because I know the HIP one has a lot of moving parts like it, it does, so.

Michelle Hill—You have no idea the moving parts that HIP has, and what it took to create that program. So they will, because actually, it's all here. All of this is internal and with land office.

Deke Suri—Exactly

Michelle Hill—It'll work together.

Deke Suri—Right, that's what I thought.

Michelle Hill—There's going to be a lot of going back and forth and communicating and all of that.

Deke Suri—Yep

Michelle Hill—In that process

Deke Suri—Yeah, And that's actually and I got the paperwork right here. And then I also looked at the the flow, the flow chart, yeah, there's a lot of moving parts.

Michelle Hill—I will tell you that nowhere in Indian Country, I'm almost positive, has a program that works like this.

Mariea G. King 35 minutes 39 seconds

Deke Suri—I believe that because of how many moving parts, there are

Michelle Hill—what I did want to, the moving parts, it will come back as we keep talking. Ohh, the reason why I think Grace might have suggested to wait until this is done, because then you're not subject to the maximum amounts right now. **Once this is all approved, then you can. You're gonna have the capacity to get more of a house for this right now.** So, it's like I said, this was created in 2016. The amounts

of COVID everything that happened that wasn't even fathomed. So umm,

Connor Kestell—(quietly) 200,000? Is a big house

Mariea G. King 36 minutes 24 seconds

Deke Suri—And exactly What he had said earlier was about the housing market and just everything..

Michelle Hill—Correct

Deke Suri—You just said ohh with all this working together I would be at that threshold. Honestly, holy smokes and how much is that 250? I would be right at that threshold, honestly, right in that area ,with if, everything works out. So yeah the housing market is crazy.

Mariea G. King 36 minutes 48 seconds

Michelle Hill—yeah, well, I remember in 2015, 250 was A lot. You're lucky to get house for 250, and we're talking just a house. Yeah. No, I

Connor Kestell—Right now to afford \$250,000 house, the average American has to make \$114,000 a year, eight percent,

Michelle Hill—8%. Yeah. So ohm, our area has been working diligently to try to figure things out and try to get through our own processes, right. Umm. And and because we understand, we completely understand what's happening out there. We see it. We dynamically what we're watching it change and drop it go up and we were hoping by now the market would have leveled little bit, but it's not really umm we're facing that in construction loans. You know, people trying to get construction loans and building house. So it's not that we don't understand what the issues are. We're trying to find a way through all of that.

Mariea G. King 38 minutes

Deke & Connor—Do we need the other meeting?

Mariea G. King 38 minutes 9 seconds

Connor Kestell—Sorry, that was a lot louder than it needed to be.

Mariea G. King 38 minutes 15 seconds

Michelle Hill—Sometimes I can see your father in you Connor

Connor Kestell—The Facial hair helps

Mariea G. King 38 minutes 27 seconds

Connor to Deke—Actually, realistically for the house we're looking for under the current law should be fine.

[Unknown what is being said during this period of time]

Mariea G. King 38 minutes 42 seconds

Connor Kestell to Deke Suri—Connor is quietly speaking to Deke, but the transcribe did pick up most of his conversation:

So realistically, you might want to appointment to start so you don't have to wait for this long for this says secure financing someone could another we're talking about that still purchase price cutting taxes guidelines and doctor Indianapolis Tranquility thousands this time

Connor Kestell now talking to Michelle Hill—If I'm reading this right, so it's under the current one, before the proposed change for the maximum of 250,000 that is the maximum value of the house that sits on the land, correct, because it says, purchase price over the tax access value of the land, is deducted.

Michelle Hill—Yes.

Connor Kestell—So yeah, there aint no way.

Mariea G. King 39 minutes 15 seconds

Michelle Hill—So say, say the house. There's something being offered for 300,000, right? What we do is, we go online, we check the tax records, and we take that tax assessed value of the land. So say that that land is valued at \$50,000, tax assessed value, we will take that 50,000 off that 300, and the financing will be 250. But There's a maximum of three acres on a HIP purchase.

Mariea G. King 39 minutes 45 seconds

Connor Kestell to Deke Suri—Perfect, Still, even then you know the want to leave it to you.

Michelle Hill—What?

Connor Kestell—Like there's a Wisconsin property tax waiver reimbursement you can do if you are 100% disabled. They covered up to one acre of land. They will give you your property tax money back.

Michelle Hill—Okay, Yes

Connor Kestell—Yeah that was kind of a side bar.

Mariea G. King 40 minutes 12 seconds

Michelle Hill—OK & Yeah, for and for the HIP, The max land that you can purchase through the HIP program, that we purchased through the HIP program, is three acres.

Deke Suri to Connor Kestell—Okay, Yeah. The works.

Michelle Hill—I hope that helps.

Connor Kestell—Huh?

Michelle Hill—I hope that helps. I hope you feel better. Ohh no. I don't know.

Connor Kestell—That's awesome. Specifically 2%, is it still 2%?

Michelle Hill—Yes

Connor Kestell—OK

Michelle Hill—Yes, because land Commission reviews the interest rate annually and they determine that, and then now, when we take this all back, land Commission will be determining the interest rate, and their, whatever they're willing to go at for the Max home purchase. So, like we just did the 250, they're determined maybe 350's the max for that loan, and all that stuff. So, and through our office, the Vet is 2%.

Deke Suri—OK.

Connor Kestell—Two percentage.

