



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA
Business Committee Conference Room - 2nd Floor Norbert Hill Center
June 5, 2024
9:00 a.m.

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

- II. Minutes to be Approved**
 - 1. May 15, 2024 LOC Meeting Minutes (pg. 2)

- III. Current Business**
 - 1. Back Pay Law Amendments (pg. 4)
 - 2. Vehicle Driver Certification and Fleet Management Amendments (pg. 21)
 - 3. Computer Resources Ordinance Amendments (pg. 40)

- IV. New Submissions**
 - 1. Oneida Life Insurance Plan Law Emergency Amendments (pg. 49)
 - 2. Uniform Commercial Code (pg. 50)

- V. Additions**

- VI. Administrative Updates**

- VII. Executive Session**

- VIII. Recess/Adjourn**



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
May 15, 2024
9:00 a.m.

Present: Jameson Wilson, Jonas Hill, Marlon Skenandore

Excused: Kirby Metoxen, Jennifer Webster

Others Present: Clorissa N. Leeman, Grace Elliott, Ralinda Ninham-Lamberies, Janice Decorah

Others Present on Microsoft Teams: David P. Jordan, Eric Boulanger, Evan Doxtator, Fawn Cottrell, Matthew Denny, Nicole Rommel, Connor Kestell, Justin Nishimoto, Carolyn Salutz, Maureen Perkins, Peggy Helm-Quest, Sidney White, Katsitsiyo Danforth, Donna Smith, Lisa Moore, Kristal Hill, Peggy Van Gheem, Shane Hill, Mark Powless, Rae Skenandore, Derrick King, Todd Vanden Heuvel

I. Call to Order and Approval of the Agenda

Jameson Wilson called the May 15, 2024, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jonas Hill to approve the agenda; seconded by Marlon Skenandore. Motion carried unanimously.

II. Minutes to be Approved

1. May 1, 2024 LOC Meeting Minutes

Motion by Jonas Hill to approve the May 1, 2024, LOC meeting minutes and forward to the Oneida Business Committee; seconded by Marlon Skenandore. Motion carried unanimously.

III. Current Business

1. Oneida Land Trust Law

Motion by Marlon Skenandore to remove the Oneida Land Trust law from the Active Files List; seconded by Jonas Hill. Motion carried unanimously.

2. Investigative Leave Policy Amendments

Motion by Jonas Hill to approve the draft of the Investigative Leave Policy amendments and direct that a legislative analysis be developed; seconded by Marlon Skenandore. Motion carried unanimously.



3. Petition: C. Kestell - Address Housing Issues/Veterans Home Loan Program

Motion by Jonas Hill to accept the statement of effect for the Petition C. Kestell: Address Housing Issues/Veterans Home Loan Program and forward to the Oneida Business Committee; seconded by Marlon Skenandore. Motion carried unanimously.

IV. New Submissions

1. Computer Resource Ordinance Amendments

Motion by Jonas Hill to add the Computer Resource Ordinance amendments to the Active Files List with Jameson Wilson as the sponsor; seconded by Marlon Skenandore. Motion carried unanimously.

2. Vehicle Driver Certification and Fleet Management Law Amendments

Motion by Marlon Skenandore to add the Vehicle Driver Certification and Fleet Management 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. Change to the Bylaws Amendment Process and Removal of Bylaws from the Active Files List

Motion by Marlon Skenandore to approve the memorandum entitled, Change in the Bylaws Amendment Process, and forward to all boards, committees, and commissions of the Nation; seconded by Jonas Hill. Motion carried unanimously.

Motion by Jonas Hill to Remove the Finance Committee, SEOTS, Pardon and Forgiveness Screening Committee, Oneida Election Board, Oneida Nation Commission on Aging, Oneida Nation School Board, Oneida Nation Veteran's Affairs Committee, Oneida Personnel Commission, and the Oneida Trust Enrollment Committee Bylaws Amendments from the Active Files List; seconded by Marlon Skenandore. Motion carried unanimously.

VII. Executive Session

VIII. Adjourn

Motion by Marlon Skenandore to adjourn at 9:40 a.m.; seconded by Jonas Hill. Motion carried unanimously.



Legislative Operating Committee
June 5, 2024

Back Pay Law Amendments

Submission Date: 9/21/22	Public Meeting: 12/13/22 04/12/24
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.
- 3/6/24 LOC:** Motion by Jennifer Webster to 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; seconded by Jonas Hill. Motion carried unanimously.
- 4/12/24:** *Public Meeting Held.* Present: Jonas Hill, Marlon Skenandore, Jameson Wilson, Clorissa Leeman, Brooke Doxtator, Maureen Perkins, Cathy Metoxen, Peggy Helm-Quest, Justin Nishimoto, Racquel Hill, Kristin Jorgenson-Dann, Michelle Tipple, Brenda Haen. One (1) person provided public comment during this public meeting.
- 4/19/24:** *Public Comment Period Closed.* No individuals provided written comments during the public comment period.

Next Steps:

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

TO: Legislative Operating Committee (LOC)
 FROM: Clorissa N. Leeman, Legislative Reference Office, Senior Staff Attorney
 DATE: June 5, 2024
 RE: Back Pay Law Amendments: Public Comment Review



On April 12, 2024, a public meeting was held regarding the proposed amendments to the Back Pay law (“the Law”). The public comment period was then held open until April 19, 2024. This memorandum is submitted as a review of the comments received during the public comment period. The public meeting draft and public meeting transcript are attached to this memorandum for review. No written comments were received during the public comment period.

Comment 1 – Eliminating a Position:

206.4. Holding a Position Pending Appeals and Reinstatement

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

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

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

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

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

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

Cathy Metoxen (oral): Cathy Metoxen. Anything else? Is this for looks or for real? That's my first question. My second question is if it hasn't been followed in the past, what's gonna be umm enforced for the future? Umm. Depending on who the person may be, you know you can eliminate their position. That looks like you know, and it kind of looks like to me. If somebody doesn't like somebody, you know, we'll just we can't hire her back. So we will eliminate the position and create something so they can come back. They got nothing to come back to, so that's the way the little bit that I've seen in the last five minutes. That's what I jump. So is. That's what I'm seeing.

So I gotta say, what's real and what's not. You know what's gonna be taken seriously? Because nothing seems to be taken seriously, there's no teeth and I've been looking for teeth in a in stuff for a long time so. If somebody wins their case, they're entitled to their back pay. Now I know people who won their cases and never got, and maybe they just didn't like them, you know? And and that's what's frustrating and tiring. And that's what I look for and that's what I'm kind of seeing in this little bit that I looked at. I'd have to read it more closely, but that's the first thing I think of is what stands out is to see positions can be eliminated and then, umm.

Well, I'd like to see people get treated fairly across the board and forget about nepotism and favoritism. And you know who gets drunk or sober or whatever with each other. You know, instead of owing favors and such, you know, and taking care of your own and all of this kind of stuff, because whether you like it or not, it's there. Whether anybody likes to hear it or not, it's there and it happens and you hear about it all the time and the ordinary person sitting on a bar stool can understand what's being said. The ordinary person, but not the, sometimes not the highly educated, you know, and preferred people. I call them, usually the elite. But that's my, my concern and I have a reason for that, but we don't have time for that and because it's not fair and a lot of times when you hear people talk, they talk about the fairness of things and that's why I come up here and I say is this real or is this just, you know, for looks because that's what I wonder about. You know it's just an example.

That those are my concerns is now you got something in writing here where you can eliminate the position it looks like. And like I said, I read it in five (5) minutes, I gotta read it all over again and get better understanding of it, but I think what I'm seeing is, uh, you're creating a lot to benefit who. To benefit specifically for a reason, and if you don't like so, Joe at over at HRD, then eliminate the position and then we'll create a different position and we'll put somebody we want in there because that kind of seems like the way it goes sometimes it just appears that way and that's that's all I'm saying is that's where you got to get teeth. And and if you're going to say you're going to do something, if somebody's been sexually harassed, you know for so many years and then they got to go through a process that carries out for four (4) years and then they win their case, but then they say, oh, we don't have to pay you back pay, we're just going to eliminate your position.

Fairness across the board, and let's be real.

You might not like what I say, or what somebody else might say, but everything can't be positive. I heard that this morning everything can't be positive. Never.

There's always something someplace, and this is just an example.

Response

Overall, the commenter expresses the concern that the law be implemented in a manner that is fair for all persons, particularly regarding how positions are eliminated. The commenter also expressed concerns regarding the enforcement of this law.

In regard to concerns on a fair application of eliminating positions, the Back Pay law provides protections to ensure when an employee position may be eliminated pending an appeal. When an employee is involuntarily separated and then appeals their involuntary separation, the disciplining supervisor may only fill the employee's former position with an interim or temporary employee until the appeal has fully run its course, which includes any appeal timelines to the area manager, the Trial Court, or the Appellate Court. [2 O.C. 206.4-1]. A supervisor or business unit is only allowed to amend the affected position description or eliminate the affected position while an employment appeal is pending to respond to extreme financial distress that could negatively impact the Nation. [2 O.C. 206.4-2]. Extreme financial distress is defined as a situation in which an entity cannot generate sufficient revenues or income, making it unable to meet or pay its financial obligations, due to situations including, but is not limited to natural or human-made disasters; United States Government shutdown; emergency proclamations; and economic downturn. [2 O.C. 206.3-1(g)]. When conditions of extreme financial distress that may negatively impact the Nation exist, the determination to amend an affected position description or eliminate an affected position is still required to be approved by the Human Resources Executive Director and either the General Manager, Gaming General Manager, Retail General Manager; or the highest position in the employee's chain of command for non-divisional employees. [2 O.C. 206.4-2(a)]. If an employee's appeal of an involuntary separation result in the involuntary separation being overturned, the reviewing party shall order the employee be reinstated to the position from which the employee was involuntarily separated. [2 O.C. 206.4-3]. If the position the employee was involuntarily separated from has been eliminated, or the employee is no longer eligible for the position based on amendments to the position description, the order to reinstate is deemed satisfied and the back pay end date is calculated as the date of the reviewing party's decision. [2 O.C. 206.4-3(a)].

In regard to concerns of enforcement of the Back Pay law, the Law provides that an employee who does not receive back pay in accordance with the back pay agreement may seek enforcement by the Judiciary. [2 O.C. 206.6-4].

The proposed amendments to the Back Pay law adequately address the concerns shared by the commenter. There are no recommended revisions based on this comment.

LOC Consideration

Title 2. Employment – Chapter 206

~~BACK PAY~~

Tashakotikályahke? kayanl/hsla?

back pay law

BACK PAY AND REINSTATEMENT

~~206.1. Purpose and Policy~~

~~206.2. Adoption, Amendment, Appeal~~

~~206.3. Definitions~~

~~206.4. Back Pay Calculation~~

~~206.5. Back Pay Process~~

~~206.1. Purpose and Policy~~

~~206.2. Adoption, Amendment, Appeal~~

~~206.3. Definitions~~

~~206.4. 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- - - -



**LEGISLATIVE OPERATING COMMITTEE
PUBLIC MEETING**

Back Pay Law Amendments

Norbert Hill Center Business Committee Conference Room and Microsoft Teams

April 12, 2024

12:15 p.m.

