



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA REVISED

Business Committee Conference Room - 2nd Floor Norbert Hill Center
September 4, 2024
9:00 a.m.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

III. Current Business

1. Computer Resources Ordinance Amendments (pg. 2)
2. Oneida Law Enforcement Ordinance Amendments (pg. 18)
3. Oneida General Welfare Law Amendments (pg. 50)
4. Oneida Life Insurance Plan Law Amendments (pg. 52)

IV. New Submissions

1. Workplace Violence Law Amendments (pg. 64)
2. Oneida General Welfare Law Amendments (pg. 65)

V. Additions

VI. Administrative Updates

1. E-Poll Results: Approval of the Canceled July 17, 2024 LOC Meeting Materials (pg. 67)
2. E-Poll Results: Approval of the Vehicle Driver Certification and Fleet Management Law Amendments Public Comment Review Memo, Draft, and Fiscal Impact Statement Request (pg. 147)
3. E-Poll Results: Approval of the Investigative Leave Policy Amendments Public Meeting Packet (pg. 167)
4. E-Poll Results: Approval of the September 4, 2024 LOC Community Meeting (pg. 193)
5. E-Poll Results: Certification of the Landlord Tenant Law Rule No. 2 Amendments (pg. 196)
6. E-Poll Results: Statement of Effect for the Petition: L. Blackowl – New Recreation/Community Center Build (pg. 237)

VII. Executive Session

VIII. Recess/Adjourn



Legislative Operating Committee
September 4, 2024

Computer Resources Ordinance Amendments

Submission Date: 5/15/24	Public Meeting: 8/21/24
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.

6/5/24 LOC: Motion by Jonas Hill to approve the draft of the proposed amendments to the Computer Resources Ordinance and direct that a legislative analysis be completed; seconded by Kirby Metoxen. Motion carried unanimously.

6/19/24 LOC: Motion by Jennifer Webster to approve the legislative analysis of the proposed amendments to the Computer Resources Ordinance; seconded by Jonas Hill. Motion carried unanimously.

7/1/24: *E-Poll Conducted.* This e-poll was titled, Approval of the Computer Resources Ordinance Amendments Public Meeting Packet. The requested action of this e-poll was to approve the Computer Resources Ordinance amendments public meeting packet and forward the Computer Resources Ordinance amendments to a public meeting to be held on August 21, 2024. This e-poll was approved by Jennifer Webster, Jonas Hill, Jameson Wilson, and Kirby Metoxen. Marlon Skenandore is on a personal leave and therefore did not provide a response to the e-poll.

7/17/24: *E-Poll Conducted.* This e-poll was titled, Approval of the Canceled July 17, 2024 LOC Meeting Materials. The requested action of this e-poll was to: approve the June 19, 2024 Legislative Operating Committee meeting minutes and forward to the Oneida Business Committee; approve the adoption packet for the proposed amendments to the Back Pay law and forward to the Oneida Business Committee for consideration; accept the legislative analysis for the proposed amendments to the Investigative Leave Policy; accept the memorandum from James Snitgen and remove the Environmental Review Law from the Active Files List; add the Petition: L. Blackowl – New Recreation/Community Center Build

to the Active Files List with Jameson Wilson as the sponsor; accept the status update for the Petition: L. Blackowl – New Recreation/Community Center Build and forward to the Oneida Business Committee; enter into the record the results of the July 1, 2024 e-poll entitled, Approval of the Computer Resources Ordinance Amendments Public Meeting Packet and approve the Legislative Operating Committee Fiscal Year 2024 Third Quarter Report and forward to the Oneida Business Committee. This e-poll was approved by Kirby Metoxen, Jennifer Webster, Jonas Hill, and Jameson Wilson. Marlon Skenandore is on a personal leave and therefore did not provide a response to the e-poll.

7/26/24: *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Clorissa Leeman, Fawn Cottrell, Maureen Perkins, Carolyn Salutz, Grace Elliott, Jason Doxtator, Shane Hill, Elvis Walkin, Jesse Kujawa. The purpose of this work meeting was to discuss the rulemaking process as provided for in the Administrative Rulemaking law.

8/21/24: *Public Meeting Held.* Present: Jameson Wilson, Clorissa Leeman, Grace Elliott, Michelle Braaten, Sharon Mousseau, Jason Doxtator, Jesse Kujawa, Elvis Walkin, Todd Vanden Heuvel, Josephine Skenandore. A public meeting for the proposed amendments to the Computer Resources Ordinance was held at the Norbert Hill Center and on Microsoft Teams. No individuals provided oral comments during the public meeting.

8/28/24: *Public Comment Period Closed.* No individuals provided written comment during the public comment period.

Next Steps:

- Approve the public comment review memorandum, draft, and legislative analysis for the proposed amendments to the Computer Resources Ordinance.
- Approve the fiscal impact statement request memorandum and forward the materials to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by September 18, 2024.



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Leeman, Legislative Reference Office, Senior Staff Attorney
DATE: September 4, 2024
RE: Computer Resources Ordinance Amendments: Public Comment Review

On August 21, 2024, a public meeting was held regarding the proposed amendments to the Computer Resources Ordinance. The public comment period was then held open until August 28, 2024. No public comments were received during the public meeting or the public comment period on this legislative item. The public meeting draft and public meeting transcript are attached to this memorandum for review.

Draft 1 (Redline to Current) – PM Draft
2024 08 21

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	<u>215.9</u>	<u>Administrative Rulemaking Authority</u>
215.6	Privacy	<u>215.910</u>	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~~ 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 ~~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

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 computertechnology 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 computertechnology 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 proceduresrules 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

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

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

215.8 Computer Technology Resources Acknowledgment Form.

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

215.9 Administrative Rulemaking Authority.

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

215.10 Violations.

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

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

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

End.

~~Emergency~~ Adopted ~~BC # 3-03-24-04-A~~ (*Emergency Adoption*)
Adopted ~~BC # 9-09-29-04-B~~ (*Permanent Adoption*)
~~Amended - BC- - - -~~



**LEGISLATIVE OPERATING COMMITTEE
PUBLIC MEETING**

Computer Resources Ordinance Amendments

Norbert Hill Center Business Committee Conference Room and Microsoft Teams

August 21, 2024

12:15 p.m.

Present: Jameson Wilson, Clorissa Leeman, Grace Elliott, Michelle Braaten, Sharon Mousseau, Jason Doxtator, Jesse Kujawa, Elvis Walkin, Todd Vanden Heuvel, Josephine Skenandore

Jameson Wilson: Good Afternoon, the time is 12:15 p.m. and today's date is Wednesday, August 21, 2024. I will now call to order the public meeting for the proposed amendments to the Computer Resources Ordinance.

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 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 Wednesday, August 28, 2024.

In attendance from the LOC is myself, Jameson Wilson, chairman of the Legislative Operating Committee.

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 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 Computer Resources Ordinance.

The purpose of the Computer Resources Ordinance is to regulate the usage of technology resources and processed data owned and operated by the Nation. The Computer Resources Ordinance amendments will:

- Revise the title and references throughout the Law from “computer resources” to “technology resources.”
- Clarify that users are expected to conduct themselves professionally and to refrain from using technology resources of the Nation for activities that are inappropriate no matter in what location the user utilizes the technology resources of the Nation.
- Clarify that it shall not be deemed an inappropriate use for a user to share information or evidence regarding the inappropriate use of another user if reporting the inappropriate use in accordance with the proper reporting structure.
- Clarify that any standard operating procedure defining excessive use of technology resources for any user that is an employee of the Nation is required to be developed in accordance with all other laws and rules of the Nation.
- Include a new provision in which DTS is delegated rulemaking authority in accordance with the Administrative Rulemaking law to promulgate rules to govern technology resources of the Nation.

Those who wish to speak please raise your hand and state your name when making a comment.

With there being no more speakers in person or online, the public meeting for the proposed amendments to the Computer Resources Ordinance is now closed at 12: 28 p.m.

Written comments may be submitted until close of business on Wednesday, August 28, 2024.

Appreciate everyone joining online and hopefully we will get some comments from during the comment public comment period.

So appreciate you all joining once again and have a good rest of the day.

We'll see you.

-End of Meeting-



COMPUTER RESOURCES ORDINANCE AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> ▪ Revise the title and references throughout the Law from “computer resources” to “technology resources.” ▪ Clarify that users are expected to conduct themselves professionally and to refrain from using technology resources of the Nation for activities that are inappropriate no matter in what location the user utilizes the technology resources of the Nation. [2 O.C. 215.5-1]. ▪ Clarify that it shall not be deemed an inappropriate use for a user to share information or evidence regarding the inappropriate use of another user if reporting the inappropriate use in accordance with the proper reporting structure. [2 O.C. 215.5-2]. ▪ Clarify that any standard operating procedure defining excessive use of technology resources for any user that is an employee of the Nation is required to be developed in accordance with all other laws and rules of the Nation. [2 O.C. 215.7-1(a)]. ▪ Include a new provision in which DTS is delegated rulemaking authority in accordance with the Administrative Rulemaking law to promulgate rules to govern technology resources of the Nation. [2 O.C. 215.9-1].
Purpose	The purpose of this law is to regulate the usage of technology resources and processed data owned and operated by the Nation. [2 O.C. 215.1-1].
Affected Entities	DTS, employees, independent contractor personnel, interns, members of boards, committees or commissions, volunteers, guests, and visitors
Public Meeting	A public meeting was held on August 21, 2024. The public comment period was held open until August 28, 2024. No public comments were received during the public meeting or comment period.
Fiscal Impact	A fiscal impact statement has not yet been requested.

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A. Background.** The Computer Resources Ordinance was originally adopted by the Oneida Business
- 3 Committee in 2004 through resolution BC-09-29-04-B. The purpose of the Computer Resources
- 4 Ordinance is to regulate the usage of technology resources and processed data owned and operated by
- 5 the Nation. [2 O.C. 215.1-1]. It is the policy of the Nation to provide its community and employees
- 6 access to the tools necessary to participate in a technological society. [2 O.C. 210.1-2].
- 7 **B. Request for Amendments.** On the April 30, 2024, the Legislative Operating Committee received a
- 8 request from Shane Hill, Manager of Digital Security with the Digital Technology Services (DTS), to
- 9 consider amendments to this law to include a delegation of rulemaking authority to DTS so DTS has
- 10 the ability to promulgate rules to support and enforce the Computer Resources Ordinance. The

11 Legislative Operating Committee added the Computer Resources Ordinance amendments to its Active
12 Files List on May 15, 2024.

13

14 **SECTION 3. CONSULTATION AND OUTREACH**

15 A. Representatives from the following departments or entities participated in the development of the
16 amendments to the Computer Resources Ordinance and this legislative analysis:

17 ▪ DTS.

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

19 ▪ Administrative Rulemaking law; and

20 ▪ Oneida Personnel Policies and Procedures.

21

22 **SECTION 4. PROCESS**

23 A. The development of the proposed amendments to the Computer Resources Ordinance complies with
24 the process set forth in the Legislative Procedures Act (LPA).

25 ▪ On May 15, 2024, the Legislative Operating Committee added the Computer Resources Ordinance
26 to its Active Files List.

27 ▪ On June 5, 2024, the Legislative Operating Committee approved the draft of the proposed
28 amendments to the Computer Resources Ordinance and directed that a legislative analysis be
29 developed.

30 ▪ On June 19, 2024, the Legislative Operating Committee approved the legislative analysis of the
31 proposed amendments to the Computer Resources Ordinance.

32 ▪ On July 1, 2024, the Legislative Operating Committee conducted an e-poll entitled, *Approval of*
33 *the Computer Resources Ordinance Amendments Public Meeting Packet*. The requested action of
34 this e-poll was to approve the Computer Resources Ordinance amendments public meeting packet
35 and forward the Computer Resources Ordinance amendments to a public meeting to be held on
36 August 21, 2024. This e-poll was approved by Jennifer Webster, Jonas Hill, Jameson Wilson, and
37 Kirby Metoxen. Marlon Skenandore is on a personal leave and therefore did not provide a response
38 to the e-poll.

39 ▪ On July 17, 2024, the Legislative Operating Committee conducted an e-poll entitled, *Approval of*
40 *the Canceled July 17, 2024 LOC Meeting Materials*. One of the approved actions of this e-poll
41 was to enter into the record the results of the July 1, 2024, e-poll entitled, *Approval of the*
42 *Computer Resources Ordinance Amendments Public Meeting Packet*.

43 ▪ On August 21, 2024, the public meeting was held for the proposed amendments to the Computer
44 Resources Ordinance. No individuals provided oral comments during the public meeting.

45 ▪ On August 28, 2024, the public comment period closed. No individuals provided written comment
46 during the public comment period.

47 B. At the time this legislative analysis was developed the following work meetings had been held
48 regarding the development of the amendments to the Computer Resources Ordinance:

49 ▪ May 31, 2024: LOC work session with DTS.

50 ▪ July 26, 2024: LOC work session with DTS.

51

52

53

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

- 55 **A. *Computer to Technology Resources.*** The proposed amendments to the Law change the title and
56 references throughout the Law from “computer resources” to “technology resources.” Technology
57 resources is defined as any tools, systems, and applications that use technology to fulfill their purposes.
58 [2 O.C. 215.3-1(e)]. The Law provides that technology resources may include, but are not limited to,
59 computers, tablets, telephones, facsimile machines, photocopiers, networks, virtual applications, and
60 software, such as internet connectivity and access to internet services and electronic mail. *Id.*
- 61 ▪ *Effect.* The revised title and references throughout the Law are more inclusive of the fact that the
62 Nation uses many different forms of technology beyond just computers, and the amendments
63 demonstrate that the Law should apply to all technology used within the Nation, not just computers.
- 64 **B. *Location of Inappropriate Personal Use.*** Currently, the Law provides that users are expected to
65 conduct themselves professionally and to refrain from using technology resources of the Nation for
66 activities that are inappropriate. [2 O.C. 215.5-1]. The proposed amendments to the Law add in
67 clarification that users are expected to conduct themselves professionally and to refrain from using
68 technology resources of the Nation for activities that are inappropriate no matter in what location the
69 user utilizes the technology resources of the Nation. *Id.*
- 70 ▪ *Effect.* The proposed amendments to the Law recognize that the same expectations apply even
71 though some users of the Nation may be using technology resources of the Nation from a variety
72 of locations, especially with the ability for some employees of the Nation to telecommute.
- 73 **C. *Reporting Inappropriate Use.*** The proposed amendments to the Law add in a new section that clarifies
74 that it shall not be deemed an inappropriate use for a user to share information or evidence regarding
75 the inappropriate use of another user if reporting the inappropriate use in accordance with the proper
76 reporting structure. [2 O.C. 215.5-2].
- 77 ▪ *Effect.* The Legislative Operating Committee intended that this new provision to the Law make it
78 very clear that a user who may forward on or share information or evidence regarding the
79 inappropriate use of another user will not be found to be engaging in an inappropriate use if using
80 the information or evidence to report the inappropriate use of another user in accordance with the
81 proper reporting structure.
- 82 **D. *Development of Standard Operating Procedures.*** Currently the Law provides that supervisors are
83 authorized to develop standard operating procedures defining excessive use for users subject to the
84 Nation’s personnel policies and procedures and who are under the supervisor’s authority. [2 O.C. 215.7-
85 1(a)]. The proposed amendments to the Law add further clarification into the Law by providing that
86 supervisors are authorized to develop standard operating procedures defining excessive use of
87 technology resources for any user that is an employee of the Nation and subject to the supervisor’s
88 authority, in addition to the fact that any standard operating procedure is required to be developed in
89 accordance with all other laws and rules of the Nation. *Id.*
- 90 ▪ *Effect.* The proposed amendment to the Law clarifies that any standard operating procedure
91 developed by a supervisor needs to be developed in accordance with all other laws and rules of the
92 Nation. It is important that there is consistency throughout the laws, rules, and standard operating
93 procedures of the Nation and that no conflicts exist between the various levels of regulations.
- 94 **E. *Delegation of Administrative Rulemaking Authority.*** The proposed amendments to the Law add in a
95 new provision in which DTS is delegated rulemaking authority in accordance with the Administrative
96 Rulemaking law to promulgate rules to govern technology resources of the Nation. [2 O.C. 215.9-1].

- 97 ▪ *Effect.* The Administrative Rulemaking law provides that only authorized agencies may
98 promulgate rules once they are granted rulemaking authority by a law of the Nation. [1 O.C. 106.4-
99 1]. This new provision of the Law delegates DTS rulemaking authority in accordance with the
100 Administrative Rulemaking law. This delegation of rulemaking authority will allow DTS to
101 develop rules to best govern the technology resources of the Nation.
102

103 **SECTION 6. EXISTING LEGISLATION**

104 **A. *References to the Other Laws of the Nation.*** The following laws of the Nation are referenced in the
105 Computer Resources Ordinance.

- 106 ▪ *Oneida Personnel Policies and Procedures.* The purpose of the Oneida Personnel Policies and
107 Procedures is to provide for the Nation’s employee related policies and procedures including
108 recruitment, selection, compensation and benefits, employee relations, safety and health, program
109 and enterprise rules and regulations, and record keeping.
 - 110 ▪ This Law provides that employee violations of this law are subject to discipline in
111 accordance with the Nation’s laws governing employment. [2 O.C. 215.10-3].
 - 112 ▪ Any disciplinary action against an employee for a violation of the Computer Resources
113 Ordinance is required to be conducted in accordance with the Oneida Personnel Policies
114 and Procedures.
- 115 ▪ *Administrative Rulemaking Law.* The Administrative Rulemaking law provides an efficient,
116 effective, and democratic process for enacting and revising administrative rules, to ensure that
117 authorized agencies act in a responsible and consistent manner when enacting and revising
118 administrative rules. [1 O.C. 106.1-2].
 - 119 ▪ This Law delegates rulemaking authority to DTS to promulgate rules to govern technology
120 resources of the Nation. [2 O.C. 215.9-1].
 - 121 ▪ Any rules promulgated by DTS are required to be developed in accordance with the process
122 and procedures of the Administrative Rulemaking law.

123 **B. *Other Laws that Reference the Computer Resources Ordinance.*** The following laws of the Nation
124 reference the Computer Resources Ordinance. The proposed amendments to the Law do not conflict
125 with any of the referenced laws.

- 126 ▪ *Social Media Policy.* The Social Media Policy regulates social media accounts, including a social
127 networking web page, blog or microblog, that is administered on behalf of the Tribe or a Tribal
128 entity. [2 O.C. 218.1-1].
 - 129 ▪ The Social Media Policy is not intended to provide a right for employees to use the internet
130 or social media while at work for personal use. [2 O.C. 218.1-3]. Supervisors retain
131 discretion to permit or prohibit the personal use of computers in accordance with the
132 Computer Resources Ordinance. *Id.*
- 133 ▪ *Boards, Committees, and Commissions Law.* The Boards, Committees, and Commissions law
134 governs boards, committees, and commissions of the Nation, including the procedures regarding
135 the appointment and election of persons to boards, committees and commissions, creation of
136 bylaws, maintenance of official records, compensation, and other items related to boards,
137 committees and commissions [1 O.C. 105.1-1].
 - 138 ▪ The Boards, Committees, and Commissions law provides that a member of an entity shall
139 sign an acknowledgment form provided by the Nation’s Secretary indicating notice of the

140 Nation's applicable computer and media related laws, policies and rules. [1 O.C. 105.14-
141 3(d)].
142

143 **SECTION 7. OTHER CONSIDERATIONS**

144 A. **Fiscal Impact.** Under the Legislative Procedures Act, a fiscal impact statement is required for all
145 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
146 10-28-20-A titled, "*Further Interpretation of 'Fiscal Impact Statement' in the Legislative Procedures*
147 *Act,*" provides further clarification on who the Legislative Operating Committee may direct complete
148 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
149 completing the fiscal impact statement.

150 ■ **Conclusion.** The Legislative Operating Committee has not yet directed that a fiscal impact
151 statement be completed.

152



TO: Ralinda Ninham-Lamberies, Chief Financial Officer
FROM: Jameson Wilson, Legislative Operating Committee Chairman
DATE: September 4, 2024
RE: Computer Resources Ordinance Amendments Fiscal Impact Statement

The Legislative Operating Committee (LOC) is currently developing amendments to the Computer Resources Ordinance. The Legislative Procedures Act requires that a fiscal impact statement be provided for all proposed legislation of the Nation. [1 O.C. 109.6-1]. The fiscal impact statement is an estimate of the total fiscal year financial effects associated with the proposed legislation, and should include:

- startup costs;
- personnel;
- office costs;
- documentation costs; and
- an estimate of the amount of time necessary for an individual or agency to comply with the law after implementation. [1 O.C. 109.3-1(c)].

The fiscal impact statement must be completed and submitted to the LOC prior to the proposed legislation being forwarded to the Oneida Business Committee for consideration. [1 O.C. 109.6-2]. The fiscal impact statement provides the Oneida Business Committee information on what the potential adoption of the proposed legislation will cost the Nation, so that the Oneida Business Committee can determine if adoption of the proposed legislation is in the best interest of the Nation.

The Legislative Procedures Act grants the LOC the authority to direct the Finance Department or any agency who may administer a program if the legislation is enacted or may have financial information concerning the subject matter of the legislation to submit a fiscal impact statement. [1 O.C. 109.6-1].

Oneida Business Committee resolution BC-10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures Act*” provides further clarification on the process for directing a fiscal impact statement be completed. This resolution provides that upon final approval of draft legislation by the LOC, the LOC may direct the Finance Department to provide a neutral and unbiased fiscal impact statement to the LOC within ten (10) business days for inclusion in adoption materials.

On September 4, 2024, the Legislative Operating Committee approved the final draft of the proposed amendments to the Computer Resources Ordinance. Therefore, the LOC is directing the Finance Department to provide a fiscal impact statement on the proposed amendments to the Computer Resources Ordinance by September 18, 2024.

A copy of the proposed amendments to the Computer Resources Ordinance, as well as the legislative analysis, have been attached to this memorandum for your convenience.

Requested Action

Provide the LOC a fiscal impact statement of the proposed amendments to the Computer Resources Ordinance by September 18, 2024.



Legislative Operating Committee
September 4, 2024

Law Enforcement Ordinance Amendments

Submission Date: 9/17/14	Public Meeting: n/a
LOC Sponsor: Jonas Hill	Emergency Enacted: n/a

Summary: *This item was carried over from the previous three terms. The item was originally added to the Active Files List per the request of the Oneida Police Department and the Oneida Law Office that clarification be added to the law regarding whether the Nation’s Conservation wardens qualify as sworn officers.*

9/17/14 LOC: Motion by Jennifer Webster to add Law Enforcement Ordinance Amendments – Conservation Officers to the Active Files List; seconded by Tehassi Hill. Motion carried unanimously. *Note: Tehassi Hill will be the sponsor for this item.*

10/10/16: *Quarterly Sponsor Update Meeting held.* Present: Tehassi Hill, Maureen Perkins, Tani Thurner, Clorissa Santiago, Krystal John. No new updates.

9/6/17 LOC: Motion by Jennifer Webster to add Law Enforcement Ordinance Amendments – Conservation Officers to the active files list with Ernie Stevens III as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

11/1/17 LOC: Motion by Kirby Metoxen approve the 60-day active files list update and continue development of all the items on the active files list; seconded by Ernie Stevens III. Motion carried unanimously.

10/7/20 LOC: Motion by Kirby Metoxen to add the Law Enforcement Ordinance Amendments to the Active Files List with Jennifer Webster as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

12/09/21: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Kristal Hill, Rhiannon Metoxen, Clorissa Santiago, Kristen Hooker, Carmen Vanlanen. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to have the LOC review a first draft of amendments to the Oneida Law Enforcement Ordinance. For purposes of efficiency, amendments to the Ordinance should be developed and adopted simultaneous with the ONGO amendments; specifically, as they relate to the transition of the Security Department (as set forth in ONGO) from under the Oneida Police Department to under a Public Safety Commission, which will be created through re-establishment of the Oneida Police Commission via amendments to this Ordinance. The next step is for the drafting attorney to meet with the heads of the Police Department and Conservation Department to discuss the aforementioned transition.

- 12/15/21:** *Work Meeting.* Present: David Jordan, Marie Summers, Daniel Guzman-King, Jennifer Webster, Kristal Hill, Clorissa Santiago, Kristen Hooker, Carmen Vanlanen. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to discuss the meeting scheduled for December 21, 2021 with the heads of the Oneida Police Department and Conservation Department to discuss the transition of the Conservation Department from under the Police Department to under a re-established Oneida Police Commission to be renamed the Public Safety Commission.
- 12/21/21:** *Work Meeting.* Present: David Jordan, Marie Summers, Daniel Guzman-King, Joel Maxam, Eric Boulanger, Shad Webster, Terry Metoxen, Nicole Rommel, Kristal Hill, Rhiannon Metoxen, Kristen Hooker, Carmen Vanlanen. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to discuss amendments to the Oneida Law Enforcement Ordinance as they relate to the oversight of the Conservation Department. The next step is for the Police Department and Conservation Department to forward their policies/ protocols to the LRO so that it may review them in anticipation of discussing the issue in more depth with the LOC.
- 1/28/22:** *Work Meeting.* Present: Richard VanBoxtel, Jeanette Ninham, Kristen Hooker, Carmen Vanlanen. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to hear from members of the Oneida Police Commission in regards to the proposal to reorganize the Commission, as well as the Conservation Department, in a manner that better suits the Nation and its members.
- 6/23/22:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Marie Summers, Clorissa N. Santiago, Carolyn Salutz, Grace Elliott, Rhiannon Metoxen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to clarify some drafting questions to provide greater direction as to the drafting of potential amendments to the Law.
- 7/6/22:** *Work Meeting.* Present: Kirby Metoxen, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carolyn Salutz, Grace Elliott, Kristal Hill, Eric Boulanger, Joel Maxam. Terry Metoxen, Kelly McAndrews. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to begin discussing potential amendments to the Law.
- 8/3/22:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carolyn Salutz, Grace Elliott, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to discuss an e-mail received from Attorney Kelly McAndrews providing that the Oneida Law Office and Oneida Police Department no longer support the creation of a Public Safety Commission that would oversee the Security Department in addition to the Police Department.
- 9/19/22:** *Work Meeting.* Present: Kirby Metoxen, Marie Summers, Daniel Guzman King, Jennifer Webster, Clorissa N. Santiago, Carolyn Salutz, Kristal Hill, Eric Boulanger, Joel Maxam, Richard VanBoxtel, Kelly McAndrews, Katsitsiyo Danforth. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to discuss a memorandum from OPD, Law Office, and Security regarding some concerns with including Security within the Law Enforcement Ordinance, as well as additional areas within the Law Enforcement Ordinance that will need amending.
- 9/21/22:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Marie Cornelius, Daniel Guzman King, Jennifer Webster, Clorissa N. Santiago, Carolyn Salutz, Rhiannon Metoxen, Grace Elliott. This was a work meeting held through Microsoft Teams. The purpose of the meeting

was to follow up on the September 19, 2022, work meeting and make a final determination as to whether to move forward with the development of the Public Safety Commission.

- 10/3/22:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Marie Cornelius, Daniel Guzman King, Jennifer Webster, Clorissa N. Leeman, Carolyn Salutz, Grace Elliott, Kristal Hill, Katsitsiyo Danforth, Louise Cornelius. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to discuss with the Gaming General Manager, Gaming maintaining some responsibilities over the Security Department even after it moves to under the Public Safety Commission.
- 10/4/23 LOC:** Motion by Jennifer Webster to add the Law Enforcement Ordinance Amendments to the Active Files List with Jonas Hill as the sponsor; seconded by Jonas Hill. Motion carried unanimously.
- 3/6/24:** *Work Meeting.* Present: Jameson Wilson, Kirby Metoxen, Jennifer Webster, Marlon Skenandore, Jonas Hill, Clorissa Leeman, Kelly McAndrews, Eric Boulanger, Joel Maxam, Brandon Vandehei, Maureen Perkins, Kristal Hill. The purpose of this work meeting was to review the Oneida Nation Law Enforcement Ordinance and discuss potential amendments.
- 3/28/24:** *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Marlon Skenandore, Kirby Metoxen, Jonas Hill, Clorissa Leeman, Kristal Hill, Grace Elliott, Carolyn Salutz. The purpose of this work meeting was to discuss the removal of “sergeant” from section 301.5-3(d) of the law.
- 4/19/24:** *Work Meeting.* Present: Jameson Wilson, Jonas Hill, Jennifer Webster, Marlon Skenandore, Clorissa Leeman, Kelly McAndrews, Eric Boulanger, Joel Maxam, Brandon Vandehei, Dan Skenandore, Fawn Cottrell, Katsitsiyo Danforth, Maureen Perkins. The purpose of this work meeting was to review the updated draft of the proposed amendments to the Oneida Nation Law Enforcement Ordinance.
- 6/7/24:** *Work Meeting.* Present: Jameson Wilson, Jonas Hill, Jennifer Webster, Kirby Metoxen, Clorissa Leeman, Kelly McAndrews, Eric Boulanger, Brandon Vandehei, Richard VanBoxtel, Katsitsiyo Danforth, Carolyn Salutz, Kristal Hill, Maureen Perkins. The purpose of this work meeting was to review the updated draft of the proposed amendments to the Oneida Nation Law Enforcement Ordinance, and specifically obtain the input of the Oneida Police Commission.
- 7/26/24:** *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Clorissa Leeman, Maureen Perkins, Richard VanBoxtel, Eric Boulanger. The purpose of this work meeting was to review some final topics in the Oneida Law Enforcement Ordinance draft – particularly looking at section 301.6-4 so we can have some discussion on what responsibilities the Commission should have over the Department so it best reflects current practice.

Next Steps:

- Approve the draft of the proposed amendments to the Oneida Law Enforcement Ordinance and direct that a legislative analysis be completed.

Title 3. Health and Public Safety – Chapter 301
~~ONEIDA NATION LAW ENFORCEMENT ORDINANCE~~

Shakotiye'nás Olihwáke
The Matters of Those Who Protect Us
LAW ENFORCEMENT

#

301.1-1 Purpose and Policy	301.7-1 Appointment of Law Enforcement Officers
301.2-1 Adoption, Amendment, Repeal	301.8-1 Promotion of Law Enforcement Officers
301.3-1 Definitions	301.9-1 Disciplinary Proceedings
301.4-1 General Principles	301.10-1 Administrative Leave
301.5-1 Oneida Police Department	301.11-1 Firearms Control
301.6-1 Oneida Police <u>Public Safety and Security</u> Commission	

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#

301.1. Purpose and Policy

301.1-1. Purpose.— The purpose of this ~~ordinance~~ law is to regulate the conduct of the ~~Oneida Tribe of Indians of Wisconsin~~ Nation's law enforcement personnel according to the highest professional standards.

301.1-2. Policy. It is the policy of the Nation to ensure that the law enforcement personnel operates at the highest level of professional standards to ensure the safety and welfare of the community.

301.2. Adoption, Amendment, Repeal

301.2-1.— This law ~~is~~ was adopted by the Oneida Business Committee by resolution BC Resolution-10-10-01-C and amended by resolution BC-02-25-15-C; and BC- - - -.

301.2-2.— This law may be amended ~~pursuant to the procedures set out in the Oneida Administrative Procedures Act~~ or repealed by the Oneida Business Committee or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

301.2-3.— Should a provision of this law or the application there of 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.

~~301.2-4.— All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with this policy are hereby repealed unless specifically re-enacted after adoption of this policy.~~

301.2-4. 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.

301.2-5.— This ~~ordinance shall be known as~~ law is adopted under authority of the Constitution of the Oneida ~~Law Enforcement Ordinance~~ Nation.

301.3. Definitions

301.3-1.— This section shall govern the definitions of words ~~as~~ and phrases ~~as used herein~~ within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) ~~“Certified Law Enforcement Officer shall mean~~ law enforcement officer” means a sworn officer who meets all qualifications for law enforcement officer, including accepted professional training and experience, State of Wisconsin Certification or eligibility for Certification which includes but is not limited to, satisfactory background investigation, psychological evaluation, drug testing, and police firearms certification.

~~(b) Police Supervisors are defined as law enforcement officers who hold the rank of~~

~~Sergeant or above.~~

(b) “Commissioner” shall mean a member of the Oneida Public Safety and Security Commission.

~~(c) “Deadly force” means the intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.~~

(d) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later authorized to administer the judicial authorities and responsibilities of the Nation by Oneida General Tribal Council resolution GTC-03-19-17.

(e) “Nation” means the Oneida Nation.

~~(f) “Non-sworn Personnel shall mean those persons who perform duties for personnel” means an individual employed with the Oneida Police Department as directed by the Police Chief or designee that does not meet the qualifications for a certified law enforcement officer.~~

~~(d) g) “Oneida Police Public Safety and Security Commission shall refer to” means the entity made up of those individuals appointed by the Oneida Business Committee to serve in the capacity of insuring that community input is maintained provide oversight regarding the activities and actions of public safety and security operations throughout the Reservation.~~

(h) “Police supervisor” means a law enforcement officer who holds the rank of Sergeant or above.

(i) “Reservation” means all land within the Oneida Police Department by means of policy review and enforcement exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

~~(e) Commissioner shall mean a member of the Oneida Police Commission.~~

~~(f) Oneida Tribe means the Oneida Tribe of Indians of Wisconsin.~~

~~(g) Judiciary means the judicial system that was established by Oneida General Tribal Council resolution GTC 01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.~~

301.4. General Principles:

301.4-1. All law enforcement operations of the Nation shall be conducted in accordance with this law.

301.4-2. Law enforcement operations shall take place on and within Oneida the Reservation, unless:

(a) there is a potential that the safety and welfare of an individual is being compromised. In addition;

(b) the law enforcement operations may take place occur pursuant to mutual aid agreements with local governments; or

(c) the 301.4-2. All law enforcement operations shall be conducted as set forth in this ordinance occur pursuant to any other jurisdictional exception.