Michelle Hill—You also might want to review our residential leasing rules, so that you, you're gonna have more questions, once that happens. I guarantee it. So, if you go through our residential leasing rules and

Deke Suri—I read it.

Michelle Hill—OK, good. That's good.

Deke Suri—I'm Pretty sure I have them right here, right? I've printed bunch of things here, so.

Michelle Hill—yeah, that's, that's definitely review those residential leasing rules to so, and we also send like annually, we will send out a letter, what's that called, the annual letter we send out?

Jenny Garcia—The lessee rights.

Michelle Hill—The lessee rights, we send that out just to keep people in the know with things, we don't change nothing, it's just a hey...

Deke Suri—A Reminder.

Michelle Hill—yeah, a reminder

Mariea G. King 42 minutes 14 seconds

Connor Kestell to Deke Suri—There you go. Figured it out.

Deke Suri—Yeah.

Mariea G. King 42 minutes 22 seconds

Connor Kestell—Well, thank you very much for your time and for doing that to be able to answer our questions.

Mariea G. King 42 minutes 25 seconds

Michelle Hill—Yeah. No, we we're not. Yeah, we wanna help people. Just as much, like we do, all of us, all of us are really invested in trying to get people into Homes, hands have been tied since COVID for sure. Umm, so actually I'm, I'm, we're just hoping for good things. Do What can, we're going to, we're trying to find outside options. People willing to work with tribal land. USDA is an option out there that we're going to be meeting with them, and hoping that, that might be an option for tribal members. Right now, they would have to, we would have to meet about our residential lease, or they want to see our mortgage rules, mortgage and closure rules. They need to know that we have Tribal Court and so that means, and that would definitely. I don't think, I don't think Brown County would qualify for USDA. I Think it might be Outagamie and so that gets tricky because it's a rural. So we're trying to, we're just trying do all that stuff, we're going to keep working with HUD constantly. And what we do this program especially the HIP because it's so, kind of off the charts, right? So, we have to have this really good working relationship with HUD and that they understand our processes and that they're willing to keep doing loans like that. So, building a relationship internally, you know, is really important so people understand where what we do.

Mariea G. King 44 minutes 6 seconds

Connor Kestell—There is another loan in two or veterans that are eligible for the VA. It's called the Native American direct loan and [~~false~~] ? properties that are being sold on tribal trust land Specifically, um I just don't know how open the Tribe is for that, there is a memorandum that the Oneida does now with the VA about it, but I've just never heard of anybody doing it. Because it involves selling house specifically, not on leased land, it has to be on Trust land.

Mariea G. King 44 minutes 35 seconds

Michelle Hill—Ok, so that's where your definitions get tricky.

Mariea G. King 44 minutes 37 seconds

Connor Kestell—Yeah, have to be no property tax, trust land.

Mariea G. King 44 minutes 40 seconds

Michelle Hill—OK. That's lease land, though. There's so there's tribal fee, which all HIP purchases, those are going to be tribal fee, until that land goes into trust, that land potentially where you go, it might never go into trust, right? If it does go in a trust, it could take 20 years to get there, or longer. I don't know that process is a cumbersome process. Umm, it needs a lot of, uh, the surrounding municipality may appeal those processes and delaying longer. That's what we face. Umm, so

that's why HIP stays in that tribal fee status. And that means that you pay the taxes on the House, the improvement, and the Nation pays the taxes on the land. Umm. Tribal trust, now that is leased land, but it's in trust. There's another type of land that's called individual trust, and that is, umm, very few around here. But there's still some individual trust parcels, and those are held in trust for that person. Particularly, so, that's where it gets kind of hairy in that part, but also the issue most agencies have is getting those loans recorded on title in that process, and then also having umm a, a, court, they want to ensure that there's a process to foreclose. And so, and we're finding all that out, we found all that out in working with HUD, and what we need to do, what we need to ensure, we of course don't work directly with HUD, that bank does but we were directly with the bank. So we're kind of, we're in all of that too, but yeah that gets, it does, there's definitions. It gets hairy and all of that, but so like USDA, they tried to, we tried to work with them back in 2008. It got, the Attorney's, our attorney, their attorney, its Kind of wonky. Umm, last week when Lisa and I were in Saint Paul and last week when you came in, that's where we were. We were meeting with all these different, we're having all these different trainings, and USDA was one of them, and that's where I learned more about USDA and what we can do on possibly making it work, at least have another option, right? Umm. So Bay Bank. CHD Vet's only because we don't have any money to do loans right now. So we have, but we have veteran money to do Loans. Uh, there's another option. Wisconsin Native Loan Fund its located up in Lac Du Flambeau and we do suggest that people as well. Umm, it's a I think it's a they're focused on building your credit, so I don't, I'm not sure how they work, but they do help people. And so yeah that might be another option.

Mariea G. King 47 minutes 40 seconds

Michelle Hill—Those are our only options right now.

Mariea G. King 47 minutes 47 seconds

Connor Kestell—So that was, you just mentioned, the Wisconsin Native loan fund, right? She has experience with it.

Grace Delgado—Well, we, we've had a few how outside loans because we don't administrate them and you know they're one of our outside bay bank loans that people go through and that they apply through and get their loans through and then we just kind of authorize.

Connor Kestell—So it's and it's very similar to how the NADL works. Cause, The lender for that is the treasury. It's not an actual bank.

Michelle Hill—For your..