Present: Jonas Hill, Marlon Skenandore, Jameson Wilson (Microsoft Teams), Clorissa Leeman, Brooke Doxtator, Maureen Perkins, Cathy Metoxen, Peggy Helm-Quest (Microsoft Teams), Justin Nishimoto (Microsoft Teams), Racquel Hill (Microsoft Teams), Kristin Jorgenson-Dann (Microsoft Teams), Michelle Tipple (Microsoft Teams), Brenda Haen (Microsoft Teams).

Jonas Hill: Good Afternoon. The time is 12:15 p.m. and today's date is Friday, April 12, 2024. I will now call to order the public meeting for the proposed amendments to the Back Pay Law.

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

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

Additionally, written comments may be submitted to the Nation's Secretary's Office or to the Legislative Reference Office in person, by U.S. mail, interoffice mail, e-mail, or fax as provided on the public meeting notice. These comments must be received by close of business on Friday, April 19, 2024.

In attendance from the LOC is LOC member Marlon Skenandore, myself, Jonas Hill.

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

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

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.

Those who wish to speak please raise your hand. Please state your name when making a comment. First to speak, oh excuse me, we have LOC chair Jameson Wilson online, I forgot to mention that. Apologize for that.

Alright, so would you like to start Cathy, or give you a few seconds?

Cathy Metoxen: *[inaudible response]*

Jonas Hill: Okay, is there anybody online that would like to make a comment? And if there are some of you that may have just added online, if you would like to speak raise your hand. Alright.

Cathy Metoxen: I'll see what I can do in a couple minutes here.

Jonas Hill: Please state your name please and then start your comment.

Cathy Metoxen: Cathy Metoxen. Anything else? Is this for looks or for real? That's my first question. My second question is if it hasn't been followed in the past, what's gonna be umm enforced for the future? Umm. Depending on who the person may be, you know you can eliminate their position. That looks like you know, and it kind of looks like to me. If somebody doesn't like somebody, you know, we'll just we can't hire her back. So we will eliminate the position and create

something so they can come back. They got nothing to come back to, so that's the way the little bit that I've seen in the last five minutes. That's what I jump. So is. That's what I'm seeing.

So I gotta say, what's real and what's not. You know what's gonna be taken seriously? Because nothing seems to be taken seriously, there's no teeth and I've been looking for teeth in a in stuff for a long time so. If somebody wins their case, they're entitled to their back pay. Now I know people who won their cases and never got, and maybe they just didn't like them, you know? And and that's what's frustrating and tiring. And that's what I look for and that's what I'm kind of seeing in this little bit that I looked at. I'd have to read it more closely, but that's the first thing I think of is what stands out is to see positions can be eliminated and then, umm.

Jonas Hill: So just for some clarification, because we're not answering any questions. If you could clarify your comment to how or what you would like to see then in the law.

Cathy Metoxen: Well, I'd like to see people get treated fairly across the board and forget about nepotism and favoritism. And you know who gets drunk or sober or whatever with each other. You know, instead of owing favors and such, you know, and taking care of your own and all of this kind of stuff, because whether you like it or not, it's there. Whether anybody likes to hear it or not, it's there and it happens and you hear about it all the time and the ordinary person sitting on a bar stool can understand what's being said. The ordinary person, but not the, sometimes not the highly educated, you know, and preferred people. I call them, usually the elite. But that's my, my concern and I have a reason for that, but we don't have time for that and because it's not fair and a lot of times when you hear people talk, they talk about the fairness of things and that's why I come up here and I say is this real or is this just, you know, for looks because that's what I wonder about. You know it's just an example.

That those are my concerns is now you got something in writing here where you can eliminate the position it looks like. And like I said, I read it in five (5) minutes, I gotta read it all over again and get better understanding of it, but I think what I'm seeing is, uh, you're creating a lot to benefit who. To benefit specifically for a reason, and if you don't like so, Joe at over at HRD, then eliminate the position and then we'll create a different position and we'll put somebody we want in there because that kind of seems like the way it goes sometimes it just appears that way and that's that's all I'm saying is that's where you got to get teeth. And and if you're going to say you're going to do something, if somebody's been sexually harassed, you know for so many years and then they got to go through a process that carries out for four (4) years and then they win their case, but then they say, oh, we don't have to pay you back pay, we're just going to eliminate your position.

Jonas Hill: So aside from the story, what, uhh, what kind of comment can you produce to us that would help Maybe uhh..

Cathy Metoxen: Fairness across the board, and let's be real.

Jonas Hill: Okay.

Cathy Metoxen: You might not like what I say, or what somebody else might say, but everything can't be positive. I heard that this morning everything can't be positive. Never.

Jonas Hill: Right.

Cathy Metoxen: There's always something someplace, and this is just an example.

Jonas Hill: And your five (5) minutes is up. Thank you. Cathy also, if you want to leave an email address on the sign in sheet, you have until Friday, April 19th at the end of the day at 4:30 p.m. to still submit some comments after further review.

Cathy Metoxen: *[inaudible response]*

Jonas Hill: You can submit it to the front GAO as well if you want. After further review of the law as well.

Alright. Is there anybody else for a comment? We're going to do last call. Anybody for a comment?

Alright, with there being no more speakers, the public meeting for the proposed amendments to the Back Pay Law is now closed at 12:28 p.m. written comments may be submitted until close of business on Friday, April 19, 2024.

Thank you and everybody have a great weekend.

-End of Meeting-



Legislative Operating Committee
June 5, 2024

Vehicle Driver Certification and Fleet Management Law Amendments

Submission Date: 5/15/24	Public Meeting: N/A
LOC Sponsor: Jameson Wilson	Emergency Enacted: N/A

Summary: *This item was added to the Active Files List on May 15, 2024, at the request of Ralinda Ninham-Lamberies, the Chief Financial Officer. Amendments are being sought to remove the word "purchase" and the responsibility from the Fleet Management Department. Finance has discovered that adding the requirement for the Fleet Manager to be involved in the purchasing process has led to unintended delays that can be avoided by reverting this responsibility back to the existing cap ex purchasing process.*

5/15/24 LOC: Motion by Marlon Skenandore to add the Vehicle Driver Certification and Fleet Management law amendments to the Active Files List with Jonas Hill as the sponsor; seconded by Jonas Hill. Motion carried unanimously.

5/30/24: *Work Meeting.* Present: Jameson Wilson, Kirby Metoxen, Jonas Hill, Jennifer Webster, Clorissa Leeman, Ralinda Ninham-Lamberies, Mark Powless, Wendy Alvarez, Shannon Stone, Chris Danforth, Fawn Cottrell, Kristal Hill, Maureen Perkins, Peggy Van Gheem. The purpose of this work meeting was to discuss the proposed amendment to section 210.6-1 of the law to remove the responsibility of the Fleet Management Department to purchase fleet vehicles in an effort to streamline the purchasing process, and to determine if any other amendments are needed to the Vehicle Driver Certification and Fleet Management law.

Next Steps:

- Approve the Vehicle Driver Certification and Fleet Management law amendments draft, legislative analysis, and public meeting notice, and forward the Vehicle Driver Certification and Fleet Management law amendments to a public meeting to be held on July 15, 2024.

Title 2. Employment - Chapter 210

Lotí'sles Kayanl'ásla Khale? Nya?teka?sléhtake Lonatlíhute? Kayanl'ásla
they're driving law and a variety of vehicles the responsibility is attached to them
VEHICLE DRIVER CERTIFICATION AND FLEET MANAGEMENT

210.1. Purpose and Policy
210.2. Adoption, Amendment, Repeal
210.3. Definitions
210.4. Driver Certification

210.5. Responsibilities of a Certified Driver
210.6. Fleet Vehicles
210.7. Motor Vehicle Crashes or Damage to Vehicles
210.8. Suspension of Driver Certification and Other Enforcement

210.1. Purpose and Policy

210.1-1. *Purpose.* The purpose of this law is to establish standards that certify employees, elected and appointed officials, and volunteers to drive a fleet vehicle or personal vehicle on official business and regulate the use of all vehicles owned and leased by the Nation.

210.1-2. *Policy.* It is the policy of the Nation to ensure the safety of the community and employees of the Nation; minimize the Nation's liability when physical damage to vehicles and/or property damage occurs as a result of a motor vehicle crash; and improve the efficiency and effectiveness of the use of vehicles owned by the Nation.

210.2. Adoption, Amendment, Repeal

210.2-1. This law was adopted by the Oneida Business Committee by resolution BC-06-28-17-C, and amended by ~~resolution~~ resolutions BC-04-08-20-H, and BC- - - -.

210.2-2. This law may be amended or repealed by the Oneida Business Committee and/or Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

210.2-3. 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.

210.2-4. 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.

210.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

210.3. Definitions

210.3-1. 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) "Area manager" means an employee's supervisor's supervisor; or, an individual designated to be the area manager by a General Manager position.

(b) "Business day" means Monday through Friday, from 8:00 a.m. to 4:30 p.m.; excluding the Nation's holidays.

(c) "Employee" means an individual employed by the Nation, but does not include elected or appointed officials, or employees of a chartered corporation of the Nation.

(d) "Entity" means a department, enterprise, program, board, committee or commission of the Nation.

(e) "Employee Assistance Program" means a professional counseling program staffed by clinical social workers licensed by the State of Wisconsin which offers services to the Nation's employees and family members.

(f) "Fleet vehicle" means a vehicle owned or leased by the Nation.

(g) "Moving violation" means any violation of motor vehicle or traffic law that is committed by the driver of a vehicle while the vehicle is moving. A moving violation does

40 not include parking violations, equipment violations, or paperwork violations relating to
41 insurance, registration or inspection.

42 (h) “Nation” means the Oneida Nation.

43 (i) “Prohibited drug” means marijuana, cocaine, opiates, amphetamines, phencyclidine
44 (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substances
45 included in Schedules I through V, as defined by Section 812 of Title 21 of the United
46 States Code. Prohibited drugs also includes prescription medication or over-the-counter
47 medicine when used in an unauthorized or unlawful manner.

48 (j) “Supervisor” means the direct supervisor of an employee. For volunteers, elected or
49 appointed officials, or employees without a direct supervisor, it means the Human
50 Resources Department or any party who has been designated by the Human Resources
51 Department as responsible for performing a supervisor’s responsibilities under this law.

52 (k) “Weapon” means a firearm, knife, electric weapon, club, or any other object intended
53 to cause harm to oneself or others.

54

55 **210.4. Driver Certification**

56 210.4-1. An individual shall obtain driver certification from the Human Resources Department
57 before operating a fleet vehicle or personal vehicle on official business.

58 210.4-2. *Qualifications for Certification.* In order to receive driver certification a person shall:

59 (a) Be eighteen (18) years of age or older;

60 (b) Hold a valid Wisconsin driver’s license;

61 (1) A person who holds a valid driver’s license from a state other than Wisconsin
62 shall have thirty (30) days after his or her first day of employment or service to
63 obtain a Wisconsin driver’s license.