301.4-3. Law enforcement operations shall be used primarily for the purposes of providing law enforcement within the Oneida Community Nation and to supplement provide mutual assistance or aid to external law enforcement services offered by local governments within the Oneida Community community by powers set forth in section 301.4, of this law, Article IV section 1(f) of

96 the Constitution and By-Laws of the Oneida ~~Tribe of Indians of Wisconsin~~Nation, and as set forth
97 in compacts and agreements authorized by the Oneida Business Committee or General Tribal
98 Council.

99 301.4-4.—~~The Oneida Tribe of Indians of Wisconsin~~ The Nation shall appoint and employ law
100 enforcement personnel within its boundaries as it deems necessary for the purpose of detecting
101 and preventing crime and enforcing the laws ~~and ordinances~~ of the ~~Oneida Tribe~~Nation, in addition
102 to protection of persons, property, and premises.

103 301.4-5.—The Oneida Police Department may, as authorized and delegated by this
104 Ordinance~~law~~ and the Oneida Business Committee or General Tribal Council, enter into cross-
105 deputization and other law enforcement agreements with other jurisdictions.

106 ~~301.4-6.—The Oneida Police Department may allow law enforcement use of service firearms in~~
107 ~~order to protect life, liberty, property, land and premises, according to the usual and minimum~~
108 ~~accepted law enforcement standards as determined by the Police Chief with approval of the Oneida~~
109 ~~Police Commission. However, actual use of deadly force shall be allowed solely for the protection~~
110 ~~of life or the prevention of grievous bodily harm.~~

111 ~~301.4-7.—A Police Commission is established by this Ordinance to provide oversight regarding~~
112 ~~the activities and actions of the law enforcement operations to provide the greatest possible~~
113 ~~professional services to the Oneida community and to allow for community input regarding those~~
114 ~~law enforcement services through its representatives on the Police Commission. This entity is~~
115 ~~created as an oversight body and does not involve decision making processes on day to day~~
116 ~~activities of those law enforcement services.~~

117 118 **301.5. Oneida Police Department**

119 301.5-1.—There is hereby established an Oneida Police Department, to which is delegated all
120 law enforcement authority of the ~~Oneida Tribe~~Nation. The Oneida Police Department may create
121 divisions of operation as may be deemed appropriate.

122 (a) Oneida Police Chief.—~~The Department Position Restrictions. All positions and~~
123 appointments of the Oneida Police Department shall be subject to Indian preference in
124 hiring, except that the following positions shall be held only by members of the Nation:

- 125 (1) Police Chief;
126 (2) Assistant Chief; and
127 (3) Police Lieutenant.

128 301.5-2. Oneida Police Chief. The Oneida Police Department shall be headed by a Police Chief,
129 appointed pursuant to ~~Section 6-5 of this Ordinance~~law.

130 (b) The Police Chief shall have authority over departmental personnel and operations,
131 subject to the ~~powers of the Oneida Police Commission set forth in Section 301.6-1 of this~~
132 Ordinance.

133 (c) ~~In addition to such divisions as are specified in this Ordinance the Oneida Police~~
134 ~~Department may create divisions of operation as may be deemed appropriate.~~

135 (d) ~~The Police Chief or his/her designee shall have the right to exercise his/her police~~
136 ~~authority to deputize and use the services and manpower of the Oneida Public Safety and~~
137 ~~Security Department for emergencies, special events, and investigations~~Commission.

138 301.5-2. Conservation Department.—There (b) Qualifications and Process for
139 Appointment as Police Chief.

- 140 (1) The recruitment and hiring process for Police Chief shall be a Conservation
141 Department which is a division of conducted by the Oneida ~~Police Department.~~

~~This division~~ Public Safety and Security Commission, with assistance, as needed, by the Human Resources Department.

(2) No person shall be ~~responsible for the protection~~ accepted as a candidate or be eligible to serve as Police Chief who does not meet the following qualifications:

(A) Current certification in the State of Wisconsin as a law enforcement officer or upon approval from the applicable State of ~~all fish resources, wildlife resources, and the lands~~ Wisconsin Standards Board;

(B) Member of the Nation;

(C) A minimum of five (5) years creditable service as a sworn law enforcement officer for a state, tribal, local, or federal government, with preference for:

(i) those who have at least an associate degree in police science, criminal justice or similar field, or a bachelor's degree in a related subject; and

(ii) those with successful supervisory experience;

(D) Current satisfactory background investigation completed by a law enforcement agency selected by the Oneida ~~Tribes~~ Public Safety and Security Commission with results of the investigation reported directly to the Oneida Public Safety and Security Commission;

(E) Current satisfactory psychological examination report;

(F) Current satisfactory medical examination report;

(G) Current drug test with negative results for controlled substances; and

(H) Any other minimum requirement as provided for in the job description.

(3) Examinations, interviews, further selection criteria and other processes utilized in the hiring process of a Police Chief shall be at the discretion of the Oneida Public Safety and Security Commission.

(4) Upon accepting notification of retirement, resignation, or the removal of a current Police Chief, the Oneida Public Safety and Security Commission shall appoint an interim or acting Police Chief who shall serve in said capacity until the process for appointment of a new Police Chief can be completed.

301.5-3.— Law Enforcement Officers.

(a) ~~Law Enforcement Officer: Educational Requirements.~~ All persons ~~hired after February 1, 1993,~~ shall meet the following minimum education requirements within five (5) years of ~~the~~their hire date, ~~which are as follows:~~

(1) Possess a two (2) year associate degree from ~~a Wisconsin~~ an accredited vocational, technical, ~~and/or~~ adult education district ~~or its accredited equivalent from another state;~~ or

(2) Possess documentation in the form of an official transcript showing a minimum of sixty (60) fully accredited college level credits. ~~Documentation will be required in the form of an official transcript;~~ or

(3) Possess a bachelors degree from ~~a Wisconsin~~ accredited college or university ~~or its accredited equivalent.~~

(b) *Conditional Employment.* ~~Persons hired after February 1, 1993,~~ Any person who ~~are~~is not a certified law enforcement ~~officers~~officer at the time of hire, ~~are~~is considered a conditional ~~employees~~employee and ~~must~~shall attain the educational requirements as specified in section 301.5-3(a), within five (5) years of their date of hire.

188 (1) Conditional employees are not eligible for promotion.

189 (2) Law enforcement officers who fail to ~~meet~~attain the ~~specified~~educational
190 requirements ~~in section B,~~within five (5) years of their date of hire shall be subject
191 to immediate termination.

192 (c) ~~Educational Requirement:~~for Police Supervisors. Upon enactment of this
193 ~~ordinance~~law, no law enforcement officer may be considered eligible for promotion to
194 supervisor until the educational requirements of section 301.5-3(a) have been satisfied.
195 Law enforcement officers promoted prior to the enactment of this ~~ordinance~~law are exempt
196 from the educational requirements specified in section 301.5-3(a).

197 ~~(d) Oneida Police Department Position Restrictions/Exceptions. The following positions~~
198 ~~shall be held only by members of the Oneida Tribe: Police Chief, Assistant Chief, Police~~
199 ~~Lieutenant or Sergeant, Conservation Director, and Assistant Conservation Director. All~~
200 ~~other positions and appointments shall be subject to the Indian Preference rules of the~~
201 ~~Oneida Tribe.~~

202 301.5-4.—Liability Coverage. ~~The Oneida Tribe~~To the extent the Federal Tort Claims Act
203 coverage does not apply, the Nation shall provide professional liability insurance for all law
204 enforcement officers ~~and Conservation Officers.~~

205 301.5-5. Declaration of Additional Restrictions of Employees. All personnel of the Oneida
206 Police Department shall be bound by ~~Standard Operating Procedures~~standard operating procedures
207 that are required as a result of the specific and unique needs of law enforcement.

208 301.5-6. Law Enforcement Officers to Be Sworn. All law enforcement officers shall be installed
209 by sworn oath before the Oneida Business Committee ~~at a regular meeting~~during a regular or
210 special Oneida Business Committee meeting, or at an alternative time and location as determined
211 by the Oneida Business Committee Secretary.

212 (a) When taking an oath, the law enforcement officer shall appear in person to take their
213 oath, except if granted permission by the Oneida Business Committee Secretary to appear
214 through video conferencing, or through other telecommunications.

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

217
218 **301.6.— Oneida ~~Police~~Public Safety and Security Commission**

219 301.6-1.—~~Oneida Police Commission.~~ Establishment. There is hereby established an Oneida
220 ~~Police~~ Public Safety and Security Commission to provide oversight regarding the activities and
221 actions of public safety and security operations throughout the Reservation to provide the greatest
222 possible professional services to the Nation and to allow for community input regarding those
223 public safety and security services through its representatives on the Oneida Public Safety and
224 Security Commission. The Oneida Public Safety and Security Commission is an oversight body
225 of the following departments of the Nation, but its oversight authority does not involve decision
226 making processes on day-to-day activities of those public safety services:

227 (a) Oneida Police Department;

228 (b) Internal Security Department; and

229 (c) Any other safety operation department of the Nation as identified in the bylaws of the
230 Oneida Public Safety and Security Commission.

231 301.6-2. Appointment of Commissioners. The Oneida Business Committee shall appoint five
232 (5) members to the Oneida Public Safety and Security Commission for a term of five (5) years.
233 Commissioners may serve more than one (1) term, but not more than three (3) consecutive terms.

234 301.6-3. Commissioner Eligibility Qualifications. In order to be eligible for membership on the
235 Oneida Public Safety and Security Commission an individual shall:

- 236 (a) Be a member of the Nation;
237 (b) Be twenty-five (25) years of age or older;
238 (c) Have a background investigation result in none of the following:
239 (1) A felony conviction in the State of Wisconsin, or any conviction of a crime in
240 another state that would be considered a felony conviction if the offense and
241 adjudication occurred in the State of Wisconsin;
242 (2) A felony arrest which results in a misdemeanor conviction due to a plea
243 arrangement;
244 (3) A conviction of any law violation that could bring discredit to the Oneida Public
245 Safety and Security Commission; or
246 (4) Any pardon issued by the Nation or the governor of any State, for an offense
247 specified in sections 301.6-4(c)(1)-(3), shall not deem a person as “exonerated” for
248 the purposes of membership on the Oneida Public Safety and Security Commission;
249 (d) Not be employed with or terminated from the Oneida Police Department, Internal
250 Security Department, or any other public safety operation overseen by the Oneida Public
251 Safety and Security Commission;

252 301.6-4. Responsibilities in Regard to the Oneida Police Department. The Oneida Public Safety
253 and Security Commission shall be responsible for and empowered to do the following in regard to
254 the Oneida Police Department:

- 255 (a) Appoint, suspend, or remove the Police Chief of the Oneida Police Department.
256 (b) Approve all law enforcement officer appointments made by the Police Chief including
257 the promotion of subordinates.
258 ~~(c) Adopt, modify, and repeal rules governing how lists of individuals, concluded to be~~
259 ~~eligible for appointment to law enforcement officer and promotion, are established.~~
260 ~~(d) Approve competitive examinations used to judge suitability for appointment or~~
261 ~~promotion of law enforcement officers.~~
262 ~~(e)(c)~~ Approve an eligibility list of individuals determined to be eligible for appointment
263 as a law enforcement officer or promotion.
264 ~~(f) Suspend law enforcement officers or other appointed personnel of the Police~~
265 ~~Department pending the filing and hearing of charges against them, subject to the~~
266 ~~provisions of 301.10.~~
267 ~~(g) Initiate charges against law enforcement officers or other appointed personnel of the~~
268 ~~Police Department.~~
269 ~~(h)(d)~~ Hear charges filed against law enforcement officers or other appointed personnel
270 of the Police Department, whether filed by the Oneida Public Safety and Security
271 Commission or the Police Chief, make findings and determinations, and impose penalties,
272 up to and including termination.
273 ~~(i)e)~~ Hear appeals of disciplinary actions against any law enforcement personnel ~~or~~.
274 (1) The Oneida Public Safety and Security Commission shall not have authority
275 over disciplinary actions of non-sworn personnel.
276 ~~(j)f)~~ Adopt ~~rules~~ standard operating procedures governing the Oneida ~~Police~~ Public Safety
277 and Security Commission’s management of its own activities.

278 301.6-5. Responsibilities in Regard to the Internal Security and Other Departments. The
279 responsibilities of the Oneida Public Safety and Security Commission in regard to the Internal

280 Security Department or any other safety operation department of the Nation shall be provided for
281 in the Oneida Public Safety and Security Commission bylaws.

282 ~~301.6-6. Removal From Office. (k) Review contracts, and forward to the Oneida~~
283 ~~Business Committee for approval, concerning cross-deputization, dispatch function and~~
284 ~~mutual aid pacts which are made between the Oneida Police Department and a non-tribal~~
285 ~~agency.~~

286 ~~(l) Approve Standard Operating Procedures of the Oneida Police Department.~~

287 A member of the Oneida Public Safety and Security Commission may have their appointment
288 terminated by the Oneida Business Committee for:

289 ~~(a) Misconduct 301.6-2. Appointment of Commissioners. The Oneida Business~~
290 ~~Committee shall appoint five members to the Oneida Police Commission for a term of five years.~~
291 ~~Commissioners may serve more than one term, but not more than three consecutive terms.~~

292 ~~301.6-3. Commissioner Requirements and Qualifications. The following are membership~~
293 ~~requirements for serving on the Oneida Police Commission:~~

294 ~~(a) Shall be a member of the Oneida Tribe.~~

295 ~~(b) Must be 25 years of age or older.~~

296 ~~(c) Satisfactory background investigation. The following would prohibit any person from~~
297 ~~serving on the Oneida Police Commission:~~

298 ~~(1) A felony conviction in the State of Wisconsin, or any conviction of a crime in~~
299 ~~another state that would be considered a felony conviction if the offense and~~
300 ~~adjudication occurred in the State of Wisconsin.~~

301 ~~(2) A felony arrest which results in a misdemeanor conviction due to a plea~~
302 ~~arrangement.~~

303 ~~(3) A conviction of any ordinance violation that could bring discredit to the~~
304 ~~Commission.~~

305 ~~(4) Any pardon issued by the Oneida Tribe or the governor of any State, for an~~
306 ~~offense specified in sections 301.6-3(c)(1)-(3), shall not deem a person as~~
307 ~~“exonerated” for the purposes of membership on the Oneida Police Commission.~~

308 ~~(d) Must submit to drug testing prior to appointment and on an annual basis.~~

309 ~~(e) Must not be an employee of the Oneida Police Department~~

310 ~~(f) Shall attend applicable training.~~

311 ~~(g) Must be a person of known good standing in the community.~~

312 ~~301.6-4. Removal From Office. In addition to the Removal Law standards, a Commissioner may~~
313 ~~be removed for:~~

314 ~~(a) Malfesance in office.;~~

315 ~~(b) Conduct which could jeopardize the reputation of the Oneida Tribe Nation, the Oneida~~
316 ~~Police Public Safety and Security Commission, or the law enforcement public safety~~
317 ~~system.;~~

318 ~~(c) Any change in status which would place the Commissioner in conflict with the~~
319 ~~qualifications specified in section 301.6-3(c) above.;~~ or

320 ~~(d) Violation of the confidentiality of closed hearings or any other information declared~~
321 ~~“confidential” by the Oneida Police Commission.~~

322 ~~301.6-5. Qualifications Public Safety and Security Commission.~~

324 301. Process for 7. Appointment as Police Chief.

325 ~~(a) The recruitment and hiring process for Police Chief shall be conducted by the Oneida~~

Police Commission, with assistance, as needed, by the Human Resources Department.

(b) No person shall be accepted as a candidate or be eligible to serve as Police Chief who does not meet the following qualifications:

(1) Current certification in the State of Wisconsin as a law enforcement officer or upon approval from State of Wisconsin Standards Board.

(2) Member of the Oneida Tribe.

(3) A minimum of five (5) years creditable service as a sworn law enforcement officer for a state, tribal, local or federal government, with preference for (i) those who have at least an associate degree in police science, criminal justice or similar field, or a bachelor's degree in a related subject; and (ii) those with successful supervisory experience.

(4) Current satisfactory background investigation completed by the Security Department or a law enforcement agency selected by the Oneida Police Commission with results of the investigation reported directly to the Oneida Police Commission.

(5) Current satisfactory psychological examination report.

(6) Current satisfactory medical examination report.

(7) Current drug test with negative results for controlled substances.

(c) Examinations, interviews, further selection criteria and other processes utilized in the hiring process of a Police Chief shall be at the discretion of the Oneida Police Commission.

(d) Upon accepting retirement notification or the resignation of a current Police Chief, the Oneida Police Commission shall appoint an interim or acting Police Chief who shall serve in said capacity until the process for appointment of a new chief can be completed.

301.7.—Appointment of Law Enforcement Officers

301.7-1.—*Job Task Analysis.* The Police Chief shall develop a ~~Job Task Analysis~~ job task analysis (job description) for law enforcement officers and submit the job task analysis to the Oneida ~~Police~~ Public Safety and Security Commission for approval.

301.7-2.—*Hiring Criteria.* Hiring criteria for law enforcement officers, shall be developed by the Oneida ~~Police~~ Public Safety and Security Commission and implemented by the Police Chief; ~~and must.~~ The hiring criteria shall include, but ~~is~~ not be limited to, the following:

(a) ~~_~~ educational requirements;

(b) ~~_~~ satisfactory background investigation;

(c) ~~_~~ psychological examination; and

(d) ~~_~~ medical certification.

301.7-3.—*Hiring Process Outline.* ~~A Hiring Process Outline~~ A hiring process outline shall be developed by the Oneida ~~Police~~ Public Safety and Security Commission and implemented by the Police Chief. The ~~Hiring Process Outline will~~ hiring process outline shall detail specific steps involved in the hiring process for law enforcement officers, and steps in the process involving scoring, rank scoring, or grading shall be specified, as well as passing grades or scores. The ~~Hiring Process Outline~~ hiring process outline shall include all pertinent steps involved in the hiring process including, but not limited to, the following:

(a) ~~_~~ application process;

(b) ~~_~~ application screening;

(c) ~~_~~ written test procedures;

(d) ~~_~~ oral interviews;

- 372 (e) physical agility testing;
- 373 (f) background investigation;
- 374 (g) conditional offer of employment; and
- 375 (h) psychological and medical testing.

376 301.7-4.— Approval of Additional Law Enforcement Personnel.

377 (a) The Police Chief shall make a request for the hiring of additional law enforcement
378 personnel through the Human Resources Department processes.

379 (b) Upon receiving approval, the Police Chief shall make a formal request to the Human
380 Resources Department for posting the position(s) available. The current ~~Job Task~~
381 Analysis, Hiring Criteria, job task analysis, hiring criteria, and Hiring Process Outline hiring
382 process outline shall be submitted to the Human Resources Department by the Police Chief.

383 301.7-5.— Process. All phases of the hiring process shall be conducted in accordance with the
384 Hiring Process Outline hiring process outline. Duties and responsibilities of persons involved in
385 the process shall be specified in the outline.

386 301.7-6.— Eligibility List.

387 (a) Upon completion of all screening steps of the ~~Hiring Process Outline~~ hiring process
388 outline, a list shall be compiled of all candidates based on cumulative scores earned by
389 each applicant in all graded or scored steps of the current hiring process.

390 (b) Candidates shall be ranked in inverse numerical order, that is the candidate with the
391 highest cumulative score is ranked “1”, the candidate with the second highest cumulative
392 score is ranked “2”, etc.

393 (c) The list shall be reviewed and approved by the Oneida ~~Police~~Public Safety and
394 Security Commission and submitted to the Police Chief.

395 (d) The eligibility list will be valid for one (1) year from the date it was compiled.

396 (e) The order of appointment of applicants to the position of law enforcement officers
397 shall follow the order of the eligibility list contingent upon satisfactory background
398 investigation, psychological testing, and medical testing.

399 301.7-7.— Commencement of Background Investigation.

400 (a) Upon receiving the approved eligibility list, the Police Chief shall direct a subordinate
401 to commence a background investigation upon candidates based on their numerical ranking
402 on the eligibility list, starting with the top candidate.

403 (b) Results of the background investigation shall be forwarded to the Police Chief and the
404 Oneida ~~Police~~Public Safety and Security Commission.

405 (c) A candidate may be deemed as having an unsatisfactory background investigation
406 report by either the Police Chief or the Oneida ~~Police~~Public Safety and Security
407 Commission, ~~such~~. Such determinations ~~to~~ by the Police Chief of the Oneida Public Safety
408 and Security Commission shall be made in writing.

409 301.7-8.— Conditional Offer of Employment. Provided a candidate has satisfactory results in a
410 background investigation, an offer of employment shall be sent to the candidate. ~~The offer shall~~
411 specify the candidate’s appointment to the position of law enforcement officer contingent upon
412 satisfactory psychological and medical testing.

413 301.7-9.— Appointment. Provided a candidate has passed psychological and medical testing, a
414 formal offer of employment shall be extended to the candidate by the Police Chief. ~~In the event~~
415 the candidate lacks the minimum educational requirements as specified in Section 301.5-3(a), the
416 contingency of employment shall be specified in the offer.

4 18 **301.8. — Promotion of Law Enforcement Officers**

4 19 301.8-1. — *Criteria for Promotion.* The Oneida ~~Police~~Public Safety and Security Commission
4 20 and the Police Chief shall establish specific criteria for the promotion of law enforcement officers.
4 21 The criteria shall be placed on the ~~notice~~ or position posting for the promotion.

4 22 301.8-2. — *Process.* The process for promotion shall be developed by the Police Chief and
4 23 approved by the Oneida ~~Police~~Public Safety and Security Commission. — The specifics of the
4 24 process shall be placed on the notice or position posting for said promotion.

4 25 301.8-3. — *Psychological Testing Required.* — All candidates for promotion shall undergo
4 26 psychological testing and have a satisfactory report prior to promotion. — The results of such test
4 27 shall be made available to the Police Chief and the Oneida ~~Police~~Public Safety and Security
4 28 Commission ~~President~~chairperson.

4 29 301.8-4. — *Promotion.* Upon completion of all steps in the promotion process, a law enforcement
4 30 officer may be promoted upon review and recommendation of Oneida ~~Police~~Public Safety and
4 31 Security Commission to the Police Chief.

4 32
4 33 **301.9. — Disciplinary Proceedings: for Law Enforcement Officers. —**

4 34 301.9-1. — ~~Purpose.~~

4 35 (a) ~~Disciplinary actions may be commenced against a law enforcement officer by the~~
4 36 ~~Police Chief for violations of departmental Standard Operating Procedures or laws of the~~
4 37 ~~Oneida Tribe or other government. Such actions are independent of and exempt from the~~
4 38 ~~Oneida Blue Book. Discipline may range from a verbal warning to termination.~~

4 39 (b) ~~In serious matters, an internal investigation is conducted by the Oneida Police~~
4 40 ~~Department and the law enforcement officer under investigation may be placed on~~
4 41 ~~administrative leave pursuant to 301.10.~~

4 42 (c) ~~In order to insure due process to law enforcement officers, an law enforcement officer~~
4 43 ~~has the right to appeal a disciplinary action to the Oneida Police Commission.~~

4 44 (d) ~~Disciplinary actions may be ordered by the Police Chief. The officer may appeal a~~
4 45 ~~disciplinary action to the Oneida Police Commission. Upon filing of an appeal, the Police~~
4 46 ~~Chief shall submit formal charges against the officer to the Oneida Police Commission.~~

4 47 (e) ~~Any citizen may file charges or a complaint against an officer with the Police Chief.~~
4 48 ~~The Oneida Police Commission can proceed with a hearing after an investigation by the~~
4 49 ~~Police Chief.~~

4 50 (f) ~~If a citizen wishes to file a complaint with the Oneida Police Commission, the Oneida~~
4 51 ~~Police Commission will refer the complaint to the Police Chief to begin an investigation.~~
4 52 ~~Upon completion of the investigation the Police Chief shall submit his written report to the~~
4 53 ~~Commission.~~

4 54 301.9-2. — *Commencement of Disciplinary Hearings.* — A request for an appeal of a decision of the
4 55 ~~Police Chief must be submitted in writing to the Oneida Police Commission within 30 calendar~~
4 56 ~~days.~~

4 57 (a) ~~If the request is by a law enforcement officer or a citizen against a law enforcement~~
4 58 ~~officer, the President must without delay, notify the Police Chief that a hearing has been~~
4 59 ~~requested.~~

4 60 (b) ~~The Oneida Police Commission must meet within ten calendar days and set a hearing~~
4 61 ~~date.~~

4 62 (c) ~~The Oneida Police Commission has the right to extend hearing dates for cause.~~

4 63 301.9-3. — *Rights and Responsibilities of the Oneida Police Commission at Hearings.*

4 64 ~~(a) The Oneida Police of Law Enforcement Officers. The Oneida Public Safety and~~
4 65 ~~Security Commission shall have legal counsel and a court reporter present at all formal~~
4 66 ~~proceedings.~~

4 67 ~~(b) The Oneida Police Commission has the authority to subpoena witnesses.~~

4 68 ~~(c) Hearing procedures that may be unique to a particular hearing shall be established prior~~
4 69 ~~to the hearing.~~

4 70 ~~(d) Disciplinary hearings shall be open, except where:~~

4 71 ~~(1) — the person subject to discipline requests in writing that the hearing be closed; or a law~~
4 72 ~~enforcement officer, in the form of suspension, demotion, or termination, for just cause.~~

4 73 ~~(2) the Police Chief requests in writing that the hearing be closed and indicates that~~
4 74 ~~confidential police matters are involved.~~

4 75 ~~(e) Commissioners shall not discuss the disciplinary matter with anyone outside the~~
4 76 ~~Commission until the hearing is completed and a decision is filed.~~

4 77 301.9-4. ~~Rights of the Accused Law Enforcement Officer at Hearings.~~

4 78 ~~(a) Notice of charges that have been made, or will be made, as well as actions that will or~~
4 79 ~~may be taken against the individual.~~

4 80 ~~(b) The right to a hearing to respond to the charges.~~

4 81 ~~(c) The right to representation at the individual's expense.~~

4 82 ~~(d) The right to confront and cross-examine his/her accusers.~~

4 83 ~~(e) The right to present evidence and argue his/her view of the facts.~~

4 84 301.9-5. ~~Pre-Hearing Conference.~~

4 85 ~~(a) A pre-hearing conference shall be scheduled at least five (5) working days before the~~
4 86 ~~hearing. The law enforcement officer and the complainant shall be notified in writing of~~
4 87 ~~the pre-hearing conference and both may be represented.~~

4 88 ~~(b) The following matters shall be accomplished at the conference.~~

4 89 ~~(1) Witness lists and any prior written or recorded statements or reports of~~
4 90 ~~witnesses will be exchanged between the parties or their representatives.~~

4 91 ~~(2) Exhibit lists will also be exchanged between the parties or their representatives,~~
4 92 ~~and each party and/or their representative shall be permitted to physically inspect~~
4 93 ~~all exhibits of the other party.~~

4 94 ~~(3) Witnesses or exhibits not on the pre-hearing conference lists may not be~~
4 95 ~~introduced at the hearing unless the Oneida Police Commission determines that the~~
4 96 ~~party or their representative can demonstrate a satisfactory reason for the inclusion~~
4 97 ~~of such witness or exhibit on the list(s) submitted at the pre-hearing conference.~~

4 98 ~~(4) In the absence of the party or representative at the pre-hearing conference, the~~
4 99 ~~Oneida Police Commission shall dismiss the charges unless the party or~~
5 00 ~~representative can demonstrate a satisfactory reason for non-appearance.~~

5 01 301.9-6. ~~Hearing Procedure.~~

5 02 ~~(a) The nature of a law enforcement agency requires the highest level of public trust, As a~~
5 03 ~~result, hearings will be open to the public to allow the public to be reassured that hearings~~
5 04 ~~are conducted under the highest standards of objectiveness and reason.~~

5 05 ~~(b) The President of the Oneida Police Commission has the duties of:~~

5 06 ~~(1) Presiding over the hearing.~~

5 07 ~~(2) Maintaining order.~~

5 08 ~~(3) Insuring that the hearing is fair and impartial.~~

5 09 ~~(c) The President may elect to use an attorney or experienced hearing examiner to assist in~~

conducting the hearing.

~~(d) Order of Business.~~

~~(1) The President calls the meeting to order and:~~

~~(A) Explains that the Oneida Police Commission is not an investigative body.~~

~~(B) Describes the hearing as a formal inquiry into the facts of the matter in front of them as an original hearing body.~~

~~(2) The President reads the charges, as filed with the Oneida Police Commission, and cites the rule(s) and/or policy(s) that were alleged to be violated.~~

~~(3) Testimony begins with the person(s) who filed the charges.~~

~~(A) Witnesses, evidence, documents, and other related reports will be submitted by the Police Chief or complainant.~~

~~(B) Witnesses testify under oath which can be administered by the President or any other Commissioner.~~

~~(C) Any Commissioner may ask questions but they must be relevant to the issues at hand. It is the President's responsibility to insure that the questions are germane.~~

~~(D) The law enforcement officer or representative may challenge the testimony or evidence presented.~~

~~(4) The law enforcement officer or representative is given an opportunity to present facts, introduce evidence, and call witnesses to prove:~~

~~(A) That the law enforcement officer was wrongly charged.~~

~~(B) The penalty is not appropriate for the violation.~~

~~(5) The complainant may challenge any testimony offered by the accused.~~

~~(6) Both sides are allowed to present closing summaries of their position.~~

~~(7) The President then adjourns the hearing.~~

~~(8) The Oneida Police Commission retires to executive session to deliberate upon the matter.~~

~~301.9-7.—2. *Just Cause Standard Applied to Commission Deliberations.* The Commissioners shall base their decisions regarding a disciplinary action upon the "just, Just cause" standard. is determined using the following standards, to the extent possible:~~

(a) Whether the law enforcement officer could reasonably be expected to have had knowledge of the probable consequences of the alleged misconduct.

(b) Whether the procedure the law enforcement officer allegedly violated is reasonable.

(c) Whether the Police Chief, before filing charges against the law enforcement officer, made a reasonable effort to discover whether the law enforcement officer did, in fact, violate a procedure.

(d) Whether the investigation was fair and objective.

(e) Whether the Police Chief discovered substantial evidence that the law enforcement officer violated the procedure as described in the charges filed against the law enforcement officer.

(f) Whether the Police Chief is applying the rule or order fairly and without discrimination against the law enforcement officer.

(g) Whether the proposed discipline is reasonable as it relates to the seriousness of the alleged violation and to the law enforcement officer's record of service with the Oneida Police Department.

~~301.9-8. Commission Actions.~~

~~(a) The Oneida Police Commission may on appeals, review a disciplinary action taken by the Police Chief, and:~~

~~(1) Approve the action taken by the Police Chief without change.~~

~~(2) Dismiss or modify the charge(s) made by the Police Chief.~~

~~(3) Modify 301.9-3. *Discipline of Employees by the Chief of Police.* The Chief of Police may reprimand or suspend an employee for just cause without prior approval of the Oneida Public Safety and Security Commission. The Chief of Police shall report this action to the chairperson of the Oneida Public Safety and Security Commission immediately in writing and explain the cause(s) of the action. A law enforcement officer shall not be entitled to a hearing on the suspension unless the subordinate requests that the Police Chief file charges, which then triggers the hearing process.~~

~~(a) For any penalty imposed by the Police Chief.~~

~~(4) Void the action taken by reductions in rank or terminations of a law enforcement officer, the Police Chief.~~

~~(b) The Oneida Police shall first file charges with the Oneida Public Safety and Security Commission.~~

~~301.9-4. *Discipline of the Chief of Police.* The Oneida Public Safety and Security Commission has the sole authority to suspend or terminate the Chief of Police, for cause, upon its own initiative. It may suspend the Chief of Police pending the investigation of written charges received.~~

~~301.9-5. *Right to Request Hearing.* If a law enforcement officer against whom a disciplinary action of suspension, demotion, or termination has been taken requests a hearing on the matter, the Oneida Public Safety and Security Commission shall proceed with such a hearing. Charges shall then be filed with the Oneida Public Safety and Security Commission by the party initially taking the disciplinary action.~~

~~301.9-6. *Filing of Charges.*~~

~~(a) *Standing to File Charges.* Charges may be filed with the Oneida Public Safety and Security Commission by:~~

~~(1) the Chief of Police;~~

~~(2) a member of the Oneida Public Safety and Security Commission;~~

~~(3) the Oneida Public Safety and Security Commission as a body; or~~

~~(4) any aggrieved party.~~

~~(b) *Content of Charges.* The charges shall be in writing and shall be signed by the charging party. The sources of all information contained in the charges shall be stated in the charges or in accompanying documents. Information regarding the names and addresses of witnesses having relevant knowledge relating to the charges may be embodied in a separate statement accompanying the charges. The charges shall identify the person who is charged and specify, if possible, the date(s) and place(s) of the alleged offense(s).~~

~~(c) *Filing of Charges.* The charges shall be filed with the chairperson of the Oneida Public Safety and Security Commission. Pending disposition of such charges, the Oneida Public Safety and Security Commission or Police Chief may suspend the employee.~~

~~(d) *Service of Charges.* Following service upon the Oneida Public Safety and Security Commission chairperson, a copy of the charge shall be served upon the person charged. A copy of the charge shall be issued to the person charged within five (5) business days after charges are sent to the Commission.~~

~~301.9-7. *Procedure for Responding to Charges.*~~

602 (a) Participation of the Commission. If the Oneida Public Safety and Security Commission
603 as a body files charges, it shall retain special counsel to prosecute such charges on the
604 Commission's behalf and the Oneida Public Safety and Security Commission shall refrain
605 from any active involvement in the prosecution of such charges.

606 If any member of the Oneida Public Safety and Security Commission files and actively
607 prosecutes such charges, such member shall not participate in deliberating the charges or
608 determining whether they are sustained.