Connor Kestell—For the Native American Church

Michelle Hill—Yes. It's just they. Umm.

Mariea G. King 48 minutes 31 seconds

Grace Delgado—They are all easy and complicated in their own way.

Michelle Hill—We have to, We're working on our relationship as well to get to the table with them so that we all understand each other.

Mariea G. King 48 minutes 46 seconds

Connor Kestell—Yeah, I don't know how old the memorandum is that they have with it. You have with the VA. It is there. So one point time somebody agreed to work with them. So it's just that I don't think there's a record that anyone's done it.

Mariea G. King 49 minutes 2 seconds

Michelle Hill—Yeah.

Mariea G. King 49 minutes 3 seconds

Connor Kestell—I mean, it's an, it's an old program too thru the VA too. There's no applying online, it's Manual.

Mariea G. King 49 minutes 8 seconds

Michelle Hill—Yeah, and I think WNLf is online, a lot of it maybe.

Connor Kestell—but the NADL, none of it. Yeah, for the Native American Direct Loan through the VA all of its done on paper. And then you have to mail it in, like, yeah, yeah, No, I know, they write everything on my social.

Mariea G. King 49 minutes 32 seconds

Michelle Hill—Yeah.

Mariea G. King 49 minutes 36 seconds

Connor Kestell—Pretty sure there's people sitting there not answering phones because no one calls. No, but what you been very informative. I very much so appreciate everyone of you.

Mariea G. King 49 minutes 51 seconds

Michelle Hill—Thank you.

Danielle White—Your time is 950.

Michelle Hill—I know

Connor Kestell—I know that's why I was, I'm holding it up

Connor Kestell—Alrighty well you all have a great one.

Michelle Hill—Alright, thank you very much, I'm so glad you guys came. I hope I helped.

Deke Suri & Connor Kestell—Yes, yes,
Michelle Hill—I'm glad the girls are here helping.

Mariea G. King 50 minutes 17 seconds

Connor Kestell—See you later.

Michelle Hill—I will still see one of you Monday?

Deke or Connor—Yes, I will be here on Monday.

Michelle Hill—OK, alright, alright.

Danielle White—Alright. Thank you.

Conner and Deke -Yeah. Thank you.

Michelle Hill—Have a good weekend guys.

Both Guys—Thank you.

Mariea G. King 50 minutes 29 seconds

Connor Kestell—The bridge lighting ceremony is tonight at 6, Free hot dogs. Hot chocolate.

End.



Title 6. Property and Land – Chapter 602

LEASING

Rule # 6 – Homeownership by Independent Purchase (HIP) Program

- 1.1. Purpose and Policy
- 1.2. Adoption, Amendment and Repeal
- 1.3. Definitions
- 1.4. General
- 1.5. Eligible Buyers
- 1.6. Eligible Properties
- 1.7. Required Process

9
10
11

12 1.1. Purpose and Authority

13 1.1-1. *Purpose.* The purpose of the Homeownership by Independent Purchase (HIP) Program is
14 to expand the services being offered by the Nation by providing a program in which the
15 prospective lessee buyer initiates a purchase in which the buyer purchases the improvements and
16 the Nation purchases the land pursuant to Land Management's Land Acquisition for Residential
17 Leasing Standard Operating Procedure. The buyer will then enter a HIP residential lease for the
18 land through the Comprehensive Housing Division.

19 1.1-2. *Authority.* The Leasing Law section 602.5-1 delegates rulemaking authority to the
20 Comprehensive Housing Division and the Oneida Land Commission pursuant to the
21 Administrative Rulemaking law.

22

23 1.2. Adoption, Amendment and Repeal

24 1.2-1. This rule was adopted by the Comprehensive Housing Division and the Oneida Land
25 Commission in accordance with the procedures of the Administrative Rulemaking law.

26 1.2-2. This rule may be amended or repealed by the Comprehensive Housing Division and the
27 Oneida Land Commission and/or the Oneida Business Committee pursuant to the procedures set
28 out in the Administrative Rulemaking law.

29 1.2-3. Should a provision of this rule or the application thereof to any person or circumstances be
30 held as invalid, such invalidity shall not affect other provisions of this rule which are considered
31 to have legal force without the invalid portions.

32 1.2-4. In the event of a conflict between a provision of this rule and a provision of another rule,
33 internal policy, procedure, or other regulation; the provisions of this rule shall control.

34 1.2-5. This rule supersedes all prior rules, regulations, internal policies or other requirements
35 relating to entering a residential lease following simultaneous purchase of improvements by the
36 buyer and the land by the Nation.

37

38 1.3. Definitions

39 1.3-1. This section governs the definitions of words and phrases used within this rule. All
40 words not defined herein are to be used in their ordinary and everyday sense.

41 (a) "Buyer" means the potential lessee entering into the offer to purchase to purchase the
42 improvements.

43 (b) "Defect" means a condition that would have a significant adverse effect on the value
44 of the property; that would significantly impair the health or safety of future
45 occupants of the property; or that if not repaired, removed or replaced would
46 significantly shorten or adversely affect the expected normal life of the premises.

47 (c) "Improvement" means buildings, other structures, and associated infrastructure
48 attached to land.