64 (c) Have a driving record that does not reflect any of the following conditions:

65 (1) Three (3) or more moving violations and/or at-fault motor vehicle crashes in
66 the past two (2) years; and/or

67 (2) An operating while intoxicated (OWI), driving under the influence (DUI), or
68 prohibited alcohol concentration (PAC) citation within the last twelve (12) months.

69 (d) Complete all driver training requirements imposed by the Nation or any federal or state
70 agency regulations;

71 (e) Satisfy any other requirements specific to the job description and/or vehicle that may
72 be used by or assigned to the person; and

73 (f) Maintain one (1) of the following minimum insurance requirements for a personal
74 vehicle if the individual may use his or her personal vehicle to conduct official business:

75 (1) the individual’s insurance covers:

76 (A) one hundred thousand dollars (\$100,000) per person;

77 (B) three hundred thousand dollars (\$300,000) per motor vehicle crash for
78 bodily injury; and

79 (C) twenty-five thousand dollars (\$25,000) property damage; or

80 (2) the individual’s insurance covers two hundred and fifty thousand dollars
81 (\$250,000) combined single limit.

82 210.4-3. The Nation’s Human Resources Department shall be responsible for determining whether
83 an individual meets all the qualifications before approving or denying a driver certification.

84 (a) An individual shall provide his or her appropriate license, training certification, and
85 insurance information to the Human Resources Department.

86 (b) The Human Resources Department shall have the authority to check the driving record
87 of an individual at any time.

88 (c) The Human Resources Department shall maintain a current list of all certified drivers
89 and provide the list to Fleet Management, Risk Management, and Central Accounting on a
90 regular basis.

91 210.4-4. A supervisor shall ensure that an individual has received his or her driver certification
92 from the Human Resources Department before allowing the individual to drive a fleet vehicle or a
93 personal vehicle on official business.

94 210.4-5. *Exemption.* An individual whose duties with respect to the implementation of a contract,
95 agreement, or compact of the Nation include driving may be subject to compliance with a motor
96 vehicle operation policy as provided in the contract, agreement, or compact of the Nation when
97 this law is less stringent than the said motor vehicle operation policy.
98

99 **210.5. Responsibilities of a Certified Driver**

100 210.5-1. *General Responsibilities.* While operating a fleet vehicle or a personal vehicle on official
101 business, an individual shall:

- 102 (a) Abide by all traffic laws;
- 103 (b) Wear a seat belt and require any passengers to wear a seat belt at all times;
- 104 (c) Not drive while under the influence of prohibited drugs and/or alcohol;
- 105 (d) Not drive if impaired by a medical or physical condition or other factor that affects a
106 driver's motor skills, reaction time, or concentration;
- 107 (e) Not carry a weapon, whether in the open or concealed;
 - 108 (1) *Exemption.* An individual who is carrying a weapon in the course of performing
109 his or her official duties, or is participating in cultural activities or ceremonies is
110 exempt from this requirement.
- 111 (f) Not transport prohibited drugs and/or alcohol;
 - 112 (1) *Exemption.* An employee of the Nation who is transporting prohibited drugs
113 and/or alcohol in the course of performing his or her job duties is exempt from this
114 requirement.
- 115 (g) Not deliver goods or services for personal gain, or operate private pools where the
116 riders pay the driver; and
- 117 (h) Not use electronic devices in an unlawful manner.

118 210.5-2. *Training Responsibilities.* An individual with driver certification shall complete the
119 driver safety training provided and monitored by the Human Resources Department every three
120 (3) years.

121 (a) *Exemption.* An individual who is required to maintain compliance with any specialized
122 driver safety training requirements imposed by state or federal regulatory agencies shall be
123 exempt from the requirement to complete the driver safety training provided by the Human
124 Resources Department.

125 210.5-3. *Fleet Vehicle Responsibilities.* When operating a fleet vehicle, an individual shall:

- 126 (a) Complete a vehicle mileage log;
- 127 (b) Not transport unauthorized passengers;
- 128 (c) Notify the Fleet Management Department immediately of any problems with a fleet
129 vehicle that may be a safety or mechanical hazard, or of any incidents that result in the
130 inability of a fleet vehicle to complete a trip;
- 131 (d) Be personally responsible for all traffic citation costs, parking ticket costs, or any
132 similar expense related to vehicle use;
- 133 (e) Use Oneida Retail locations for fueling fleet vehicles, unless the fleet vehicle needs
134 fuel before it can be taken to an Oneida Retail location;
- 135 (f) Not smoke or use electronic smoking devices or permit others to smoke or use
136 electronic smoking devices in the fleet vehicle; and

137 (g) Ensure the interior of the vehicle is kept in good condition, clean, and free of debris.
138 210.5-4. *Personal Vehicle Responsibilities.* When operating a personal vehicle on official
139 business, an individual shall:

140 (a) Obtain permission from his or her supervisor to operate a personal vehicle on official
141 business; and

142 (b) Submit all required documents for mileage reimbursement, if seeking reimbursement
143 for miles driven while conducting official business, within thirty (30) days of driving the
144 miles or by the end of the current fiscal year, whichever is sooner.

145 (1) Not seeking mileage reimbursement does not exempt an individual from the
146 provisions of this law.

147 210.5-5. *Notification Requirements.* An individual shall notify his or her supervisor if he or she:

148 (a) Has his or her driver's license suspended or revoked by the State, or has his or her
149 driver's license become invalid for any other reason;

150 (b) Meets any of the conditions for disciplinary action as provided in section 210.8-7;
151 and/or

152 (c) Has any impairment by a medical or physical condition or other factor that affects his
153 or her motor skills, reaction time, or concentration.
154

155 **210.6. Fleet Vehicles**

156 210.6-1. *Fleet Management Department.* The Nation's Fleet Management Department shall
157 ~~purchase,~~ manage, and monitor the use of the Nation's fleet vehicles. The Fleet Management
158 Department's responsibilities shall include, but are not limited to:

159 (a) Maintain a list of all fleet vehicles that are available for use, including vehicles
160 permanently assigned to specific entities of the Nation;

161 (b) Remove unsafe vehicles from the fleet;

162 (c) Obtain estimates of and schedule fleet vehicle repairs when necessary;

163 (d) Install or remove equipment on fleet vehicles;

164 (e) Ensure the Nation's logo is on all fleet vehicles; and

165 (f) Ensure that all fleet vehicles are equipped with a mileage log and an auto incident kit
166 which contains forms and instructions for reporting any incident.

167 210.6-2. *Automotive Department.* The Automotive Department shall service and maintain fleet
168 vehicles according to factory recommendations, or the maintenance schedule established by the
169 Automotive Department, whichever is stricter. Any vehicle deemed unsafe by the Automotive
170 Department shall be reported to the Fleet Management Department.

171 210.6-3. *Risk Management Department.* The Risk Management Department shall be responsible
172 for securing and maintaining insurance coverage for all fleet vehicles. Additional responsibilities
173 of the Risk Management Department shall include, but is not limited to:

174 (a) Providing auto insurance identification cards in every fleet vehicle;

175 (b) Processing all submitted vehicle claims and related information; and

176 (c) Submitting claims to the insurance company.

177 210.6-4. *Use of a Fleet Vehicle.* A fleet vehicle may be permanently assigned to an entity for use
178 or requested for use on a temporary basis. A fleet vehicle shall be used for conducting official
179 business of the Nation. When used for travel purposes, a fleet vehicle may also be used for
180 incidental purposes such as travel to and from lodging and/or meal sites.

181 (a) *Prohibited Use of a Fleet Vehicles.* A fleet vehicle shall not be used for any of the
182 following purposes:

183 (1) Personal use for non-business purposes;

184 (2) Towing cargo for personal reasons;

185 (3) Hauling loads that could structurally damage the vehicle; and/or

186 (4) Jump starting vehicles, other than fleet vehicles.
187 210.6-5. *Permanently Assigned Fleet Vehicles.* The Fleet Management Department may
188 permanently assign a fleet vehicle to an entity if the entity meets the minimum mileage criteria as
189 established by the Fleet Management Department.

190 (a) *Exception to Minimum Mileage Criteria.* The Fleet Management Department may
191 grant an entity an exception to the minimum mileage criteria.

192 (b) An entity who is permanently assigned a fleet vehicle shall regularly schedule
193 maintenance work and safety checks with the Automotive Department.

194 (c) An entity that is permanently assigned a fleet vehicle is responsible for ensuring that
195 any individual who drives the vehicle has his or her driver certification.

196 210.6-6. *Temporary Use of a Fleet Vehicle.* An individual in an entity that is not permanently
197 assigned a fleet vehicle may request to use a fleet vehicle for the purpose of conducting official
198 business by submitting a request to the Fleet Management Department.

199 (a) Requests for the use of a fleet vehicle shall be made at least one (1) week in advance,
200 unless urgent circumstances arise.

201 (b) Before determining whether a fleet vehicle is available, or approving the use of a fleet
202 vehicle, the Fleet Management Department shall confirm that:

203 (1) The individual requesting the fleet vehicle has his or her driver certification;

204 (2) The individual has authorization to use the fleet vehicle from his or her
205 supervisor, if an employee, or by the individual's entity, if the individual is an
206 elected or appointed official of the Nation or volunteer; and

207 (3) Any passengers are authorized to travel in a fleet vehicle.

208 (c) The Fleet Management Department may combine vehicle use for travel to the same
209 destination.

210 (d) The Fleet Management Department may cancel reservations that are not fulfilled in a
211 timely manner.

212 210.6-7. *Authorized Passengers.* In addition to the employees, elected or appointed officials, or
213 volunteers who are authorized to use a fleet vehicle, the following individuals shall be authorized
214 to be a passenger in a fleet vehicle:

215 (a) Individuals being transported as part of a program or service of the Nation;

216 (b) Individuals being transported during the normal and ordinary course of representing
217 and/or conducting business on behalf of the Nation; and/or

218 (c) Any other individual who is authorized to be a passenger by the supervisor of the
219 employee, elected or appointed official, or volunteer.

220 210.6-8. *Modifications to Fleet Vehicles.* Modifications to fleet vehicles for personal reasons are
221 not permitted. Modifications to fleet vehicles for operating purposes may be allowed only with the
222 approval of the Fleet Management Department.

223 (a) Radar detection devices shall not be installed or used in fleet vehicles.

224 210.6-9. *Rental Vehicles.* An individual shall have his or her driver certification before using a
225 rental vehicle to conduct official business. An individual shall operate the rental vehicle with the
226 same responsibilities and restrictions as a fleet vehicle.

227 (a) A vehicle shall be rented in accordance with the Nation's laws and policies governing
228 travel. Every vehicle rented shall include the purchase of the maximum collision damage
229 waiver offered by the rental company.