609 (b) Docket List. All charges filed with the Oneida Public Safety and Security Commission
610 shall be recorded on a docket list and assigned a number in sequence of filing with the date
611 of filing added in parentheses.

612 (c) Preliminary Investigation. Upon the filing of charges, the Oneida Public Safety and
613 Security Commission may have a preliminary investigation conducted to determine if it
614 has jurisdiction in the matter. If the Oneida Public Safety and Security Commission judges
615 that it does not have jurisdiction over the charges, it may dismiss the charges. In the event
616 of such dismissal, the Oneida Public Safety and Security Commission shall notify the
617 complainant in writing of its action.

618 (d) Scheduling of Hearing. Following the filing of charges or a request for a hearing, a
619 copy of the charges shall be served upon the person charged. The Oneida Public Safety and
620 Security Commission shall set a date for a hearing not less than ten (10) days or more than
621 thirty (30) days following receipt of the charges. This timeframe may be waived if mutually
622 agreed.

623 301.9-8. Scheduling a Conference.

624 (a) Scheduling Conference. A scheduling conference between the parties and/or their legal
625 counsel is appropriate to establish the procedural timeline leading up to, and the process
626 for, the evidentiary hearing.

627 (b) Purpose of the Scheduling Conference. The following matters shall be accomplished
628 at the scheduling conference, and the resolution of these issues shall be memorialized in a
629 scheduling order distributed to the parties:

630 (1) Establishing the date(s) of the evidentiary hearing;

631 (2) Setting up deadlines to exchange witness lists and any prior written or recorded
632 statements or reports of witnesses;

633 (3) Setting up deadlines to identify and exchange exhibits;

634 (4) Setting up any discovery deadline. Prehearing discovery is permitted.

635 (5) Establishing the process and deadlines to request the Oneida Public Safety and
636 Security Commission to issue subpoenas. The Oneida Public Safety and Security
637 Commission chairperson has the power to issue subpoenas to compel the attendance
638 of witnesses;

639 (6) Arranging for the recording of the testimony. The hearing shall be transcribed
640 by a court reporter or otherwise recorded to preserve the evidence in case of an
641 appeal to the Trial Court; and

642 (7) Determining if there are any objections to any Oneida Public Safety and
643 Security Commission member participating in the hearing, deliberations, or
644 decision and the basis for such objections.

645 301.9-9. Evidentiary Hearing.

646 (a) Hearing Procedures.

647 (1) The evidentiary hearing shall be conducted in open session.

648 (2) Following the evidentiary hearing, the deliberations of the Oneida Public Safety
649 and Security Commission may be conducted in closed session at the discretion of
650 the Commission.

651 (3) The Commission's vote following deliberations may take place in closed
652 session, unless the charged party demands that the vote take place in open session.

653 (4) A record of the proceedings shall be created by the Commission. Exhibits
654 introduced shall be marked with a docket number and exhibit number in sequence
655 of introduction.

656 (5) Either or both of the parties may be represented by counsel and may compel
657 the attendance of the witnesses by subpoenas, which shall be issued by the
658 chairperson of the Commission.

659 (6) All testimony of witnesses at hearings shall be given under oath, administered
660 by a member of the Commission.

661 (b) Order of Proceedings. At the hearing, the order of proceedings shall be as follows:

662 (1) Reading of the charges by the president.

663 (2) Opening statement by the parties, if any;

664 (3) Testimony and introduction of evidence by the charging party to substantiate
665 the charges, with cross-examination by the accused;

666 (4) Testimony and introduction of evidence by the accused with cross-examination
667 by the charging party; and

668 (5) Closing arguments.

669 301.9-10. Deliberations, Findings, Conclusions, Orders from Hearing.

670 (a) Finding of Fact.

671 (1) At the conclusion of the hearing, the Oneida Public Safety and Security
672 Commission shall prepare written findings of fact based upon the testimony and
673 evidence presented and shall prepare conclusions which are based on the findings
674 and an order consistent with such findings and conclusions within three (3) days
675 after the conclusion of the hearing and file it with the Oneida Public Safety and
676 Security Commission Secretary.

677 (2) For purposes of deliberation after the hearing, the Oneida Public Safety and
678 Security Commission shall adjourn into closed session. During the deliberation
679 only Oneida Public Safety and Security Commission members and the
680 commission's attorney shall be present.

681 (b) Just Cause Standard. In determining whether there is just cause for discipline, the
682 Oneida Public Safety and Security Commission shall apply the standards set forth in
683 section 301.9-2.

684 (c) Charges Rescinded. If the Oneida Public Safety and Security Commission determines
685 that the charges are not sustained, the charged party shall immediately have all related
686 disciplinary action taken to date rescinded and all lost pay or other benefits, if any, restored.

687 (d) Charges Sustained. If the Oneida Public Safety and Security Commission determines
688 that the charges are sustained, the charged party, by order of the Commission, may impose
689 any of the following penalties, but is not limited to the penalties listed herein:

690 (1) —_ Verbal consultation;

691 (2) —_ Written reprimand;

692 (3) —_ Suspension without pay;

693 (4) —_ Demotion in rank; or

694 (5) — Termination of employment.

695 ~~(e) e) *Announcement of Decision.* The Oneida Police Commission's findings shall be in~~
696 ~~writing Public Safety and include:~~

697 ~~(1) A statement of all charges filed.~~

698 ~~(2) The specific rule(s), policy(s), or standard(s) of conduct violated.~~

699 ~~(3) A list of charges that the Oneida Police Security Commission found were proven shall~~
700 ~~announce its decision in open session.~~

701 ~~(4) A summary of the disciplinary actions considered.~~ ~~(f) *Appeal of Decision.* Any~~
702 ~~law enforcement officer suspended, demoted, reassigned, or removed~~ by the
703 Oneida ~~Police Commission.~~

704 ~~(5) The disciplinary action ordered by the Oneida Police Commission Public Safety~~
705 ~~and any special actions attached to the approved disciplinary action.~~

706 ~~(d) In acting on a complaint including a request for termination of employment, filed with~~
707 ~~the Oneida Police Commission, the Oneida Police Security Commission may:~~

708 ~~(1) Dismiss appeal from the complaint.~~

709 ~~(2) Dismiss or modify certain charges filed.~~

710 ~~(3) Conclude that order of the testimony Oneida Public Safety and evidence sustain~~
711 ~~the charges and impose a penalty.~~

712 ~~(4) Allow the Oneida Police Commission the power to hire an outside agency to~~
713 ~~conduct the investigation of allegations against the Police Chief.~~

714 ~~301.9-9. — Appeals of Commission Findings. Appeals of Oneida Police Commission's~~
715 ~~ruling shall be made Security Commission to the Judiciary.~~

716
717 **301.10. — Administrative Leave of Law Enforcement Officers.—**

718 301.10-1. — *General.* Administrative leave is an action commenced by the Police Chief affecting
719 the status of a law enforcement officer. -A law enforcement officer is temporarily relieved of all
720 law enforcement powers while on administrative leave. -The law enforcement officer continues to
721 receive salary and is responsible to report to the Police Chief or perform other duties as assigned.
722 Administrative leave does not denote wrong-doing on the part of the law enforcement officer.

723 301.10-2. — *Applicability.* Administrative leave may only be ordered in the following
724 circumstances:

725 (a) The law enforcement officer poses a threat to themselves or others.

726 (b) The law enforcement officer is alleged to have committed a violation(s) which calls
727 for termination of ~~his or her~~ their employment as a law enforcement officer and the matter
728 is under investigation.

729 (c) The law enforcement officer is alleged to have committed a violation(s) that is under
730 investigation and that would cause a loss of public trust in the Oneida Police Department.

731 (d) The law enforcement officer is under investigation for alcohol or drug abuse.

732 (e) The law enforcement officer is under investigation for insubordination, untruthfulness,
733 or commission of a crime.

734 (f) The law enforcement officer demonstrates behavior indicating the law enforcement
735 officer is unfit for duty.

736 301.10-3. — *Duration of Administrative Leave.*

737 (a) In cases where the law enforcement officer is under formal investigation, the law
738 enforcement officer ~~will~~ shall remain on administrative leave until the investigation is
739 completed.

740 (1) If the investigation results in allegations being sustained, the law enforcement
741 officer ~~will~~shall remain on administrative leave pending issuance of discipline.

742 (2) If the investigation results in a finding that the charges were unfounded or not
743 sustained, the law enforcement officer shall be immediately returned to active duty
744 status.

745 (b) In cases where the law enforcement officer is placed on administrative leave for other
746 matters not involving formal investigation, the law enforcement officer shall be returned
747 to active duty status upon order of the Police Chief. -The period of administrative leave in
748 incidents not involving investigation shall not exceed thirty ~~working~~(30) calendar days.

749
750 **301.11.— Firearms Control.**

751 ~~301.11-1. The Oneida Tribe~~301.11-1. The Oneida Police Department may allow law
752 enforcement use of service firearms in order to protect life, liberty, property, land, and premises,
753 according to the usual and current accepted law enforcement standards.

754 301.11-2. The Nation hereby establishes regulations for the carrying of firearms issued to certified
755 law enforcement officers employed by the ~~Oneida Tribe~~Nation.

756 (a) The needs and requirements for carrying firearms shall be established and determined
757 by the Police Chief subject to the review of the Oneida ~~Police~~Public Safety and Security
758 Commission.

759 (b) Said requirements shall reflect the needs of the ~~Oneida Tribe~~Nation in order to protect
760 all persons and property.

761
762 *End.*

763
764
765
766 Adopted - BC -10-10-01-C
767 Revisor Correction 2004
768 Amended – BC-02-25-15-C
769 Amended – BC- - - -

Title 3. Health and Public Safety – Chapter 301
Shakotiye·nás Olihwáke
The Matters of Those Who Protect Us
LAW ENFORCEMENT

#

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301.1. Purpose and Policy

301.1-1. *Purpose.* The purpose of this law is to regulate the conduct of the Nation’s law enforcement personnel according to the highest professional standards.

301.1-2. *Policy.* It is the policy of the Nation to ensure that the law enforcement personnel operates at the highest level of professional standards to ensure the safety and welfare of the community.

301.2. Adoption, Amendment, Repeal

301.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-10-01-C and amended by resolution BC-02-25-15-C and BC-__-__-__-__.

301.2-2. 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.

301.2-3. 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.

301.2-4. 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.

301.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

301.3. Definitions

301.3-1. 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) “Certified law enforcement officer” means a sworn officer who meets all qualifications for law enforcement officer, including accepted professional training and experience, State of Wisconsin Certification or eligibility for Certification which includes but is not limited to, satisfactory background investigation, psychological evaluation, drug testing, and police firearms certification.

(b) “Commissioner” shall mean a member of the Oneida Public Safety and Security Commission.

(c) “Deadly force” means the intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.

(d) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later authorized to administer the judicial authorities and responsibilities of the Nation by Oneida General Tribal Council resolution GTC-03-19-17.

50 (e) “Nation” means the Oneida Nation.

51 (f) “Non-sworn personnel” means an individual employed with the Oneida Police
52 Department that does not meet the qualifications for a certified law enforcement officer.

53 (g) “Oneida Public Safety and Security Commission” means the entity made up of those
54 individuals appointed by the Oneida Business Committee to provide oversight regarding
55 the activities and actions of public safety and security operations throughout the
56 Reservation.

57 (h) “Police supervisor” means a law enforcement officer who holds the rank of Sergeant
58 or above.

59 (i) “Reservation” means all land within the exterior boundaries of the Reservation of the
60 Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any
61 lands added thereto pursuant to federal law.

62 63 **301.4. General Principles**

64 301.4-1. All law enforcement operations of the Nation shall be conducted in accordance with this
65 law.

66 301.4-2. Law enforcement operations shall take place on and within the Reservation, unless:

67 (a) there is a potential that the safety and welfare of an individual is being compromised;

68 (b) the law enforcement operations occur pursuant to mutual aid agreements with local
69 governments; or

70 (c) the law enforcement operations occur pursuant to any other jurisdictional exception.

71 301.4-3. Law enforcement operations shall be used primarily for the purposes of providing law
72 enforcement within the Nation and to provide mutual assistance or aid to external law enforcement
73 services offered by local governments within the Oneida community by powers set forth in section
74 301.4 of this law, Article IV section 1(f) of the Constitution and By-Laws of the Oneida Nation,
75 and as set forth in compacts and agreements authorized by the Oneida Business Committee or
76 General Tribal Council.

77 301.4-4. The Nation shall appoint and employ law enforcement personnel within its boundaries
78 as it deems necessary for the purpose of detecting and preventing crime and enforcing the laws of
79 the Nation, in addition to protection of persons, property, and premises.

80 301.4-5. The Oneida Police Department may, as authorized and delegated by this law and the
81 Oneida Business Committee or General Tribal Council, enter into cross-deputization and other law
82 enforcement agreements with other jurisdictions.

83 84 **301.5. Oneida Police Department**

85 301.5-1. There is hereby established an Oneida Police Department which is delegated all law
86 enforcement authority of the Nation. The Oneida Police Department may create divisions of
87 operation as may be deemed appropriate.

88 (a) *Oneida Police Department Position Restrictions.* All positions and appointments of
89 the Oneida Police Department shall be subject to Indian preference in hiring, except that
90 the following positions shall be held only by members of the Nation:

91 (1) Police Chief;

92 (2) Assistant Chief; and

93 (3) Police Lieutenant.

94 301.5-2. *Oneida Police Chief.* The Oneida Police Department shall be headed by a Police Chief,
95 appointed pursuant to this law.

96 (a) The Police Chief shall have authority over departmental personnel and operations,
97 subject to the authority of the Oneida Public Safety and Security Commission.

98 (b) *Qualifications and Process for Appointment as Police Chief.*

99 (1) The recruitment and hiring process for Police Chief shall be conducted by the
100 Oneida Public Safety and Security Commission, with assistance, as needed, by the
101 Human Resources Department.

102 (2) No person shall be accepted as a candidate or be eligible to serve as Police
103 Chief who does not meet the following qualifications:

104 (A) Current certification in the State of Wisconsin as a law enforcement
105 officer or upon approval from the applicable State of Wisconsin Standards
106 Board;

107 (B) Member of the Nation;

108 (C) A minimum of five (5) years creditable service as a sworn law
109 enforcement officer for a state, tribal, local, or federal government, with
110 preference for:

111 (i) those who have at least an associate degree in police science,
112 criminal justice or similar field, or a bachelor's degree in a related
113 subject; and

114 (ii) those with successful supervisory experience;

115 (D) Current satisfactory background investigation completed by a law
116 enforcement agency selected by the Oneida Public Safety and Security
117 Commission with results of the investigation reported directly to the Oneida
118 Public Safety and Security Commission;

119 (E) Current satisfactory psychological examination report;

120 (F) Current satisfactory medical examination report;

121 (G) Current drug test with negative results for controlled substances; and

122 (H) Any other minimum requirement as provided for in the job description.

123 (3) Examinations, interviews, further selection criteria and other processes utilized
124 in the hiring process of a Police Chief shall be at the discretion of the Oneida Public
125 Safety and Security Commission,

126 (4) Upon accepting notification of retirement, resignation, or the removal of a
127 current Police Chief, the Oneida Public Safety and Security Commission shall
128 appoint an interim or acting Police Chief who shall serve in said capacity until the
129 process for appointment of a new Police Chief can be completed.

130 301.5-3. *Law Enforcement Officers.*

131 (a) *Educational Requirements.* All persons shall meet the following minimum education
132 requirements within five (5) years of their hire date:

133 (1) Possess a two (2) year associate degree from an accredited vocational,
134 technical, or adult education district; or

135 (2) Possess documentation in the form of an official transcript showing a minimum
136 of sixty (60) fully accredited college level credits; or

137 (3) Possess a bachelors degree from accredited college or university.

138 (b) *Conditional Employment.* Any person who is not a certified law enforcement officer
139 at the time of hire, is considered a conditional employee and shall attain the educational
140 requirements as specified in section 301.5-3(a), within five (5) years of their date of hire.

141 (1) Conditional employees are not eligible for promotion.

142 (2) Law enforcement officers who fail to attain the educational requirements within
143 five (5) years of their date of hire shall be subject to immediate termination.

144 (c) *Educational Requirement for Police Supervisors.* Upon enactment of this law, no law
145 enforcement officer may be considered eligible for promotion to supervisor until the
146 educational requirements of section 301.5-3(a) have been satisfied. Law enforcement
147 officers promoted prior to the enactment of this law are exempt from the educational
148 requirements specified in section 301.5-3(a).

149 301.5-4. *Liability Coverage.* To the extent the Federal Tort Claims Act coverage does not apply,
150 the Nation shall provide professional liability insurance for all law enforcement officers.

151 301.5-5. *Declaration of Additional Restrictions of Employees.* All personnel of the Oneida
152 Police Department shall be bound by standard operating procedures that are required as a result of
153 the specific and unique needs of law enforcement.

154 301.5-6. *Law Enforcement Officers to Be Sworn.* All law enforcement officers shall be installed
155 by sworn oath before the Oneida Business Committee during a regular or special Oneida Business
156 Committee meeting, or at an alternative time and location as determined by the Oneida Business
157 Committee Secretary.

158 (a) When taking an oath, the law enforcement officer shall appear in person to take their
159 oath, except if granted permission by the Oneida Business Committee Secretary to appear
160 through video conferencing, or through other telecommunications.

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

164 **301.6. Oneida Public Safety and Security Commission**

165 301.6-1. *Establishment.* There is hereby established an Oneida Public Safety and Security
166 Commission to provide oversight regarding the activities and actions of public safety and security
167 operations throughout the Reservation to provide the greatest possible professional services to the
168 Nation and to allow for community input regarding those public safety and security services
169 through its representatives on the Oneida Public Safety and Security Commission. The Oneida
170 Public Safety and Security Commission is an oversight body of the following departments of the
171 Nation, but its oversight authority does not involve decision making processes on day-to-day
172 activities of those public safety services:

173 (a) Oneida Police Department;

174 (b) Internal Security Department; and

175 (c) Any other safety operation department of the Nation as identified in the bylaws of the
176 Oneida Public Safety and Security Commission.

177 301.6-2. *Appointment of Commissioners.* The Oneida Business Committee shall appoint five
178 (5) members to the Oneida Public Safety and Security Commission for a term of five (5) years.
179 Commissioners may serve more than one (1) term, but not more than three (3) consecutive terms.

180 301.6-3. *Commissioner Eligibility Qualifications.* In order to be eligible for membership on the
181 Oneida Public Safety and Security Commission an individual shall:

182 (a) Be a member of the Nation;

183 (b) Be twenty-five (25) years of age or older;

184 (c) Have a background investigation result in none of the following:

185 (1) A felony conviction in the State of Wisconsin, or any conviction of a crime in
186 another state that would be considered a felony conviction if the offense and
187 adjudication occurred in the State of Wisconsin;

188 (2) A felony arrest which results in a misdemeanor conviction due to a plea
189 arrangement;

190 (3) A conviction of any law violation that could bring discredit to the Oneida Public
191 Safety and Security Commission; or

192 (4) Any pardon issued by the Nation or the governor of any State, for an offense
193 specified in sections 301.6-4(c)(1)-(3), shall not deem a person as “exonerated” for
194 the purposes of membership on the Oneida Public Safety and Security Commission;

195 (d) Not be employed with or terminated from the Oneida Police Department, Internal
196 Security Department, or any other public safety operation overseen by the Oneida Public
197 Safety and Security Commission;

198 **301.6-4. Responsibilities in Regard to the Oneida Police Department.** The Oneida Public Safety
199 and Security Commission shall be responsible for and empowered to do the following in regard to
200 the Oneida Police Department:

201 (a) Appoint, suspend, or remove the Police Chief of the Oneida Police Department.

202 (b) Approve all law enforcement officer appointments made by the Police Chief including
203 the promotion of subordinates.

204 (c) Approve an eligibility list of individuals determined to be eligible for appointment as a
205 law enforcement officer or promotion.

206 (d) Hear charges filed against law enforcement officers or other appointed personnel of the
207 Police Department, whether filed by the Oneida Public Safety and Security Commission
208 or the Police Chief, make findings and determinations, and impose penalties, up to and
209 including termination.

210 (e) Hear appeals of disciplinary actions against any law enforcement personnel.

211 (1) The Oneida Public Safety and Security Commission shall not have authority
212 over disciplinary actions of non-sworn personnel.

213 (f) Adopt standard operating procedures governing the Oneida Public Safety and Security
214 Commission’s management of its own activities.

215 **301.6-5. Responsibilities in Regard to the Internal Security and Other Departments.** The
216 responsibilities of the Oneida Public Safety and Security Commission in regard to the Internal
217 Security Department or any other safety operation department of the Nation shall be provided for
218 in the Oneida Public Safety and Security Commission bylaws.

219 **301.6-6. Removal From Office.** A member of the Oneida Public Safety and Security Commission
220 may have their appointment terminated by the Oneida Business Committee for:

221 (a) Misconduct in office;

222 (b) Conduct which could jeopardize the reputation of the Nation, the Oneida Public Safety
223 and Security Commission, or the public safety system;

224 (c) Any change in status which would place the Commissioner in conflict with the
225 qualifications specified in section 301.6-3(c) above; or

226 (d) Violation of the confidentiality of closed hearings or any other information declared
227 confidential by the Oneida Public Safety and Security Commission.

228
229 **301.7. Appointment of Law Enforcement Officers**

230 **301.7-1. Job Task Analysis.** The Police Chief shall develop a job task analysis (job description)
231 for law enforcement officers and submit the job task analysis to the Oneida Public Safety and
232 Security Commission for approval.

233 **301.7-2. Hiring Criteria.** Hiring criteria for law enforcement officers, shall be developed by the

234 Oneida Public Safety and Security Commission and implemented by the Police Chief. The hiring
235 criteria shall include, but not be limited to, the following:

- 236 (a) educational requirements;
- 237 (b) satisfactory background investigation;
- 238 (c) psychological examination; and
- 239 (d) medical certification.

240 301.7-3. *Hiring Process Outline.* A hiring process outline shall be developed by the Oneida Public
241 Safety and Security Commission and implemented by the Police Chief. The hiring process outline
242 shall detail specific steps involved in the hiring process for law enforcement officers, and steps in
243 the process involving scoring, rank scoring, or grading shall be specified, as well as passing grades
244 or scores. The hiring process outline shall include all pertinent steps involved in the hiring process
245 including, but not limited to, the following:

- 246 (a) application process;
- 247 (b) application screening;
- 248 (c) written test procedures;
- 249 (d) oral interviews;
- 250 (e) physical agility testing;
- 251 (f) background investigation;
- 252 (g) conditional offer of employment; and
- 253 (h) psychological and medical testing.

254 301.7-4. *Approval of Additional Law Enforcement Personnel.*

- 255 (a) The Police Chief shall make a request for the hiring of additional law enforcement
256 personnel through the Human Resources Department processes.
- 257 (b) Upon receiving approval, the Police Chief shall make a formal request to the Human
258 Resources Department for posting the position(s) available. The current job task analysis,
259 hiring criteria, and hiring process outline shall be submitted to the Human Resources
260 Department by the Police Chief.

261 301.7-5. *Process.* All phases of the hiring process shall be conducted in accordance with the
262 hiring process outline. Duties and responsibilities of persons involved in the process shall be
263 specified in the outline.

264 301.7-6. *Eligibility List.*

- 265 (a) Upon completion of all screening steps of the hiring process outline, a list shall be
266 compiled of all candidates based on cumulative scores earned by each applicant in all
267 graded or scored steps of the current hiring process.
- 268 (b) Candidates shall be ranked in inverse numerical order, that is the candidate with the
269 highest cumulative score is ranked "1", the candidate with the second highest cumulative
270 score is ranked "2", etc.
- 271 (c) The list shall be reviewed and approved by the Oneida Public Safety and Security
272 Commission and submitted to the Police Chief.
- 273 (d) The eligibility list will be valid for one (1) year from the date it was compiled.
- 274 (e) The order of appointment of applicants to the position of law enforcement officers
275 shall follow the order of the eligibility list contingent upon satisfactory background
276 investigation, psychological testing, and medical testing.

277 301.7-7. *Commencement of Background Investigation.*

- 278 (a) Upon receiving the approved eligibility list, the Police Chief shall direct a subordinate
279 to commence a background investigation upon candidates based on their numerical ranking

280 on the eligibility list, starting with the top candidate.

281 (b) Results of the background investigation shall be forwarded to the Police Chief and the
282 Oneida Public Safety and Security Commission.

283 (c) A candidate may be deemed as having an unsatisfactory background investigation
284 report by either the Police Chief or the Oneida Public Safety and Security Commission.

285 Such determinations by the Police Chief of the Oneida Public Safety and Security
286 Commission shall be made in writing.

287 301.7-8. *Conditional Offer of Employment.* Provided a candidate has satisfactory results in a
288 background investigation, an offer of employment shall be sent to the candidate. The offer shall
289 specify the candidate's appointment to the position of law enforcement officer contingent upon
290 satisfactory psychological and medical testing.

291 301.7-9. *Appointment.* Provided a candidate has passed psychological and medical testing, a
292 formal offer of employment shall be extended to the candidate by the Police Chief. In the event
293 the candidate lacks the minimum educational requirements as specified in Section 301.5-3(a), the
294 contingency of employment shall be specified in the offer.

295 **301.8. Promotion of Law Enforcement Officers**

296 301.8-1. *Criteria for Promotion.* The Oneida Public Safety and Security Commission and the
297 Police Chief shall establish specific criteria for the promotion of law enforcement officers. The
298 criteria shall be placed on the notice or position posting for the promotion.

299 301.8-2. *Process.* The process for promotion shall be developed by the Police Chief and approved
300 by the Oneida Public Safety and Security Commission. The specifics of the process shall be placed
301 on the notice or position posting for said promotion.

302 301.8-3. *Psychological Testing Required.* All candidates for promotion shall undergo
303 psychological testing and have a satisfactory report prior to promotion. The results of such test
304 shall be made available to the Police Chief and the Oneida Public Safety and Security Commission
305 chairperson.

306 301.8-4. *Promotion.* Upon completion of all steps in the promotion process, a law enforcement
307 officer may be promoted upon review and recommendation of Oneida Public Safety and Security
308 Commission to the Police Chief.

309 **301.9 Disciplinary Proceedings for Law Enforcement Officers**

310 301.9-1. *Discipline of Law Enforcement Officers.* The Oneida Public Safety and Security
311 Commission shall have authority discipline a law enforcement officer, in the form of suspension,
312 demotion, or termination, for just cause.

313 301.9-2. *Just Cause Standard.* Just cause is determined using the following standards, to the
314 extent possible:

315 (a) Whether the law enforcement officer could reasonably be expected to have had
316 knowledge of the probable consequences of the alleged misconduct.

317 (b) Whether the procedure the law enforcement officer allegedly violated is reasonable.

318 (c) Whether the Police Chief, before filing charges against the law enforcement officer,
319 made a reasonable effort to discover whether the law enforcement officer did, in fact,
320 violate a procedure.

321 (d) Whether the investigation was fair and objective.

322 (e) Whether the Police Chief discovered substantial evidence that the law enforcement
323 officer violated the procedure as described in the charges filed against the law enforcement
324 officer.

326 officer.
327 (f) Whether the Police Chief is applying the rule or order fairly and without discrimination
328 against the law enforcement officer.

329 (g) Whether the proposed discipline is reasonable as it relates to the seriousness of the
330 alleged violation and to the law enforcement officer's record of service with the Oneida
331 Police Department.

332 301.9-3. *Discipline of Employees by the Chief of Police.* The Chief of Police may reprimand or
333 suspend an employee for just cause without prior approval of the Oneida Public Safety and
334 Security Commission. The Chief of Police shall report this action to the chairperson of the Oneida
335 Public Safety and Security Commission immediately in writing and explain the cause(s) of the
336 action. A law enforcement officer shall not be entitled to a hearing on the suspension unless the
337 subordinate requests that the Police Chief file charges, which then triggers the hearing process.

338 (a) For any reductions in rank or terminations of a law enforcement officer, the Police
339 Chief shall first file charges with the Oneida Public Safety and Security Commission.

340 301.9-4. *Discipline of the Chief of Police.* The Oneida Public Safety and Security Commission
341 has the sole authority to suspend or terminate the Chief of Police, for cause, upon its own initiative.
342 It may suspend the Chief of Police pending the investigation of written charges received.

343 301.9-5. *Right to Request Hearing.* If a law enforcement officer against whom a disciplinary action
344 of suspension, demotion, or termination has been taken requests a hearing on the matter, the Oneida
345 Public Safety and Security Commission shall proceed with such a hearing. Charges shall then be
346 filed with the Oneida Public Safety and Security Commission by the party initially taking the
347 disciplinary action.

348 301.9-6. *Filing of Charges.*

349 (a) *Standing to File Charges.* Charges may be filed with the Oneida Public Safety and
350 Security Commission by:

- 351 (1) the Chief of Police;
352 (2) a member of the Oneida Public Safety and Security Commission;
353 (3) the Oneida Public Safety and Security Commission as a body; or
354 (4) any aggrieved party.

355 (b) *Content of Charges.* The charges shall be in writing and shall be signed by the charging
356 party. The sources of all information contained in the charges shall be stated in the charges
357 or in accompanying documents. Information regarding the names and addresses of
358 witnesses having relevant knowledge relating to the charges may be embodied in a separate
359 statement accompanying the charges. The charges shall identify the person who is charged
360 and specify, if possible, the date(s) and place(s) of the alleged offense(s).

361 (c) *Filing of Charges.* The charges shall be filed with the chairperson of the Oneida Public
362 Safety and Security Commission. Pending disposition of such charges, the Oneida Public
363 Safety and Security Commission or Police Chief may suspend the employee.

364 (d) *Service of Charges.* Following service upon the Oneida Public Safety and Security
365 Commission chairperson, a copy of the charge shall be served upon the person charged. A
366 copy of the charge shall be issued to the person charged within five (5) business days after
367 charges are sent to the Commission.

368 301.9-7. *Procedure for Responding to Charges.*

369 (a) *Participation of the Commission.* If the Oneida Public Safety and Security Commission
370 as a body files charges, it shall retain special counsel to prosecute such charges on the
371 Commission's behalf and the Oneida Public Safety and Security Commission shall refrain

372 from any active involvement in the prosecution of such charges.

373 If any member of the Oneida Public Safety and Security Commission files and actively
374 prosecutes such charges, such member shall not participate in deliberating the charges or
375 determining whether they are sustained.

376 (b) *Docket List*. All charges filed with the Oneida Public Safety and Security Commission
377 shall be recorded on a docket list and assigned a number in sequence of filing with the date
378 of filing added in parentheses.

379 (c) *Preliminary Investigation*. Upon the filing of charges, the Oneida Public Safety and
380 Security Commission may have a preliminary investigation conducted to determine if it
381 has jurisdiction in the matter. If the Oneida Public Safety and Security Commission judges
382 that it does not have jurisdiction over the charges, it may dismiss the charges. In the event
383 of such dismissal, the Oneida Public Safety and Security Commission shall notify the
384 complainant in writing of its action.

385 (d) *Scheduling of Hearing*. Following the filing of charges or a request for a hearing, a
386 copy of the charges shall be served upon the person charged. The Oneida Public Safety and
387 Security Commission shall set a date for a hearing not less than ten (10) days or more than
388 thirty (30) days following receipt of the charges. This timeframe may be waived if mutually
389 agreed.

390 301.9-8. *Scheduling a Conference*.

391 (a) *Scheduling Conference*. A scheduling conference between the parties and/or their legal
392 counsel is appropriate to establish the procedural timeline leading up to, and the process
393 for, the evidentiary hearing.

394 (b) *Purpose of the Scheduling Conference*. The following matters shall be accomplished
395 at the scheduling conference, and the resolution of these issues shall be memorialized in a
396 scheduling order distributed to the parties:

397 (1) Establishing the date(s) of the evidentiary hearing;

398 (2) Setting up deadlines to exchange witness lists and any prior written or recorded
399 statements or reports of witnesses;

400 (3) Setting up deadlines to identify and exchange exhibits;

401 (4) Setting up any discovery deadline. Prehearing discovery is permitted.

402 (5) Establishing the process and deadlines to request the Oneida Public Safety and
403 Security Commission to issue subpoenas. The Oneida Public Safety and Security
404 Commission chairperson has the power to issue subpoenas to compel the attendance
405 of witnesses;

406 (6) Arranging for the recording of the testimony. The hearing shall be transcribed
407 by a court reporter or otherwise recorded to preserve the evidence in case of an
408 appeal to the Trial Court; and

409 (7) Determining if there are any objections to any Oneida Public Safety and
410 Security Commission member participating in the hearing, deliberations, or
411 decision and the basis for such objections.

412 301.9-9. *Evidentiary Hearing*.

413 (a) *Hearing Procedures*.

414 (1) The evidentiary hearing shall be conducted in open session.

415 (2) Following the evidentiary hearing, the deliberations of the Oneida Public Safety
416 and Security Commission may be conducted in closed session at the discretion of
417 the Commission.

418 (3) The Commission's vote following deliberations may take place in closed
419 session, unless the charged party demands that the vote take place in open session.

420 (4) A record of the proceedings shall be created by the Commission. Exhibits
421 introduced shall be marked with a docket number and exhibit number in sequence
422 of introduction.

423 (5) Either or both of the parties may be represented by counsel and may compel
424 the attendance of the witnesses by subpoenas, which shall be issued by the
425 chairperson of the Commission.

426 (6) All testimony of witnesses at hearings shall be given under oath, administered
427 by a member of the Commission.

428 (b) Order of Proceedings. At the hearing, the order of proceedings shall be as follows:

429 (1) Reading of the charges by the president.

430 (2) Opening statement by the parties, if any;

431 (3) Testimony and introduction of evidence by the charging party to substantiate
432 the charges, with cross-examination by the accused;

433 (4) Testimony and introduction of evidence by the accused with cross-examination
434 by the charging party; and

435 (5) Closing arguments.