- 49 (g) "Offer to Purchase" means the written contract made by the buyer, accepted by the
 50 seller and approved by the Nation in which the buyer agrees to purchase the
 51 improvements upon the land and the Nation agrees to purchase to land.
 52 (h) "Reservation" means all the property within the exterior boundaries of the
 53 Reservation of the Nation, as created pursuant to the 1838 Treaty with the Oneida 7
 54 Stat. 566, and any lands added thereto pursuant to federal law.
 55 (i) "Residential Lease" means the legal document issued by the Nation pursuant to its
 56 applicable leasing laws and rules which establishes a buyer's right to occupy Tribal
 57 land for residential purposes.
 58 (j) "Survey" means the measurement of the boundaries of land and its area. A survey
 59 will reveal building setbacks as well as any encroachments.
 60 (k) "Tax Assessed Value" means the value the local taxing authority uses to distinguish
 61 the value of the land from the improvements.
 62 (l) "Total Purchase Price" means the total amount offered to the seller for the acquisition
 63 of the improvements and the land.
 64 (m) "Tribal Fee Land" means land held in fee status by the Nation.
 65 (n) "Tribal Trust Land" means the surface estate of land or any interest therein held by
 66 the United States in trust for the Nation; land held by the Nation subject to federal
 67 restrictions against alienation or encumbrance; land reserved for federal purposes;
 68 and/or land held by the United States in trust for the Nation under Section 17 of the
 69 Indian Reorganization Act, 25 U.S.C §477, et. seq.
 70

71 **1.4. General**

72 1.4-1. *Program Education.* CHD shall make these rules and all relevant educational pieces and
 73 required paperwork available electronically on its website and in hard-copy format at their
 74 respective offices..

75 1.4-2. *Subject to Available Funding.* All offers submitted to the Nation are subject to the
 76 Nation's available funding with all purchases taking place pursuant to Land Management's Land
 77 Acquisition for Residential Leasing Standard Operating Procedure.

78 1.4-3. *Nation Determines Defects.* The Nation reserves the sole right to determine whether
 79 defects exist in relation to the contingencies related to the title commitment, survey and
 80 environmental investigation required under Land Management's Land Acquisition for
 81 Residential Leasing Standard Operating Procedure.

82 1.4-4. *Real Estate Taxes.* All homeowners, upon signing a residential lease, will be responsible
 83 for all taxes assessed against the improvements. The homeowner's real estate tax payment shall
 84 be the percentage of the total assessed taxes equal to the assessed value of the improvements
 85 divided by the assessed value of the improvements and the land combined plus any municipal
 86 fees and/or special assessments. If/when the property converts from tribal fee land to tribal trust
 87 land, the homeowner will have no tax responsibility for the improvements.

88 1.4-5. *Increased Lease Fee for Non-Tribal Members.* If there is no tribal member party on the
 89 residential lease at the time it is entered, the lessee shall pay an increased annual residential lease
 90 fee equal the amount of taxes assessed against the land plus any municipal fees and/or special
 91 assessments. If/when the property converts from tribal fee land to tribal trust land, the lessee's
 92 annual residential lease fee will be held at the prior year's rate for the remaining duration of the
 93 lease.

94 1.4-6. *Financing.* In the event a loan is required for the improvements, homeowners may secure

95 said financing from Bay Bank or the Comprehensive Housing Division Finance Department,
 96 provided that any financing secured from the Comprehensive Housing Division is subject the
 97 Mortgage and Foreclosure law and any accompanying rules.

98 1.4-7. *HIP Program E-Mail Address and Shared Drive.* Comprehensive Housing Division shall
 99 work with the Nation's MIS Department to establish a HIP Program e-mail, which shall be
 100 available to accept all required submittals electronically, and a shared drive so that HIP Program
 101 documents may be jointly accessed by the Comprehensive Housing Division and Land
 102 Management. The Comprehensive Housing Division Residential Leasing Specialist shall be the
 103 HIP point of contact and the administrator of the shared HIP Program e-mail and shall be the
 104 only party to respond to buyer e-mails, except that the Acquisition Manager is authorized to
 105 respond to offers to purchase that require an immediate response outside of business hours in
 106 accordance with section 1.7-5.

107

108 **1.5. Eligible Buyers**

109 1.5-1. In order to be eligible to participate in the HIP Program, the buyer must:

110 (a) Have adequate funds available for the purchase of the improvements or be able to
 111 secure financing, including any required down payments, provided that the total
 112 purchase price after the tax assessed value of the land is deducted may not exceed
 113 \$250,000 the maximum value for improvements which shall be determined by the
 114 Oneida Land Commission on an annual basis each fiscal year; and

115 (b) Be eligible to enter a residential lease with the Oneida Nation based on the Leasing
 116 law and any applicable residential leasing rules.

117

118 **1.6. Eligible Properties**

119 1.6-1. In order for a property to be eligible for an offer to purchase pursuant to the HIP
 120 Program, it must comply with the requirements of Land Management's Land Acquisition for
 121 Residential Leasing Standard Operating Procedure.

122

123 **1.7. Required Process**

124 1.7-1. *Residential Lease Application.* In order to initiate the HIP process, the buyer shall
 125 complete an Oneida residential lease application with either the Residential Leasing Specialist or
 126 the lender, which shall include notice of process provisions related to this program.

127 1.7-2. *Pre-approval.* Once the Oneida residential lease application is complete, the buyer shall
 128 request a certificate of pre-approval from Bay Bank and/or the Comprehensive Housing Division
 129 Finance Department which expires within one hundred twenty (120) days and provides the
 130 maximum amount of financing available towards a home purchase. The lender shall provide a
 131 copy of the pre-approval to the Residential Leasing Specialist.