230 231 **210.7. Motor Vehicle Crashes or Damage to Vehicles**

232 210.7-1. In the event of a motor vehicle crash or damage involving the fleet vehicle or personal
233 vehicle driven on official business, an individual shall be subject to the following reporting
234 requirements; provided that, if an individual sustains injuries that make it impossible to meet the

235 reporting deadlines identified herein; the driver shall instead make the required reports as soon as
236 he or she is able to do so:

237 (a) immediately report the crash or damage to local law enforcement if it results in any of
238 the following:

- 239 (1) death of a person;
- 240 (2) an injury to the driver or another person that requires medical attention;
- 241 (3) damage to property that does not belong to the driver or the Nation; or
- 242 (4) a vehicle being disabled and/or needing to be towed.

243 (b) immediately report the motor vehicle crash or damage to his or her supervisor; and

244 (c) provide the Fleet Management Department and Risk Management Department with a
245 completed auto incident report by the end of the next business day immediately following
246 the motor vehicle crash or damage.

247 **210.7-2. Internal Review.** The Fleet Management Department and Risk Management Department
248 shall coordinate and conduct an internal review of the auto incident report for a motor vehicle crash
249 and/or damage to a vehicle.

250 (a) Fleet Management and Risk Management may recommend whether an individual
251 should be subject to disciplinary action and/or a driver safety training requirement based
252 on the motor vehicle crash or incident resulting in damage to a vehicle.

253 (b) The internal review shall be completed as soon as possible after a motor vehicle crash
254 has been reported.

255 (c) Following an internal review, Fleet Management and Risk Management shall issue a
256 report. Copies of the report shall be:

- 257 (1) provided to the driver, the driver’s supervisor, and the driver’s area manager;
258 and
- 259 (2) provided to the Human Resources Department if the Fleet Management
260 Department and Risk Management Department recommend disciplinary action.

261
262 **210.8. Suspension of Driver Certification and Other Enforcement**

263 210.8-1. Suspension of driver certification is the suspension of an individual’s ability to drive a
264 fleet vehicle or personal vehicle on official business and is not a leave from work. Suspension of
265 driver certification is non-appealable.

266 210.8-2. *Qualifications for Suspension.* A supervisor shall suspend an individual’s driver
267 certification if the individual’s driver’s license is suspended or revoked by the State or becomes
268 invalid for any other reason.

269 (a) A supervisor may refer drivers to the Employee Assistance Program in accordance
270 with applicable laws and policies of the Nation.

271 210.8-3. *Length of Suspension.* The individual’s driver certification shall be suspended until a
272 time in which the individual has obtained a valid driver’s license and meets the qualifications for
273 reinstatement of driver certification.

274 210.8-4. *Notification of Suspension.* The supervisor shall notify the Human Resources
275 Department in writing if he or she suspends the driver certification of an individual and shall
276 provide the basis for the suspension. Once notified of a suspension of driver certification the
277 Human Resources Department shall remove the individual from the list of current certified drivers.

278 210.8-5. *Reasonable Accommodations to Suspension.* If the suspension of an individual’s driver
279 certification affects the individual’s ability to perform his or her job duties, a supervisor may take
280 one of the following actions:

- 281 (a) Reassign the individual to a position which does not require driving;
- 282 (b) Provide non-driving accommodation within the position;
- 283 (c) Remove the driving requirement from the job description;

284 (d) Place the individual on unpaid leave until the individual obtains his or her driver
285 certification; or

286 (e) Terminate the individual because a valid driver’s license is an essential requirement of
287 the position.

288 210.8-6. *Reinstatement of Driver Certification.* An individual may have his or her driver
289 certification reinstated upon a review by the Human Resources Department that the individual
290 again meets all the qualifications for driver certification provided for in section 210.4-2.

291 210.8-7. *Other Enforcement Actions.* A supervisor may take disciplinary action against an
292 individual in accordance with the Nation’s laws and policies governing employment if the
293 individual is an employee, or in accordance with the laws and policies of the Nation governing
294 sanctions and penalties if the individual is an elected or appointed official of the Nation, for any
295 of the following actions:

- 296 (a) Failing to comply with any provision of this law;
- 297 (b) Failing to complete any applicable driver training requirements;
- 298 (c) Driving a fleet vehicle without being certified under the provisions of this law;
- 299 (d) Admitting to, or being determined to be, partially or entirely at fault in a motor vehicle
300 crash involving vehicle damage, property damage, or personal injury; and
- 301 (e) Not maintaining the minimum insurance requirements for a personal vehicle.

302 210.8-8. *Additional Driver Safety Training.* A supervisor may require that an individual complete
303 an additional applicable driver safety training, at his or her own expense, if the individual:

- 304 (a) is involved in an at-fault motor vehicle crash or damage involving the fleet vehicle or
305 personal vehicle driven on official business;
- 306 (b) receives a moving violation while driving a fleet vehicle or personal vehicle driven on
307 official business; and
- 308 (c) has his or her driver’s license suspended or revoked by the State or becomes invalid
309 for any other reason.

310
311 *End.*

312 Adopted BC-06-28-17-C.

313 Amended BC-04-08-20-H.

314 Amended BC- - - - .

Title 2. Employment - Chapter 210

Lotí'sles Kayanl'ásla Khale? Nya?teka?sléhtake Lonatlíhute? Kayanl'ásla
they're driving law and a variety of vehicles the responsibility is attached to them
VEHICLE DRIVER CERTIFICATION AND FLEET MANAGEMENT

210.1. Purpose and Policy
210.2. Adoption, Amendment, Repeal
210.3. Definitions
210.4. Driver Certification

210.5. Responsibilities of a Certified Driver
210.6. Fleet Vehicles
210.7. Motor Vehicle Crashes or Damage to Vehicles
210.8. Suspension of Driver Certification and Other Enforcement

1
2 **210.1. Purpose and Policy**
3 210.1-1. *Purpose.* The purpose of this law is to establish standards that certify employees, elected
4 and appointed officials, and volunteers to drive a fleet vehicle or personal vehicle on official
5 business and regulate the use of all vehicles owned and leased by the Nation.
6 210.1-2. *Policy.* It is the policy of the Nation to ensure the safety of the community and employees
7 of the Nation; minimize the Nation's liability when physical damage to vehicles and/or property
8 damage occurs as a result of a motor vehicle crash; and improve the efficiency and effectiveness
9 of the use of vehicles owned by the Nation.
10
11 **210.2. Adoption, Amendment, Repeal**
12 210.2-1. This law was adopted by the Oneida Business Committee by resolution BC-06-28-17-C,
13 and amended by resolutions BC-04-08-20-H and BC-__-__-__.
14 210.2-2. This law may be amended or repealed by the Oneida Business Committee and/or Oneida
15 General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
16 210.2-3. Should a provision of this law or the application thereof to any person or circumstances
17 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
18 to have legal force without the invalid portions.
19 210.2-4. In the event of a conflict between a provision of this law and a provision of another law,
20 the provisions of this law shall control.
21 210.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
22
23 **210.3. Definitions**
24 210.3-1. This section shall govern the definitions of words and phrases used within this law. All
25 words not defined herein shall be used in their ordinary and everyday sense.
26 (a) "Area manager" means an employee's supervisor's supervisor; or, an individual
27 designated to be the area manager by a General Manager position.
28 (b) "Business day" means Monday through Friday, from 8:00 a.m. to 4:30 p.m.; excluding
29 the Nation's holidays.
30 (c) "Employee" means an individual employed by the Nation, but does not include elected
31 or appointed officials, or employees of a chartered corporation of the Nation.
32 (d) "Entity" means a department, enterprise, program, board, committee or commission of
33 the Nation.
34 (e) "Employee Assistance Program" means a professional counseling program staffed by
35 clinical social workers licensed by the State of Wisconsin which offers services to the
36 Nation's employees and family members.
37 (f) "Fleet vehicle" means a vehicle owned or leased by the Nation.
38 (g) "Moving violation" means any violation of motor vehicle or traffic law that is
39 committed by the driver of a vehicle while the vehicle is moving. A moving violation does

40 not include parking violations, equipment violations, or paperwork violations relating to
41 insurance, registration or inspection.

42 (h) “Nation” means the Oneida Nation.

43 (i) “Prohibited drug” means marijuana, cocaine, opiates, amphetamines, phencyclidine
44 (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substances
45 included in Schedules I through V, as defined by Section 812 of Title 21 of the United
46 States Code. Prohibited drugs also includes prescription medication or over-the-counter
47 medicine when used in an unauthorized or unlawful manner.

48 (j) “Supervisor” means the direct supervisor of an employee. For volunteers, elected or
49 appointed officials, or employees without a direct supervisor, it means the Human
50 Resources Department or any party who has been designated by the Human Resources
51 Department as responsible for performing a supervisor’s responsibilities under this law.

52 (k) “Weapon” means a firearm, knife, electric weapon, club, or any other object intended
53 to cause harm to oneself or others.

54

55 **210.4. Driver Certification**

56 210.4-1. An individual shall obtain driver certification from the Human Resources Department
57 before operating a fleet vehicle or personal vehicle on official business.

58 210.4-2. *Qualifications for Certification.* In order to receive driver certification a person shall:

59 (a) Be eighteen (18) years of age or older;

60 (b) Hold a valid Wisconsin driver’s license;

61 (1) A person who holds a valid driver’s license from a state other than Wisconsin
62 shall have thirty (30) days after his or her first day of employment or service to
63 obtain a Wisconsin driver’s license.

64 (c) Have a driving record that does not reflect any of the following conditions:

65 (1) Three (3) or more moving violations and/or at-fault motor vehicle crashes in
66 the past two (2) years; and/or

67 (2) An operating while intoxicated (OWI), driving under the influence (DUI), or
68 prohibited alcohol concentration (PAC) citation within the last twelve (12) months.

69 (d) Complete all driver training requirements imposed by the Nation or any federal or state
70 agency regulations;

71 (e) Satisfy any other requirements specific to the job description and/or vehicle that may
72 be used by or assigned to the person; and

73 (f) Maintain one (1) of the following minimum insurance requirements for a personal
74 vehicle if the individual may use his or her personal vehicle to conduct official business:

75 (1) the individual’s insurance covers:

76 (A) one hundred thousand dollars (\$100,000) per person;

77 (B) three hundred thousand dollars (\$300,000) per motor vehicle crash for
78 bodily injury; and

79 (C) twenty-five thousand dollars (\$25,000) property damage; or

80 (2) the individual’s insurance covers two hundred and fifty thousand dollars
81 (\$250,000) combined single limit.

82 210.4-3. The Nation’s Human Resources Department shall be responsible for determining whether
83 an individual meets all the qualifications before approving or denying a driver certification.

84 (a) An individual shall provide his or her appropriate license, training certification, and
85 insurance information to the Human Resources Department.

86 (b) The Human Resources Department shall have the authority to check the driving record
87 of an individual at any time.

88 (c) The Human Resources Department shall maintain a current list of all certified drivers
89 and provide the list to Fleet Management, Risk Management, and Central Accounting on a
90 regular basis.

91 210.4-4. A supervisor shall ensure that an individual has received his or her driver certification
92 from the Human Resources Department before allowing the individual to drive a fleet vehicle or a
93 personal vehicle on official business.