436 301.9-10. *Deliberations, Findings, Conclusions, Orders from Hearing.*

437 (a) *Finding of Fact.*

438 (1) At the conclusion of the hearing, the Oneida Public Safety and Security
439 Commission shall prepare written findings of fact based upon the testimony and
440 evidence presented and shall prepare conclusions which are based on the findings
441 and an order consistent with such findings and conclusions within three (3) days
442 after the conclusion of the hearing and file it with the Oneida Public Safety and
443 Security Commission Secretary.

444 (2) For purposes of deliberation after the hearing, the Oneida Public Safety and
445 Security Commission shall adjourn into closed session. During the deliberation
446 only Oneida Public Safety and Security Commission members and the
447 commission's attorney shall be present.

448 (b) *Just Cause Standard.* In determining whether there is just cause for discipline, the
449 Oneida Public Safety and Security Commission shall apply the standards set forth in
450 section 301.9-2.

451 (c) *Charges Rescinded.* If the Oneida Public Safety and Security Commission determines
452 that the charges are not sustained, the charged party shall immediately have all related
453 disciplinary action taken to date rescinded and all lost pay or other benefits, if any, restored.

454 (d) *Charges Sustained.* If the Oneida Public Safety and Security Commission determines
455 that the charges are sustained, the charged party, by order of the Commission, may impose
456 any of the following penalties, but is not limited to the penalties listed herein:

457 (1) Verbal consultation;

458 (2) Written reprimand;

459 (3) Suspension without pay;

460 (4) Demotion in rank; or

461 (5) Termination of employment.

462 (e) *Announcement of Decision.* The Oneida Public Safety and Security Commission shall
463 announce its decision in open session.

464 (f) *Appeal of Decision.* Any law enforcement officer suspended, demoted, reassigned, or
465 removed by the Oneida Public Safety and Security Commission may appeal from the order
466 of the Oneida Public Safety and Security Commission to the Judiciary.
467

468 **301.10. Administrative Leave of Law Enforcement Officers**

469 301.10-1. *General.* Administrative leave is an action commenced by the Police Chief affecting
470 the status of a law enforcement officer. A law enforcement officer is temporarily relieved of all
471 law enforcement powers while on administrative leave. The law enforcement officer continues to
472 receive salary and is responsible to report to the Police Chief or perform other duties as assigned.
473 Administrative leave does not denote wrong-doing on the part of the law enforcement officer.

474 301.10-2. *Applicability.* Administrative leave may only be ordered in the following
475 circumstances:

476 (a) The law enforcement officer poses a threat to themselves or others.

477 (b) The law enforcement officer is alleged to have committed a violation(s) which calls
478 for termination of their employment as a law enforcement officer and the matter is under
479 investigation.

480 (c) The law enforcement officer is alleged to have committed a violation(s) that is under
481 investigation and that would cause a loss of public trust in the Oneida Police Department.

482 (d) The law enforcement officer is under investigation for alcohol or drug abuse.

483 (e) The law enforcement officer is under investigation for insubordination, untruthfulness,
484 or commission of a crime.

485 (f) The law enforcement officer demonstrates behavior indicating the law enforcement
486 officer is unfit for duty.

487 301.10-3. *Duration of Administrative Leave.*

488 (a) In cases where the law enforcement officer is under formal investigation, the law
489 enforcement officer shall remain on administrative leave until the investigation is
490 completed.

491 (1) If the investigation results in allegations being sustained, the law enforcement
492 officer shall remain on administrative leave pending issuance of discipline.

493 (2) If the investigation results in a finding that the charges were unfounded or not
494 sustained, the law enforcement officer shall be immediately returned to active duty
495 status.

496 (b) In cases where the law enforcement officer is placed on administrative leave for other
497 matters not involving formal investigation, the law enforcement officer shall be returned
498 to active duty status upon order of the Police Chief. The period of administrative leave in
499 incidents not involving investigation shall not exceed thirty (30) calendar days.
500

501 **301.11. Firearms Control.**

502 301.11-1. The Oneida Police Department may allow law enforcement use of service firearms in
503 order to protect life, liberty, property, land, and premises, according to the usual and current
504 accepted law enforcement standards.

505 301.11-2. The Nation hereby establishes regulations for the carrying of firearms issued to certified
506 law enforcement officers employed by the Nation.

507 (a) The needs and requirements for carrying firearms shall be established and determined
508 by the Police Chief subject to the review of the Oneida Public Safety and Security
509 Commission.

510 (b) Said requirements shall reflect the needs of the Nation in order to protect all persons
511 and property.

512
513 *End.*

~~514~~ _____

516
517 Adopted - BC -10-10-01-C
518 Revisor Correction 2004
519 Amended – BC-02-25-15-C
520 Amended – BC- _ - _ - _ -



Legislative Operating Committee
September 4, 2024

Oneida General Welfare Law Amendments

Submission Date: 11/1/23	Public Meeting: N/A
LOC Sponsor: Jameson Wilson, Jonas Hill	Emergency Enacted: N/A

Summary: *On October 18, 2023, the Legislative Operating Committee received a request from Treasurer Larry Barton to consider making amendments to the Oneida General Welfare law. Treasurer Barton provided that his attendance at recent Native American Finance Officers Association conferences has provided that the US Treasury will be providing Tribes further guidance on the applicability and specificity of areas such as Cultural & religious practices, Educational Assistance, Minors Trust Accounts, Elder & Disabled Assistance, and Other Qualifying Assistance such as General Tribal Council Meeting & Committee/Board/Commission Stipends in relation to the General Welfare Exclusion law – and amendments to the Oneida General Welfare law may be necessary.*

11/1/23 LOC: Motion by Jennifer Webster to add the Oneida General Welfare law amendments to the Active Files List with Jonas Hill and Jameson Wilson as the sponsors; seconded by Kirby Metoxen. Motion carried unanimously.

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

2/20/23: *Work Meeting.* Present: Jameson Wilson, Kirby Metoxen, Jennifer Webster, Clorissa Leeman, Melinda Danforth, Fawn Cottrell, Kristal Hill, Maureen Perkins, Fawn Billie. The purpose of this work meeting was to collect more information from Melinda regarding potential emergency amendments to the Oneida General Welfare law that may be needed.

7/29/24: *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Clorissa Leeman, Lawrence Barton, Ralinda Ninham-Lamberies, Carl Artman, Janice Decorah, Kristal Hill, Fawn Billie, Maureen Perkins. The purpose of this work meeting was to discuss any information regarding updated US Treasury guidance and potential amendments to the Oneida General Welfare law, as well as the potential for the development of the GTC Government Participation GWE Law and the Culturally Significant Event Participation Program Law.

Next Steps:

- Remove the Oneida General Welfare law from the Active Files List.



TO: Legislative Operating Committee (LOC)
 FROM: Clorissa N. Leeman, Legislative Reference Office, Senior Staff Attorney
 DATE: September 4, 2024
 RE: Removal of the Oneida General Welfare Law from the Active Files List

On October 18, 2023, the Legislative Operating Committee received a request from Treasurer Larry Barton to consider making amendments to the Oneida General Welfare law. Treasurer Barton provided that his attendance at recent Native American Finance Officers Association conferences has provided that the US Treasury will be providing Tribes further guidance on the applicability and specificity of areas such as Cultural & religious practices, Educational Assistance, Minors Trust Accounts, Elder & Disabled Assistance, and Other Qualifying Assistance such as General Tribal Council Meeting & Committee/Board/Commission Stipends in relation to the General Welfare Exclusion law – and amendments to the Oneida General Welfare law may be necessary.

The Legislative Operating Committee added the Oneida General Welfare law to its Active Files List on November 1, 2023.

On July 29, 2024, the Legislative Operating Committee held a work meeting with Treasurer Lawrence Barton, Chief Financial Officer Ralinda Ninham-Lamberies, and Attorney Carl Artman from the Oneida Law Office to discuss any information regarding updated US Treasury guidance and potential amendments to the Oneida General Welfare law.

This work group determined that the Oneida General Welfare law should be removed from the Active Files List at this time. No updated guidance from the US Treasury has been received, and due to the upcoming United States Presidential election, guidance from the US Treasury is not expected to come forward until after January of 2025. It was determined that it would be a more efficient use of resources to wait to consider amendments to the Oneida General Welfare law until that guidance is received.

The Legislative Operating Committee is therefore being asked to consider removing the Oneida General Welfare law from its Active Files List.

Requested Action

Remove the Oneida General Welfare Law from the Active Files List.



HANDOUT

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



Legislative Operating Committee
September 4, 2024

Oneida Life Insurance Plan Law Amendments

Submission Date: 6/5/24	Public Meeting: N/A
LOC Sponsor: Jameson Wilson	Emergency Enacted: N/A

Summary: *This item added to the Active Files List on June 5, 2024, at the request of the Chief Financial Officer, Ralinda Ninham-Lamberies. The CFO requested the LOC consider an emergency amendment to the Law to remove section 1004.5-3 which provides that “the Oneida Trust Enrollment Department shall be notified within one (1) year of the member of the Nation’s death in order to distribute the Oneida Life Insurance Plan benefits to the beneficiary. Oneida Life Insurance Plan claims made beyond the first anniversary of the decedent’s death shall not be processed for distribution.” Finance provided that recently a member of the Nation missed the deadline by four (4) days, and there would not be an increase in liability if this provision is removed due to limited staff availability. The LOC determined this request did not meet the standard for emergency legislation provided for in section 109.9-5 of the LPA, but decided to add this item to the Active Files List anyways due to the August 20, 2023 OBC motion which directed the LOC to bring this Law back for a one (1) year review of its adoption and implementation.*

6/5/24 LOC: Motion by Jonas Hill to add the Oneida Life Insurance Plan Law Amendments to the Active Files List with Jameson Wilson as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

8/26/24: *Work Meeting.* Present: Jameson Wilson, Jonas Hill, Kirby Metoxen, Marlon Skenandore, Clorissa Leeman, Carl Artman, Ralinda Ninham-Lamberies, John Danforth, Michelle John, Heidi Janowski, Fawn Billie, Kristal Hill, Maureen Perkins. The purpose of this work meeting was to discuss how the implementation of the Oneida Life Insurance Plan law went during its first year, and begin discussions on whether any amendments to the law are necessary at this time.

Next Steps:

- Accept the memorandum entitled, One (1) Year Review of the Oneida Life Insurance Plan Law.
- Approve the draft of proposed amendments to the Oneida Life Insurance Plan law and direct that a legislative analysis be developed.

TO: Legislative Operating Committee (LOC)
 FROM: Clorissa N. Leeman, Legislative Reference Office, Senior Staff Attorney
 DATE: September 4, 2024
 RE: One (1) Year Review of the Oneida Life Insurance Plan Law



Background

The Oneida Life Insurance Plan law was adopted on August 23, 2023, through the adoption of resolution BC-08-23-23-G, Adoption of the Oneida Life Insurance Plan Law, for the purpose of providing a death benefit through the Oneida Life Insurance Plan (OLIPP) for all eligible enrolled Oneida Nation members, pursuant to the Oneida General Welfare law. [10 O.C. 1004.1-1].

When the Oneida Business Committee adopted the Oneida Life Insurance Plan law, the Oneida Business Committee also directed that the Oneida Life Insurance Plan law be brought back to the Legislative Operating Committee in one (1) year for review.

In anticipation of conducting a one (1) year review of the Oneida Life Insurance Plan law, the Legislative Operating Committee added the Oneida Life Insurance Plan law amendments to its Active Files List on June 5, 2024.

One (1) Year Review

On August 26, 2024, the Legislative Operating Committee meet with the Trust Enrollments Department, Finance, and the Oneida Law Office to discuss the status of implementation of the Oneida Life Insurance Plan law during its first year, and to begin discussions on whether any amendments to the law are necessary at this time.

Overall, the Trust Enrollments Department, Finance, and the Oneida Law Office provided that the implementation of the Oneida Life Insurance Plan law has been smooth and the law is operating as it was intended.

The Trust Enrollments Department provided the following statistics that were current as of August 29, 2024, to provide some perspective on how the Oneida Life Insurance Plan has been administered during its first year:

Oneida Life Insurance Plan Law Statistics				
<i>Month</i>	<i>Deaths Reported</i>	<i>OLIP Claims</i>	<i>Claims that Provided a Beneficiary</i>	<i>Claims that Did Not Provide a Beneficiary</i>
September 2023	13	12	9	3
October 2023	12	12	11	1
November 2023	10	9	9	0
December 2023	18	16	13	3

January 2024	16	17	15	2
February 2024	22	22	19	3
March 2024	15	13	13	0
April 2024	10	10	10	0
May 2024	23	23	21	2
June 2024	13	13	10	3
July 2024	10	9	8	1
August 2024	12	2	2	0

Considerations

Although the Oneida Life Insurance Plan law is working as intended, the Legislative Operating Committee was asked by Finance to consider two (2) areas where amendments to the Oneida Life Insurance Plan law could potentially result in improvements in how the law is administered:

- Section 1004.5-2(d) and 1004.6-3: regarding the requirement that funeral expenses be paid directly to the funeral home first before any remaining funds are paid to beneficiary; and
- Section 1004.5-3: regarding the notice of death requirement of one (1) year.

Funeral Expenses Paid Directly to Funeral Home First

The Oneida Life Insurance Plan law requires that funeral expenses be paid directly to the funeral home upon submission of a valid invoice, up to the limit of the Oneida Life Insurance Plan benefits, even if a designated beneficiary has not been designated. [10 O.C. 1004.5-2(d)]. Later in the Oneida Life Insurance Plan law, the order of distribution of benefits is provided, and it is again clear that funeral expenses be paid to the funeral home pursuant to receipt of a valid invoice therefrom, prior to any residual benefits being paid directly to the beneficiary. [10 O.C. 1004.6-3].

Finance provided that the requirement that funeral expenses be paid directly to a funeral home prior to any remaining residual benefits being paid to the listed beneficiaries may be burdensome for the Finance area to process in a timely manner, as individual vendor numbers need to be created for each funeral home that may be used by a member of the Nation in addition to processing payments of residual benefits for any listed beneficiary. Finance asked the Legislative Operating Committee to consider having the entire benefit paid out directly to the beneficiary instead to create a more efficient process.

Although the Legislative Operating Committee understands the concern in regard to the workload of Finance, ultimately, the decision was made that the Oneida Life Insurance Plan law should remain as drafted and require that funeral expenses be paid directly to a funeral home prior to any remaining residual benefits being paid to the listed beneficiaries. The Legislative Operating Committee determined that the assurance this policy provides that the funeral expenses of a member of the Nation will be paid – even for those members who have not filled out a beneficiary form – outweigh any burdens that may arise that require the staffing in Finance to be increased in the future to handle the workload caused by this policy. The Legislative Operating Committee determined that the policy consideration to require that funeral expenses be paid first to the funeral home before any residual benefits are paid out is important and should be maintained.

Notice of Death

The Oneida Life Insurance Plan law requires that the Oneida Trust Enrollment Department be notified within one (1) year of the member of the Nation's death in order to distribute the Oneida Life Insurance Plan benefits to the beneficiary. [10 O.C. 1004.5-3]. The Oneida Life Insurance Plan law is clear that Oneida Life Insurance Plan claims made beyond the first anniversary of the decedent's death shall not be processed for distribution. *Id.*

The Legislative Operating Committee was informed that there was one (1) situation that occurred during the last year in which a tribal member made a claim for Oneida Life Insurance Plan benefits beyond the first anniversary of the decedent's death and therefore was denied benefits in accordance with section 1004.5-3 of the Oneida Life Insurance Plan law.

Finance asked the Legislative Operating Committee to reconsider the one (1) year notice requirement in the Oneida Life Insurance Plan law, as it may be unnecessarily limiting to members of the Nation, since there are no accounting standards or practices that would require the notification of the claim of these funds to occur within one (1) year.

The Legislative Operating Committee agreed that greater flexibility and consideration could be given to members of the Nation by increasing the notification period, but ultimately still wanted to maintain some notice requirement to ensure that claims are held open indefinitely. The Legislative Operating Committee determined that amendments to the Oneida Life Insurance Plan law should be pursued to increase the period of time allowed to notified the Oneida Trust Enrollment Department of a death in order to distribute Oneida Life Insurance Plan benefits from one (1) year to three (3) years.

The Legislative Operating Committee will be pursuing amendments to the Oneida Life Insurance Plan law in accordance with the Legislative Procedures Act. Everyone is encouraged to follow the amendments to the Oneida Life Insurance Plan law as the law moves through the legislative process, and participate in the legislative process by providing comments or questions during the future public meeting and public comment period.

Requested Action

Accept the One (1) Year Review of the Oneida Life Insurance Plan Law.

Title 10. General Welfare Exclusion - Chapter 1004
ONEIDA LIFE INSURANCE PLAN

1004.1. Purpose and Policy
1004.2. Adoption, Amendment, Repeal
1004.3. Definitions
1004.4. Establishment

1004.5. Qualifications, Designation of Beneficiary, and Notice
1004.6. Beneficiary Claim Process and Distribution
1004.7. Funding
1004.8. Administrative Rulemaking

1004.1. Purpose and Policy

1004.1-1. *Purpose.* The purpose of this law is to provide a death benefit through the Oneida Life Insurance Plan (OLIPP) for all eligible enrolled Oneida Nation members, pursuant to the Oneida General Welfare law.

(a) The General Tribal Council, through resolution GTC-01-17-09-B, approved the concept of the Oneida Life Insurance Plan Plus to replace the Oneida Burial Fund. The General Tribal Council directed implementation of a benefit that pays fifteen thousand dollars (\$15,000) to the designated beneficiary or beneficiaries of the deceased Oneida Nation member. The payment of death benefits through OLIPP to designated beneficiaries of a deceased Oneida Nation member is an exercise of self-governance crucial to the Oneida Nation’s sovereignty, and health and welfare of the community.

1004.1-2. *Policy.* It is the policy of the Nation to care for its members and their families even after their death. The Nation seeks to internalize the Oneida Life Insurance Plan process to ensure equitable and expedient distribution to designated beneficiaries.

1004.2. Adoption, Amendment, Repeal

1004.2-1. This law was adopted by the Oneida Business Committee by resolution BC-08-23-23-G, and amended by resolution BC- - - -.

1004.2-2. This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

1004.2-3. 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.

1004.2-4. 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.

1004.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

1004.3. Definitions

1004.3-1. 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) "Approved program" means any program(s) to provide general welfare assistance that is intended to qualify as a General Welfare Exclusion, administered under specific guidelines, and is adopted by the Oneida Business Committee through resolution or law of the Nation in accordance with the Oneida General Welfare law.

(b) "Benefit" means the fifteen thousand dollars provided (\$15,000) to pay for funeral expenses of an enrolled member of the Nation, with any residual amounts paid thereafter to the designated beneficiary.

(c) "Decedent" means the deceased person.

(d) "Designated Beneficiary" means any person(s) designated by the enrolled member of the Nation, through the approved beneficiary designation form, to receive all or a portion

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41 of the decedent’s Oneida Life Insurance Plan benefit.

42 (e) “Funeral Expenses” means the cost of the funeral of the decedent accrued and invoiced
43 by the funeral home including, but not limited to, the following:

- 44 (1) funeral planning;
- 45 (2) securing the necessary permits and copies of death certificates;
- 46 (3) preparing the notices;
- 47 (4) sheltering the remains;
- 48 (5) coordinating the arrangements with the cemetery, crematory or other third
49 parties;
- 50 (6) transporting the remains;
- 51 (7) embalming and other preparation;
- 52 (8) viewing, ceremony, or memorial services;
- 53 (9) use of a hearse or limousine;
- 54 (11) a casket, outer burial container or alternate container;
- 55 (11) monuments; and
- 56 (12) cremation or interment.

57 (f) “Nation” means the Oneida Nation.

58 **1004.4. Establishment**

59 1004.4-1. *Establishment*. The Oneida Life Insurance Plan is hereby established as an approved
60 program of the Nation in accordance with the Oneida General Welfare law. The purpose of the
61 Oneida Life Insurance Plan is to provide fifteen thousand dollars (\$15,000) of financial assistance
62 to eligible members of the Nation to pay for funeral expenses, with any residual benefit amounts
63 paid thereafter to the designated beneficiary.

64 1004.4-2. *General Welfare Exclusion*. The Oneida Life Insurance Plan meets the requirements of
65 the General Test as defined in the Oneida General Welfare law; General Criteria as defined in
66 I.R.S. Rev. Proc. 2014-35. Section 5.01(1); and the requirements of the Tribal General Welfare
67 Exclusion Act of 2014, 26 U.S.C. §139E(b).

68 (a) The assistance provided through the Oneida Life Insurance Plan is:

- 69 (1) paid on behalf of the Nation;
- 70 (2) pursuant to an approved program of the Nation;
- 71 (3) does not discriminate in favor of members of the governing body of the Nation;
- 72 (4) available to any eligible member of the Nation who meets the guidelines of the
73 approved program;
- 74 (5) provided for the promotion of general welfare;
- 75 (6) not lavish or extravagant;
- 76 (7) not compensation for services; and
- 77 (8) not a per capita payment.

78 (b) . I.R.S. Rev. Proc. 2014-35, section 5.02(2)(e)(iv) lists funeral, burial, and expenses
79 related to a death as Safe Harbor program for which need is presumed.
80

81 **1004.5. Qualifications, Designation of Beneficiary, and Notice**

82 1004.5-1. *Eligibility*. All members of the Nation shall qualify for benefits from the Oneida Life
83 Insurance Plan to be used for funeral expenses first, with any residual benefits distributed to a
84 designated beneficiary.
85

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86 (a) Newly enrolled members of the Nation shall be covered the date their enrollment
 87 application is approved by Oneida Trust Enrollment Committee and Oneida Business
 88 Committee.

89 (b) Members of the Nation that have relinquished their membership shall not be covered
 90 from the date their relinquishment request is approved by the Oneida Trust Enrollment
 91 Committee and Oneida Business Committee.

92 1004.5-2. *Designation of Beneficiary.* A member of the Nation shall complete the Oneida Trust
 93 Enrollment Committee approved beneficiary designation form and submit it to the Oneida Trust
 94 Enrollment Committee, either online or in person at the Oneida Trust Enrollment Office, prior to
 95 their death in order to secure benefits from the Oneida Life Insurance Plan for their beneficiary.

96 (a) Any Oneida Life Insurance Plan beneficiary designation forms submitted prior to the
 97 effective date of this law shall remain valid.

98 (b) Oneida Life Insurance Plan residual benefits shall not be paid or claimed if the decedent
 99 did not designate a living beneficiary though the beneficiary designation form.

100 (c) A parent or legal guardian shall complete and submit a beneficiary designation form
 101 on behalf of their minor child or ward.

102 (d) Funeral expenses shall be paid directly to the funeral home upon submission of a valid
 103 invoice, up to the limit of the Oneida Life Insurance Plan benefits, even if a designated
 104 beneficiary has not been designated.

105 1004.5-3. *Notice of Death.* The Oneida Trust Enrollment Department shall be notified within ~~one~~
 106 ~~(1) year~~three (3) years of the member of the Nation's death in order to distribute the Oneida Life
 107 Insurance Plan benefits to the beneficiary. Oneida Life Insurance Plan claims made beyond ~~the~~
 108 ~~first anniversary~~three (3) years of the decedent's death shall not be processed for distribution.

109 1004.5-4. *Oversight.* The Oneida Trust Enrollment Department shall be delegated the oversight
 110 and management of the Oneida Life Insurance Plan.

111

112 **1004.6. Beneficiary Claim Process and Distribution**

113 1004.6-1. *Evidence as to Passing or Status.* In proceedings under this law, the following rules
 114 relating to determination of death and status are applicable:

115 (a) A certified or authenticated copy of a death certificate purporting to be issued by an
 116 official or agency of the place where the death purportedly occurred is prima facie proof
 117 of the fact, place, date and time of death, and the identity of the decedent;

118 (b) A certified or authenticated copy of any record or report of a governmental agency,
 119 domestic or foreign, of a decedent's death; and

120 (c) A person who is absent for a continuous period of seven (7) years, during which they
 121 have not been heard from, and whose absence is not satisfactorily explained after diligent
 122 search or inquiry is presumed to be dead. Their death is presumed to have occurred at the
 123 end of the period unless there is sufficient evidence for determining that death occurred
 124 earlier.

125 1004.6-2. *Effect of Homicide on Beneficiary Designation.* A designated beneficiary who
 126 criminally and intentionally causes the death of the decedent shall not be entitled to any benefits
 127 passing under this law.

128 1004.6-3. *Distribution.* Oneida Life Insurance Plan benefits shall be distributed in the following
 129 order:

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130 (a) Funeral expenses shall be paid to the funeral home pursuant to receipt of a valid
131 invoice therefrom;

132 (1) Any expenses beyond the funeral expenses shall be the responsibility of the
133 beneficiary, family of the decedent, or any other responsible parties.

134 (b) Residual benefits shall be paid to the designated beneficiary.
135

136 **1004.7. Funding**

137 1004.7-1. *Funding Source.* The Oneida Life Insurance Plan shall be contingent on funding by the
138 Nation.
139

140 **1004.8. Administrative Rulemaking**

141 1004.8-1. *Delegation of Administrative Rulemaking Authority.* The Oneida Trust Enrollment
142 Department shall be delegated administrative rulemaking authority in accordance with the
143 Administrative Rulemaking law to promulgate rules to govern the administration of the Oneida
144 Life Insurance Plan.
145

146 *End.*
147

148
149 Emergency Adopted – BC-09-28-22-C

150 Emergency Extension – BC-03-22-23-C

151 Adopted – BC-08-23-23-G

152 Amended – BC- - - -

Title 10. General Welfare Exclusion - Chapter 1004
ONEIDA LIFE INSURANCE PLAN

1004.1. Purpose and Policy
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(a) The General Tribal Council, through resolution GTC-01-17-09-B, approved the concept of the Oneida Life Insurance Plan Plus to replace the Oneida Burial Fund. The General Tribal Council directed implementation of a benefit that pays fifteen thousand dollars (\$15,000) to the designated beneficiary or beneficiaries of the deceased Oneida Nation member. The payment of death benefits through OLIPP to designated beneficiaries of a deceased Oneida Nation member is an exercise of self-governance crucial to the Oneida Nation’s sovereignty, and health and welfare of the community.

1004.1-2. *Policy.* It is the policy of the Nation to care for its members and their families even after their death. The Nation seeks to internalize the Oneida Life Insurance Plan process to ensure equitable and expedient distribution to designated beneficiaries.

1004.2. Adoption, Amendment, Repeal

1004.2-1. This law was adopted by the Oneida Business Committee by resolution BC-08-23-23-G and amended by resolution BC-__-__-__.

1004.2-2. This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

1004.2-3. 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.

1004.2-4. 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.

1004.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

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1004.3-1. 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.

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(b) "Benefit" means the fifteen thousand dollars provided (\$15,000) to pay for funeral expenses of an enrolled member of the Nation, with any residual amounts paid thereafter to the designated beneficiary.

(c) "Decedent" means the deceased person.

(d) "Designated Beneficiary" means any person(s) designated by the enrolled member of the Nation, through the approved beneficiary designation form, to receive all or a portion

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41 of the decedent's Oneida Life Insurance Plan benefit.

42 (e) "Funeral Expenses" means the cost of the funeral of the decedent accrued and invoiced
43 by the funeral home including, but not limited to, the following:

- 44 (1) funeral planning;
- 45 (2) securing the necessary permits and copies of death certificates;
- 46 (3) preparing the notices;
- 47 (4) sheltering the remains;
- 48 (5) coordinating the arrangements with the cemetery, crematory or other third
49 parties;
- 50 (6) transporting the remains;
- 51 (7) embalming and other preparation;
- 52 (8) viewing, ceremony, or memorial services;
- 53 (9) use of a hearse or limousine;
- 54 (11) a casket, outer burial container or alternate container;
- 55 (11) monuments; and
- 56 (12) cremation or interment.

57 (f) "Nation" means the Oneida Nation.

58 59 **1004.4. Establishment**

60 1004.4-1. *Establishment*. The Oneida Life Insurance Plan is hereby established as an approved
61 program of the Nation in accordance with the Oneida General Welfare law. The purpose of the
62 Oneida Life Insurance Plan is to provide fifteen thousand dollars (\$15,000) of financial assistance
63 to eligible members of the Nation to pay for funeral expenses, with any residual benefit amounts
64 paid thereafter to the designated beneficiary.

65 1004.4-2. *General Welfare Exclusion*. The Oneida Life Insurance Plan meets the requirements of
66 the General Test as defined in the Oneida General Welfare law; General Criteria as defined in
67 I.R.S. Rev. Proc. 2014-35. Section 5.01(1); and the requirements of the Tribal General Welfare
68 Exclusion Act of 2014, 26 U.S.C. §139E(b).

69 (a) The assistance provided through the Oneida Life Insurance Plan is:

- 70 (1) paid on behalf of the Nation;
- 71 (2) pursuant to an approved program of the Nation;
- 72 (3) does not discriminate in favor of members of the governing body of the Nation;
- 73 (4) available to any eligible member of the Nation who meets the guidelines of the
74 approved program;
- 75 (5) provided for the promotion of general welfare;
- 76 (6) not lavish or extravagant;
- 77 (7) not compensation for services; and
- 78 (8) not a per capita payment.

79 (b) . I.R.S. Rev. Proc. 2014-35, section 5.02(2)(e)(iv) lists funeral, burial, and expenses
80 related to a death as Safe Harbor program for which need is presumed.

81 82 **1004.5. Qualifications, Designation of Beneficiary, and Notice**

83 1004.5-1. *Eligibility*. All members of the Nation shall qualify for benefits from the Oneida Life
84 Insurance Plan to be used for funeral expenses first, with any residual benefits distributed to a
85 designated beneficiary.

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86 (a) Newly enrolled members of the Nation shall be covered the date their enrollment
87 application is approved by Oneida Trust Enrollment Committee and Oneida Business
88 Committee.

89 (b) Members of the Nation that have relinquished their membership shall not be covered
90 from the date their relinquishment request is approved by the Oneida Trust Enrollment
91 Committee and Oneida Business Committee.

92 1004.5-2. *Designation of Beneficiary.* A member of the Nation shall complete the Oneida Trust
93 Enrollment Committee approved beneficiary designation form and submit it to the Oneida Trust
94 Enrollment Committee, either online or in person at the Oneida Trust Enrollment Office, prior to
95 their death in order to secure benefits from the Oneida Life Insurance Plan for their beneficiary.

96 (a) Any Oneida Life Insurance Plan beneficiary designation forms submitted prior to the
97 effective date of this law shall remain valid.

98 (b) Oneida Life Insurance Plan residual benefits shall not be paid or claimed if the decedent
99 did not designate a living beneficiary though the beneficiary designation form.

100 (c) A parent or legal guardian shall complete and submit a beneficiary designation form
101 on behalf of their minor child or ward.

102 (d) Funeral expenses shall be paid directly to the funeral home upon submission of a valid
103 invoice, up to the limit of the Oneida Life Insurance Plan benefits, even if a designated
104 beneficiary has not been designated.

105 1004.5-3. *Notice of Death.* The Oneida Trust Enrollment Department shall be notified within
106 three (3) years of the member of the Nation's death in order to distribute the Oneida Life Insurance
107 Plan benefits to the beneficiary. Oneida Life Insurance Plan claims made beyond three (3) years
108 of the decedent's death shall not be processed for distribution.

109 1004.5-4. *Oversight.* The Oneida Trust Enrollment Department shall be delegated the oversight
110 and management of the Oneida Life Insurance Plan.

111

112 **1004.6. Beneficiary Claim Process and Distribution**

113 1004.6-1. *Evidence as to Passing or Status.* In proceedings under this law, the following rules
114 relating to determination of death and status are applicable:

115 (a) A certified or authenticated copy of a death certificate purporting to be issued by an
116 official or agency of the place where the death purportedly occurred is prima facie proof
117 of the fact, place, date and time of death, and the identity of the decedent;

118 (b) A certified or authenticated copy of any record or report of a governmental agency,
119 domestic or foreign, of a decedent's death; and

120 (c) A person who is absent for a continuous period of seven (7) years, during which they
121 have not been heard from, and whose absence is not satisfactorily explained after diligent
122 search or inquiry is presumed to be dead. Their death is presumed to have occurred at the
123 end of the period unless there is sufficient evidence for determining that death occurred
124 earlier.

125 1004.6-2. *Effect of Homicide on Beneficiary Designation.* A designated beneficiary who
126 criminally and intentionally causes the death of the decedent shall not be entitled to any benefits
127 passing under this law.

128 1004.6-3. *Distribution.* Oneida Life Insurance Plan benefits shall be distributed in the following
129 order:

Draft 1
2024 09 04

130 (a) Funeral expenses shall be paid to the funeral home pursuant to receipt of a valid
131 invoice therefrom;

132 (1) Any expenses beyond the funeral expenses shall be the responsibility of the
133 beneficiary, family of the decedent, or any other responsible parties.

134 (b) Residual benefits shall be paid to the designated beneficiary.
135

136 **1004.7. Funding**

137 1004.7-1. *Funding Source.* The Oneida Life Insurance Plan shall be contingent on funding by the
138 Nation.
139

140 **1004.8. Administrative Rulemaking**

141 1004.8-1. *Delegation of Administrative Rulemaking Authority.* The Oneida Trust Enrollment
142 Department shall be delegated administrative rulemaking authority in accordance with the
143 Administrative Rulemaking law to promulgate rules to govern the administration of the Oneida
144 Life Insurance Plan.
145

146 *End.*
147

148
149 Emergency Adopted – BC-09-28-22-C
150 Emergency Extension – BC-03-22-23-C
151 Adopted – BC-08-23-23-G
152 Amended – BC- _ - _ - _ -



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



AGENDA REQUEST FORM

- 1) Request Date: _____
- 2) 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:

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: 6/17/24
- 2) Contact Person(s): Evangeline Trevan
Dept: Legal team
Phone Number: 7154440225 Email: minibowl80@gmail.com
- 3) Agenda Title: Amendment to GWA Payments.
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
On the Back.