132 1.7-3. *Real Estate Agent Representation Optional.* Upon receipt of a certificate of pre-approval,
 133 the buyer may choose to be represented by a real estate agent, but representation is not required.
 134 The buyer may request a list of real estate agents familiar with the HIP Program from the
 135 Residential Leasing Specialist. The Acquisition Manager shall maintain said list based on the
 136 real estate agents that have completed the training pursuant to Land Management's Land
 137 Acquisition for Residential Leasing Standard Operating Procedure and shall provide updated
 138 lists to the Residential Leasing Specialist as needed.

139 1.7-4. If the buyer finds a potentially eligible property they would like to purchase, the buyer
 140 shall make an offer to purchase to the seller using the offer to purchase form available with

141 Comprehensive Housing Division. The Nation may not assist buyers in making and/or
 142 negotiating an offer to purchase.

143 (a) The offer to purchase form available with the Comprehensive Housing Division must,
 144 at a minimum, contain contingencies relating to:

145 (1) The real estate condition report in the format required by Wisconsin law;

146 ~~(2) The home inspection, which is an examination of the improvements'
 147 construction, condition and internal systems to establish the structural and
 148 mechanical integrity completed by certified home inspector.~~

149 ~~(3)~~(2) The environmental inspection, which must be completed by the Nation at
 150 the Nation's expense;

151 ~~(4)~~(3) The title commitment, which is the document by which a title insurer
 152 discloses to all interested parties the liens, defects, burdens and obligations
 153 that affect the subject property;

154 ~~(5)~~(4) The survey or plat map, which provides the measurement of the
 155 boundaries of land and its area and reveals building setbacks as well as any
 156 encroachments, provided that, survey may be completed using the Nation's
 157 vendor to be completed within 21 calendar days of receipt of an accepted offer
 158 to purchase;

159 ~~(6)~~(5) If the property is on a septic system, the septic system inspection;

160 ~~(7)~~(6) If the property is served by a well, the well water testing, which must
 161 analyze the water's bacteria and nitrate levels, and, if in Outagamie County,
 162 the arsenic levels, to determine whether the water is safe for human
 163 consumption;

164 ~~(8)~~(7) If the property is served by a well, the well system inspection, which
 165 reveals information such as the well depth, date of construction, protective
 166 clay layers, drilling stipulations;

167 ~~(9)~~(8) The closing papers and costs; and

168 ~~(10)~~(9) The requirement that the Oneida Land Commission approve any
 169 residential lease which does not include a Tribal member party.

170 (b) All terms of the offer to purchase are non-negotiable with the exception of the
 171 following:

172 (1) Whether the buyer or seller is responsible for paying for the reports and forms
 173 required by the contingencies, except the environmental report, which is the
 174 responsibility of the Nation;

175 (2) The closing date, provided that, it must be a minimum of sixty (60) calendar
 176 days from the date the offer is accepted by all required approving parties
 177 unless an alternative closing date is agreed upon by all parties;

178 (3) The purchase price for the improvements; the purchase price of the land must
 179 be determined by the tax assessed value of the land;

180 (4) The items included in the purchase price;

181 (5) The amount of the earnest money; and

182 (6) The closing prorations.

183 1.7-5. *Nation's Approval.* If the buyer makes an offer to purchase that is accepted by the seller,
 184 the buyer shall present the accepted offer to purchase to the Leasing Specialist within five (5)
 185 calendar days from the date of acceptance; this initiates the Nation's approval process.

186 (a) Immediately upon receipt of an accepted offer, the Residential Leasing Specialist

- 187 shall:
- 188 (1) Forward the offer to purchase to the Acquisition Manager along with the
- 189 buyer's pre-approval and residential lease application;
- 190 (2) If the offer to purchase is not submitted with the Land History Questionnaire
- 191 and/or the Real Estate Condition Report, provide notice to the buyer that said
- 192 documents must be submitted to the Comprehensive Housing Division within
- 193 five (5) business days from the date the offer to purchase is submitted – when
- 194 received, the Leasing Specialist shall immediately forward said documents to
- 195 the Acquisition Manager; and
- 196 (3) Notice the buyer that the survey is due to the Comprehensive Housing
- 197 Division no later than twenty (20) calendar days prior to closing. Immediately
- 198 upon receipt of a survey from the buyer, the Leasing Specialist shall forward
- 199 the survey to the Acquisition Manager.
- 200 (b) Upon receipt of an accepted offer, the Acquisition Manager shall:
- 201 (1) Notify the Residential Leasing Specialist of any time acquisition funds are
- 202 depleted or near depletion.
- 203 (2) Do all checks required under Land Management's Land Acquisition for
- 204 Residential Leasing Standard Operating Procedure to determine if the
- 205 property is eligible and notify the Residential Leasing Specialist if there are
- 206 any defects to title that would make the homeowner or their property
- 207 ineligible pursuant to Land Management's Land Acquisition for Residential
- 208 Leasing Standard Operating Procedure.
- 209 (3) If the property is determined to be eligible sign the offer to purchase on behalf
- 210 of the Nation and forward to the Residential Leasing Specialist, provided that
- 211 prior to signing, the Acquisition Manager shall obtain any Land Commission
- 212 approvals required under Land Management's Land Acquisition for
- 213 Residential Leasing Standard Operating Procedure.
- 214 (c) Upon receipt of an offer to purchase signed by the Nation, the Residential Leasing
- 215 Specialist shall:
- 216 (1) Forward the offer to purchase received from the Acquisition Manager to the
- 217 homeowner and the lender; and
- 218 (2) Obtain any Oneida Land Commission approvals required in order to enter a
- 219 residential lease with the buyer (i.e. if there is not a Tribal member included as
- 220 a party to the residential lease).
- 221 (d) If, subsequent to signing the offer to purchase, the Nation has a concern related to the
- 222 contingencies, the Acquisition Manager or their designee shall work with relevant
- 223 parties to resolve the issue and shall immediately notify the Residential Leasing
- 224 Specialist and the lender of the issue and provide instructions as whether and how the
- 225 issue may be corrected so that the information is able to be communicated to the
- 226 buyer and eligibility is able to be confirmed in accordance with Land Management's
- 227 Land Acquisition for Residential Leasing Standard Operating Procedure.
- 228 1.7-6. *Pre-Closing.* The lender shall notify the buyer, the Residential Leasing Specialist and the
- 229 Acquisition Manager of the date, time and location of the closing. If Bay Bank is providing
- 230 financing, then upon receipt of closing date, the Residential Leasing Specialist shall forward
- 231 information, including the closing date, to the Senior Loan Officer to create an assignment of
- 232 lease for financing using the closing date as the effective date. The Senior Loan Officer shall