94 210.4-5. *Exemption.* An individual whose duties with respect to the implementation of a contract,
95 agreement, or compact of the Nation include driving may be subject to compliance with a motor
96 vehicle operation policy as provided in the contract, agreement, or compact of the Nation when
97 this law is less stringent than the said motor vehicle operation policy.

98

99 **210.5. Responsibilities of a Certified Driver**

100 210.5-1. *General Responsibilities.* While operating a fleet vehicle or a personal vehicle on official
101 business, an individual shall:

- 102 (a) Abide by all traffic laws;
- 103 (b) Wear a seat belt and require any passengers to wear a seat belt at all times;
- 104 (c) Not drive while under the influence of prohibited drugs and/or alcohol;
- 105 (d) Not drive if impaired by a medical or physical condition or other factor that affects a
106 driver’s motor skills, reaction time, or concentration;
- 107 (e) Not carry a weapon, whether in the open or concealed;
 - 108 (1) *Exemption.* An individual who is carrying a weapon in the course of performing
109 his or her official duties, or is participating in cultural activities or ceremonies is
110 exempt from this requirement.
- 111 (f) Not transport prohibited drugs and/or alcohol;
 - 112 (1) *Exemption.* An employee of the Nation who is transporting prohibited drugs
113 and/or alcohol in the course of performing his or her job duties is exempt from this
114 requirement.
- 115 (g) Not deliver goods or services for personal gain, or operate private pools where the
116 riders pay the driver; and
- 117 (h) Not use electronic devices in an unlawful manner.

118 210.5-2. *Training Responsibilities.* An individual with driver certification shall complete the
119 driver safety training provided and monitored by the Human Resources Department every three
120 (3) years.

121 (a) *Exemption.* An individual who is required to maintain compliance with any specialized
122 driver safety training requirements imposed by state or federal regulatory agencies shall be
123 exempt from the requirement to complete the driver safety training provided by the Human
124 Resources Department.

125 210.5-3. *Fleet Vehicle Responsibilities.* When operating a fleet vehicle, an individual shall:

- 126 (a) Complete a vehicle mileage log;
- 127 (b) Not transport unauthorized passengers;
- 128 (c) Notify the Fleet Management Department immediately of any problems with a fleet
129 vehicle that may be a safety or mechanical hazard, or of any incidents that result in the
130 inability of a fleet vehicle to complete a trip;
- 131 (d) Be personally responsible for all traffic citation costs, parking ticket costs, or any
132 similar expense related to vehicle use;
- 133 (e) Use Oneida Retail locations for fueling fleet vehicles, unless the fleet vehicle needs
134 fuel before it can be taken to an Oneida Retail location;
- 135 (f) Not smoke or use electronic smoking devices or permit others to smoke or use
136 electronic smoking devices in the fleet vehicle; and

137 (g) Ensure the interior of the vehicle is kept in good condition, clean, and free of debris.
138 210.5-4. *Personal Vehicle Responsibilities.* When operating a personal vehicle on official
139 business, an individual shall:

140 (a) Obtain permission from his or her supervisor to operate a personal vehicle on official
141 business; and

142 (b) Submit all required documents for mileage reimbursement, if seeking reimbursement
143 for miles driven while conducting official business, within thirty (30) days of driving the
144 miles or by the end of the current fiscal year, whichever is sooner.

145 (1) Not seeking mileage reimbursement does not exempt an individual from the
146 provisions of this law.

147 210.5-5. *Notification Requirements.* An individual shall notify his or her supervisor if he or she:

148 (a) Has his or her driver’s license suspended or revoked by the State, or has his or her
149 driver’s license become invalid for any other reason;

150 (b) Meets any of the conditions for disciplinary action as provided in section 210.8-7;
151 and/or

152 (c) Has any impairment by a medical or physical condition or other factor that affects his
153 or her motor skills, reaction time, or concentration.
154

155 **210.6. Fleet Vehicles**

156 210.6-1. *Fleet Management Department.* The Nation’s Fleet Management Department shall
157 manage and monitor the use of the Nation’s fleet vehicles. The Fleet Management Department’s
158 responsibilities shall include, but are not limited to:

159 (a) Maintain a list of all fleet vehicles that are available for use, including vehicles
160 permanently assigned to specific entities of the Nation;

161 (b) Remove unsafe vehicles from the fleet;

162 (c) Obtain estimates of and schedule fleet vehicle repairs when necessary;

163 (d) Install or remove equipment on fleet vehicles;

164 (e) Ensure the Nation’s logo is on all fleet vehicles; and

165 (f) Ensure that all fleet vehicles are equipped with a mileage log and an auto incident kit
166 which contains forms and instructions for reporting any incident.

167 210.6-2. *Automotive Department.* The Automotive Department shall service and maintain fleet
168 vehicles according to factory recommendations, or the maintenance schedule established by the
169 Automotive Department, whichever is stricter. Any vehicle deemed unsafe by the Automotive
170 Department shall be reported to the Fleet Management Department.

171 210.6-3. *Risk Management Department.* The Risk Management Department shall be responsible
172 for securing and maintaining insurance coverage for all fleet vehicles. Additional responsibilities
173 of the Risk Management Department shall include, but is not limited to:

174 (a) Providing auto insurance identification cards in every fleet vehicle;

175 (b) Processing all submitted vehicle claims and related information; and

176 (c) Submitting claims to the insurance company.

177 210.6-4. *Use of a Fleet Vehicle.* A fleet vehicle may be permanently assigned to an entity for use
178 or requested for use on a temporary basis. A fleet vehicle shall be used for conducting official
179 business of the Nation. When used for travel purposes, a fleet vehicle may also be used for
180 incidental purposes such as travel to and from lodging and/or meal sites.

181 (a) *Prohibited Use of a Fleet Vehicles.* A fleet vehicle shall not be used for any of the
182 following purposes:

183 (1) Personal use for non-business purposes;

184 (2) Towing cargo for personal reasons;

185 (3) Hauling loads that could structurally damage the vehicle; and/or

186 (4) Jump starting vehicles, other than fleet vehicles.
187 210.6-5. *Permanently Assigned Fleet Vehicles.* The Fleet Management Department may
188 permanently assign a fleet vehicle to an entity if the entity meets the minimum mileage criteria as
189 established by the Fleet Management Department.

190 (a) *Exception to Minimum Mileage Criteria.* The Fleet Management Department may
191 grant an entity an exception to the minimum mileage criteria.

192 (b) An entity who is permanently assigned a fleet vehicle shall regularly schedule
193 maintenance work and safety checks with the Automotive Department.

194 (c) An entity that is permanently assigned a fleet vehicle is responsible for ensuring that
195 any individual who drives the vehicle has his or her driver certification.

196 210.6-6. *Temporary Use of a Fleet Vehicle.* An individual in an entity that is not permanently
197 assigned a fleet vehicle may request to use a fleet vehicle for the purpose of conducting official
198 business by submitting a request to the Fleet Management Department.

199 (a) Requests for the use of a fleet vehicle shall be made at least one (1) week in advance,
200 unless urgent circumstances arise.

201 (b) Before determining whether a fleet vehicle is available, or approving the use of a fleet
202 vehicle, the Fleet Management Department shall confirm that:

203 (1) The individual requesting the fleet vehicle has his or her driver certification;

204 (2) The individual has authorization to use the fleet vehicle from his or her
205 supervisor, if an employee, or by the individual's entity, if the individual is an
206 elected or appointed official of the Nation or volunteer; and

207 (3) Any passengers are authorized to travel in a fleet vehicle.

208 (c) The Fleet Management Department may combine vehicle use for travel to the same
209 destination.

210 (d) The Fleet Management Department may cancel reservations that are not fulfilled in a
211 timely manner.

212 210.6-7. *Authorized Passengers.* In addition to the employees, elected or appointed officials, or
213 volunteers who are authorized to use a fleet vehicle, the following individuals shall be authorized
214 to be a passenger in a fleet vehicle:

215 (a) Individuals being transported as part of a program or service of the Nation;

216 (b) Individuals being transported during the normal and ordinary course of representing
217 and/or conducting business on behalf of the Nation; and/or

218 (c) Any other individual who is authorized to be a passenger by the supervisor of the
219 employee, elected or appointed official, or volunteer.

220 210.6-8. *Modifications to Fleet Vehicles.* Modifications to fleet vehicles for personal reasons are
221 not permitted. Modifications to fleet vehicles for operating purposes may be allowed only with the
222 approval of the Fleet Management Department.

223 (a) Radar detection devices shall not be installed or used in fleet vehicles.

224 210.6-9. *Rental Vehicles.* An individual shall have his or her driver certification before using a
225 rental vehicle to conduct official business. An individual shall operate the rental vehicle with the
226 same responsibilities and restrictions as a fleet vehicle.

227 (a) A vehicle shall be rented in accordance with the Nation's laws and policies governing
228 travel. Every vehicle rented shall include the purchase of the maximum collision damage
229 waiver offered by the rental company.

230 231 **210.7. Motor Vehicle Crashes or Damage to Vehicles**

232 210.7-1. In the event of a motor vehicle crash or damage involving the fleet vehicle or personal
233 vehicle driven on official business, an individual shall be subject to the following reporting
234 requirements; provided that, if an individual sustains injuries that make it impossible to meet the

235 reporting deadlines identified herein; the driver shall instead make the required reports as soon as
236 he or she is able to do so:

237 (a) immediately report the crash or damage to local law enforcement if it results in any of
238 the following:

- 239 (1) death of a person;
- 240 (2) an injury to the driver or another person that requires medical attention;
- 241 (3) damage to property that does not belong to the driver or the Nation; or
- 242 (4) a vehicle being disabled and/or needing to be towed.

243 (b) immediately report the motor vehicle crash or damage to his or her supervisor; and

244 (c) provide the Fleet Management Department and Risk Management Department with a
245 completed auto incident report by the end of the next business day immediately following
246 the motor vehicle crash or damage.

247 210.7-2. *Internal Review.* The Fleet Management Department and Risk Management Department
248 shall coordinate and conduct an internal review of the auto incident report for a motor vehicle crash
249 and/or damage to a vehicle.

250 (a) Fleet Management and Risk Management may recommend whether an individual
251 should be subject to disciplinary action and/or a driver safety training requirement based
252 on the motor vehicle crash or incident resulting in damage to a vehicle.

253 (b) The internal review shall be completed as soon as possible after a motor vehicle crash
254 has been reported.

255 (c) Following an internal review, Fleet Management and Risk Management shall issue a
256 report. Copies of the report shall be:

- 257 (1) provided to the driver, the driver’s supervisor, and the driver’s area manager;
258 and
- 259 (2) provided to the Human Resources Department if the Fleet Management
260 Department and Risk Management Department recommend disciplinary action.

261
262 **210.8. Suspension of Driver Certification and Other Enforcement**

263 210.8-1. Suspension of driver certification is the suspension of an individual’s ability to drive a
264 fleet vehicle or personal vehicle on official business and is not a leave from work. Suspension of
265 driver certification is non-appealable.

266 210.8-2. *Qualifications for Suspension.* A supervisor shall suspend an individual’s driver
267 certification if the individual’s driver’s license is suspended or revoked by the State or becomes
268 invalid for any other reason.