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

- 1) Housing Doc (only gonna submit this)
- 2) ~~XXXXXXXXXX~~
- 3) _____
- 4) _____

- 5) Please list any laws, policies or resolutions that might be affected:
The tribe reciving the GWA amounts from Deceased members
- 6) Please list all other departments or person(s) you have brought your concern to:
Enrollment.
- 7) Do you consider this request urgent? Yes No
If yes, please indicate why:
people pass every day every oneida is affected.

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

Signature of Requester:

[Handwritten Signature]

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

Shirley Jennings is my mother. She was told ^{66 of 249} she had cancer OCT 23'. I stayed home and cared for her. it was a very emotional time however, I did not let anyone see how much we were going to miss my mom. ok 5 months later she passes Feb 10th 24. Now I know GWA was supposed to be given March 31st 2024. I would like to change the law that gives the Nation authority to not disperse her funds to other departments. such as housing, utilities and any^{other} payments owed to the tribe.

Funeral Costs.

Should include end of life expenses. housing, mortgages, utility bills.

715
444
9 0225

July 17, 2024, Legislative Operating Committee E-Poll Approval of the Canceled July 17, 2024 LOC Meeting Materials

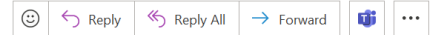
E-POLL REQUEST: Approval of the Canceled June 17, 2024 LOC Meeting Materials



LOC

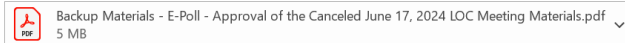
To: Jameson J. Wilson; Kirby W. Metoxen; Jennifer A. Webster; Marlon G. Skenandore; Jonas G. Hill

Cc: Clorissa N. Leeman; Maureen S. Perkins; Kristal E. Hill; Fawn J. Billie; Fawn L. Cottrell



Wed 7/17/2024 10:03 AM

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



Good Morning Legislative Operating Committee,

This e-mail serves as the e-poll for the approval of the canceled June 17, 2024, Legislative Operating Committee meeting materials.

EXECUTIVE SUMMARY

The June 17, 2024, Legislative Operating Committee meeting was canceled due to a lack of quorum based on scheduling conflicts. The August 7, 2024, and August 21, 2024, Legislative Operating Committee meetings are also canceled due to scheduling conflicts.

In an effort to not delay work moving forward, the Legislative Operating Committee is being asked to e-poll some of the materials originally included on the July 17, 2024, Legislative Operating Committee meeting agenda.

Materials the Legislative Operating Committee is being asked to review and consider adopting motions for include:

- **June 19, 2024 Legislative Operating Committee Meeting Minutes.**
 - The Legislative Operating Committee is being asked to approve the June 19, 2024 Legislative Operating Committee meeting minutes and forward to the Oneida Business Committee.
 - The June 19, 2024 Legislative Operating Committee meeting minutes are included in the attached backup materials.
- **Back Pay Law Amendments.**
 - The Legislative Operating Committee is being asked to approve the adoption packet for the proposed amendments to the Back Pay law and forward to the Oneida Business Committee for consideration.
 - Included in the attached backup materials are the following documents for this item:
 - Coversheet;
 - Adoption Memo;
 - Resolution;
 - Statement of Effect;
 - Legislative Analysis;
 - Draft (Redline to Current);
 - Draft (Clean); and
 - Fiscal Impact Statement.
- **Investigative Leave Policy Amendments.**
 - The Legislative Operating Committee is being asked to accept the legislative analysis for the proposed amendments to the Investigative Leave Policy.

- The legislative analysis for the proposed amendments to the Investigative Leave Policy is included in the attached backup materials.
- ***Environmental Review Law.***
 - The Legislative Operating Committee is being asked to accept the memorandum and remove the Environmental Review Law from the Active Files List.
 - A memorandum from James Snitgen is included in the attached backup materials.
- ***Petition: L. Blackowl – New Recreation/Community Center Build.***
 - The Legislative Operating Committee is being asked to add the Petition: L. Blackowl – New Recreation/Community Center Build to the Active Files List with Jameson Wilson as the sponsor. The Legislative Operating Committee is also being asked to accept the status update for this Petition and forward to the Oneida Business Committee.
 - Included in the attached backup materials are the following documents for this item:
 - Agenda Request Form;
 - Excerpt from the June 26, 2024 Oneida Business Committee meeting minutes; and
 - Status Update for the Statement of Effect for the Petition: L. Blackowl – New Recreation/Community Center Build.
- ***E-Poll Results: Approval of the Computer Resources Ordinance Amendments Public Meeting Packet.***
 - The Legislative Operating Committee is being asked to enter into the record the results of the July 1, 2024 e-poll entitled, Approval of the Computer Resources Ordinance Amendments Public Meeting Packet.
 - Included in the attached backup materials are the following documents for this item:
 - E-Poll Results; and
 - Backup Materials.
- ***Legislative Operating Committee Fiscal Year 2024 Third Quarter Report.***
 - The Legislative Operating Committee is being asked to approve the Legislative Operating Committee Fiscal Year 2024 Third Quarter Report and forward to the Oneida Business Committee.
 - The Legislative Operating Committee Fiscal Year 2024 Third Quarter Report is included in the attached backup materials.

Further details on all the items included in this e-poll can be found in the attached backup materials.

An e-poll is necessary for this matter in order to avoid a delay in work being processed because the July 17, 2024, Legislative Operating Committee meeting has been canceled, along with the August 7, 2024 and August 21, 2024 meetings, and the next Legislative Operating Committee meeting will not occur until September 4, 2024.

REQUESTED ACTION

The requested actions are as follows:

- Approve the June 19, 2024 Legislative Operating Committee meeting minutes and forward to the Oneida Business Committee.
- Approve the adoption packet for the proposed amendments to the Back Pay law and forward to the Oneida Business Committee for consideration.
- Accept the legislative analysis for the proposed amendments to the Investigative Leave Policy.
- Accept the memorandum from James Snitgen and remove the Environmental Review Law from the Active Files List.

- Add the Petition: L. Blackowl – New Recreation/Community Center Build to the Active Files List with Jameson Wilson as the sponsor.
- Accept the status update for the Petition: L. Blackowl – New Recreation/Community Center Build and forward to the Oneida Business Committee.
- Enter into the record the results of the July 1, 2024 e-poll entitled, Approval of the Computer Resources Ordinance Amendments Public Meeting Packet.
- Approve the Legislative Operating Committee Fiscal Year 2024 Third Quarter Report and forward to the Oneida Business Committee.

DEADLINE FOR RESPONSE

July 18, 2024 at 10:00 a.m.

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



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

E-POLL RESULTS:

The e-poll was approved by Kirby Metoxen, Jennifer Webster, Jonas Hill, and Jameson Wilson. Marlon Skenandore is on a personal leave and therefore did not provide a response.

Re: E-POLL REQUEST: Approval of the Canceled June 17, 2024 LOC Meeting Materials



Kirby W. Metoxen

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

Reply
 Reply All
 Forward

Wed 7/17/2024 10:24 AM

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Approve

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RE: E-POLL REQUEST: Approval of the Canceled June 17, 2024 LOC Meeting Materials



Jennifer A. Webster

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

Reply
 Reply All
 Forward

Wed 7/17/2024 10:48 AM

Start your reply all with: Feedback

Approve, changing this to July.
 (not June).
 Thanks,
 Jenny

Sent from my Galaxy

Re: E-POLL REQUEST: Approval of the Canceled June 17, 2024 LOC Meeting Materials



Jonas G. Hill

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

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Reply Reply All Forward

Wed 7/17/2024 11:47 AM

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Re: E-POLL REQUEST: Approval of the Canceled June 17, 2024 LOC Meeting Materials



Jameson J. Wilson

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

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Reply Reply All Forward

Wed 7/17/2024 2:02 PM

Approve



Jameson Wilson
Councilman
Oneida Business Committee

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

Phone: 920-869-4385
Cell: 920-764-2651
Email: jwilson@oneidanation.org

PO Box 365
Oneida, WI 54155

www.oneida-nsn.gov

"Rebuilding our Nation together with compassion, kindness, empathy and optimism." - JW



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
June 19, 2024
9:00 a.m.

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

Excused: Marlon Skenandore

Others Present: Clorissa N. Leeman, Grace Elliott, Carolyn Salutz, Ralinda Ninham-Lamberies

Others Present on Microsoft Teams: Chad Fuss, Cindy Lecker, Evan Doxtator, Fawne Rasmussen, Rae Skenandore, Barbara Webster, David P. Jordan, Fawn Billie, Jeremy King, Maureen Perkins, Michelle Braaten, Todd Vanden Heuvel, Justin Nishimoto, Kristal Hill, Lisa Moore, Peggy Van Gheem, Tavia James-Charles, Donna Smith, Corrine Herlache, Eric Boulanger, Fawn Cottrell, Jason Martinez, Olivia Danforth, Peggy Helm-Quest, Sarah White, Shane Hill, Tonya Webster, Derrick King, Matthew Denny

I. Call to Order and Approval of the Agenda

Jameson Wilson called the June 19, 2024, Legislative Operating Committee meeting to order at 9:00 a.m.

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

II. Minutes to be Approved

1. June 5, 2024 LOC Meeting Minutes

Motion by Kirby Metoxen to approve the June 5, 2024, LOC meeting minutes and forward to the Oneida Business Committee; seconded by Jonas Hill. Motion carried unanimously.

III. Current Business

1. Back Pay Law Amendments

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

Motion by Kirby Metoxen to approve the fiscal impact statement request memorandum and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by July 3, 2024; seconded by Jennifer Webster. Motion carried unanimously.



2. Computer Resources Ordinance Amendments

Motion by Jennifer Webster to approve the legislative analysis of the proposed amendments to the Computer Resources Ordinance; seconded by Jonas Hill. Motion carried unanimously.

IV. New Submissions**1. Vendor Licensing Law Amendments**

Motion by Kirby Metoxen to add the Vendor Licensing Law Amendments to the Active Files List with Jonas Hill as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

2. Independent Contractor Policy Amendments

Motion by Kirby Metoxen to add the Independent Contractor Policy Amendments to the Active Files List with Jonas Hill as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

3. Oneida Travel and Expense Policy Repeal

Motion by Jonas Hill to add the Oneida Travel and Expense Policy Repeal to the Active Files List with Jennifer Webster as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

V. Additions**VI. Administrative Items****VII. Executive Session****VIII. Adjourn**

Motion by Kirby Metoxen to adjourn at 9:15 a.m.; seconded by Jennifer Webster. Motion carried unanimously.



Legislative Operating Committee
July 17, 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.

6/5/24 LOC: Motion by Kirby Metoxen to accept the public comments and the public comment review memorandum and defer to a work meeting for further consideration; seconded by Jonas Hill. Motion carried unanimously.

6/11/24: *Work Meeting.* Present: Jameson Wilson, Jonas Hill, Kirby Metoxen, Jennifer Webster, Clorissa Leeman, Kristal Hill, Maureen Perkins, Fawn Cottrell. The purpose of this work meeting was to review and consider the public comments received.

6/19/24 LOC: Motion by Jennifer Webster to approve the updated public comment review memorandum, draft, and legislative analysis; seconded by Kirby Metoxen. Motion carried unanimously.

Motion by Kirby Metoxen to approve the fiscal impact statement request memorandum and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by July 3, 2024; seconded by Jennifer Webster. Motion carried unanimously.

7/11/24: *Work Meeting.* Present: Jameson Wilson, Jonas Hill, Kirby Metoxen, Clorissa Leeman, Carolyn Salutz, Grace Elliott, Kristal Hill, Fawn Cottrell, Fawn Billie, Maureen Perkins. The purpose of this work meeting was to review the adoption materials for the Back Pay law amendments.

Next Steps:

- Approve the adoption packet for the proposed amendments to the Back Pay law and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee
FROM: Jameson Wilson, LOC Chairperson
DATE: July 24, 2024
RE: Adoption of Amendments to the Back Pay Law

Please find the following attached backup documentation for your consideration of the adoption of amendments to the Back Pay law:

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

Overview

Amendments to the Back Pay law are being sought to clarify how the reinstatement of an employee who had involuntary separation is handled, and how back pay is calculated and applied. 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 laws. [2 O.C. 206.1-1]. The amendments to the Back Pay law:

- Include a new section in the law which provides for the reinstatement of employee who had involuntary separation overturned and addresses such issues as:
 - Requirement to hold a position pending litigation [2 O.C. 206.4-1];
 - Amending the position description or eliminating the position pending an employee appeal [2 O.C. 206.4-2];
 - Reinstatement to the position the employee was involuntarily separated from [2 O.C. 206.4-3];
- Clarify that back pay calculations shall be made using the employee's last wage in the position which they were terminated from [2 O.C. 206.5-1]; and
- Clarify the circumstances in which an employee is not eligible to work, and therefore is not eligible for back pay [2 O.C. 206.5-2(d)].

The Legislative Operating Committee developed the proposed amendments to the Back Pay law through collaboration with representatives from the Oneida Law Office, Gaming Employee Services, Human Resources Department, and the General Manager. The Legislative Operating Committee held nine (9) work meetings on the development of the amendments to the Back Pay law.

The development of the amendments to the Back Pay law complies with all processes and procedures required by the Legislative Procedures Act, including the development of a legislative

analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. [1 O.C. 109.6, 109.7, 109.8].

The Legislative Operating Committee held two (2) public meetings on the proposed amendments to the Back Pay law. The first public meeting was held on December 13, 2022. No individuals provided public comments during this public meeting. The public comment period was then held open until December 20, 2022. One (1) submission of written comments was received during this public comment period. The Legislative Operating Committee reviewed and considered the public comments received on February 1, 2023. A second public meeting was held on April 12, 2024. One (1) person provided public comment during this public meeting. The public comment period was then held open until April 19, 2024. No individuals provided written comments during this public comment period. The Legislative Operating Committee reviewed and considered the public comments received on June 11, 2024.

The amendments to the Back Pay law will become effective on August 7, 2024.

Requested Action

Adopt the Resolution: Amendments to the Back Pay Law

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # Amendments to the Back Pay Law

- 1
2
3
- 4 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe
5 recognized by the laws of the United States of America; and
6
- 7 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
8
- 9 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,
10 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
11
- 12 **WHEREAS,** the Back Pay law (“the Law”) was adopted by the Oneida Business Committee through
13 resolution BC-05-24-06-PP, and then amended through resolutions BC-06-23-10-F, BC-
14 08-13-14-C, and BC-10-26-16-A; and
15
- 16 **WHEREAS,** the purpose of this Law is to set forth standards used in the reinstatement of an employee
17 and the calculation of back pay for all employees of the Nation in accordance with the
18 Nation’s law; and
19
- 20 **WHEREAS,** the amendments to the Law include a new section which provides for the reinstatement of
21 employee who had involuntary separation overturned and addresses such issues as: the
22 requirement to hold a position pending litigation, amending the position description or
23 eliminating the position pending an employee appeal, and reinstatement to the position the
24 employee was involuntarily separated from; and
25
- 26 **WHEREAS,** the amendments to the Law clarify that back pay calculations shall be made using the
27 employee’s last wage in the position which they were terminated from; and
28
- 29 **WHEREAS,** the amendments to the Law clarify the circumstances in which an employee is not eligible
30 to work, and therefore is not eligible for back pay; and
31
- 32 **WHEREAS,** the Legislative Operating Committee developed the proposed amendments to the Law
33 through collaboration with representatives from the Oneida Law Office, Gaming Employee
34 Services, Human Resources Department, and the General Manager; and
35
- 36 **WHEREAS,** in accordance with the Legislative Procedures Act a legislative analysis and fiscal impact
37 statement were completed for the proposed amendments to the Law; and
38
- 39 **WHEREAS,** the Legislative Operating Committee held two (2) public meetings on the proposed
40 amendments to the Law; and
41
- 42 **WHEREAS,** a public meeting for the proposed amendments to this Law was held on December 13,
43 2022, with no individuals providing oral comments, and the public comment period for the
44 amendments to this Law was held open until December 20, 2022, with one (1) submission
45 of written comments received; and
46

47 **WHEREAS,** the Legislative Operating Committee reviewed and considered the public comments
48 received on February 1, 2023, and any changes have been incorporated into this draft; and
49

50 **WHEREAS,** an additional public meeting for the proposed amendments to this Law was held on April
51 12, 2024, with one (1) individual providing oral comments, and the public comment period
52 for the amendments to this Law was held open until April 19, 2024, with no written
53 comments received; and
54

55 **WHEREAS,** the Legislative Operating Committee reviewed and considered the public comments
56 received on June 11, 2024, and any changes have been incorporated into this draft; and
57

58 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts the amendments
59 to the Back Pay law which shall become effective on August 7, 2024.



Statement of Effect

Amendments to the Back Pay Law

Summary

This resolution adopts amendments to the Back Pay law to clarify how the reinstatement of an employee who had involuntary separation is handled, and how back pay is calculated and applied.

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

Date: July 10, 2024

Analysis by the Legislative Reference Office

This resolution adopts 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 laws. [2 O.C. 206.1-1]. The amendments to the Back Pay law:

- Include a new section in the law which provides for the reinstatement of employee who had involuntary separation overturned and addresses such issues as:
 - Requirement to hold a position pending litigation [2 O.C. 206.4-1];
 - Amending the position description or eliminating the position pending an employee appeal [2 O.C. 206.4-2];
 - Reinstatement to the position the employee was involuntarily separated from [2 O.C. 206.4-3];
- Clarify that back pay calculations shall be made using the employee's last wage in the position which they were terminated from [2 O.C. 206.5-1]; and
- Clarify the circumstances in which an employee is not eligible to work, and therefore is not eligible for back pay [2 O.C. 206.5-2(d)].

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

The Legislative Operating Committee held two (2) public meetings on the proposed amendments to the Back Pay law. The first public meeting was held on December 13, 2022. No individuals provided public comments during this public meeting. The public comment period was then held open until December 20, 2022. One (1) submission of written comments was received during this public comment period. The Legislative Operating Committee reviewed and considered the public comments received on February 1, 2023. A second public meeting was held on April 12, 2024. One (1) person provided public comment during this public meeting. The public comment period was then held open until April 19, 2024. No individuals provided written comments during this

public comment period. The Legislative Operating Committee reviewed and considered the public comments received on June 11, 2024.

The amendments to the Back Pay law will become effective on August 7, 2024.

Conclusion

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



BACK PAY LAW AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> ▪ Include a new section in the law which provides for the reinstatement of employee who had involuntary separation overturned and addresses such issues as: <ul style="list-style-type: none"> ▪ Requirement to hold a position pending litigation [2 O.C. 206.4-1]; ▪ amending the position description or eliminating the position pending an employee appeal [2 O.C. 206.4-2]; ▪ Reinstatement to the position the employee was involuntarily separated from [2 O.C. 206.4-3]; ▪ Clarify that back pay calculations shall be made using the employee’s last wage in the position which they were terminated from [2 O.C. 206.5-1]; ▪ Clarify the circumstances in which an employee is not eligible to work, and therefore is not eligible for back pay [2 O.C. 206.5-2(d)].
Purpose	The purpose of this law is to set forth standards used in the reinstatement of an employee and the calculation of back pay for all employees of the Nation in accordance with the Nation’s law. [2 O.C. 206.1-1].
Affected Entities	Oneida Law Office, General Manager, Gaming General Manager, Retail General Manager, Human Resources Department Executive Director, Oneida Nation Judiciary, Employees of the Nation
Public Meeting	A public meeting was held on December 13, 2022, with a public comment period held open until December 20, 2022. An additional public meeting was held on April 12, 2024, with a public comment period held open until April 19, 2024.
Fiscal Impact	The Finance Administration provided a fiscal impact statement on July 2, 2024.

SECTION 2. LEGISLATIVE DEVELOPMENT

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

15 **SECTION 3. CONSULTATION AND OUTREACH**

16 A. Representatives from the following departments or entities participated in the development of the
17 amendments to the Back Pay law and this legislative analysis:

- 18 ▪ Oneida Law Office;
- 19 ▪ Human Resources Department;
- 20 ▪ General Manager; and
- 21 ▪ Gaming Employee Services.

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

- 23 ▪ Back Pay law;
- 24 ▪ Oneida Personnel Policies and Procedures;
- 25 ▪ Drug and Alcohol Free Workplace law;
- 26 ▪ Furlough law; and
- 27 ▪ Investigative Leave Policy.

28

29 **SECTION 4. PROCESS**

30 A. The development of the proposed amendments to the Back Pay law complies with the process set forth
31 in the Legislative Procedures Act (LPA).

- 32 ▪ On September 14, 2022, the Oneida Business Committee adopted a motion to request the
33 Legislative Operating Committee to add the Back Pay Policy to the active files agenda and to
34 release the confidential memo to the Legislative Reference Office as a confidential document.
- 35 ▪ On September 21, 2022, the Legislative Operating Committee added the Law to its Active Files
36 List.
- 37 ▪ On October 5, 2022, the Legislative Operating Committee approved the draft of the proposed
38 amendments to the Back Pay law and directed that a legislative analysis be developed.
- 39 ▪ On October 19, 2022, the Legislative Operating Committee approved the updated draft and
40 legislative analysis.
- 41 ▪ On November 2, 2022, the Legislative Operating Committee approved the public meeting
42 packet and forwarded the Back Pay law amendments to a public meeting to be held on
43 December 13, 2022.
- 44 ▪ The public meeting was held on December 13, 2022, in person in the Norbert Hill Center and
45 on Microsoft Teams. No individuals provided public comment during the public meeting.
- 46 ▪ The public comment period was held open until December 20, 2022. One (1) submission of
47 written comments was received during the public comment period.
- 48 ▪ On February 1, 2023, the Legislative Operating Committee to accepted the public comments
49 and the public comment review memorandum and deferred these items to a work meeting for
50 further consideration. The Legislative Operating Committee reviewed and considered these
51 comments later that same day.
- 52 ▪ On February 15, 2023, the Legislative Operating Committee accepted the updated public
53 comment review memorandum.
- 54 ▪ On October 4, 2023, the Legislative Operating Committee read the Back Pay law
55 amendments to its Active Files List for the 2023-2026 legislative term.
- 56 ▪ On March 6, 2024, the Legislative Operating Committee approved the updated materials
57 contained in the public meeting packet for the Back Pay law amendments, and forwarded the
58 Back Pay law amendments to a public meeting to be held on April 12, 2024.

- 59 ▪ On April 12, 2024, a public meeting was held regarding the proposed amendments to the Back
60 Pay law. One (1) person provided public comment during this public meeting.
- 61 ▪ On April 19, 2024, the public comment period for the proposed amendments to the Back Pay
62 law closed. No individuals provided written comments during the public comment period.
- 63 ▪ On June 5, 2024, the Legislative Operating Committee accepted the public comments and the
64 public comment review memorandum and deferred these items to a work meeting for further
65 consideration.
- 66 ▪ On June 11, 2024, the Legislative Operating Committee reviewed and considered the public
67 comments received.
- 68 ▪ On June 19, 2024, the Legislative Operating Committee approved the updated public comment
69 review memorandum, draft, and legislative analysis; and approved the fiscal impact statement
70 request memorandum and forwarded the materials to the Finance Department directing that a
71 fiscal impact statement be prepared and submitted to the LOC by July 3, 2024.
- 72 ▪ On July 2, 2024, the Finance Administration provided the Legislative Operating Committee
73 the fiscal impact statement for the proposed amendments to the Law.
- 74 **B.** At the time this legislative analysis was developed the following work meetings had been held
75 regarding the development of the amendments to this Law:
 - 76 ▪ September 29, 2022: LOC work session;
 - 77 ▪ October 13, 2022: LOC work session;
 - 78 ▪ February 1, 2023: LOC work session;
 - 79 ▪ March 14, 2023: LOC work session with HRD.
 - 80 ▪ January 3, 2024: LOC work session.
 - 81 ▪ January 17, 2024: LOC work session.
 - 82 ▪ February 1, 2024: LOC work session.
 - 83 ▪ February 20, 2024: LOC work session with HRD, Oneida Law Office, General Manager, and
84 Gaming Employee Services.
 - 85 ▪ June 11, 2024: LOC work session.
 - 86 ▪ July 11, 2024: LOC work session.

Back Pay Statistics

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

92
93
94 Below please find some statistics provided by the Oneida Law Office regarding employment appeals and
95 back pay awards related to each reason listed above.
96

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

97
 98
 99

SECTION 5. CONTENTS OF THE LEGISLATION

A. *Holding a Position Pending Appeals and Reinstatement.* A new section added to the Law through these amendments addresses reinstatement of an employee who was involuntarily separated. [2 O.C. 206.4]. This new section requires that 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. [2 O.C. 206.4-1]. Additionally, this section of the Law provides that notwithstanding the requirement to hold an employee's position pending the 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. [2 O.C. 206.4-2]. Extreme financial distress is defined to mean 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)]. The determination to amend an affected position description or eliminate an affected position is then required to be approved by the Human Resources Department 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)]. This new section then goes on to provide that should an employee's appeal of an involuntary separation result in the separation being overturned, the reviewing party shall order the employee be reinstated to the position from which the employee was involuntary separated. [2 O.C. 206.4-3]. 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. [2 O.C. 206.4-3(a)].

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

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

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

132

133 C. ***Explanation of When an Employee is Not Eligible to Work.*** The Law provides that the Nation shall
134 not include time when an employee would not have been eligible to work in the calculation of any back
135 pay amount. [2 O.C. 206.5-2(d)]. The proposed amendments to the Law provides greater clarification
136 by providing a list of examples of when an employee is not eligible to work, which includes such
137 circumstances such as when an employee is on layoff or furlough status at the time of termination;
138 when a position is eliminated or inactive as part of the Nation’s response extreme financial distress;
139 when an employee would have been on medical leave at the time of the involuntary separation; and
140 when an employee would otherwise not be eligible to work in the position from which they were
141 separated from in accordance with the position description based on applicable grant requirements
142 when a position is grant funded, applicable laws of the Nation, including, but not limited to, the Vehicle
143 Driver Certification and Fleet Management law, and a criminal conviction. [2 O.C. 206.5-2(d)(1)-(4)].
144 ■ *Effect.* This provision of the Law clarifies when it should be considered that an employee is not
145 eligible to work, and therefore is not eligible for back pay.

146

147 SECTION 6. EXISTING LEGISLATION

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

- 149 ■ *Oneida Personnel Policies and Procedures.* The purpose of the Oneida Personnel Policies and
150 Procedures is to provide for the Nation’s employee related policies and procedures including
151 recruitment, selection, compensation and benefits, employee relations, safety and health, program
152 and enterprise rules and regulations, and record keeping.
- 153 ■ Section V.D of the Oneida Personnel Policies and Procedures specifically addresses
154 complaints, disciplinary actions and grievances. Section V.D.6 provides that any employee
155 who receives a disciplinary action which he/she believes is unfair may grieve the action.
156 Section V.D.6.f.5 then provides that the Oneida Personnel Commission may: uphold the
157 disciplinary action; or overturn the disciplinary action and either reinstate the employee with
158 full back pay for any lost time or reinstate the employee without back pay.
- 159 ■ The Back Pay law will now address the reinstatement of an employee who has an involuntary
160 separation overturned in section 206.4, as well as provide greater clarification on how back pay
161 is calculated in section 206.5.
- 162 ■ *Drug and Alcohol Free Workplace Law.* It is the policy of the Nation to establish a drug and
163 alcohol-free workplace program that balances respect for individuals with the need to maintain an
164 alcohol and drug-free environment. [2 O.C. 202.1-1].
- 165 ■ The Drug and Alcohol Free Workplace law provides that it is the employee’s responsibility to
166 cooperate with the requests made by Employee Health Nursing and the Medical Review
167 Officer. [2 O.C. 202.5-2(e)]. An employee who fails to cooperate and does not contact the
168 Medical Review Officer within twenty-four (24) hours of receiving contact shall not receive
169 back pay for any time between the date the Medical Review Officer placed the call until the
170 time the employee does return the call of the Medical Review Officer. *Id.*
- 171 ■ The Drug and Alcohol Free Workplace law provides that during drug and alcohol testing for
172 reasonable suspicion, an employee shall be immediately removed from duty without pay at the
173 time of initiation of the reasonable suspicion drug and alcohol testing and specimen collection
174 until the employer is notified by Employee Health Nursing of negative results on both the drug
175 and alcohol tests, or Medical Review Officer verified negative test results. [2 O.C. 202.10-2].

176 If the employee is reinstated after confirmation of drug and alcohol testing results, back pay
177 shall be provided in accordance with the Back Pay law. [2 O.C. 202.10-3].

178 ■ *Furlough Law.* The purpose of the Furlough law is to enable the Nation to implement a furlough
179 program in response to an interruption of governmental revenues or operations, insufficient treasury
180 funds or other emergencies/ unplanned events as determined by the Oneida Business Committee in
181 accordance with this law; establish a consistent and equitable process for implementation of a
182 furlough program; and incorporate Indian preference into the furlough program and require that it
183 be applied in accordance with this law. [2 O.C. 205.1-1].

184 ■ The Furlough law provides that except when an employee successfully appeals being placed
185 on furlough status in violation of this law, employees placed in furlough status shall not be
186 eligible for back pay upon their return to work. [2 O.C. 205.8-6].

187 ■ *Investigative Leave Policy.* The purpose of the Investigative Leave Policy is to address
188 investigative leave for employees undergoing work-related investigations. [2 O.C. 208.1-1].

189 ■ The Investigative Leave Policy provides that an employee placed on investigative leave shall
190 not receive any wages or benefits unless placed in an alternative work assignment, and that if
191 the employee refuses the alternative work assignment and is returned to work, the employee
192 shall not receive any back pay or benefits. [2 O.C. 208.10-2].

193 ■ The Investigative Leave Policy provides that an employee shall receive back pay and benefits
194 for the time the employee was on investigative leave pursuant to the Back Pay law if all of the
195 following occur: the employee was not offered an alternative work assignment when placed on
196 investigative leave; the employee is returned to his or her position; and the employee is not
197 disciplined based on the investigation. [2 O.C. 208.10-4].

198

199 **SECTION 7. OTHER CONSIDERATIONS**

200 A. *Fiscal Impact.* Under the Legislative Procedures Act, a fiscal impact statement is required for all
201 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
202 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
203 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
204 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
205 completing the fiscal impact statement.

206 ■ *Conclusion.* On July 2, 2024, the Finance Administration provided the Legislative Operating
207 Committee with a fiscal impact statement for the proposed amendments to the Law. Please see the
208 fiscal impact statement for further information.

209

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.

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.

103 **206.5. Back Pay Calculation**

104 206.4-5-1. Back Pay Limitations. Back pay shall only include the items identified
 105 calculations shall be made using the employee's last wage in the position which they were involuntarily separated
 106 from. Back pay, in all circumstances, shall be limited to the calculation set forth in this Section as
 107 they relate to the employee. section. Back pay shall include and be subject to the following as it is
 108 related to the employee:

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

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

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

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

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

124 (d) Holiday Pay. Holiday pay shall be included in the back pay amount to the extent the
 125 employee would have received such pay if the employee had not been involuntarily
 126 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

Draft 3 (Redline to Current) for OBC Consideration
2024 07 17

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.

Draft 3 (Redline to Current) for OBC Consideration
2024 07 17

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;

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

221 (4) When an employee would otherwise not be eligible to work in the position from
222 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.

Adopted - BC-505-24-06-PP

Amended - BC-06-23-10-F

Amended - BC-08-13-14-C

Amended - BC-10-26-16-A

Amended - BC- - - -

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

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

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

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

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

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

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

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

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

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

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

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

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

73

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

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

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

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

87 (1) General Manager;

88 (2) Gaming General Manager;

89 (3) Retail General Manager; or

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

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

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

100 101 **206.5. Back Pay Calculation**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

179 retirement account.

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

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

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

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

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

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

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

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

206 (a) Punitive damages;

207 (b) Consequential damages;

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

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

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

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

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

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

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

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

223 (C) a criminal conviction;

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

226 additional duties are a part of such involuntarily separated employee’s regular schedule.
227 206.5-3. *Back Pay Period.* Calculation of back pay begins on the day the employee is
228 involuntarily separated and ends on the day the employee is reinstated.

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

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

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

237 (2) If the involuntary separation period involves a fractional week, the indemnity
238 shall be paid for each day of a fractional week at the rate of the average number
239 of hours worked per day immediately prior to the involuntary separation. For the
240 purposes of this section, immediately prior means the twelve (12) full work weeks
241 immediately preceding the involuntary separation. Provided that, under extenuating
242 circumstances related to business needs of the Nation wherein the Oneida Law
243 Office determines that considering hours worked per day immediately prior would
244 be unfair, an alternative reasonable timeframe may be used.
245

246 **206.6. Back Pay Process**

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

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

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

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

257
258 *End.*
259

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

FINANCE ADMINISTRATION

Fiscal Impact Statement



MEMORANDUM

TO: RaLinda Ninham-Lamberies, Chief Financial Officer
 FROM: Rae Skenandore, Senior Analyst/Budget Coordinator
 DATE: June 24, 2024
 RE: **Fiscal Impact of the Amendments to the Back Pay Law**

I. Estimated Fiscal Impact Summary

Law: Amendments to the Back Pay Law		Draft 3
Implementing Agency	Human Resource Department Oneida Law Office Sr. Management or the highest position in the employee's chain of command. Oneida Nation Judiciary	
Estimated time to comply	10 days, in compliance with the Legislative Procedures Act	
Estimated Impact	Current Fiscal Year	10 Year Estimate
Total Estimated Fiscal Impact	No Fiscal Impact	No Fiscal Impact

II. Background

This Law was adopted by the Oneida Business Committee by resolution BC-05-24-06-PP in 2006 and amended through resolutions BC-06-23-10-F, BC-08-3 13-14-C, and BC-10-26-16-A.