233 provide the assignment of lease for financing to the Residential Leasing Specialist prior to the
 234 closing date.

235 1.7-7. *Land Commission Approval.* Land Commission approval is deemed granted based on
 236 approval of this rule and is not required for each purchase except as specifically noted in the
 237 Residential Leasing Rule or Land Management's Land Acquisition for Residential Leasing
 238 Standard Operating Procedure.

239 1.7-8. *Closing.* Closing responsibilities are distributed as follows:

- 240 (a) The Acquisition Manager shall attend closing and:
- 241 (1) Bring the check for the value of the land to the closing;
- 242 (2) Bring any other documents required by the Nation to the closing, which may
 243 include affidavits; and
- 244 (3) Sign closing documents on behalf of the Nation.
- 245 (b) The Residential Leasing Specialist shall attend closing and:
- 246 (1) Bring the residential lease documents that have been signed on behalf of the
 247 Nation to the closing; and
- 248 (2) If Bay Bank is providing financing, bring the assignments of lease for
 249 financing that has been signed on behalf of the Nation to the closing.
- 250 (c) The homeowner shall sign the following documents at the closing:
- 251 (1) Any applicable loan documents;
- 252 (2) Closing statements;
- 253 (3) The three (3) original residential leases;
- 254 (4) If applicable, the assignment of lease for financing; and
- 255 (5) Any other required documents.
- 256 (d) The lender shall bring the following to the closing:
- 257 (1) The loan documents and any other bank required documents; and
- 258 (2) Closing statements for the improvements.
- 259 (e) Bay Title shall bring the following to the closing:
- 260 (1) Closing statements for the land and improvements;
- 261 (2) The deed; and
- 262 (3) Any other required documents.

263 1.7-9. *Post-Closing.*

- 264 (a) If Bay Bank is the lender, post-closing responsibilities are distributed as follows:
- 265 (1) Bay Bank shall:
- 266 (A) Provide Bay Title with the mortgage, the assignment of lease for
 267 financing and an original residential lease;
- 268 (B) Ensure that Bay Title recorded the mortgage and the assignment of
 269 lease for financing; and
- 270 (C) Provide the original recorded mortgage and assignment of lease for
 271 financing to the Comprehensive Housing Division's Finance
 272 Department.
- 273 (2) The Acquisition Manager shall:
- 274 (A) Ensure that Bay Title provided a final title policy include said policy in
 275 the Land Management file;
- 276 (B) Ensure that Bay Title complied with Wisconsin's electronic transfer
 277 return requirements;
- 278 (C) Ensure that Bay Title recorded the deed with the county register of

- 279 deeds and once received, record the county recorded deed with the
 280 Oneida Nation Register of Deed;
- 281 (3) The Comprehensive Housing Division shall:
- 282 (A) Once all the original recorded documents have been received, record
 283 the following with the Oneida Nation Register of Deeds:
- 284 (1) The residential lease;
- 285 (2) If applicable, the mortgage; and
- 286 (3) If applicable, the assignment of lease for financing.
- 287 (B) Return the original mortgage and assignment of lease for financing to
 288 Bay Bank once they have been recorded with the Oneida Nation
 289 Register of Deeds.
- 290 (b) If the Comprehensive Housing Division Finance Department is the lender, post-
 291 closing responsibilities are distributed as follows:
- 292 (1) The Acquisition Manager shall:
- 293 (A) Ensure that Bay Title provided a final title policy include said policy in
 294 the Land Management file;
- 295 (B) Ensure that Bay Title complied with Wisconsin's electronic transfer
 296 return requirements;
- 297 (C) Ensure that Bay Title recorded the deed with the county register of
 298 deeds and once received, record the county recorded deed with the
 299 Oneida Nation Register of Deed;
- 300 (2) The Comprehensive Housing Division shall record the following with the
 301 Oneida Nation Register of Deeds:
- 302 (A) The residential lease; and
- 303 (B) The mortgage.