269 (a) A supervisor may refer drivers to the Employee Assistance Program in accordance
270 with applicable laws and policies of the Nation.

271 210.8-3. *Length of Suspension.* The individual’s driver certification shall be suspended until a
272 time in which the individual has obtained a valid driver’s license and meets the qualifications for
273 reinstatement of driver certification.

274 210.8-4. *Notification of Suspension.* The supervisor shall notify the Human Resources
275 Department in writing if he or she suspends the driver certification of an individual and shall
276 provide the basis for the suspension. Once notified of a suspension of driver certification the
277 Human Resources Department shall remove the individual from the list of current certified drivers.

278 210.8-5. *Reasonable Accommodations to Suspension.* If the suspension of an individual’s driver
279 certification affects the individual’s ability to perform his or her job duties, a supervisor may take
280 one of the following actions:

- 281 (a) Reassign the individual to a position which does not require driving;
- 282 (b) Provide non-driving accommodation within the position;
- 283 (c) Remove the driving requirement from the job description;

284 (d) Place the individual on unpaid leave until the individual obtains his or her driver
285 certification; or

286 (e) Terminate the individual because a valid driver’s license is an essential requirement of
287 the position.

288 210.8-6. *Reinstatement of Driver Certification.* An individual may have his or her driver
289 certification reinstated upon a review by the Human Resources Department that the individual
290 again meets all the qualifications for driver certification provided for in section 210.4-2.

291 210.8-7. *Other Enforcement Actions.* A supervisor may take disciplinary action against an
292 individual in accordance with the Nation’s laws and policies governing employment if the
293 individual is an employee, or in accordance with the laws and policies of the Nation governing
294 sanctions and penalties if the individual is an elected or appointed official of the Nation, for any
295 of the following actions:

- 296 (a) Failing to comply with any provision of this law;
- 297 (b) Failing to complete any applicable driver training requirements;
- 298 (c) Driving a fleet vehicle without being certified under the provisions of this law;
- 299 (d) Admitting to, or being determined to be, partially or entirely at fault in a motor vehicle
300 crash involving vehicle damage, property damage, or personal injury; and
- 301 (e) Not maintaining the minimum insurance requirements for a personal vehicle.

302 210.8-8. *Additional Driver Safety Training.* A supervisor may require that an individual complete
303 an additional applicable driver safety training, at his or her own expense, if the individual:

- 304 (a) is involved in an at-fault motor vehicle crash or damage involving the fleet vehicle or
305 personal vehicle driven on official business;
- 306 (b) receives a moving violation while driving a fleet vehicle or personal vehicle driven on
307 official business; and
- 308 (c) has his or her driver’s license suspended or revoked by the State or becomes invalid
309 for any other reason.

310
311 *End.*

312 Adopted – BC-06-28-17-C.
313 Amended – BC-04-08-20-H.
314 Amended – BC-__-__-__-__.



VEHICLE DRIVER CERTIFICATION AND FLEET MANAGEMENT LAW AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	Remove the responsibility of the Fleet Management Department to purchase fleet vehicles. [2 O.C. 210.6-1].
Purpose	The purpose of this law is to establish standards that certify employees, elected and appointed officials, and volunteers to drive a fleet vehicle or personal vehicle on official business and regulate the use of all vehicles owned and leased by the Nation. [2 O.C. 210.1-1].
Affected Entities	Fleet Management Department, Finance
Public Meeting	A public meeting has not yet been held.
Fiscal Impact	A fiscal impact statement has not yet been requested.

SECTION 2. LEGISLATIVE DEVELOPMENT

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- A. Background.** The Vehicle Driver Certification and Fleet Management law was originally adopted by the Oneida Business Committee in 2017 through resolution BC-06-28-17-C, and then amended through resolution BC-04-08-20-H. The purpose of the Vehicle Driver Certification and Fleet Management law is to establish standards that certify employees, elected and appointed officials, and volunteers to drive a fleet vehicle or personal vehicle on official business and regulate the use of all vehicles owned and leased by the Nation. [2 O.C. 210.1-1]. It is the policy of the Nation to ensure the safety of the community and employees of the Nation; minimize the Nation's liability when physical damage to vehicles and/or property damage occurs as a result of a motor vehicle crash; and improve the efficiency and effectiveness of the use of vehicles owned by the Nation. [2 O.C. 210.1-2].
- B. Request for Amendments.** On the April 29, 2024, the Legislative Operating Committee received a request from Ralinda Ninham-Lamberies, the Chief Financial Officer, to consider an amendment to this law to remove the word "purchase" and the responsibility to purchase from the Fleet Management Department as currently provided for in section 210.6-1 of the Vehicle Driver Certification and Fleet Management law. Finance provided that the requirement for the Fleet Manager to be involved in the purchasing process has led to unintended delays that can be avoided by reverting this responsibility back to the existing cap ex purchasing process. The Legislative Operating Committee added the Vehicle Driver Certification and Fleet Management law amendments to its Active Files List on May 15, 2024.

SECTION 3. CONSULTATION AND OUTREACH

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25
- A.** Representatives from the following departments or entities participated in the development of the amendments to the Vehicle Driver Certification and Fleet Management law and this legislative analysis:
- Oneida Law Office;
 - Human Resources Department;
 - General Manager;

- 26 ▪ Finance Administration;
- 27 ▪ Public Works Division; and
- 28 ▪ Automotive Department.
- 29 **B.** The following laws were reviewed in the drafting of this analysis:
- 30 ▪ Vehicle Driver Certification and Fleet Management law;
- 31 ▪ Oneida Personnel Policies and Procedures;
- 32 ▪ Oneida Travel and Expense Policy;
- 33 ▪ Clean Air law; and
- 34 ▪ Drug and Alcohol Free Workplace law.

35

36 **SECTION 4. PROCESS**

- 37 **A.** The development of the proposed amendments to the Vehicle Driver Certification and Fleet
- 38 Management law complies with the process set forth in the Legislative Procedures Act (LPA).
- 39 ▪ On May 15, 2024, the Legislative Operating Committee added the Vehicle Driver Certification
- 40 **B.** At the time this legislative analysis was developed the following work meetings had been held
- 41 regarding the development of the amendments to this Law:
- 42 ▪ May 30, 2024: LOC work session with the Oneida Law Office, Human Resources Department,
- 43 General Manager, Finance Administration. Public Works Division, and Automotive Department.

44

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

- 46 ▪ *Removal of the Fleet Management Department’s Responsibility to Purchase.* Currently, the
- 47 Nation’s Fleet Management Department is delegated the authority and responsibility to purchase,
- 48 manage, and monitor the use of the Nation’s fleet vehicles. [2 O.C. 210.6-1]. The proposed
- 49 amendment to the Law would remove the word “purchase” from section 210.6-1 of the Law thus
- 50 eliminating the responsibility of the Fleet Management Department to purchase all fleet vehicles.
- 51 ▪ *Effect.* The inclusion of the responsibility of the Fleet Management Department to purchase all
- 52 vehicles for the Nation has led to unintended delays that can be avoided by reverting this
- 53 responsibility back to the existing cap expenditure purchasing process.

54

55 **SECTION 6. EXISTING LEGISLATION**

- 56 **A. *References to the Other Laws of the Nation.*** The following laws of the Nation are referenced in the
- 57 Vehicle Driver Certification and Fleet Management law.
- 58 ▪ *Oneida Personnel Policies and Procedures.* The purpose of the Oneida Personnel Policies and
- 59 Procedures is to provide for the Nation’s employee related policies and procedures including
- 60 recruitment, selection, compensation and benefits, employee relations, safety and health, program
- 61 and enterprise rules and regulations, and record keeping.
- 62 ▪ The Vehicle Driver Certification and Fleet Management law provides that “In addition to
- 63 the suspension of driver certification, a supervisor may take disciplinary action against an
- 64 individual in accordance with the Nation’s laws and policies governing employment if an
- 65 employee...” [2 O.C. 210.8-7].
- 66 ▪ Any disciplinary action against an employee for a violation of the Vehicle Driver
- 67 Certification and Fleet Management is required to be conducted in accordance with the
- 68 Oneida Personnel Policies and Procedures.

- 69 ▪ *Oneida Travel and Expense Policy.* The Oneida Travel and Expense Policy establishes policies
70 governing the reimbursement of travel and expenses incurred during the conduct of company
71 business. [2 O.C. 219.1-1].
- 72 ▪ The Vehicle Driver Certification and Fleet Management law provides that “A vehicle shall
73 be rented in accordance with the Nation’s laws and policies governing travel. Every vehicle
74 rented shall include the purchase of the maximum collision damage waiver offered by the
75 rental company.” [2 O.C 210.6-9(a)].
- 76 ▪ The Oneida Travel and Expense Policy states that “insurance on all car rentals is covered
77 by the Oneida Tribe’s insurance policy.” [2 O.C 219.8-3].
- 78 ▪ Section 219.8-3 of the Oneida Travel and Expense Policy does not reflect current practice.
79 The Travel and Expense Policy conflicts with the current Vehicle Driver Certification and
80 Fleet Management law which requires the purchase of maximum collision damage waiver
81 from the rental company, as this is more cost effective for the Nation.
- 82 ▪ *Recommendation:* The LOC and LRO should note the discrepancy in the Travel and
83 Expense Policy and identify that section of the Travel and Expense Policy as an area for
84 future amendments.

85 **B. *Other Laws that Reference the Vehicle Driver Certification and Fleet Management Law.*** The
86 following laws of the Nation reference the Vehicle Driver Certification and Fleet Management law.
87 The proposed amendment to the Law does not conflict with any of the referenced laws.

- 88 ▪ *Drug and Alcohol Free Workplace Law.* The Drug and Alcohol Free Workplace law applies to all
89 applicants for employment, whether external or internal, and all employees during working hours,
90 when on-call, and when operating a vehicle owned by the Nation or a vehicle rented by the Nation.
91 [2 O.C. 202.4-1]. An employee is prohibited from the use of prohibited drugs and alcohol during
92 working hours, when on-call, and when operating a vehicle owned by the Nation or a vehicle rented
93 by the Nation. [2 O.C. 202.4-2].
- 94 ▪ *Clean Air Law.* The Clean Air law provides that no person may smoke in any vehicle owned or
95 operated by the Nation.” [4 O.C. 411.4-1(c)].

96

97 **SECTION 7. OTHER CONSIDERATIONS**

- 98 **A. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all
99 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
100 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
101 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
102 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
103 completing the fiscal impact statement.
- 104 ▪ *Conclusion.* The Legislative Operating Committee has not yet directed that a fiscal impact
105 statement be completed.

106

ONEIDA NATION PUBLIC MEETING NOTICE**MONDAY, JULY 15, 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

**VEHICLE DRIVER CERTIFICATION AND FLEET MANAGEMENT LAW AMENDMENTS**

The purpose of the purpose of the Vehicle Driver Certification and Fleet Management law is to establish standards that certify employees, elected and appointed officials, and volunteers to drive a fleet vehicle or personal vehicle on official business and regulate the use of all vehicles owned and leased by the Nation.