The purpose of the Back Pay law is to set standards for reinstating an employee and calculating back pay. The amendments to the legislation include the following:

- A new section was added to the law to clarify how an employee reinstatement is handled when an involuntary separation is overturned.
- Clarify the wage to be used in calculating back pay.
- Language was added to clarify when an employee is not eligible to work and therefore not eligible for backpay.

III. Methodology and Assumptions

A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.

Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.

The analysis was completed based on the information provided as of the date of this memo.

III. Executive Summary of Findings

As stated, this Law has been in place since 2016. There are no start-up costs, no increases in personnel are needed, and no increases in office or documentation costs. The implementing agencies are prepared to implement all changes when approved.

III. Financial Impact

There is no fiscal impact of implementing this legislation.

IV. Recommendation

Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of this legislation, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.



Legislative Operating Committee
July 17, 2024

Investigative Leave Policy Amendments

Submission Date: 2/6/19	Public Meeting: n/a
LOC Sponsor: Marlon Skenandore	Emergency Enacted: n/a Expires: n/a

Summary: *This item was carried over from the last three (3) terms. In February 2019, the Nation’s Human Resources Department requested amendments to this law to address investigative enforcement. Amendments to the law are being sought to delegate authority to investigators to put employees on investigative leave, instead of just the supervisor of the employee, and discipline employees. An amendment was also sought so that if terminated, an employee would be ineligible for employment with the Nation but may request forgiveness after five (5) years. This item was added to the Active Files List in conjunction with a request for amendments to the Oneida Personnel Policies and Procedures and the Workplace Violence law.*

10/7/20 LOC: Motion by Jennifer Webster to add the Investigative Leave Policy Amendments to the Active Files List with David Jordan as the sponsor; seconded by Marie Summers. Motion carried unanimously.

10/10/22: *Work Meeting.* Present Todd Vanden Heuvel, Matthew Denny, Nicolas Reynolds, Joshua Cottrell, Wendy Alvarez, Whitney Wheelock, Clorissa Santiago, Carolyn Salutz, Grace Elliott. This was an introductory meeting to open discussions around the Investigative Leave Policy and any potential additional amendments including but not limited to amending the leave to a paid status rather than unpaid.

11/29/22: *Work Meeting.* Present Todd Vanden Heuvel, Matthew Denny, Nicolas Reynolds, Joshua Cottrell, Wendy Alvarez, Whitney Wheelock, Clorissa Santiago, Carolyn Salutz, Grace Elliott. This meeting continued discussions around delegating authority to investigators so that they are empowered act quickly to ensure a safe work environment; and, to amend the policy in a comprehensive manner that more accurately reflects its investigative purpose. The comprehensive amendment discussion included but was not limited to paid leave, continuation of benefits and credit for service time.

12/19/22: *Work Meeting.* Present Todd Vanden Heuvel, Matthew Denny, Nicolas Reynolds, Joshua Cottrell, Wendy Alvarez, Whitney Wheelock, Clorissa Santiago, Carolyn Salutz, Grace Elliott. This purpose of this meeting was to review draft language

implementing proposed amendments, and to discuss the use of investigative leaves in other Laws.

- 12/21/22:** *Work Meeting.* Present: David Jordan, Jennifer Webster, Daniel Guzman, Marie Cornelius, Kirby Metoxen, Carolyn Salutz, Clorissa Leeman, Grace Elliott. The purpose of this meeting was to gather feedback from the LOC on amending the Investigative Leave Policy from unpaid leave to paid leave. The consensus was to move forward with drafting paid leave options for consideration.
- 01/12/23:** *Work Meeting.* Present: David Jordan, Jennifer Webster, Daniel Guzman, Kristal Hill, Carolyn Salutz, Clorissa Leeman, Grace Elliott. The purpose of the meeting was to gather direction from the LOC on whether an objective of the Investigative Leave Policy should be to consolidate all investigative leave policies in one Law. Consensus from the members present supported moving in a consolidated direction, to be considered further in conjunction with HRD at another meeting scheduled January 20th, 2023.
- 01/20/23:** *Work Meeting.* Present: David Jordan, Jennifer Webster, Marie Cornelius, Daniel Guzman, Carolyn Salutz, Clorissa Leeman, Grace Elliott, Todd Vanden Heuvel, Matthew Denny, Joshua Cottrell, Peggy Van Gheem, Whitney Wheelock, Wendy Alvarez. This was a work meeting held through Microsoft Teams. The purpose of this meeting was to begin review of the draft paid investigative leave language.
- 1/26/23 LOC:** Present: David Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman, Clorissa Leeman, Carolyn Salutz, Grace Elliott. The purpose of this meeting was to update with a review of edits drafted based on suggestions from the prior meeting.
- 2/13/23:** *Work meeting.* Present: Brenda Mendolla-Buckley, Carolyn Salutz, Chad Fuss, Clorissa Leeman, Debra Powless, Derrick King, Grace Elliott, Kathleen King, Lorna Skenandore, Lucy Neville, Mark Powless, Peggy Van Gheem, Sarah White. The purpose of this meeting was to solicit feedback and share information regarding amendments under consideration, and the Investigative Leave Policy in general, with the General Managers and their delegates.
- 2/17/23:** *Work Meeting.* Present: David Jordan, Kirby Metoxen, Marie Cornelius, Daniel Guzman, Debra Powless, Mark Powless, Peggy Van Gheem, Wendy Alvarez, Matthew Denny, Whitney Wheelock, Rita Reiter, Todd Vanden Heuvel, Grace Elliott. The purpose of this meeting was to consider feedback and review an amended and proposed final draft Investigative Leave Policy.
- 3/7/23:** *Work Meeting.* Present: Kirby Metoxen, Marie Cornelius, Daniel Guzman, Jennifer Webster, Clorissa Leeman, Carolyn Salutz, Matthew Denny, Rhiannon Metoxen, Derrick King, Lorna Skenandore, Donna Smith, Joshua Cottrell, Rita Reiter, Wendy Alvarez, Louise Cornelius, Kristal Hill, Mark Powless, Debra Powless, Todd Vanden Heuvel, Grace Elliott. The purpose of this meeting was to continue development of potential paid and unpaid aspects of an investigative leave.

3/24/23: *Work Meeting.* Present: David Jordan, Jennifer Webster, Marie Cornelius, Daniel Guzman, Todd Vanden Heuvel, Lorna Skenandore, Derrick King, Mark Powless, Wendy Alvarez, Debra Powless, Matthew Denny, Kristal Hill, Donna Smith, Grace Elliott. The purpose of this meeting was to discuss the extent to which benefits will be made available on investigative leave, and to continue to develop notice criteria, lines of authority and responsibilities.

4/28/23: *Work Meeting.* Present: David Jordan, Marie Cornelius, Daniel Guzman, Debra Powless, Peggy Van Gheem, Todd Vanden Heuvel, Whitney Wheelock, Wendy Alvarez, Laura Laitinen-Warren, Derrick King, Rita Reiter, Rhiannon Metoxen, Lorna Skenandore, Daniel Habeck. The purpose of this meeting was to evaluate various options for specific sections of the law.

5/3/23: *Work Meeting.* David Jordan, Marie Cornelius, Daniel Guzman, Kirby Metoxen, Clorissa Leeman, Kristal Hill, Matthew Denny. The purpose of this meeting is to evaluate options for specific sections of the Law that had evolved through discussion at the previous meeting.

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

1/8/24: *Work Meeting.* Present: Jameson Wilson, Kirby Metoxen, Jonas Hill, Marlon Skenandore, Jennifer Webster, Clorissa Leeman, Grace Elliott, Fawn Cottrell, Fawn Billie, Kristal Hill, Maureen Perkins, Todd Vanden Heuvel, Matthew Denny, Peggy Van Gheem, Mark Powless, Lucy Neville, Dana Thyssen, Wendy Alvarez, Whitney Wheelock, Carolyn Salutz. The purpose of this meeting was to provide an introduction to the Investigative Leave law and begin review of the law.

3/4/24: *Work Meeting.* Present: Jameson Wilson, Kirby Metoxen, Jonas Hill, Marlon Skenandore, Jennifer Webster, Clorissa Leeman, Grace Elliott, Fawn Cottrell, Fawn Billie, Kristal Hill, Maureen Perkins, Todd Vanden Heuvel, Matthew Denny, Peggy Van Gheem, Mark Powless, Lucy Neville, Dana Thyssen, Wendy Alvarez, Whitney Wheelock. The purpose of this meeting was to review the law with a particular focus on amendments that were made pursuant to the January 8, 2024, meeting.

4/30/24: *Work Meeting.* Present: Kirby Metoxen, Jameson Wilson, Marlon Skenandore, Grace Elliott, Fawn Cottrell, Kristal Hill, Peggy Van Gheem, Todd Vanden Heuvel, Matthew Denny, Mark Powless, Lucy Neville, Maureen Perkins, Carolyn Salutz, Fawn Billie. The purpose of this meeting was to review the final draft of the Investigative Leave law for any additional amendments.

5/15/24 LOC: 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.

Next Steps:

- Accept the Investigative Leave Policy Amendments Legislative Analysis.



INVESTIGATIVE LEAVE LAW AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Legislation or Amendments	<ul style="list-style-type: none"> ▪ Clarify the severity of an alleged violation that may warrant an investigative leave and provide examples. [2 O.C. 208.4-1(a)]. ▪ Clarify the type of risks that an investigative leave is intended to protect against. [2 O.C. 208.4-1(b)]. ▪ Prevent undue financial harm to an employee placed on investigative leave. [2 O.C. 208.4-2(a)]. ▪ Eliminate unpaid status for the employee placed on investigative leave for up to forty-five (45) days. [2 O.C. 208.4-2(a)]. ▪ Balance the intention to prevent undue financial harm to an employee placed on investigative leave with the Nation’s fiscal responsibilities by shifting the employee to unpaid status when an investigation cannot be safely concluded within forty-five (45) days. [2 O.C. 208.4-2(c)]. ▪ Clarify that an employee may use their personal and vacation time if the investigative leave extends past forty-five (45) days. [2 O.C. 208.4-2(b)]. ▪ Provide that when an employee has used their personal and vacation time up all pay and benefits stop. [2 O.C. 208.4-2(c)]. ▪ Extend the authority to initiate an investigative leave to include the Executive Director of the Human Resource Department. [2 O.C. 208.5-1(a)]. ▪ Clarify that when there is no division director a supervisor must secure authorization from the person at the highest level in the chain of command under the Oneida Business Committee prior to placing an employee on investigative leave. [2 O.C. 208.5-1(b)(2)]. ▪ Delegate the authority for designating the individual or agency responsible for completing the investigation to the Executive Director of the Human Resource Department and the supervisor, instead of the employee’s supervisor and/or area manager. [2 O.C. 208.7-1]. ▪ Delete the requirement that the Equal Employment Officer always conducts the investigation if the employee being investigated reports directly to the Oneida Business Committee and instead provide that they may also serve as a liaison to an investigating agency when that is more appropriate. [2 O.C. 208.7-1]. ▪ Eliminate the option for a supervisor to place an employee in an alternate work assignment while on investigative leave. [2 O.C. 208.9-1(a)]. ▪ Expand the requirements that notice to the employee placed on investigative leave must contain. The additional requirements are as follows: [2 O.C. 208.6-1].

- The employee must surrender all property of the Nation. [2 O.C. 208.6-1(i)].
- Clear documentation regarding the status of pay and benefits. [2 O.C. 208.6-1(c)].
- The definition of business hours. The employee is required to respond to inquiries within twenty-four (24) business hours to remain on paid investigative leave within the first forty-five (45) days. [2 O.C. 208.6-1(d)].
- Whether the investigation has been referred to an outside agency. [2 O.C. 208.6-1(g)].
- List of the employee's responsibilities. [2 O.C. 208.6-1(k)].
- Email address of the person the employee may contact if they have questions related to the investigative leave. [2 O.C. 208.6-1(h)].
- Extend the issuance of the second notice to the employee placed on investigative leave from fifteen (15) days to thirty-five (35) days. [2 O.C. 208.6-2].
- Clarify that the second notice must provide the employee placed on investigative leave with the following information: [2 O.C. 208.6-2].
 - That the employee remains an employee of the Nation. [2 O.C. 208.6-2(a)].
 - Clear documentation regarding the cessation of pay and benefits. [2 O.C. 208.6-2(b)].
 - The definition of business hours as it pertains to the employee's particular area of employment. [2 O.C. 208.6-2(c)].
 - The expected length of the investigation. [2 O.C. 208.6-2(d)].
 - The telephone number, email address, and name of the person to contact with questions. [2 O.C. 208.6-2(e)].
 - The employee's responsibilities. [2 O.C. 208.6-2(f)].
- Eliminate the requirement that a supervisor must conclude an investigation without waiting for the conclusion of a criminal or licensing matter. [2 O.C. 208.9-1(a)].
- Eliminate the requirement that an investigative leave must close upon the passing of fifteen (15) days, plus a possible extension of fifteen (15) days, unless an outside agency is conducting the investigation and instead allow the decision makers to close an investigative leave when a reasonable determination based on verifiable facts can be made. [2 O.C. 208.8-1].
- Expedite investigations by adding a requirement that the supervisor, or the EEO Officer (whichever is overseeing the investigation), provide the Executive Director of the Human Resource Department with weekly updates on the investigation. [2 O.C. 208.8-2].
- Eliminate the provision that requires the supervisor to conclude an investigation within forty-eight (48) hours of receiving the investigative report when someone else is conducting the investigation. [2 O.C. 208.8-1].
- Provide the employee who was placed on investigative leave with a redacted copy of the investigative report when requested, instead of only providing the redacted report to an employee who files an appeal. [2 O.C. 208.7-4(c)].
- Require the supervisor to provide written notice and justification to the Executive Director of the Human Resource Department if they choose not to follow the corrective action recommended by the investigator(s). [2 O.C. 208.7-4(a)(1)].

	<ul style="list-style-type: none"> ▪ Expand an employee’s responsibilities when on an investigative leave to include the surrender of all property of the Nation, respond to any inquires within twenty-four (24) business hours, and not share anything related to the investigation on social media. [2 O.C. 208.10-2. 2 O.C. 208.12-1]. ▪ Create the option for an exception to be made to the complete prohibition of the employee who is placed on investigative leave entering any public worksite; if, and only if, it is determined that access is necessary, safe, appropriate, and the specific conditions under which access may be allowed are provided for in the notice to the employee. [2 O.C. 208.9-1(a)(1)]. ▪ Require that the employee placed on investigative leave respond to all inquiries within twenty-four (24) business hours. [2 O.C. 208.9-1(e)].
Purpose	The purpose of this law is to set forth a process to address investigative leave for employees undergoing work-related investigations. [2 O.C. 208.1-1].
Affected Entities	Oneida Nation employees.
Related Legislation	Workplace Violence law, Back Pay law, Oneida Personnel Policies and Procedures, Computer Resources Ordinance, Judiciary law, and Oneida Judiciary Rules of Civil Procedure.
Enforcement	Any employee who violates this law is subject to discipline in accordance with the Nation’s laws and policies governing employment. The employee who is the subject of the investigation shall be moved to unpaid status if during the forty-five (45) day paid leave period the employee fails to respond to an inquiry within twenty-four (24) business hours. [2 O.C. 208.10-2].
Due Process	An employee may appeal any disciplinary action arising out of an investigation in accordance with the Nation’s laws and policies governing employment. [2 O.C. 208.11-1].
Public Meeting	A public meeting has not yet been held.
Fiscal Impact	A fiscal impact statement prepared in accordance with the Legislative Procedures Act has not yet been requested.

1 **SECTION 2. LEGISLATIVE DEVELOPMENT**

- 2 A. **Background.** The Investigative Leave Policy was originally adopted by the Oneida Business
 3 Committee by motion on April 7, 1999, and then through resolutions BC-08-13-14-D, and BC-06-24-
 4 15-A. The Investigative Leave Policy provides the Nation and its employees with a consistent
 5 framework for investigating serious allegations against an employee that protects the Nation and its
 6 employees while also preventing undue harm to the employee who is the subject of the investigation
 7 and has not yet been determined to have committed any wrongdoing. [2 O.C. 208.1-1].
- 8 B. **Request for Amendments.** This item was carried over from the last three (3) terms. In February 2019,
 9 the Nation’s Human Resources Department requested amendments to this law to address investigative
 10 enforcement. Amendments to the law are being sought to delegate authority to investigators to put
 11 employees on investigative leave, instead of just the supervisor of the employee, and discipline
 12 employees. An amendment was also sought so that if terminated, an employee would be ineligible for
 13 employment with the Nation but may request forgiveness after five (5) years. This item was added to
 14 the Active Files List in conjunction with a request for amendments to the Oneida Personnel Policies
 15 and Procedures and the Workplace Violence law. The current sponsor of the Investigative Leave
 16 Policy amendments is Councilman Marlon Skenandore.

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SECTION 3. CONSULTATION AND OUTREACH

- Representatives from the following departments or entities participated in the development of the amendments to this Law and legislative analysis:
 - Human Resources Department (HRD);
 - Oneida Law Office;
 - Gaming; and
 - General Manager.
- The following laws of the Nation were reviewed in the drafting of this analysis:
 - Back Pay law;
 - Workplace Violence law;
 - Pardon and Forgiveness law;
 - Computer Resources Ordinance;
 - Oneida Personnel Policies and Procedures;
 - Judiciary law; and
 - Oneida Judiciary Rules of Civil Procedure.

SECTION 4. PROCESS

- A. The amendments to this Law comply with the process set forth in the Legislative Procedures Act.
 - On October 7, 2020, the Legislative Operating Committee added this Law to its Active Files List for amendments.
 - On October 3, 2023, the Legislative Operating Committee added this Law to its Active Files List for amendments.
 - On May 15, 2024, the Legislative Operating Committee approved the draft of the Investigative Leave Policy amendments and directed that a legislative analysis be developed.
- B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of the amendments to this law:
 - October 10, 2022: LOC work meeting with HRD.
 - November 11, 2022: LOC work meeting with HRD.
 - December 19, 2022: LOC work meeting with HRD.
 - December 21, 2022: LOC work session.
 - January 20, 2023: LOC work meeting with HRD.
 - On January 26, 2023: LOC work session.
 - February 13, 2023: LOC work meeting with HRD, Oneida Law Office, and Gaming.
 - February 17, 2023: LOC work meeting with HRD and Oneida Law Office.
 - March 7, 2023: LOC work meeting with HRD and Gaming.
 - March 24, 2023: LOC work meeting with HRD and Gaming.
 - April 28, 2023: LOC work meeting with HRD, Gaming, and Oneida Law Office.
 - May 3, 2023: LOC work meeting with HRD.
 - January 8, 2024: LOC work meeting with HRD, Gaming, and Oneida Law Office.
 - March 3, 2024: LOC work meeting with HRD, Gaming, and Oneida Law Office.
 - April 30, 2024: LOC work meeting with HRD, Gaming, and Oneida Law Office.

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SECTION 5. CONTENTS OF THE LEGISLATION (OR AMENDMENTS)

- A. ***Types of Alleged Violations and the Risks an Investigative Leave is Designed to Protect Against.*** The proposed amendments to the Law clarify the nature and severity of the type of an alleged violation that may rise to a level to warrant an investigative leave and examples are listed. [2 O.C. 208.4-1(a)]. The Law currently only identifies that an investigative leave shall be used when the employee allegedly commits an act which would preclude the employee from meeting employment eligibility requirements. [2 O.C. 208.4-1(d)]. The proposed amendments to the Law also clarify some of the risks that an investigative leave is intended to protect against by providing several examples of the Nation’s resources and interests that may be put at risk if the employee were to remain in the workplace. [2 O.C. 208.4-1(b). 2 O.C. 208.4-1(c)].
- *Effect.* Identifying the types of allegations and risks that an investigative leave is intended to protect against will make it easier to identify when an investigative leave should be utilized and that in turn will provide greater protections by facilitating a swift response.
- B. ***Paid and Unpaid Investigative Leave.*** The proposed amendments to the Law eliminate unpaid status for the employee placed on investigative leave for up to forty-five (45) days and provides for them to use their personal and vacation time if the investigative leave extends past forty-five (45) days. [2 O.C. 208.4-2(a). 208.4-2(b)]. Currently, an investigative leave is unpaid unless the employee is placed in an alternate work assignment. [2 O.C. 208.5-5]. The proposed amendments to the Law provide that upon the expiration of forty-five (45) days and the employee’s personal and vacation time, all pay, and benefits will stop. [2 O.C. 208.4-1(c)]. The proposed amendments to the law also require the employee to respond to inquiries within twenty-four (24) business hours and if they fail to respond within the twenty-four (24) hour time frame they will immediately be shifted to unpaid status. [2 O.C. 208.9-1(e)]. The proposed amendments to the Law add protections for the employee placed on investigative leave while also balancing the Nation’s fiscal responsibilities.
- *Effect.* The proposed amendments to the Law prevent undue financial harm to an employee placed on investigative by allowing them to be paid for up to forty-five (45) days and then to use their personal and vacation time after that. Employees placed on investigative will not be paid or retain benefits after the expiration of forty-five (45) days on investigative leave and the exhaustion of the employee’s vacation and personal time, or, if the employee does not respond to an inquiry within twenty-four (24) business hours.
- C. ***Authority to Initiate an Investigative Leave.*** The proposed amendments to the Law extend the authority to initiate an investigative leave to include the Executive Director of the Human Resource Department. [2 O.C. 208.5-1(a)]. The Law currently only authorizes the supervisor to initiate an investigative leave. [Currently 2 O.C. 208.5-1]. However, the seriousness of an allegation that might justify an investigative leave requires a swift response and the Executive Director of the Human Resource Department or their designee may be in the best position to initiate an investigative leave when the supervisor and their division director are not both readily available. When the Executive Director of the Human Resource Department initiates an investigative leave, they shall provide notice to the employee’s supervisor at the same time. The proposed amendments to the Law also clarify that prior to placing an employee on investigative leave a supervisor must secure authorization from both the Executive Director of the Human Resource Department and the

104 supervisor's division director, if there is no division director, the person at the highest level of the
105 chain of command under the Oneida Business Committee. [2 O.C. 208.5-1(b)].

- 106 ▪ *Effect.* The Executive Director of the Human Resource Department is authorized to initiate an
107 investigative leave and the authorizations that a supervisor must secure prior to initiating an
108 investigative leave are clarified.

109 D. ***Authority to Designate the Individual or Agency to Conduct the Investigation.*** The proposed
110 amendments to the Law delegate authority to designate the individual or agency to conduct the
111 investigation to the Executive Director of the Human Resource Department and the supervisor,
112 instead of the employee's supervisor and/or area manager. [2 O.C. 208.7-1)]. The proposed
113 amendments to the Law also provide that when the employee being investigated reports directly to
114 the Oneida Business Committee the Equal Employment Officer does not automatically serve as the
115 investigator but may alternatively serve as a liaison to an investigating agency. [2 O.C. 208.7-1)].

- 116 ▪ *Effect.* The Executive Director of the Human Resource Department and the supervisor
117 designate the individual or agency to conduct the investigation. The Equal Employment Officer
118 may conduct an investigation or serve as the liaison to the agency conducting the investigation.
119 These amendments provide greater flexibility and efficiency in designating the individual or
120 agency that is responsible for conducting the investigation.

121 E. ***Alternate Work Assignments.*** The proposed amendments to the Law eliminate the provision
122 allowing a supervisor to place an employee who is on investigative leave in another position within
123 the Nation. [2 O.C. 208.5-4]. The types of harms that an investigative leave is intended to protect
124 against are serious enough that placing the employee in an alternate work assignment during an
125 investigation may not be prudent.

- 126 ▪ *Effect.* The proposed amendments to the Law completely remove the employee from the
127 workplace which eliminates the potential opportunity to cause harm to the Nation and its
128 resources.

129 F. ***Initial Employee Notice.*** The proposed amendments to the Law expand the requirements that
130 notice to the employee placed on investigative leave must contain. [2 O.C. 208.6-1(a-k)]. The Law
131 currently requires notice to the employee to include: the specific allegations being investigated; the
132 employee is on unpaid status unless placed in an alternative work assignment; the expected length
133 of the investigation; whether the investigation is being forwarded to an outside agency; the
134 telephone number and name of person to contact with questions; the procedure to return to work at
135 the close of the investigation, if applicable; and the employee remains an employee of the Nation.
136 [Currently 2 O.C. 208.6-1(a-f)]. The proposed amendments include the following additional
137 requirements:

- 138 i. The employee must surrender all property of the Nation pursuant to section 208.9-
139 1(c). [2 O.C. 208.6-1(i)].
- 140 ii. Clear documentation regarding the status of pay and benefits. [2 O.C. 208.6-1(a-
141 c)].
- 142 iii. The definition of business hours. The employee is required to respond to inquiries
143 within twenty-four (24) business hours to remain on paid investigative leave within
144 the first forty-five (45) days. Business hours may be different depending on the
145 department and so it is helpful to include that definition in the notice to the
146 employee. [2 O.C. 208.6-1(d)].
- 147 iv. The employee's responsibilities pursuant to section 208.9. [2 O.C. 208.6-1(k)].

- 148 v. The email address of the person the employee may contact if they have questions
149 related to the investigative leave is added to the current disclosure of the name and
150 telephone number. [2 O.C. 208.6-1(h)].
- 151 ■ *Effect.* The employee placed on investigative leave will have full and clear knowledge of what
152 to expect and what is expected of them during the investigative leave because the requirements
153 for the notice have been expanded to include additional details.
- 154 G. **Second Employee Notice.** The proposed amendments to the Law move the timing of the second
155 employee notice from fifteen (15) days to thirty-five (35) days. This ensures that the employee
156 receives a timely reminder that their pay status will change from paid to unpaid at forty-five (45)
157 days. [2 O.C. 208.6-2]. Providing a second notice at fifteen days is no longer beneficial as there is
158 no automatic shift in status at fifteen (15) days and the employee has already been notified that the
159 investigative leave may extend forty-five (45) days or more. The Law currently only requires the
160 second notice to inform the employee that the investigation is being extended and the reason for
161 that extension. [Currently 2 O.C. 208.6-2]. The proposed amendments to the Law now require the
162 second notice to the employee contain the following:
- 163 i. That the employee remains an employee of the Nation. [2 O.C.208.6-2(a)].
164 ii. Clear documentation regarding the cessation of pay and benefits. [2 O.C.208.6-
165 2(b)].
166 iii. The definition of business hours as it pertains to the employee’s particular area of
167 employment. [2 O.C.208.6-2(c)].
168 iv. The expected length of the investigation. [2 O.C.208.6-2(d)].
169 v. The telephone number, email address, and name of the person to contact with
170 questions. [2 O.C.208.6-2(e)].
171 vi. The employee’s responsibilities pursuant to section 208.9. [2 O.C.208.6-2(f)].
- 172 ■ *Effect.* The employee placed on investigative leave will have full and timely knowledge of any
173 change in status, what to expect, and what is expected of them while placed on investigative
174 leave because the expanded requirements for notice provide those additional details.
- 175 H. **Reports.** The proposed amendments to the Law provide the employee with a redacted copy of the
176 investigative report, if requested, rather than only if the employee files an appeal. [2 O.C. 208.7-
177 4(c)]. This eliminates any incentive for the employee to file an appeal simply to gain access to the
178 redacted copy of the investigative report.
- 179 ■ *Effect.* The proposed amendments to the Law provide a redacted copy of the investigative
180 report to the employee who was the subject of the investigation if they request it.
- 181 I. **Corrective Action.** The proposed amendments to the Law include a provision requiring the
182 supervisor to provide written notice to the Executive Director of the Human Resource Department
183 if they choose to take any corrective action which deviates from the recommendation of the
184 investigator(s), and the written notice must provide the justification for the deviation. [2 O.C.
185 208.7-4(a)(1)]. Currently, the supervisor alone determines the course of disciplinary action and is
186 not required to communicate their chosen course of disciplinary action to the Executive Director
187 of the Human Resource Department or any other employee in their chain of command.
- 188 ■ *Effect.* Communication and collaboration are enhanced between the supervisor and the
189 Executive Director of the Human Resource Department by requiring any deviation from the
190 corrective action recommended by the investigator to be justified and shared in writing.

- 191 J. **Concluding an Investigation.** The proposed amendments to the Law clarify the safety standard
192 that must be met in determining when to conclude the investigation. The investigation concludes
193 when it has produced enough verifiable facts and information for the employee’s supervisor and
194 the Executive Director of the Human Resource Department to make a reasonable determination on
195 workplace safety and employee status, the determination is recorded in the employee’s permanent
196 files, and the employee has either returned from work or separated from their employment with the
197 Nation. [2 O.C. 208.8-1)]. The proposed amendments to the Law remove the requirement that an
198 investigative leave closes upon the passing of a certain amount of time. Currently, the law provides
199 that an investigation may last for fifteen (15) days with a possible extension of fifteen (15) days,
200 unless an outside agency is conducting the investigation. [Currently 2 O.C. 208.8-1]. That time
201 based standard is replaced with the requirement that the investigative leave closes when the
202 decision makers have gathered enough information to make a fully informed decision. [2 O.C.
203 208.8-1].
- 204 ▪ *Effect.* The proposed amendments to the Law prioritize safety over the passing of time as the
205 primary factor to be considered when determining when to conclude an investigation and/or
206 investigative leave.
- 207 K. **Weekly Updates.** The proposed amendments to the Law require either the supervisor or the Equal
208 Employment Opportunity Officer to provide weekly updates on the investigation to the Executive
209 Director of the Human Resource Department. [2 O.C. 208.8-2].
- 210 ▪ *Effect.* The proposed amendment to the Law ensures that investigations are conducted in the
211 most efficient manner possible by keeping attention on the investigation and documenting
212 progress via weekly updates.
- 213 L. **Surrender of Property of the Nation.** The proposed amendments to the Law expand on and clarify
214 an employee’s responsibilities when placed on investigative leave to include the surrender of all
215 property of the Nation. [2 O.C. 208.9-1(b). 208.9-1(c)]. The Law currently does not require an
216 employee placed on investigative leave to surrender all work related property of the Nation during
217 an investigation.
- 218 ▪ *Effect.* The proposed amendments to the Law safeguard the Nation’s resources during the
219 investigative leave by removing any property of the Nation from the employee’s control.
- 220 M. **Worksite Access.** An employee placed on investigative leave is prohibited from entering their place
221 of work or worksite. [2 O.C. 208.9-1(a)]. However, the proposed amendments to the Law allow
222 for an exception to be created when appropriate so that the employee may access areas of
223 importance under specific conditions and that information will be included in the notice provided
224 to the employee, if applicable. [2 O.C. 208.9-1(a)(1)].
- 225 ▪ *Effect.* The employee placed on investigative leave is provided with clear documentation of the
226 conditions to be met if they are to be allowed to enter their worksite for the sole purpose of
227 accessing necessary resources. For example, an employee placed on investigative leave who
228 works at the Oneida Health Center might be allowed to enter their worksite for a doctor’s
229 appointment if they meet the conditions provided for in the notice.
- 230 N. **Employee Responsibility to Respond to Inquiries.** The proposed amendments to the Law add a
231 requirement that the employee respond to any inquires within twenty-four (24) business hours. [2
232 O.C. 208.10-2]. This ensures that an investigation can be concluded as efficiently as possible and
233 differentiates an investigative leave from other types of leaves that an employee may take or be
234 placed on. This Law provides that an employee placed on paid investigative leave who fails to

- 235 respond to an inquiry within twenty-four (24) business hours will lose their paid status. [2 O.C.
236 208.10-1].
- 237 ▪ *Effect.* An employee placed on paid investigative leave who fails to respond to an inquiry within
238 twenty-four (24) business hours will immediately be shifted to unpaid status.
- 239 O. **Confidentiality.** The proposed amendments to the Law update confidentiality requirements to
240 prohibit any employee from posting information related to the investigation on social media. [2
241 O.C. 208.12-1].
- 242 ▪ *Effect.* Any employee who posts information about the investigation on social media is in
243 violation this Law and is subject to discipline pursuant to the Nation’s policies and laws
244 governing employment.
245

246 SECTION 6. EFFECT ON EXISTING LEGISLATION

- 247 A. **Related legislation.** The following laws of the Nation are related to the proposed amendments to this
248 Law:
- 249 ▪ *Workplace Violence Law.* The purpose of the Workplace Violence law is to provide all Oneida
250 Nation employees and visitors an environment that is free of violence and the threat of violence
251 by establishing the procedures by which incidents of workplace violence shall be addressed. [2
252 O.C. 223.1-1. 223.1-2].
- 253 ▪ Workplace violence means any intentional act committed by an employee in a workplace
254 that: inflicts, attempts to inflict, or threatens to inflict emotional or bodily harm on
255 another person's; or inflicts, attempts to inflict, or threatens to inflict, damage to property.
256 [2 O.C. 223.3-1(k)].
- 257 ▪ The Workplace Violence law provides that a supervisor may place an employee alleged
258 to be involved in a workplace violence incident on investigative leave, if the supervisor
259 deems the investigative leave necessary and appropriate, in accordance with the Nation’s
260 laws, policies and rules governing investigative leave except for the EEO Officer or
261 designee, not the employee’s supervisor, shall conduct the investigation of the alleged
262 workplace violence incident. [2 O.C. 223.8-4].
- 263 ▪ The Workplace Violence law provides that allegations of workplace violence may be
264 investigated in accordance with the Investigative Leave Policy. [2 O.C. 223.8-4].
- 265 ▪ The amendments to the Law provide that complaints of alleged workplace violence shall
266 be investigated in accordance with the Nation’s Investigative Leave Policy. [2 O.C.
267 208.4-1(a)].
- 268 ▪ The amendments to the Law explicitly list workplace violence as one of the types of
269 allegations of wrongdoing that warrant an employee being placed on an investigative
270 leave. [2 O.C. 208.4-1(a)(1)].
- 271 ▪ *Oneida Personnel Policies and Procedures.* The purpose of the Oneida Personnel Policies and
272 Procedures is to provide the Nation’s employee related policies and procedures including
273 recruitment, selection, compensation and benefits, employee relations, safety and health, program
274 and enterprise rules and regulations, and record keeping.
- 275 ▪ This Law provides that an employee may appeal any disciplinary action arising out of an
276 investigation in accordance with the Nation’s laws and policies governing employment
277 which is the Oneida Personnel, Policies, and Procedures. [2 O.C. 208.11-1].