304 *End.*

306 Original effective date: 02-22-2016
 307 Amendment effective date: 10-21-2021

308

309

ONEIDA TRIBE OF WISCONSIN REAL PROPERTY RULES	TITLE: Land Acquisition through Land Management for Residential Leasing	SOP NO. 67 DATE: February 2016
DIVISION: Environmental, Health, Safety, Land & Agriculture	APPROVED BY: <i>10-26-2021</i> <i>Nicole Rommel</i> Director	DATE: 06-14-2021
AUTHOR: Nicole Rommel	APPROVED BY: Land Commission	DATE: 06-14-2021
PAGE NO:1	REVIEWED BY: <i>Oneida Law Office/LRO</i>	DATE:

I. PURPOSE AND POLICY

1-1. Purpose. The purpose of the Homeownership by Independent Purchase (HIP) Program is to expand the services being offered to Tribal Member's by providing a program in which the Tribal Member Buyer initiates a purchase in which the Buyer purchases the Improvements and the Tribe purchases the land. These rules are developed pursuant to Real Property Law, which requires all transactions adding property to the Tribal land base be administered through the Division of Land Management (DOLM).

1-2. Policy. The policy behind the HIP Program is to increase Tribal Member homeownership and the land base available for the fee-to-trust process while simultaneously affording Tribal Members greater independence in the purchase process by requiring the Buyer to negotiate the purchase offer independent of the Tribe.

II. DEFINITIONS

2-1. This Article governs the definitions of words and phrases used within these rules. All words not defined in herein are to be used in their ordinary and everyday sense.

- (a) "Buyer" means the Tribal Member entering into the Offer to Purchase.
- (b) "Defect" means a condition that would have a significant adverse effect on the value of the property; that would significantly impair the health or safety of future occupants of the property; or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises.
- (c) "Improvement" means buildings, other structures, and associated infrastructure attached to land.
- (c) "Offer to Purchase" means the written contract made by the Buyer, accepted by the seller and approved by the Tribe in which the Buyer agrees to purchase the Improvements upon the land and the Tribe agrees to purchase to land.

- (d) "Reservation" means all the property within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.
- (e) "Residential Lease" means the legal document issued by the Tribe pursuant to its applicable leasing laws and rules which establishes a Buyer's right to occupy Tribal Land for residential purposes.
- (f) "Tax Assessed Value" means the value the local taxing authority uses to distinguish the value of the land from the Improvements.
- (g) "Tribe" or "Tribal" means the Oneida Tribe of Indians of Wisconsin.
- (h) "Tribal Member" means an individual who is an enrolled member of the Tribe.

III. GENERAL

- 3-1. Program Education. DOLM shall make these rules and all relevant educational pieces and required paperwork available electronically on its website and in hard-copy format at its office.
- 3-2. Subject to Available Funding. All offers submitted to the Tribe are subject to the Tribe's available funding.
- 3-3. Tribe Determines Defects. The Tribe reserves the sole right to determine whether Defects exist in relation to the contingencies related to the title commitment, survey and environmental investigation required under 6-3(a)(4),(5) and (6).
- 3-4. Tribe's Acquisition Financial Responsibilities. The Tribe shall pay for the Tax Assessed Value of the Land and any costs associated with the environmental inspection required under 6-3(a)(4). All other costs are the responsibility of the Buyer and/or seller.
- 3-5. Real Estates Taxes.

IV. ELIGIBLE BUYERS

- 4-1. In order to be eligible to participate in the HIP Program, the Buyer must:
- (a) Be a Tribal Member;
 - (b) Be at eighteen (18) years of age or older;
 - (c) Have adequate funds available for the purchase of the Improvements or be able to secure financing from Bay Bank;
 - (d) Meet the minimum down payment requirements established by Bay Bank and HUD's guidelines; and
 - (e) Not currently be a party to an existing Residential Lease.

V. ELIGIBLE PROPERTIES

- 5-1. In order for a property to be eligible for an Offer to Purchase pursuant to the HIP Program, it:
- (a) Must be fee land located within Reservation;
 - (b) Must have a single family dwelling located on the property; vacant properties are not eligible for this program;
 - (c) Must be free of any and all environmental concerns to the satisfaction of the

Environmental Health and Safety Division;

(d) Must be free of any and all title defects to the satisfaction of the Oneida Law Office;

(e) May not require mortgage loan for the Improvements in excess of \$250,000; and

(f) May not have a Tax Assessed Value of greater than \$75,000 for the land.

(g) May not have restrictive covenants which would prevent the Tribe from having the land taken into trust status. Subdivisions which may have such restrictive covenants include, but are not limited to: Thornberry Creek subdivisions, Tailwinds, Centennial Centre, and Polo Point.

VI. REQUIRED PROCESS

6-1. Pre-Qualification from Bay Bank. In order to initiate the HIP process, the Buyer shall request a certificate of pre-qualification from Bay Bank which will provide the maximum amount of financing that Bay Bank is willing to offer towards a home purchase.

6-2. Real Estate Agent Representation Optional. Upon receipt of a certificate of pre-qualification from Bay Bank, the Buyer may choose to be represented by a real estate, but representation is not required. The Buyer may request a list of real estate agents familiar with the HIP Program from DOLM. DOLM shall maintain said list based on the real estate agents that have completed HIP Program training.