The Vehicle Driver Certification and Fleet Management law amendments will:

- ◆ Remove the responsibility of the Fleet Management Department to purchase fleet vehicles from section 210.6-1 of the Law.

Individuals may attend the public meeting for the proposed Vehicle Driver Certification and Fleet Management 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 CLOSSES MONDAY, JULY 22, 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 Vehicle Driver Certification and Fleet Management law amendments please review the public meeting packet at oneida-nsn.gov/government/register/public meetings.



Legislative Operating Committee
June 5, 2024

Computer Resources Ordinance Amendments

Submission Date: 5/15/24	Public Meeting: N/A
LOC Sponsor: Jameson Wilson	Emergency Enacted: N/A

Summary: *This item was added to the Active Files List on May 15, 2024, at the request of Shane Hill on behalf of DTS. DTS wants to amend the Computer Resources Ordinance to delegate DTS administrative rulemaking authority so DTS can develop rules that support and enforce the Computer Resource Ordinance.*

5/15/24 LOC: Motion by Jonas Hill to add the Computer Resource Ordinances amendments to the Active Files List with Jameson Wilson as the sponsor; seconded by Marlon Skenandore. Motion carried unanimously.

5/31/24: *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Clorissa Leeman, Jason Doxtator, Shane Hill, Jesse Kujawa, Maureen Perkins. The purpose of this work meeting was to review the Computer Resources Ordinance and discuss potential amendments to be made.

Next Steps:

- Approve the draft of the proposed amendments to the Computer Resources Ordinance and direct that a legislative analysis be completed.

Draft 1 (Redline to Current)
2024 06 05

Title 2. Employment – Chapter 215

COMPUTER TECHNOLOGY RESOURCES ORDINANCE

215.1	Purpose and Policy	215.7	Limitations on Use
215.2	Adoption, Amendment, Repeal	215.8	<u>Computer Technology</u> Resources Acknowledgment Form
215.3	Definitions		
215.4	Acceptable Use		
215.5	Inappropriate Personal Use	215.9	<u>Administrative Rulemaking Authority</u>
215.6	Privacy	215.910	Violations

215.1 Purpose and Policy.

215.1-1. *Purpose.* The purpose of this policy law is to regulate the usage of Tribally technology resources and processed data owned and operated computer resources by the Nation.

215.1-2. *Policy.* It is the policy of the Tribe Nation to provide its community and employees access to the tools necessary to participate in a technological society. Allowing limited personal use of these tools helps enhance the quality of the workplace and helps the Tribe Nation to retain highly qualified and skilled workers and officials, as well as to develop the technological skills of the community. Pursuant to this law, users are permitted limited use of Tribal computer technology resources of the Nation for personal needs if the use does not interfere with the authorized duties of the user or official business of the Tribe Nation.

(a) This law does not create a right to use Tribal computer technology resources of the Nation for personal use.

(b) This law in no way limits use of computer technology resources to fulfill authorized duties.

215.2 Adoption, Amendment, Repeal.

215.2-1. This law was adopted by the Oneida Business Committee by resolution BC Resolution #0 9-29-04-B and effective immediately upon passage of that amended by resolution— BC- - - -.

215.2-2. This law may be amended or repealed by the Oneida Business Committee in accordance with or the Oneida legislative and administrative General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

215.2-3. 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.

215.2-4. All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with this law are hereby repealed unless specifically re-enacted after adoption of this law. Specifically, the following resolution is repealed by this law: BC 3-3-99-A (Adoption of Computer Resources Acceptable Use Policy). 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.

215.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin Nation.

215.3 Definitions.

215.3-1. This section shall govern the definitions of words and phrases used within this law. -All

39 words not defined herein shall be used in their ordinary and everyday sense.

40 ~~(a) A Computer Resources~~ means Tribally owned personal computers, networks, and
41 software, including Internet connectivity and access to internet services and electronic mail
42 (e-mail). Limitations and monitoring of computer resources may also include, peripheral
43 equipment, such as personal digital assistants (PDAs), telephones, facsimile machines, and
44 photocopiers, only to the extent that the peripheral equipment is used in conjunction with
45 Tribal personal computers and software.

46 ~~(b) An Employee~~ means an individual employed by the Oneida Tribe of Indians of Wisconsin.
47 (a) "Employee" means any individual who is employed by the Nation but does not include
48 elected or appointed officials or individuals employed by a corporation chartered by the
49 Nation.

50 (b) "DTS" means the Digital Technology Services.

51 ~~(c) AMIS~~ "Nation" means the Oneida ~~Management Information Systems Department.~~
52 Nation.

53 ~~(d) A "Personal Use"~~ means ~~computer~~ any technology resource use that is conducted for
54 purposes other than accomplishing an authorized activity or official business of the
55 ~~Tribe~~ Nation.

56 ~~(e) A Tribe~~ means the Oneida Tribe of Indians of Wisconsin.

57 ~~(f) A User~~ means all those who use the Tribal computer resources (e) "Technology
58 Resources" means any tools, systems, and applications that use technology to fulfill their
59 purposes. Technology resources may include, but are not limited to, computers, tablets,
60 telephones, facsimile machines, photocopiers, networks, virtual applications, and software,
61 such as internet connectivity and access to internet services and electronic mail.

62 (f) "User" means any individual who uses the technology resources of the Nation, including
63 but not limited to employees, independent contractor personnel, interns, members of boards,
64 committees or commissions, volunteers, guests, and visitors.

65 **215.4 Acceptable Use.**

66 215.4-1. Users may utilize ~~computer~~ technology resources for authorized activities.

67 215.4-2. Users may engage in personal use of ~~computer~~ technology resources when such use does
68 not interfere with the mission or operations of the entity in control of the resources and does not
69 violate applicable ~~personnel policies and~~ laws, rules, or standard operating procedures of the
70 Nation.

71 215.4-3. Employees may engage in limited personal use of ~~computer~~ technology resources if the
72 usage does not violate section 215.5-1 of the law or standards enacted pursuant to section 215.7-1
73 of the law.

74 **215.5 Inappropriate Personal Use.**

75 215.5-1. Users are expected to conduct themselves professionally and to refrain from using ~~Tribal~~
76 ~~computer~~ technology resources of the Nation for activities that are inappropriate. ~~no matter in what~~
77 location the user utilizes the technology resources of the Nation. Misuse or inappropriate personal
78 use of ~~Tribal computer~~ technology resources of the Nation includes:
79

80 (a) Any personal use that could cause congestion, delay, or disruption of service to the
81

Draft 1 (Redline to Current)
2024 06 05

82 network. ~~For example~~ This may include, but is not limited to, downloading video, sound
83 or other large file attachments that can degrade performance of the entire network.

84 (b) The creation, copying, transmission, or retransmission of chain letters or unauthorized
85 mass mailings regardless of the subject matter. An unauthorized mass mailing is a mailing
86 sent to fifty (50) or more addresses without the permission of the ~~employee~~ employee's
87 supervisor.

88 (c) Using ~~Tribal computer~~ technology resources of the Nation for activities that are illegal.

89 (d) Using ~~Tribal computer~~ technology resources of the Nation for activities that are
90 offensive to fellow users. ~~Such activities include:~~ but are not limited to, hate speech, or
91 material that ridicules another individual on the basis of race, creed, religion, color, sex,
92 disability, national origin, or sexual orientation.

93 (e) The creation, download, viewing, storage, copying, or transmission of sexually explicit
94 or sexually oriented materials.

95 (f) Posting unauthorized information to external newsgroups, bulletin boards, or other
96 public forums.

97 (g) The unauthorized acquisition, use, reproduction, transmission, or distribution of any
98 controlled information including ~~computer~~ software and data, that includes, copyrighted,
99 trade marked or material with other intellectual property rights ~~(, beyond fair use), or~~ or
100 proprietary data.

101 (h) Unauthorized use of another ~~user~~ user's password or account.

102 (i) Excessive personal use of the internet pursuant to section 215.7-1 ~~(a)~~ of this law.

103 (j) Maintenance of a private business without proper authorization.

104 (k) Transmission of computer viruses or other malicious code.

105 215.5-2. It shall not be deemed an inappropriate use for a user to share information or evidence
106 regarding the inappropriate use of another user if reporting the inappropriate use in accordance
107 with the proper reporting structure.

109 215.6 Privacy.

110 215.6-1. All activities ~~on computer~~ using technology resources of the Nation may be monitored,
111 intercepted, recorded, read, copied, or captured by MISDTS to ensure user compliance with this
112 ~~ordinance.~~ law. Use of computer technology resources, authorized or unauthorized, constitutes
113 consent to this monitoring, interception, recording, reading, copying, or capturing.

114 215.6-2. This ~~policy~~ law in no way creates a right to privacy in computer technology resource
115 usage. ~~Users should not expect privacy in their usage, including accessing personal e-mail,~~
116 ~~brokerage, credit card, and bank accounts through the internet.~~

118 215.7 Limitations on Use.

119 215.7-1. The privilege to use ~~Tribal computer~~ the technology resources of the Nation for personal
120 use may be revoked or limited. ~~If the user is subject to the Tribe's personnel policies~~ Nation's
121 laws and procedures rules governing employment, the supervisor may revoke or limit the privileges
122 of that user.

123 (a) Supervisors are hereby authorized to develop standard operating procedures defining
124 excessive use ~~for users~~ of technology resources for any user that is an employee of the

125 ~~Nation and~~ subject to the ~~Tribe=s personnel policies and procedures and who are under the~~
 126 ~~supervisor=s supervisor's~~ authority. ~~These~~Any standard operating procedure shall be
 127 developed in accordance with all other laws and rules of the Nation. The standard operating
 128 procedures may also establish the appropriate times to use ~~computer~~technology resources
 129 for personal use. Supervisors ~~must~~shall provide adequate notice of the terms of ~~these any~~
 130 standard operating procedures to all individuals covered by such procedures.

131 (b) Tribal entities, agencies, or departments that provide ~~computer~~technology resources to
 132 community members or to the public may adopt usage policies not inconsistent with this
 133 ~~ordinance~~law or rules developed in accordance with this law.

135 **215.8 Computer Technology Resources Acknowledgment Form.**

136 215.8-1. Users shall receive a copy of the ~~Computer Technology~~ Resources ~~Ordinance~~law and
 137 ~~Computer Resources Acknowledgment~~technology resources acknowledgment form. All users
 138 shall sign the ~~Acknowledgment Form~~acknowledgment form in order to gain or continue access to
 139 ~~computer~~technology resources. ~~of the Nation.~~

141 **215.9 Administrative Rulemaking Authority.**

142 215.9-1. DTS shall be delegated rulemaking authority in accordance with the Administrative
 143 Rulemaking law to promulgate rules to govern technology resources of the Nation.

145 **215.10 Violations.**

146 215.910-1. Violations of the law or any rule adopted in accordance with this law may result in
 147 limitation on use of or a loss of access to the ~~computer~~technology resources. ~~of the Nation.~~

148 215.910-2. The ~~Oneida Tribe~~Nation reserves the right to advise law enforcement officials of
 149 suspected ~~crime~~illegal activity found within a ~~user=s computer~~user's technology resources and
 150 provide them such resources as evidence.