- 278 ▪ *Judiciary Law.* The purpose of the Judiciary law is to establish a Judiciary, and to provide for the
279 administration of law, justice, judicial procedures and practices by the Oneida Nation as a sovereign
280 nation by exercising the inherent power to make, execute, apply and enforce its own law, and to
281 apply its own customs and traditions in matters affecting the Oneida people. [8 O.C. 801.1-1].
 - 282 ▪ The Judiciary law provides that employment grievances shall be heard in accordance with
283 the Nation’s Personnel Policies and Procedures. [8 O.C. 801.4-6(c)].
 - 284 ▪ This Law provides that an employee placed on an investigative leave may appeal any
285 disciplinary action arising out of that investigation in accordance with the Nation’s laws
286 and policies governing employment, which includes the right to file an appeal with the
287 Judiciary when supported by the Nation’s Personnel, Policies, and Procedures. [2 O.C.
288 208.11-1].
- 289 ▪ *Back Pay law.* The purpose of the Back Pay law is to set forth standards used in the calculation of
290 back pay for all employees in accordance with the Nation’s laws. [2 O.C. 206.1-1].
 - 291 ▪ This Law provides that an employee will receive back pay and benefits for anytime the
292 employee was on unpaid investigative leave pursuant to the laws governing back pay if
293 they return to their position at the conclusion of the investigation. [2 O.C. 208.4-2(d)].
- 294 ▪ *Pardon and Forgiveness law.* The purpose of the Pardon and Forgiveness law includes providing
295 a fair, efficient and formal process by which an employee may receive forgiveness for acts that
296 render them ineligible for employment with the Nation; an occupational license, certification or
297 permit issued by the Nation. [1 O.C. 126-1(a)(3)].
 - 298 ▪ This Law provides that an employee may appeal any disciplinary action arising out of an
299 investigation in accordance with the Nation’s laws and policies governing employment.
300 [2 O.C. 208.11-1].
- 301 ▪ *Computer Resources Ordinance.* The purpose of the Computer Resources Ordinance is to
302 regulate the usage of Nation owned and operated computer resources. [2 O.C. 215.1-1]. The
303 Computer Resources Ordinance includes guidelines for the limited circumstances that an
304 employee may use those resources for personal matters. [2 O.C. 215.7-1].
 - 305 ▪ This Law prohibits any employee from posting any information related to the
306 investigation on social media. [2 O.C. 208.12-1].
- 307 ▪ *Social Media Policy.* The purpose of the Social Media Policy is to regulate social media accounts
308 administered on behalf of the Nation or an entity of the Nation. [2 O.C. 218.1-1]. The Social Media
309 Policy does not provide a right for employees to use the internet or social media while at work for
310 personal use. [2 O.C. 218.1-3]. Supervisors retain discretion to permit or prohibit the personal use
311 of the Nation’s computers in accordance with the Computer Resources Ordinance. [2 O.C. 218.1-
312 3].
 - 313 ▪ This Law prohibits any employee from posting any information related to the
314 investigation on social media. [2 O.C. 208.12-1].

316 SECTION 7. ENFORCEMENT AND ACCOUNTABILITY

- 317 A. This Law provides that an employee placed on paid investigative leave who fails to respond to an
318 inquiry within twenty-four (24) business hours will lose their paid status, and any employee who
319 violates this Law shall be subject to discipline pursuant to the Nation’s law and policies governing
320 employment. [2 O.C. 208.10-1. 208.10-2].

321 B. The Oneida Judiciary will provide enforcement and accountability in the grievance process. Employees
322 placed on an investigative leave who receive a disciplinary action they believe to be unfair may
323 challenge the action first to the Area Manager and HRD Manager, and then to the Judiciary Trial Court.
324 *[Section V.D(6)].*
325

326 SECTION 8. OTHER CONSIDERATIONS

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

333 a. **Conclusion.** A fiscal impact statement has not yet been requested.

334 B. **Workplace vs. Worksite.** The LOC may want to consider whether an employee placed on
335 investigative leave should be prohibited from entering any workplace, as defined in the Law, or just
336 their worksite. Workplace is defined broadly to include “any location owned and operated by the
337 Nation, any location where employees are staffing an event sponsored by the Nation, and any location
338 where an employee represents the Nation...” while worksite, not being defined, is understood as it is
339 used in everyday language which would mean only the employee’s place of work. *[2 O.C. 208.3-*
340 *1(e)]*. In earlier discussions a prohibition on entering any workplace was supported, but in processing
341 this legislative analysis I realized that the language only restricts access to the worksite. This may
342 have been an oversight on the drafter’s part and guidance from the LOC is sought.

343 a. **Conclusion.** The LOC will need to review the use of the term “worksite” and determine if it
344 should be revised to “workplace.”
345

346



Legislative Operating Committee July 17, 2024

Environmental Review Law

Submission Date: 3/20/19	Public Meeting: N/A
LOC Sponsor: Kirby Metoxen, Jonas Hill	Emergency Enacted: N/A

Summary: *This item was carried over from the last two terms. The proposal to develop an Environmental Review law was originally added to the Active Files List in March 2019. Victoria Flowers from Environmental, Health, Safety & Land Division requested that an Environmental Review law be developed to establish a consistent process for conducting an environmental review of certain activities' impact to the environment. This law was proposed to be similar to the requirements of the federal government to conduct a National Environmental Policy Act (NEPA) review.*

10/4/23 LOC: Motion by Jennifer Webster to add the Environmental Review Law to the Active Files List with Kirby Metoxen and Jonas Hill as the sponsors; seconded by Jonas Hill. Motion carried unanimously.

04/17/24: *Work Meeting.* Present: Jameson Wilson, Marlon Skenandore, Jonas Hill, Kirby Metoxen, Clorissa Leeman, Grace Elliott, Carolyn Salutz, Kristal Hill, Maureen Perkins. The purpose of this work meeting was for Carolyn to update the LOC on the work that has been done. Carolyn updated the LOC on the email exchanges she has had with Victoria Flowers. The next step will be scheduling a work meeting to review a draft.

06/17/24: *Work Meeting.* Present: Kirby Metoxen, Clorissa Leeman, Grace Elliott, Carolyn Salutz, Kristal Hill, Maureen Perkins, Krystal John, Victoria Flowers, Eric McLester, Fawn Billie, James Snitgen, Mickenna Beach, Anthony Kuchma. The purpose of this work meeting was to review a submitted draft (basically an exact copy of NEPA) and talk about EHSLA's processes and goals for this law. We did not review a draft. The work meeting focused on what the Nation is already doing and already has in place for environmental reviews, the consensus seemed to be that an additional law is not needed, and there are already processes in place. Krystal John will be submitting a memo regarding why this item is no longer needed and then the LOC can review that memo and decide to remove it. '

06/19/2024: *Work Meeting.* Present: Kirby Metoxen, Jonas Hill, Jameson Wilson, Jennifer Webster, Clorissa Leeman, Grace Elliott, Carolyn Salutz, Kristal Hill (Microsoft Teams), Maureen Perkins (Microsoft Teams). The purpose of this work meeting was to review the memorandum submitted by James Snitgen on behalf of the Environmental, Health, Safety, Land & Agriculture Division regarding the Division's belief that an Environmental Review Law is no longer needed because the Division follows federal guidelines and will soon be clarifying their procedures for land acquisition and management in the Real Property Law. The Legislative Operating Committee accepted the memo and agreed to remove Environmental Review from its Active Files List.

Next Steps:

- Accept the memorandum and remove the Environmental Review law from the Active Files List.

Environmental, Health, Safety, Land & Agriculture Division



TO: Jameson Wilson, LOC Chairperson
FROM: James Snitgen
Date: June 18, 2024
RE: Environmental Law

In the past, the Environmental Department has requested the development of an Environmental law by the Legislative Operating Committee. The request was rooted in a need to gain better consensus within the Nation as to when an environmental review is required aside from the instances where environmental review is required by federal law.

Since the Department requested development of the law, the organization has taken on development of land use processes that clarify the Nation's procedures around the acquisition, use and management of its lands. As part of these procedures, to be codified into rulemaking pursuant to the Real Property law, the timing for environmental reviews is clearly defined. As such, a separate law is no longer needed as the standards for environmental review content are set by federal law (NEPA) which the Nation conforms to for federal and non-federal environmental reviews alike.

Accordingly, the Environmental Department hereby requests the Environmental Law be removed from the LOC's active files list.



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



AGENDA REQUEST FORM

- 1) Request Date: June 26, 2024
- 2) Contact Person(s): Clorissa N. Leeman
 Dept: Legislative Reference Office
 Phone Number: (920) 869-4417 Email: cleeman@oneidation.org
- 3) Agenda Title: Petition: L. Blackowl - New Recreation/Community Center Build
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
On 6/26/24 the OBC acknowledged the receipt of this petition and
directed that the LRO complete a SOE with status updates to be
submitted for the 7/24/24 OBC meeting and the first OBC meeting of the
month thereafter or until final documents are submitted.

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

- 1) Excerpt from the draft 6/26/24 OBC Meeting Minutes
- 2) For petition materials please see the Members Only portion of the website.
- 3) _____
- 4) _____
- 5) Please list any laws, policies or resolutions that might be affected:
Budget and Finances Law
- 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:
Resolution GTC-01-19-21-A requires all petitions to be presented to GTC within 180 days of receipt.

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

Signature of Requester:

Please send this form and all supporting materials to:

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

DRAFT

XI. GENERAL TRIBAL COUNCIL

A. PETITIONER LINDSEY BLACKOWL - New Recreation/Community Center build # 2024-02

1. Approve three (3) requested actions regarding petition # 2024-02 (00:41:54) Sponsor: Lisa Liggins, Secretary

Motion by Lisa Liggins to acknowledge receipt of the petition # 2024-02 from Lindsey Blackowl regarding New Recreation/Community Center build; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the Tribal Secretary mailbox by July 17, 2024; to direct the Law, Finance, and Legislative Reference Offices to complete respectively, the legal review, fiscal impact statement, and statement of effect with status updates to be submitted for the July 24, 2024, regular Business Committee meeting agenda and the first BC meeting of the month thereafter or until the final documents are submitted, seconded by Lawrence Barton. Motion carried:

Ayes: Lawrence Barton, Lisa Liggins, Kirby Metoxen, Brandon Yellowbird-Stevens

Not Present: Jonas Hill, Marlon Skenandore, Jennifer Webster, Jameson Wilson

Motion by Lisa Liggins to extend the public comment period for Lindsey Blackowl for an additional two (2) minutes, seconded by Lawrence Barton. Motion carried:

Ayes: Lawrence Barton, Lisa Liggins, Kirby Metoxen, Brandon Yellowbird-Stevens

Not Present: Jonas Hill, Marlon Skenandore, Jennifer Webster, Jameson Wilson

XII. EXECUTIVE SESSION

A. REPORTS

1. Accept the Chief Counsel report (01:03:14)

Sponsor: Jo Anne House, Chief Counsel

Motion by Brandon Yellowbird-Stevens to accept the Chief Counsel report, seconded by Lawrence Barton. Motion carried:

Ayes: Lawrence Barton, Lisa Liggins, Kirby Metoxen, Brandon Yellowbird-Stevens

Not Present: Jonas Hill, Marlon Skenandore, Jennifer Webster, Jameson Wilson

Motion by Brandon Yellowbird-Stevens to approve attorney contract - Hobbs, Strauss, Dean and Walker - file # 2024-0732, seconded by Lisa Liggins. Motion carried:

Ayes: Lawrence Barton, Lisa Liggins, Kirby Metoxen, Brandon Yellowbird-Stevens

Not Present: Jonas Hill, Marlon Skenandore, Jennifer Webster, Jameson Wilson



TO: Oneida Business Committee
 FROM: Clorissa N. Leeman, Legislative Reference Office, Senior Staff Attorney
 DATE: July 17, 2024
 RE: Petition: L. Blackowl – New Recreation/Community Center Build

On June 10, 2024, the Petition: L. Blackowl – New Recreation/Community Center Build (“the Petition”) was submitted to the Government Administrative Office by Lindsey Blackowl and has since been verified by the Oneida Trust Enrollment Department on June 18, 2024. On June 26, 2024, the Oneida Business Committee acknowledged receipt of the Petition and directed that the Legislative Reference Office complete a statement of effect for the Petition with status updates to be submitted for the July 24, 2024, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. On July 17, 2024, the Legislative Operating Committee added the Petition to the Active Files List to be worked on by the Legislative Reference Office.

The Legislative Reference Office currently is working on the development of the statement of effect for this Petition. It is the intention of the Legislative Reference Office that the statement of effect for the Petition be submitted for inclusion on an Oneida Business Committee meeting agenda in August of 2024.

Requested Action

Accept the status update regarding the statement of effect for the Petition: L. Blackowl – New Recreation/Community Center Build.

July 1, 2024, Legislative Operating Committee E-Poll

Approval of the Computer Resources Ordinance Amendments Public Meeting Packet

E-POLL REQUEST: Approval of the Computer Resources Ordinance Amendments Public Meeting Packet



LOC

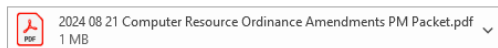
To: ● Jameson J. Wilson; ○ Jennifer A. Webster; ● Jonas G. Hill; ○ Kirby W. Metoxen; ○ Marlon G. Skenandore

Cc: ● Clorissa N. Leeman; ● Fawn J. Billie; ○ Fawn L. Cottrell; ○ Kristal E. Hill; ● Maureen S. Perkins



Mon 7/1/2024 10:16 AM

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



Good Morning Legislative Operating Committee,

This e-mail serves as the e-poll for the approval of the Computer Resources Ordinance amendments public meeting packet.

EXECUTIVE SUMMARY

The Legislative Operating Committee is currently developing amendments to the Computer Resources Ordinance to:

- Revise the title and references throughout the Law from “computer resources” to “technology resources.”
- Clarify that users are expected to conduct themselves professionally and to refrain from using technology resources of the Nation for activities that are inappropriate no matter in what location the user utilizes the technology resources of the Nation.
- Clarify that it shall not be deemed an inappropriate use for a user to share information or evidence regarding the inappropriate use of another user if reporting the inappropriate use in accordance with the proper reporting structure.
- Clarify that any standard operating procedure defining excessive use of technology resources for any user that is an employee of the Nation is required to be developed in accordance with all other laws and rules of the Nation.
- Include a new provision in which DTS is delegated rulemaking authority in accordance with the Administrative Rulemaking law to promulgate rules to govern technology resources of the Nation.

On May 15, 2024, the Legislative Operating Committee added the Computer Resources Ordinance to its Active Files List. On June 5, 2024, the Legislative Operating Committee approved the draft of the proposed amendments to the Computer Resources Ordinance and directed that a legislative analysis be developed. On June 19, 2024, the Legislative Operating Committee approved the legislative analysis of the proposed amendments to the Computer Resources Ordinance.

The Legislative Operating Committee is now ready to schedule a public meeting for the Computer Resources Ordinance amendments. The public meeting will take place on Wednesday, August 21, 2024, at 12:15 p.m. in the Norbert Hill Center’s Business Committee Conference Room and on Microsoft Teams. A public comment period will be held open until Wednesday, August 28, 2024, for the submission of written comments.

An e-poll is necessary for this matter because the July 3, 2024, Legislative Operating Committee meeting has been canceled, and immediate action is required by Legislative Operating Committee to approve the

public meeting materials so the public meeting notice may be submitted to the Kalihwisaks for the July 3, 2024 submission deadline.

REQUESTED ACTION

Approve the Computer Resources Ordinance amendments public meeting packet and forward the Computer Resources Ordinance amendments to a public meeting to be held on August 21, 2024.

DEADLINE FOR RESPONSE

July 2, 2024 at 10:00 a.m.

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



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

E-POLL RESULTS:

The e-poll was approved by Jennifer Webster, Jonas Hill, Jameson Wilson, and Kirby Metoxen. Marlon Skenandore is on a personal leave and therefore did not provide a response.

RE: E-POLL REQUEST: Approval of the Computer Resources Ordinance Amendments Public Meeting Packet



Jennifer A. Webster

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

☺ Reply Reply All Forward 📧 ⋮

Mon 7/1/2024 10:40 AM

Support,
Jenny

Re: E-POLL REQUEST: Approval of the Computer Resources Ordinance Amendments Public Meeting Packet



Jonas G. Hill

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

☺ Reply Reply All Forward 📧 ⋮

Mon 7/1/2024 2:25 PM

[If there are problems with how this message is displayed, click here to view it in a web browser.](#)

SUPPORT

Sincerely,



Jonas G Hill
Councilman
Oneida Nation Business Committee
Phone: 920-606-3966
Email: JHILL1@oneidation.org
PO Box 365
Oneida, WI 54155
www.oneida-nsn.gov

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

Confidential Disclaimer: The information contained within this e-mail is confidential and privileged. If you are not the intended recipient, please be advised that any

Re: E-POLL REQUEST: Approval of the Computer Resources Ordinance Amendments Public Meeting Packet



Jameson J. Wilson

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

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Support



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

Jameson Wilson
Councilman
Oneida Business Committee

Phone: 920-869-4385
Cell: 920-764-2651
Email: jwilson@oneidanation.org

P.O. Box 365
Oneida, WI 54155
www.oneida-nsn.gov

Re: E-POLL REQUEST: Approval of the Computer Resources Ordinance Amendments Public Meeting Packet



Kirby W. Metoxen

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

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Support

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ONEIDA NATION PUBLIC MEETING NOTICE**WEDNESDAY, AUGUST 21 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@oneidanation.org

Ask Questions here

LOC@oneidanation.org

920-869-4417

**COMPUTER RESOURCES ORDINANCE AMENDMENTS**

The purpose of the Computer Resources Ordinance is to regulate the usage of technology resources and processed data owned and operated by the Nation .

The Computer Resources Ordinance amendments will:

- ◆ Revise the title and references throughout the Law from “computer resources” to “technology resources.”
- ◆ Clarify that users are expected to conduct themselves professionally and to refrain from using technology resources of the Nation for activities that are inappropriate no matter in what location the user utilizes the technology resources of the Nation.
- ◆ Clarify that it shall not be deemed an inappropriate use for a user to share information or evidence regarding the inappropriate use of another user if reporting the inappropriate use in accordance with the proper reporting structure.
- ◆ Clarify that any standard operating procedure defining excessive use of technology resources for any user that is an employee of the Nation is required to be developed in accordance with all other laws and rules of the Nation.
- ◆ Include a new provision in which DTS is delegated rulemaking authority in accordance with the Administrative Rulemaking law to promulgate rules to govern technology resources of the Nation.

Individuals may attend the public meeting for the proposed Computer Resources Ordinance 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@oneidanation.org.

PUBLIC COMMENT PERIOD CLOSSES WEDNESDAY, AUGUST 28, 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 Computer Resources Ordinance amendments please review the public meeting packet at oneida-nsn.gov/government/register/public meetings.



COMPUTER RESOURCES ORDINANCE AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> ▪ Revise the title and references throughout the Law from “computer resources” to “technology resources.” ▪ Clarify that users are expected to conduct themselves professionally and to refrain from using technology resources of the Nation for activities that are inappropriate no matter in what location the user utilizes the technology resources of the Nation. [2 O.C. 215.5-1]. ▪ Clarify that it shall not be deemed an inappropriate use for a user to share information or evidence regarding the inappropriate use of another user if reporting the inappropriate use in accordance with the proper reporting structure. [2 O.C. 215.5-2]. ▪ Clarify that any standard operating procedure defining excessive use of technology resources for any user that is an employee of the Nation is required to be developed in accordance with all other laws and rules of the Nation. [2 O.C. 215.7-1(a)]. ▪ Include a new provision in which DTS is delegated rulemaking authority in accordance with the Administrative Rulemaking law to promulgate rules to govern technology resources of the Nation. [2 O.C. 215.9-1].
Purpose	The purpose of this law is to regulate the usage of technology resources and processed data owned and operated by the Nation. [2 O.C. 215.1-1].
Affected Entities	DTS, employees, independent contractor personnel, interns, members of boards, committees or commissions, volunteers, guests, and visitors
Public Meeting	A public meeting has been scheduled for August 21, 2024.
Fiscal Impact	A fiscal impact statement has not yet been requested.

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A. *Background.*** The Computer Resources Ordinance was originally adopted by the Oneida Business
- 3 Committee in 2004 through resolution BC-09-29-04-B. The purpose of the Computer Resources
- 4 Ordinance is to regulate the usage of technology resources and processed data owned and operated by
- 5 the Nation. [2 O.C. 215.1-1]. It is the policy of the Nation to provide its community and employees
- 6 access to the tools necessary to participate in a technological society. [2 O.C. 210.1-2].
- 7 **B. *Request for Amendments.*** On the April 30, 2024, the Legislative Operating Committee received a
- 8 request from Shane Hill, Manager of Digital Security with the Digital Technology Services (DTS), to
- 9 consider amendments to this law to include a delegation of rulemaking authority to DTS so DTS has
- 10 the ability to promulgate rules to support and enforce the Computer Resources Ordinance. The
- 11 Legislative Operating Committee added the Computer Resources Ordinance amendments to its Active
- 12 Files List on May 15, 2024.
- 13

14 **SECTION 3. CONSULTATION AND OUTREACH**

- 15 A. Representatives from the following departments or entities participated in the development of the
16 amendments to the Computer Resources Ordinance and this legislative analysis:
17 ▪ DTS.
18 B. The following laws were reviewed in the drafting of this analysis:
19 ▪ Administrative Rulemaking law; and
20 ▪ Oneida Personnel Policies and Procedures.
21

22 **SECTION 4. PROCESS**

- 23 A. The development of the proposed amendments to the Computer Resources Ordinance complies with
24 the process set forth in the Legislative Procedures Act (LPA).
25 ▪ On May 15, 2024, the Legislative Operating Committee added the Computer Resources Ordinance
26 to its Active Files List.
27 ▪ On June 5, 2024, the Legislative Operating Committee approved the draft of the proposed
28 amendments to the Computer Resources Ordinance and directed that a legislative analysis be
29 developed.
30 ▪ On June 19, 2024, the Legislative Operating Committee approved the legislative analysis of the
31 proposed amendments to the Computer Resources Ordinance.
32 B. At the time this legislative analysis was developed the following work meetings had been held
33 regarding the development of the amendments to the Computer Resources Ordinance:
34 ▪ May 31, 2024: LOC work session with DTS.
35

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

- 37 A. *Computer to Technology Resources.* The proposed amendments to the Law change the title and
38 references throughout the Law from “computer resources” to “technology resources.” Technology
39 resources is defined as any tools, systems, and applications that use technology to fulfill their purposes.
40 [2 O.C. 215.3-1(e)]. The Law provides that technology resources may include, but are not limited to,
41 computers, tablets, telephones, facsimile machines, photocopiers, networks, virtual applications, and
42 software, such as internet connectivity and access to internet services and electronic mail. *Id.*
43 ▪ *Effect.* The revised title and references throughout the Law are more inclusive of the fact that the
44 Nation uses many different forms of technology beyond just computers, and the amendments
45 demonstrate that the Law should apply to all technology used within the Nation, not just computers.
46 B. *Location of Inappropriate Personal Use.* Currently, the Law provides that users are expected to
47 conduct themselves professionally and to refrain from using technology resources of the Nation for
48 activities that are inappropriate. [2 O.C. 215.5-1]. The proposed amendments to the Law add in
49 clarification that users are expected to conduct themselves professionally and to refrain from using
50 technology resources of the Nation for activities that are inappropriate no matter in what location the
51 user utilizes the technology resources of the Nation. *Id.*
52 ▪ *Effect.* The proposed amendments to the Law recognize that the same expectations apply even
53 though some users of the Nation may be using technology resources of the Nation from a variety
54 of locations, especially with the ability for some employees of the Nation to telecommute.
55 C. *Reporting Inappropriate Use.* The proposed amendments to the Law add in a new section that clarifies
56 that it shall not be deemed an inappropriate use for a user to share information or evidence regarding

57 the inappropriate use of another user if reporting the inappropriate use in accordance with the proper
58 reporting structure. [2 O.C. 215.5-2].

- 59 ▪ *Effect.* The Legislative Operating Committee intended that this new provision to the Law make it
60 very clear that a user who may forward on or share information or evidence regarding the
61 inappropriate use of another use will not be found to be engaging in an inappropriate use if using
62 the information or evidence to report the inappropriate use of another use in accordance with the
63 proper reporting structure.

64 **D. *Development of Standard Operating Procedures.*** Currently the Law provides that supervisors are
65 authorized to develop standard operating procedures defining excessive use for users subject to the
66 Nation’s personnel policies and procedures and who are under the supervisor’s authority. [2 O.C. 215.7-
67 1(a)]. The proposed amendments to the Law add further clarification into the Law by providing that
68 supervisors are authorized to develop standard operating procedures defining excessive use of
69 technology resources for any user that is an employee of the Nation and subject to the supervisor’s
70 authority, in addition to the fact that any standard operating procedure is required to be developed in
71 accordance with all other laws and rules of the Nation. *Id.*

- 72 ▪ *Effect.* The proposed amendment to the Law clarifies that any standard operating procedure
73 developed by a supervisor needs to be developed in accordance with all other laws and rules of the
74 Nation. It is important that there is consistency throughout the laws, rules, and standard operating
75 procedures of the Nation and that no conflicts exist between the various levels of regulations.

76 **E. *Delegation of Administrative Rulemaking Authority.*** The proposed amendments to the Law add in a
77 new provision in which DTS is delegated rulemaking authority in accordance with the Administrative
78 Rulemaking law to promulgate rules to govern technology resources of the Nation. [2 O.C. 215.9-1].

- 79 ▪ *Effect.* The Administrative Rulemaking law provides that only authorized agencies may
80 promulgate rules once they are granted rulemaking authority by a law of the Nation. [1 O.C. 106.4-
81 1]. This new provision of the Law delegates DTS rulemaking authority in accordance with the
82 Administrative Rulemaking law. This delegation of rulemaking authority will allow DTS to
83 develop rules to best govern the technology resources of the Nation.

84 85 **SECTION 6. EXISTING LEGISLATION**

86 **A. *References to the Other Laws of the Nation.*** The following laws of the Nation are referenced in the
87 Computer Resources Ordinance.

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

- 92 ▪ This Law provides that employee violations of this law are subject to discipline in
93 accordance with the Nation’s laws governing employment. [2 O.C. 215.10-3].

- 94 ▪ Any disciplinary action against an employee for a violation of the Computer Resources
95 Ordinance is required to be conducted in accordance with the Oneida Personnel Policies
96 and Procedures.

- 97 ▪ *Administrative Rulemaking Law.* The Administrative Rulemaking law provides an efficient,
98 effective, and democratic process for enacting and revising administrative rules, to ensure that
99 authorized agencies act in a responsible and consistent manner when enacting and revising
100 administrative rules. [1 O.C. 106.1-2].

- 101 ▪ This Law delegates rulemaking authority to DTS to promulgate rules to govern technology
102 resources of the Nation. [2 O.C. 215.9-1].
- 103 ▪ Any rules promulgated by DTS are required to be developed in accordance with the process
104 and procedures of the Administrative Rulemaking law.
- 105 **B. *Other Laws that Reference the Computer Resources Ordinance.*** The following laws of the Nation
106 reference the Computer Resources Ordinance. The proposed amendments to the Law do not conflict
107 with any of the referenced laws.
- 108 ▪ *Social Media Policy.* The Social Media Policy regulates social media accounts, including a social
109 networking web page, blog or microblog, that is administered on behalf of the Tribe or a Tribal
110 entity. [2 O.C. 218.1-1].
- 111 ▪ The Social Media Policy is not intended to provide a right for employees to use the internet
112 or social media while at work for personal use. [2 O.C. 218.1-3]. Supervisors retain
113 discretion to permit or prohibit the personal use of computers in accordance with the
114 Computer Resources Ordinance. *Id.*
- 115 ▪ *Boards, Committees, and Commissions Law.* The Boards, Committees, and Commissions law
116 governs boards, committees, and commissions of the Nation, including the procedures regarding
117 the appointment and election of persons to boards, committees and commissions, creation of
118 bylaws, maintenance of official records, compensation, and other items related to boards,
119 committees and commissions [1 O.C. 105.1-1].
- 120 ▪ The Boards, Committees, and Commissions law provides that a member of an entity shall
121 sign an acknowledgment form provided by the Nation’s Secretary indicating notice of the
122 Nation’s applicable computer and media related laws, policies and rules. [1 O.C. 105.14-
123 3(d)].
- 124

125 **SECTION 7. OTHER CONSIDERATIONS**

- 126 **A. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all
127 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
128 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
129 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
130 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
131 completing the fiscal impact statement.
- 132 ▪ *Conclusion.* The Legislative Operating Committee has not yet directed that a fiscal impact
133 statement be completed.

134

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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 means “Nation” means the Oneida Management Information Systems Department.~~
52 Nation.

53 ~~(d) A “Personal Use” means computer 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

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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.*

156
 158
 159 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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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.

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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



Legislative Operating Committee Fiscal Year 2024 Third Quarter Report April 2024 – June 2024

Legislative Operating Committee Guiding Principles

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

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

Legislative Operating Committee Action on Legislative Requests

During the FY24 Third Quarter the Legislative Operating Committee added twelve (12) legislative items to its Active Files List. The Legislative Operating Committee denied no legislative items during the FY24 Third Quarter.

On April 3, 2024, the Legislative Operating Committee added the GTC Government Participation GWE law, Petition: C. Kestell- Address Housing Issues/Veterans Home Loan Program, and the Renewable Energy law to the Active Files List.

On May 1, 2024, the Legislative Operating Committee added the Culturally Significant Event Participation Program law and the Oneida Nation School Board bylaws amendments to the Active Files List.

On May 15, 2024, the Legislative Operating Committee added the Computer Resources Ordinance amendments and the Vehicle Driver Certification and Fleet Management law amendments to the Active Files List.

On June 5, 2024, the Legislative Operating Committee added the Oneida Life Insurance Plan law amendments and the Uniform Commercial Code to the Active Files List.

On June 19, 2024, the Legislative Operating Committee added the Vendor Licensing law amendments, Independent Contractor Policy amendments, and the Oneida Travel and Expense Policy repeal to the Active Files List.

FY24 Third Quarter Legislative Accomplishments

The Legislative Operating Committee brought forward no legislative items for adoption or amendment during the FY24 Third Quarter.

FY24 Third Quarter Administrative Accomplishments

During the FY24 Third Quarter the Legislative Operating Committee collaborated with the Oneida Law Office and the Government Administrative Office to address how bylaws would be processed in the future. Moving forward, the Government Administrative Office and the board, committee, or commission's assigned attorney from the Oneida Law Office will assist in developing amendments to bylaws. This change in process will allow bylaw amendments to be directly placed on an Oneida Business Committee meeting agenda for approval. This means the Legislative Operating Committee will no longer process amendments to bylaws for boards, committees, and commissions of the Nation, which should streamline the amendment process. All nine (9) bylaws amendments currently on the Active Files List were removed from the Legislative Operating Committee's Active Files List on May 15, 2024.

FY24 Third Quarter Community Outreach Efforts

Focusing on its guiding principle to enhance community involvement through outreach and communication, during the FY24 Third Quarter the Legislative Operating Committee held the following three (3) community outreach events:

- April 2, 2024: Community work session on the Eviction and Termination law amendments;
- June 4, 2024: Community meeting on the Hunting, Fishing, and Trapping law amendments and the Guardianship law; and
- June 19, 2024: Community meeting on the Eviction and Termination law amendments.

On April 2, 2024, from 12:00 p.m. through 1:30 p.m. the Legislative Operating Committee held a community work session on the Eviction and Termination law amendments in the Norbert Hill Center's cafeteria as well as on Microsoft Teams. The purpose of this community work session was to read through the Eviction and Termination law line-by-line and collect comments, questions, or suggestions for how to potentially amend the language included in the law. Approximately thirty-seven (37) people participated in this community work session.

On June 4, 2024, from 5:30 p.m. through 7:30 p.m. the Legislative Operating Committee held a community meeting in the Norbert Hill Center's cafeteria. Topics discussed during the community meeting included brief overview of the legislative process as well as a discussion of Hunting, Fishing, and Trapping law amendments and the development of a new Guardianship law. The purpose of this community meeting was to provide an opportunity for open discussion in which

people could share comments, questions, or suggestions on potential issues and amendments that should be addressed regarding the topics discussed. Approximately thirty (30) people participated in this community meeting.

On June 19, 2024, from 5:30 p.m. through 7:30 p.m. the Legislative Operating Committee held a community meeting focused on the Eviction and Termination law in the Norbert Hill Center's cafeteria in collaboration with the Comprehensive Housing Division. During this community meeting the Comprehensive Housing Division provided an informational presentation on how evictions and terminations are currently handled, and then the Legislative Operating Committee presented on potential amendments to the Eviction and Termination law that would comply with the February 25, 2024, GTC directive to remove the words alleged and allegations from the law. The community meeting also included time for open discussion on ways to improve the Eviction and Termination law as well as time for questions to be answered. Approximately twenty-one (21) people attended this community meeting.

The Legislative Operating Committee intends to hold community outreach events on a quarterly basis and encourages everyone to attend and participate in future community outreach events.

FY24 Third Quarter Legislative Highlights

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

Back Pay Law Amendments

This item is sponsored by Jonas Hill. The Legislative Operating Committee held one (1) work meetings during the FY24 Third Quarter regarding this legislative matter. On April 12, 2024, the Legislative Operating Committee held a public meeting on the proposed amendments to the Back Pay law. One (1) individual provided comments during the public meeting. The public comment period was then held open until April 19, 2024. No submissions of written comments were received during the public comment period. The Legislative Operating Committee reviewed and considered the public comments received on June 11, 2024.