6-3. If the Buyer finds a potentially eligible property they would like to purchase, the Buyer shall make an Offer to Purchase to the seller using the Offer to Purchase form available with DOLM. The Tribe may not assist Buyers in making and/or negotiating an Offer to Purchase.

(a) The Offer to Purchase form available with DOLM must, at a minimum, contain contingencies relating to:

- (1) The real estate condition report in the format required by Wisconsin law;
- (2) The appraisal, which is a valuation or an estimation of value of property completed by a disinterested person of suitable qualifications;
- (3) The home inspection, which is an examination of the Improvements' construction, condition and internal systems to establish the structural and mechanical integrity completed by certified home inspector.
- (4) The environmental inspection, which must be completed by the Tribe at the Tribe's expense;
- (5) The title commitment, which is the document by which a title insurer discloses to all interested parties the liens, defects, burdens and obligations that affect the subject property;
- (6) The survey or plat map, which provides the measurement of the boundaries of land and its area and reveals building setbacks as well as any encroachments;
- (7) If the property is on a septic system, the septic system inspection;
- (8) If the property is served by a well, the well water testing, which must analyze the water's bacteria and nitrate levels, and, if in Outagamie County, the arsenic levels, to determine whether the water is safe for human consumption;
- (9) If the property is served by a well, the well system inspection, which reveals information such as the well depth, date of construction, protective clay layers, drilling stipulations; and

- (10) The closing papers and costs.
- (b) All terms of the Offer to Purchase are non-negotiable with the exception of the following:
- (1) Whether the Buyer or seller is responsible for paying for the reports and forms required by the contingencies, except the environmental report, which is the responsibility of the Tribe;
 - (2) The closing date, provided that it must be a minimum of forty-five (45) calendar days from the date the offer is accepted by all required approving parties;
 - (3) The purchase price for the Improvements; the purchase price of the land must be determined by the Tax Assessed Value of the land;
 - (4) The items included in the purchase price;
 - (5) The amount of the earnest money; and
 - (6) The closing prorations.

6-4. DOLM Approval. If the Buyer makes an Offer to Purchase that is accepted by the seller, the Buyer shall present the accepted Offer to Purchase to DOLM within five (5) calendar days from the date of acceptance; this initiates DOLM's approval process. If the Offer to Purchase does not meet any of the following requirements for DOLM approval, DOLM or its designee shall notify the Buyer of the issue and provide instructions as to whether the issue may be corrected and, if so, how the issue may be corrected.

- (a) DOLM shall verify the Tax Assessed Value of the land.
- (b) If the Tax Assessed Value of the land is correct, DOLM shall provide the property location to the GLIS department, which shall verify whether the property is within the Reservation.
- (c) All information related to the contingencies must be provided to DOLM and, upon receipt, DOLM shall forward the environmental inspection, the title commitment and the survey to the Oneida Law Office.
- (d) The Oneida Law Office shall determine whether any Defects exist related to the environmental inspection, the title commitment and/or the survey.
- (e) If no Defects exist, or if they have been resolved, and if all contingencies are satisfied, DOLM shall notify the Accounting Department and the Buyer to prepare funds for the closing.
- (f) The Buyer shall notify DOLM of the date, time and location of the closing.

6-5. Pre-Closing. Prior to the closing date, the Residential Leasing Specialist and DOLM's financing department shall obtain all required approvals and applicable signatures for the Residential Lease and the Assignment of Lease for financing respectively.

6-6. Closing. The Acquisition Manager shall attend the closing on behalf of the Tribe and shall bring a check for the amount of the Tax Assessed Value of the land, the Residential Lease that has been signed on behalf of the Tribe, and the Assignment of Lease for financing that has been signed on behalf of the Tribe. The Acquisition Manager shall sign the closing statement on behalf of the Tribe. At the closing, the required parties shall sign all required documents, including, but not limited to, the following:

- (a) The deed;
- (b) The mortgage document and all documents required by Bay Bank and the title

company;

(c) The Residential Lease;

(d) The Assignment of Lease for financing;

(e) The closing statements for the land and Improvements; and

(f) Any required affidavits.

6-7. Post-Closing. Following the closing, DOLM shall ensure that the title company recorded the deed with the county register of deeds and that a final title policy was provided. When the deed comes back from being recorded at the county register, DOLM shall record the deed, the Residential Lease and the assignment of lease for financing with the Oneida Nation Register of Deeds.

March 2024

March 2024

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April 2024

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MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
Feb 26	27	28	29	Mar 1 3:00pm LOC Community Meeting Prep (Microsoft Teams Meeting; BC_Conf_Room) - Clorissa N. Leeman
4 1:30pm Investigative Leave Law Amendments (Microsoft Teams Meeting) - Grace L. Elliott	5 1:00pm Oneida Language Law Work Meeting (Microsoft Teams Meeting) - Clorissa N. Leeman	6 8:30am LOC Prep Meeting (Microsoft 9:00am Legislative Operating Committee 1:30pm LOC Work Session (Microsoft 5:30pm LOC Community Meeting (Norbert Hill	7	8
11	12	13	14	15
18	19	20 8:30am LOC Prep Meeting (Microsoft Teams Meeting; 9:00am Legislative Operating Committee Meeting (Microsoft 1:30pm LOC Work Session (Microsoft	21	22 9:00am Real Property Law Amendments (Microsoft Teams Meeting) - Grace L. Elliott
25	26	27	28 10:00am Draft Real Property law amendments (Microsoft Teams 1:30pm LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Leeman	29