151 215.910-3. Employee violations of this law are subject to ~~the Oneida Tribe=s progressive~~
 152 ~~disciplinary policies contained in the Tribe=s personnel policies and procedures, up to and~~
 153 ~~including termination.~~discipline in accordance with the Nations laws governing employment.

154
 155 *End.*

158 Emergency Adopted ~~BC # 3-03~~-24-04-A (*Emergency Adoption*)

160 Adopted ~~BC # 9-09~~-29-04-B (*Permanent Adoption*)

161 Amended - BC- - - - -

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Title 2. Employment – Chapter 215 TECHNOLOGY RESOURCES

215.1 Purpose and Policy	215.6 Privacy
215.2 Adoption, Amendment, Repeal	215.7 Limitations on Use
215.3 Definitions	215.8 Technology Resources Acknowledgment Form
215.4 Acceptable Use	215.9 Administrative Rulemaking Authority
215.5 Inappropriate Personal Use	215.10 Violations

215.1 Purpose and Policy.

215.1-1. *Purpose.* The purpose of this law is to regulate the usage of technology resources and processed data owned and operated by the Nation.

215.1-2. *Policy.* It is the policy of the Nation to provide its community and employees access to the tools necessary to participate in a technological society. Allowing limited personal use of these tools helps enhance the quality of the workplace and helps the Nation to retain highly qualified and skilled workers and officials, as well as to develop the technological skills of the community. Pursuant to this law, users are permitted limited use of technology resources of the Nation for personal needs if the use does not interfere with the authorized duties of the user or official business of the Nation.

(a) This law does not create a right to use technology resources of the Nation for personal use.

(b) This law in no way limits use of technology resources to fulfill authorized duties.

215.2 Adoption, Amendment, Repeal.

215.2-1. This law was adopted by the Oneida Business Committee by resolution BC-0 9-29-04-B and amended by resolution BC-__-__-__-__.

215.2-2. 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.

215.2-3. 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.

215.2-4. 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.

215.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

215.3 Definitions.

215.3-1. 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) “Employee” means any individual who is employed by the Nation but does not include elected or appointed officials or individuals employed by a corporation chartered by the Nation.

(b) “DTS” means the Digital Technology Services.

(c) “Nation” means the Oneida Nation.

(d) “Personal use” means any technology resource use that is conducted for purposes other than accomplishing an authorized activity or official business of the Nation.

(e) “Technology Resources” means any tools, systems, and applications that use technology to fulfill their purposes. Technology resources may include, but are not limited to, computers,

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2024 06 05

39 tablets, telephones, facsimile machines, photocopiers, networks, virtual applications, and
40 software, such as internet connectivity and access to internet services and electronic mail.

41 (f) "User" means any individual who uses the technology resources of the Nation, including but
42 not limited to employees, independent contractor personnel, interns, members of boards,
43 committees or commissions, volunteers, guests, and visitors.

44

45 **215.4 Acceptable Use.**

46 215.4-1. Users may utilize technology resources for authorized activities.

47 215.4-2. Users may engage in personal use of technology resources when such use does not
48 interfere with the mission or operations of the entity in control of the resources and does not violate
49 applicable laws, rules, or standard operating procedures of the Nation.

50 215.4-3. Employees may engage in limited personal use of technology resources if the usage does
51 not violate section 215.5-1 of the law or standards enacted pursuant to section 215.7-1 of the law.

52

53 **215.5 Inappropriate Personal Use.**

54 215.5-1. Users are expected to conduct themselves professionally and to refrain from using
55 technology resources of the Nation for activities that are inappropriate no matter in what location the
56 user utilizes the technology resources of the Nation. Misuse or inappropriate personal use of
57 technology resources of the Nation includes:

58 (a) Any personal use that could cause congestion, delay, or disruption of service to the
59 network. This may include, but is not limited to, downloading video, sound or other large file
60 attachments that can degrade performance of the entire network.

61 (b) The creation, copying, transmission, or retransmission of chain letters or unauthorized
62 mass mailings regardless of the subject matter. An unauthorized mass mailing is a mailing
63 sent to fifty (50) or more addresses without the permission of the employee's supervisor.

64 (c) Using technology resources of the Nation for activities that are illegal.

65 (d) Using technology resources of the Nation for activities that are offensive to fellow users.
66 Such activities include, but are not limited to, hate speech, or material that ridicules another
67 individual on the basis of race, creed, religion, color, sex, disability, national origin, or
68 sexual orientation.

69 (e) The creation, download, viewing, storage, copying, or transmission of sexually explicit
70 or sexually oriented materials.

71 (f) Posting unauthorized information to external newsgroups, bulletin boards, or other public
72 forums.

73 (g) The unauthorized acquisition, use, reproduction, transmission, or distribution of any
74 controlled information including software and data, that includes, copyrighted, trade marked
75 or material with other intellectual property rights, beyond fair use, or proprietary data.

76 (h) Unauthorized use of another user's password or account.

77 (i) Excessive personal use of the internet pursuant to section 215.7-1(a) of this law.

78 (j) Maintenance of a private business without proper authorization.

79 (k) Transmission of computer viruses or other malicious code.

80 215.5-2. It shall not be deemed an inappropriate use for a user to share information or evidence
81 regarding the inappropriate use of another user if reporting the inappropriate use in accordance with
82 the proper reporting structure.

83
84 **215.6 Privacy.**
85 215.6-1. All activities using technology resources of the Nation may be monitored, intercepted,
86 recorded, read, copied, or captured by DTS to ensure user compliance with this law. Use of
87 technology resources, authorized or unauthorized, constitutes consent to this monitoring,
88 interception, recording, reading, copying, or capturing.

89 215.6-2. This law in no way creates a right to privacy in technology resource usage. Users should
90 not expect privacy in their usage, including accessing personal e-mail, brokerage, credit card, and
91 bank accounts through the internet.

92
93 **215.7 Limitations on Use.**

94 215.7-1. The privilege to use the technology resources of the Nation for personal use may be
95 revoked or limited. If the user is subject to the Nation's laws and rules governing employment, the
96 supervisor may revoke or limit the privileges of that user.

97 (a) Supervisors are hereby authorized to develop standard operating procedures defining
98 excessive use of technology resources for any user that is an employee of the Nation and
99 subject to the supervisor's authority. Any standard operating procedure shall be developed in
100 accordance with all other laws and rules of the Nation. The standard operating procedures
101 may also establish the appropriate times to use technology resources for personal use.
102 Supervisors shall provide adequate notice of the terms of any standard operating procedures
103 to all individuals covered by such procedures.

104 (b) Tribal entities, agencies, or departments that provide technology resources to community
105 members or to the public may adopt usage policies not inconsistent with this law or rules
106 developed in accordance with this law.

107
108 **215.8 Technology Resources Acknowledgment Form.**

109 215.8-1. Users shall receive a copy of the Technology Resources law and technology resources
110 acknowledgment form. All users shall sign the acknowledgment form in order to gain or continue
111 access to technology resources of the Nation.

112
113 **215.9 Administrative Rulemaking Authority.**

114 215.9-1. DTS shall be delegated rulemaking authority in accordance with the Administrative
115 Rulemaking law to promulgate rules to govern technology resources of the Nation.

116
117 **215.10 Violations.**

118 215.10-1. Violations of the law or any rule adopted in accordance with this law may result in
119 limitation on use of or a loss of access to the technology resources of the Nation.

120 215.10-2. The Nation reserves the right to advise law enforcement officials of suspected illegal
121 activity found within a user's technology resources and provide them such resources as evidence.

122 215.10-3. Employee violations of this law are subject to discipline in accordance with the Nations
123 laws governing employment.

124
125 *End.*

126

128 Emergency Adopted – BC-03-24-04-A
129 Adopted – BC-09-29-04-B
130 Amended – BC- _ _ _ _
131
132



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



AGENDA REQUEST FORM

- 1) Request Date: 06/05/2024
- 2) Contact Person(s): RaLinda Ninham-Lamberies
Dept: Finance
Phone Number: 4242 Email: rlamberi@oneidation.org
- 3) Agenda Title: Amend Title 10 General Welfare Exclusion Chapter 1004 OLIP
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
Emergency amendment to eliminate 1004.5-3 requiring notification within one year of the date of death. Recently a member has missed the deadline by four days and has had the request for the funding in excess of the burial amount declined. There would not be an increase in liability if this provision is removed due to limited staff availability.

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

- 1) _____ 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:

- 7) Do you consider this request urgent? Yes No
If yes, please indicate why:
To make member impacted whole

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

Signature of Requester:

RaLinda Ninham-Lamberies

Digitally signed by RaLinda Ninham-Lamberies
Date: 2024.05.13 12:51:22 -05'00'

Please send this form and all supporting materials to:

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



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) Contact Person(s): _____
Dept: _____
Phone Number: _____ Email: _____
- 3) Agenda Title: _____
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:

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

- 1) _____ 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:

- 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:

Grace Elliott

Please send this form and all supporting materials to:

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

June 2024

June 2024							July 2024						
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23	24	25	26	27	28	29	28	29	30	31			
30													

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
<p>Jun 3</p> <p>10:30am Tax Law (BC_Exec_Conf_Room) - Grace L. Elliott</p>	<p>4</p> <p>5:30pm LOC Community Meeting (Norbert Hill Center Cafeteria) - LOC</p>	<p>5</p> <p>8:30am LOC Prep Meeting (Microsoft Teams Meeting; BC_Conf_Room) -</p> <p>9:00am Legislative Operating Committee Meeting (Microsoft Teams Meeting;</p> <p>1:30pm LOC Work Session (Microsoft Teams Meeting;</p>	<p>6</p>	<p>7</p> <p>9:00am LLC Draft Review (Microsoft Teams Meeting; BC_Exec_Conf_Room) -</p> <p>10:30am Oneida Law Enforcement Ordinance Amendments Work</p> <p>1:30pm LOC Strategic Planning (Microsoft Teams Meeting;</p>
<p>10</p> <p>2:00pm LOC Community Meeting Prep: Eviction and Termination Law Amendments (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Clorissa N. Leeman</p>	<p>11</p> <p>2:30pm Real Property Law Review (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Grace L. Elliott</p>	<p>12</p>	<p>13</p>	<p>14</p>
<p>17</p> <p>11:00am Environmental Review Law - work meeting (Microsoft Teams Meeting) - Carolyn A. Salutz</p>	<p>18</p>	<p>19</p> <p>8:30am LOC Prep Meeting (Microsoft Teams Meeting;</p> <p>9:00am Legislative Operating Committee</p> <p>10:30am Oneida Personnel Policies and</p> <p>1:30pm LOC Community Meeting Prep: Eviction</p> <p>5:30pm LOC Community Meeting: Eviction and</p>	<p>20</p>	<p>21</p>
<p>24</p>	<p>25</p>	<p>26</p>	<p>27</p>	<p>28</p>