Business Corporations Law

This item is sponsored by Jameson Wilson. The Legislative Operating Committee held one (1) work meeting during the FY24 Third Quarter regarding this legislative matter.

Computer Resources Ordinance Amendments

This item is sponsored by Jameson Wilson The Legislative Operating Committee held one (1) work meeting during the FY24 Third Quarter regarding this legislative matter.

Environmental Review Law

This item is sponsored by Kirby Metoxen and Jonas Hill. The Legislative Operating Committee held two (2) work meeting during the FY24 Third Quarter regarding this legislative matter.

Eviction and Termination Law Amendments

This item is sponsored by Jonas Hill and Marlon Skenandore. The Legislative Operating Committee held eight (8) work meetings during the FY24 Third Quarter regarding this legislative matter. On April 2, 2024, the Legislative Operating Committee held a community work session on the Eviction and Termination law amendments. On April 19, 2024, the Legislative Operating Committee held a community meeting on the Eviction and Termination law amendments in collaboration with the Comprehensive Housing Division.

Finance Committee Bylaws Amendments

This item was sponsored by Kirby Metoxen. The Legislative Operating Committee held one (1) work meeting during the FY24 Third Quarter regarding this legislative matter. This item was removed from the Active Files List on May 15, 2024. The Legislative Operating Committee will no longer be processing amendments to bylaws for boards, committees, and commissions of the Nation.

Gift Card Law

This item was sponsored by Kirby Metoxen. The Legislative Operating Committee held one (1) work meeting during the FY24 Third Quarter regarding this legislative matter. This item was removed from the Active Files List on April 17, 2024.

Guardianship Law Amendments

This item is sponsored by Marlon Skenandore. The Legislative Operating Committee held three (3) work meetings during the FY24 Third Quarter regarding this legislative matter. On June 4, 2024, the Legislative Operating Committee held a community meeting in which the topic of a new Guardianship law was included on the agenda.

Higher Education Scholarship Law

This item is sponsored by Jameson Wilson. The Legislative Operating Committee held two (2) work meetings during the FY24 Third Quarter regarding this legislative matter.

Hunting, Fishing, and Trapping Law Amendments

This item is sponsored by Jonas Hill. The Legislative Operating Committee held two (2) work meetings during the FY24 Third Quarter regarding this legislative matter. On June 4, 2024, the Legislative Operating Committee held a community meeting in which the topic of amendments to the Hunting, Fishing, and Trapping law was included on the agenda.

Investigative Leave Policy Amendments

This item is sponsored by Marlon Skenandore. The Legislative Operating Committee held one (1) work meeting during the FY24 Third Quarter regarding this legislative matter.

Law Enforcement Ordinance Amendments

This item is sponsored by Jonas Hill. The Legislative Operating Committee held two (2) work meetings during the FY24 Third Quarter regarding this legislative matter.

Marijuana Law

This item is sponsored by Jameson Wilson. The Legislative Operating Committee held one (1) work meeting during the FY24 Third Quarter regarding this legislative matter.

Oneida Election Board Bylaws Amendments

This item was sponsored by Marlon Skenandore. The Legislative Operating Committee held one (1) work meeting during the FY24 Third Quarter regarding this legislative matter. This item was removed from the Active Files List on May 15, 2024. The Legislative Operating Committee will no longer be processing amendments to bylaws for boards, committees, and commissions of the Nation.

Oneida Land Trust Law

This item was sponsored by Jameson Wilson. The Legislative Operating Committee held two (2) work meetings during the FY24 Third Quarter regarding this legislative matter. This item was removed from the Active Files List on May 15, 2024.

Oneida Nation Commission on Aging Bylaws Amendments

This item was sponsored by Jennifer Webster. The Legislative Operating Committee held one (1) work meeting during the FY24 Third Quarter regarding this legislative matter. This item was removed from the Active Files List on May 15, 2024. The Legislative Operating Committee will no longer be processing amendments to bylaws for boards, committees, and commissions of the Nation.

Oneida Nation School Board Bylaws Amendments

This item was sponsored by Marlon Skenandore. The Legislative Operating Committee held one (1) work meeting during the FY24 Third Quarter regarding this legislative matter. This item was removed from the Active Files List on May 15, 2024. The Legislative Operating Committee will no longer be processing amendments to bylaws for boards, committees, and commissions of the Nation.

Oneida Nation Veterans Affairs Committee Bylaws Amendments

This item was sponsored by Jennifer Webster and Jonas Hill. The Legislative Operating Committee held one (1) work meeting during the FY24 Third Quarter regarding this legislative matter. This item was removed from the Active Files List on May 15, 2024. The Legislative Operating Committee will no longer be processing amendments to bylaws for boards, committees, and commissions of the Nation.

Oneida Personnel Commission Bylaws Amendments

This item was sponsored by Marlon Skenandore. The Legislative Operating Committee held one (1) work meeting during the FY24 Third Quarter regarding this legislative matter. This item was removed from the Active Files List on May 15, 2024. The Legislative Operating Committee will no longer be processing amendments to bylaws for boards, committees, and commissions of the Nation.

Oneida Personnel Policies and Procedures

This item is sponsored by all members of the Legislative Operating Committee. The Legislative Operating Committee held five (5) work meetings during the FY24 Third Quarter regarding this legislative matter.

Oneida Trust Enrollment Committee Bylaws Amendments

This item was sponsored by Jameson Wilson. The Legislative Operating Committee held one (1) work meeting during the FY24 Third Quarter regarding this legislative matter. This item was removed from the Active Files List on May 15, 2024. The Legislative Operating Committee will no longer be processing amendments to bylaws for boards, committees, and commissions of the Nation.

Pardon and Forgiveness Screening Committee Bylaws Amendments

This item was sponsored by Jonas Hill. The Legislative Operating Committee held one (1) work meeting during the FY24 Third Quarter regarding this legislative matter. This item was removed from the Active Files List on May 15, 2024. The Legislative Operating Committee will no longer be processing amendments to bylaws for boards, committees, and commissions of the Nation.

Real Property Law Amendments

This item is sponsored by Jameson Wilson. The Legislative Operating Committee held two (2) work meetings during the FY24 Third Quarter regarding this legislative matter.

Southeastern Wisconsin Oneida Tribal Services Advisory Board Bylaws Amendments

This item was sponsored by Jonas Hill. The Legislative Operating Committee held one (1) work meeting during the FY24 Third Quarter regarding this legislative matter. This item was removed from the Active Files List on May 15, 2024. The Legislative Operating Committee will no longer be processing amendments to bylaws for boards, committees, and commissions of the Nation.

Taxation Law

This item is sponsored by Jameson Wilson. The Legislative Operating Committee held one (1) work meeting during the FY24 Third Quarter regarding this legislative matter.

Tribal Sovereignty in Data Research Law

This item is sponsored by Jennifer Webster. The Legislative Operating Committee held six (6) work meetings during the FY24 Third Quarter regarding this legislative matter.

Two Spirit Inclusion Law

This item is sponsored by Jennifer Webster. The Legislative Operating Committee held six (6) work meetings during the FY24 Third Quarter regarding this legislative matter.

Vehicle Driver Certification and Fleet Management Law Amendments

This item is sponsored by Jameson Wilson. The Legislative Operating Committee held one (1) work meetings during the FY24 Third Quarter regarding this legislative matter.

FY24 Third Quarter Legislative Operating Committee Meetings

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

The Legislative Operating Committee held the following meetings during the FY24 Third Quarter:

- April 3, 2024 – Regular meeting;
- April 17, 2024 – Regular meeting;
- May 1, 2024 – Regular meeting;
- May 15, 2024 – Regular meeting;
- June 5, 2024 – Regular meeting; and
- June 19, 2024 – Regular meeting.

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

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

Goals for FY24 Fourth Quarter

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

- Hold an additional LOC Community meeting.
- Complete the LOC's strategic planning.
- Adoption of the Back Pay law amendments.
- Develop a draft of the Eviction and Termination law amendments.
- Hold a public meeting for the Investigative Leave Policy amendments.

- Hold a public meeting for the Vehicle Driver Certification and Fleet Management law amendments.
- Hold a public meeting for the Computer Resources Ordinance amendments.

Legislative Reference Office

The Legislative Reference Office’s mission is to provide support for the Legislative Operating Committee in developing clear and consistent legislation that reflects the Nation’s values, builds upon the Nation’s strong foundation, and reaffirms our inherent sovereignty.

In addition to the assisting the Legislative Operating Committee with the development of legislation, the Legislative Reference Office also:

- Drafts statements of effect for Oneida Business Committee and General Tribal Council resolutions;
- Drafts statements of effect for General Tribal Council resolutions petitions;
- Drafts and provides other assistance to various department and entities of the Nation with administrative rulemaking;
- Drafts and provides other assistance to various department and entities of the Nation with bylaws; and
- Manages all other administrative duties and recordkeeping for the Legislative Operating Committee.

During the FY24 Third Quarter the Legislative Reference Office was staffed by the following individuals:

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

Legislative Operating Committee Contact Information

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

- | | |
|--|---|
| ▪ Jameson Wilson, LOC Chairman
jwilson@oneidanation.org | ▪ Jonas Hill, LOC Member
jhill@oneidanation.org |
| ▪ Kirby Metoxen, LOC Vice-Chairman
kmetox@oneidanation.org | ▪ Marlon Skenandore, LOC Member
mksenan1@oneidanation.org |
| ▪ Jennifer Webster, LOC Member
jwebstel@oneidanation.org | |



The Legislative Operating Committee from left to right: Kirby Metoxen, Jameson Wilson, Jennifer Webster, Marlon Skenandore, Jonas Hill.

July 29, 2024, Legislative Operating Committee E-Poll Approval of the Vehicle Driver Certification and Fleet Management Law Amendments Public Comment Review Memo, Draft, and Fiscal Impact Statement Request

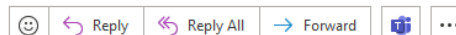
E-POLL REQUEST: Approval of the Vehicle Driver Certification and Fleet Management Law Amendments Public Com...



LOC

To Jameson J. Wilson; Jennifer A. Webster; Jonas G. Hill; Kirby W. Metoxen;
Marlon G. Skenandore

Cc Fawn J. Billie; Fawn L. Cottrell; Kristal E. Hill; Maureen S. Perkins; Clorissa N. Leeman



Mon 7/29/2024 9:42 AM

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



Good Morning Legislative Operating Committee,

This e-mail serves as the e-poll for the approval of materials related to the Vehicle Driver Certification and Fleet Management law amendments.

EXECUTIVE SUMMARY

The Legislative Operating Committee is currently developing amendments to the Vehicle Driver Certification and Fleet Management law to remove the responsibility of the Fleet Management Department to purchase fleet vehicles. [2 O.C. 210.6-1].

On July 15, 2024, a public meeting was held for the proposed amendments to the Vehicle Driver Certification and Fleet Management law. No one provided public comments during the public meeting. The public comment period was then held open until July 22, 2024. No one provided public comments during the public comment period.

A public comment review memorandum that identifies that no public comments were received the public meeting or public comment period is included in the attachments to this e-poll. The public meeting transcript and draft of proposed amendments that went to public meeting are also included in the attachments. There are no changes being made to the draft of proposed amendments to the Vehicle Driver Certification and Fleet Management law as a result of the public meeting and comment period. An updated legislative analysis is included in the attachments.

Now have a final draft and legislative analysis ready for approval by the LOC, – we are ready to move onto the next stage of the legislative process which is requesting a fiscal impact statement be developed. The Legislative Procedures Act requires that a fiscal impact statement be provided for all proposed legislation of the Nation. [1 O.C. 109.6-1]. The fiscal impact statement is an estimate of the total fiscal year financial effects associated with the proposed legislation, and should include:

- startup costs;
- personnel;
- office costs;
- documentation costs; and
- an estimate of the amount of time necessary for an individual or agency to comply with the law after implementation. [1 O.C. 109.3-1(c)].

The fiscal impact statement must be completed and submitted to the LOC prior to the proposed legislation being forwarded to the Oneida Business Committee for consideration. [1 O.C. 109.6-2]. The fiscal impact statement provides the Oneida Business Committee information on what the potential adoption of the proposed legislation will cost the Nation, so that the Oneida Business Committee can determine if adoption of the proposed legislation is in the best interest of the Nation.

The Legislative Procedures Act grants the LOC the authority to direct the Finance Department or any agency who may administer a program if the legislation is enacted or may have financial information concerning the subject matter of the legislation to submit a fiscal impact statement.

Oneida Business Committee resolution BC-10-28-20-A titled, "*Further Interpretation of 'Fiscal Impact Statement' in the Legislative Procedures Act*" provides further clarification on the process for directing a fiscal impact statement be completed. This resolution provides that upon final approval of draft legislation by the LOC, the LOC may direct the Finance Department to provide a neutral and unbiased fiscal impact statement to the LOC within ten (10) business days for inclusion in adoption materials.

So, now that we have a final draft of the proposed amendments to the law, the fiscal impact request memorandum is a memorandum from the LOC to the Finance Department directing that a fiscal impact statement of the proposed amendments to this law be completed and provided to the LOC by August 28, 2024.

An e-poll is necessary for this matter in order to avoid a delay in work being processed because the August 7, 2024 and August 21, 2024 Legislative Operating Committee meetings have been canceled, and the next Legislative Operating Committee meeting will not occur until September 4, 2024.

REQUESTED ACTION

The requested actions are as follows:

- Approve the public comment review memorandum, draft, and legislative analysis for the proposed amendments to the Vehicle Driver Certification and Fleet Management law; and
- Approve the fiscal impact statement request memorandum and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by August 28, 2024.

DEADLINE FOR RESPONSE

July 30, 2024 at 9:30 a.m.

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



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

E-POLL RESULTS:

The e-poll was approved by Jennifer Webster, Jonas Hill, and Kirby Metoxen. Jameson Wilson did not provide a response. Marlon Skenandore is on a personal leave and therefore did not provide a response.

RE: E-POLL REQUEST: Approval of the Vehicle Driver Certification and Fleet Management Law Amendments Public C...



Jennifer A. Webster

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

Reply Reply All Forward

Mon 7/29/2024 9:45 AM

Support,
Jenny

Re: E-POLL REQUEST: Approval of the Vehicle Driver Certification and Fleet Management Law Amendments Public C...



Jonas G. Hill

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

Reply Reply All Forward

Mon 7/29/2024 9:50 AM

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SUPPORT

Sincerely,



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

Jonas G Hill
Councilman
Oneida Nation Business Committee
Phone: 920-606-3966
Email: JHILL1@oneidanation.org
PO Box 365
Oneida, WI 54155
www.oneida-nsn.gov

Re: E-POLL REQUEST: Approval of the Vehicle Driver Certification and Fleet Management Law Amendments Public C...



Kirby W. Metoxen

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

Reply Reply All Forward

Mon 7/29/2024 9:51 AM

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Support

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TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Leeman, Legislative Reference Office, Senior Staff Attorney
DATE: July 29, 2024
RE: Vehicle Driver Certification and Fleet Management Law Amendments: Public
Comment Review

A handwritten signature in black ink, appearing to read "Clorissa N. Leeman".

On July 15, 2024, a public meeting was held regarding the proposed amendments to the Vehicle Driver Certification and Fleet Management law (“the Law”). The public comment period was then held open until July 22, 2024. No public comments were received during the public meeting or the public comment period on this legislative item. The public meeting draft and public meeting transcript are attached to this memorandum for review.



**LEGISLATIVE OPERATING COMMITTEE
PUBLIC MEETING**

Vehicle Driver Certification and Fleet Management Law Amendments
Norbert Hill Center Business Committee Conference Room and Microsoft Teams
July 15, 2024
12:15 p.m.

Present: Jameson Wilson, Clorissa Leeman, Carrie Lindsey, Michelle Braaten, Grace Elliott, Rachel Fitzpatrick, Carol Stiff, Laura Laitinen-Warren, Michelle Madl, Todd VandenHeuvel, Carolyn Salutz, Rodney Hill, Nic Reynolds.

Jameson Wilson: Well, everyone appreciate you all joining. We're gonna do things a little bit differently today. We won't, we don't have anybody up on the third floor to assist us with the cameras, so I'll just be sharing everything from my screen. So just stand by please.

All ready, good afternoon, the time is 12:17 p.m. and today's date is Monday, June 15, 2024. I will now call to order the public meeting for the proposed amendments to the Vehicle Driver Certification and Fleet Management law.

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

All persons who wish to present oral testimony in person need to register on the sign in sheet. 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 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 Monday, July 22, 2024.

In attendance from the LOC is myself, Jameson Wilson, Chairman of the Legislative Operating Committee.

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 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 Vehicle Driver Certification and Fleet Management law.

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.

Those who wish to speak please raise your hand. Please state your name when making a comment. We currently, we don't have anybody here in person.

If anybody online has any comments, or feedback, expectations, that they'd like to share, please go ahead and raise your hand and, and I'll call on you.

Would just like to really reiterate for those that that are recent, that have recently joined the public meeting for the Vehicle Driver Certification and Fleet Management law, if you have any comments, feedback, expectations, or issues, concerns that you have regarding the amendments, please raise your hand.

If you're joining us virtually and we can call upon you, there is nobody here in person that that's joining us, but also wanted to mention that we are not having technical difficulties, we just weren't able to pull up the normal format for these public meetings so I'm just, I'm just joining from my laptop and turning my camera on so anybody has any questions just raise your hand or comments or feedback. Thank you.

It is now 12:31 p.m. It's been fifteen (15) minutes and with there being no more speakers, the public meeting for the proposed amendments to the Vehicle Driver Certification and Fleet Management law has now closed at 12:31 p.m., written comments may be submitted until close of business day on Monday, July 22nd, 2024.

Umm, so there's the public meeting period or public period public meeting period time frame there. So, it will close on Monday, July 22nd, 2024.

And that concludes today's public meeting. Appreciate you all joining. Thank you.

-End of Meeting-

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- - - - .



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 was held on July 15, 2024. The public comment period was held open until July 22, 2024. No public comments were received.
Fiscal Impact	A fiscal impact statement will be requested on July 29, 2024.

SECTION 2. LEGISLATIVE DEVELOPMENT

- 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

- 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;

- 25 ▪ 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 and Fleet Management law amendments to the Active Files List with Jonas Hill as the sponsor.
- 41 ▪ On June 5, 2024, the Legislative Operating Committee approved the Vehicle Driver
42 Certification and Fleet Management law amendments draft, legislative analysis, and public
43 meeting notice, and forwarded the Vehicle Driver Certification and Fleet Management law
44 amendments to a public meeting to be held on July 15, 2024.
- 45 ▪ On July 15, 2024, the public meeting was held for the proposed amendments to the Vehicle
46 Driver Certification and Fleet Management law. No one provided public comments during the
47 public meeting.
- 48 ▪ On July 22, 2024, the public comment period closed. No one provided public comments during
49 the public comment period.

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

- 52 ▪ May 30, 2024: LOC work session with the Oneida Law Office, Human Resources Department,
53 General Manager, Finance Administration. Public Works Division, and Automotive Department.

54

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

- 56 ▪ *Removal of the Fleet Management Department's Responsibility to Purchase.* Currently, the
57 Nation's Fleet Management Department is delegated the authority and responsibility to purchase,
58 manage, and monitor the use of the Nation's fleet vehicles. [2 O.C. 210.6-1]. The proposed
59 amendment to the Law would remove the word "purchase" from section 210.6-1 of the Law thus
60 eliminating the responsibility of the Fleet Management Department to purchase all fleet vehicles.
- 61 ▪ *Effect.* The inclusion of the responsibility of the Fleet Management Department to purchase all
62 vehicles for the Nation has led to unintended delays that can be avoided by reverting this
63 responsibility back to the existing cap expenditure purchasing process.

64

65 **SECTION 6. EXISTING LEGISLATION**

66 **A. References to the Other Laws of the Nation.** The following laws of the Nation are referenced in the
67 Vehicle Driver Certification and Fleet Management law.

- 68 ▪ *Oneida Personnel Policies and Procedures.* The purpose of the Oneida Personnel Policies and
69 Procedures is to provide for the Nation’s employee related policies and procedures including
70 recruitment, selection, compensation and benefits, employee relations, safety and health, program
71 and enterprise rules and regulations, and record keeping.
 - 72 ▪ The Vehicle Driver Certification and Fleet Management law provides that “In addition to
73 the suspension of driver certification, a supervisor may take disciplinary action against an
74 individual in accordance with the Nation’s laws and policies governing employment if an
75 employee...” [2 O.C. 210.8-7].
 - 76 ▪ Any disciplinary action against an employee for a violation of the Vehicle Driver
77 Certification and Fleet Management is required to be conducted in accordance with the
78 Oneida Personnel Policies and Procedures.
- 79 ▪ *Oneida Travel and Expense Policy.* The Oneida Travel and Expense Policy establishes policies
80 governing the reimbursement of travel and expenses incurred during the conduct of company
81 business. [2 O.C. 219.1-1].
 - 82 ▪ The Vehicle Driver Certification and Fleet Management law provides that “A vehicle shall
83 be rented in accordance with the Nation’s laws and policies governing travel. Every vehicle
84 rented shall include the purchase of the maximum collision damage waiver offered by the
85 rental company.” [2 O.C 210.6-9(a)].
 - 86 ▪ The Oneida Travel and Expense Policy states that “insurance on all car rentals is covered
87 by the Oneida Tribe’s insurance policy.” [2 O.C 219.8-3].
 - 88 ▪ Section 219.8-3 of the Oneida Travel and Expense Policy does not reflect current practice.
89 The Travel and Expense Policy conflicts with the current Vehicle Driver Certification and
90 Fleet Management law which requires the purchase of maximum collision damage waiver
91 from the rental company, as this is more cost effective for the Nation.
 - 92 ▪ *Recommendation:* The LOC and LRO should note the discrepancy in the Travel and
93 Expense Policy and identify that section of the Travel and Expense Policy as an area for
94 future amendments.

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

- 98 ▪ *Drug and Alcohol Free Workplace Law.* The Drug and Alcohol Free Workplace law applies to all
99 applicants for employment, whether external or internal, and all employees during working hours,
100 when on-call, and when operating a vehicle owned by the Nation or a vehicle rented by the Nation.
101 [2 O.C. 202.4-1]. An employee is prohibited from the use of prohibited drugs and alcohol during
102 working hours, when on-call, and when operating a vehicle owned by the Nation or a vehicle rented
103 by the Nation. [2 O.C. 202.4-2].
- 104 ▪ *Clean Air Law.* The Clean Air law provides that no person may smoke in any vehicle owned or
105 operated by the Nation.” [4 O.C. 411.4-1(c)].
106

107 **SECTION 7. OTHER CONSIDERATIONS**


- 108 **A. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all
109 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
110 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
111 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete

112 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
113 completing the fiscal impact statement.

114 ▪ *Conclusion.* The Legislative Operating Committee will be requesting that a fiscal impact statement
115 be completed by the Finance Administration on July 29, 2024.

116



TO: Ralinda Ninham-Lamberies, Chief Financial Officer
FROM: Jameson Wilson, Legislative Operating Committee Chairman 
DATE: July 29, 2024
RE: Vehicle Driver Certification and Fleet Management Law Amendments Fiscal Impact Statement

The Legislative Operating Committee (LOC) is currently developing amendments to the Vehicle Driver Certification and Fleet Management law. The Legislative Procedures Act requires that a fiscal impact statement be provided for all proposed legislation of the Nation. [1 O.C. 109.6-1]. The fiscal impact statement is an estimate of the total fiscal year financial effects associated with the proposed legislation, and should include:

- startup costs;
- personnel;
- office costs;
- documentation costs; and
- an estimate of the amount of time necessary for an individual or agency to comply with the law after implementation. [1 O.C. 109.3-1(c)].

The fiscal impact statement must be completed and submitted to the LOC prior to the proposed legislation being forwarded to the Oneida Business Committee for consideration. [1 O.C. 109.6-2]. The fiscal impact statement provides the Oneida Business Committee information on what the potential adoption of the proposed legislation will cost the Nation, so that the Oneida Business Committee can determine if adoption of the proposed legislation is in the best interest of the Nation.

The Legislative Procedures Act grants the LOC the authority to direct the Finance Department or any agency who may administer a program if the legislation is enacted or may have financial information concerning the subject matter of the legislation to submit a fiscal impact statement. [1 O.C. 109.6-1].

Oneida Business Committee resolution BC-10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures Act*” provides further clarification on the process for directing a fiscal impact statement be completed. This resolution provides that upon final approval of draft legislation by the LOC, the LOC may direct the Finance Department to provide a neutral and unbiased fiscal impact statement to the LOC within ten (10) business days for inclusion in adoption materials.

On July 29, 2024, the Legislative Operating Committee approved the final draft of the proposed amendments to the Vehicle Driver Certification and Fleet Management law. Therefore, the LOC is directing the Finance Department to provide a fiscal impact statement on the proposed amendments to the Vehicle Driver Certification and Fleet Management law by August 28, 2024.

A copy of the proposed amendments to the Vehicle Driver Certification and Fleet Management law, as well as the legislative analysis, have been attached to this memorandum for your convenience.

Requested Action

Provide the LOC a fiscal impact statement of the proposed amendments to the Vehicle Driver Certification and Fleet Management law by August 28 2024.

July 30, 2024, Legislative Operating Committee E-Poll Approval of the Investigative Leave Policy Amendments Public Meeting Packet

E-POLL REQUEST: Approval of the Investigative Leave Policy Amendments Public Meeting Packet



LOC

To Jameson J. Wilson; Jennifer A. Webster; Jonas G. Hill; Kirby W. Metoxen;

Marlon G. Skenandore

Cc Fawn J. Bille; Fawn L. Cottrell; Kristal E. Hill; Maureen S. Perkins; Clorissa N. Leeman;

Grace L. Elliott



Reply

Reply All

Forward



Tue 7/30/2024 9:47 AM

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



Good Morning Legislative Operating Committee,

This e-mail serves as the e-poll for the approval of the Investigative Leave Policy Amendments public meeting packet.

EXECUTIVE SUMMARY

The Legislative Operating Committee is currently developing amendments to the Investigative Leave Policy. The Legislative Operating Committee originally added the Investigative Leave Policy Amendments to its Active Files List on October 7, 2020, and then readded this legislative item to its Active Files List for the 2023-2026 legislative term on October 3, 2023. On May 15, 2024, the Legislative Operating Committee approved the draft of the Investigative Leave Policy amendments and directed that a legislative analysis be developed. On July 17, 2024, the Legislative Operating Committee approved the legislative analysis for the Investigative Leave Policy amendments.

The next step in the legislative process is to hold a public meeting and public comment period to provide an opportunity for the community to provide input. The public meeting for the Investigative Leave Policy Amendments will occur on Friday, September 13, 2024, in the Norbert Hill Center's Business Committee Conference Room and on Microsoft Teams at 12:15 p.m. in the afternoon. The public comment period will then be held open for the submission of written comments until the close of business on Friday, September 20, 2024.

The public meeting packet for the proposed amendments to the Investigative Leave Policy is attached to this e-poll e-mail for approval and contains the following documents:

- Public meeting notice;
- Legislative analysis;
- Public Meeting Draft (Redline to Current); and
- Public Meeting Draft (Clean).

An e-poll is necessary for this matter in order to avoid a delay in work being processed because the July 17, 2024, Legislative Operating Committee meeting was canceled, along with the August 7, 2024 and August 21, 2024 meetings, and the next Legislative Operating Committee meeting will not occur until September 4, 2024 – and we need to meet the next Kalihwisaks submission deadline which is August 1, 2024.

REQUESTED ACTION

Approve the public meeting packet for the Investigative Leave Policy amendments and forward the Investigative Leave Policy amendments to a public meeting to be held on September 13, 2024.

DEADLINE FOR RESPONSE

July 31, 2024 at 9:30 a.m.

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



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

E-POLL RESULTS:

The e-poll was approved by Jennifer Webster, Jonas Hill, Jameson Wilson, and Kirby Metoxen. Marlon Skenandore is on a personal leave and therefore did not provide a response.

RE: E-POLL REQUEST: Approval of the Investigative Leave Policy Amendments Public Meeting Packet



Jennifer A. Webster

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

Reply Reply All Forward

Tue 7/30/2024 9:55 AM

Approve,
Jenny

Re: E-POLL REQUEST: Approval of the Investigative Leave Policy Amendments Public Meeting Packet



Jonas G. Hill

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

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Tue 7/30/2024 10:03 AM

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Approve

Get Outlook for iOS

Re: E-POLL REQUEST: Approval of the Investigative Leave Policy Amendments Public Meeting Packet



Jameson J. Wilson

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

Reply Reply All Forward

Tue 7/30/2024 10:54 AM

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Approve



Jameson Wilson
Councilman
Oneida Business Committee

A good mind.

Re: E-POLL REQUEST: Approval of the Investigative Leave Policy Amendments Public Meeting Packet



Kirby W. Metoxen

Reply Reply All Forward

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

Tue 7/30/2024 11:56 AM

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Approve

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ONEIDA NATION PUBLIC MEETING NOTICE**FRIDAY, SEPTEMBER 13, 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

**INVESTIGATIVE LEAVE POLICY AMENDMENTS**

The purpose of the Investigative Leave Policy is to set forth a process to address investigative leave for employees undergoing work related investigations.

The Investigative Leave Policy amendments will:

- ◆ Change the pay status of an investigative leave from unpaid, to paid for up to forty-five (45) days, so long as the employee responds to all inquiries within twenty-four (24) business hours.
- ◆ Add the Executive Director of the Human Resource Department as an individual authorized to initiate an investigative leave.
- ◆ Eliminate the option to place an employee placed on investigative leave in an alternate work position during the investigation.
- ◆ Clarify the types of harms an investigative leave is intended to protect against.
- ◆ Update confidentiality requirements to address social media.
- ◆ Update the name of the law from Investigative Leave Policy to Investigative Leave Law.

Individuals may attend the public meeting for the proposed Investigative Leave Policy 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 FRIDAY, SEPTEMBER 20, 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 Investigative Leave Policy amendments please review the public meeting packet at oneida-nsn.gov/government/register/public meetings.



INVESTIGATIVE LEAVE LAW AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Legislation or Amendments	<ul style="list-style-type: none"> ▪ Clarify the severity of an alleged violation that may warrant an investigative leave and provide examples. [2 O.C. 208.4-1(a)]. ▪ Clarify the type of risks that an investigative leave is intended to protect against. [2 O.C. 208.4-1(b)]. ▪ Prevent undue financial harm to an employee placed on investigative leave. [2 O.C. 208.4-2(a)]. ▪ Eliminate unpaid status for the employee placed on investigative leave for up to forty-five (45) days. [2 O.C. 208.4-2(a)]. ▪ Balance the intention to prevent undue financial harm to an employee placed on investigative leave with the Nation’s fiscal responsibilities by shifting the employee to unpaid status when an investigation cannot be safely concluded within forty-five (45) days. [2 O.C. 208.4-2(c)]. ▪ Clarify that an employee may use their personal and vacation time if the investigative leave extends past forty-five (45) days. [2 O.C. 208.4-2(b)]. ▪ Provide that when an employee has used their personal and vacation time up all pay and benefits stop. [2 O.C. 208.4-2(c)]. ▪ Extend the authority to initiate an investigative leave to include the Executive Director of the Human Resource Department. [2 O.C. 208.5-1(a)]. ▪ Clarify that when there is no division director a supervisor must secure authorization from the person at the highest level in the chain of command under the Oneida Business Committee prior to placing an employee on investigative leave. [2 O.C. 208.5-1(b)(2)]. ▪ Delegate the authority for designating the individual or agency responsible for completing the investigation to the Executive Director of the Human Resource Department and the supervisor, instead of the employee’s supervisor and/or area manager. [2 O.C. 208.7-1]. ▪ Delete the requirement that the Equal Employment Officer always conducts the investigation if the employee being investigated reports directly to the Oneida Business Committee and instead provide that they may also serve as a liaison to an investigating agency when that is more appropriate. [2 O.C. 208.7-1]. ▪ Eliminate the option for a supervisor to place an employee in an alternate work assignment while on investigative leave. [2 O.C. 208.9-1(a)]. ▪ Expand the requirements that notice to the employee placed on investigative leave must contain. The additional requirements are as follows: [2 O.C. 208.6-1].

	<ul style="list-style-type: none">▪ The employee must surrender all property of the Nation. [2 O.C. 208.6-1(i)].▪ Clear documentation regarding the status of pay and benefits. [2 O.C. 208.6-1(c)].▪ The definition of business hours. The employee is required to respond to inquiries within twenty-four (24) business hours to remain on paid investigative leave within the first forty-five (45) days. [2 O.C. 208.6-1(d)].▪ Whether the investigation has been referred to an outside agency. [2 O.C. 208.6-1(g)].▪ List of the employee’s responsibilities. [2 O.C. 208.6-1(k)].▪ Email address of the person the employee may contact if they have questions related to the investigative leave. [2 O.C. 208.6-1(h)].▪ Extend the issuance of the second notice to the employee placed on investigative leave from fifteen (15) days to thirty-five (35) days. [2 O.C. 208.6-2].▪ Clarify that the second notice must provide the employee placed on investigative leave with the following information: [2 O.C. 208.6-2].<ul style="list-style-type: none">▪ That the employee remains an employee of the Nation. [2 O.C. 208.6-2(a)].▪ Clear documentation regarding the cessation of pay and benefits. [2 O.C. 208.6-2(b)].▪ The definition of business hours as it pertains to the employee’s particular area of employment. [2 O.C. 208.6-2(c)].▪ The expected length of the investigation. [2 O.C. 208.6-2(d)].▪ The telephone number, email address, and name of the person to contact with questions. [2 O.C. 208.6-2(e)].▪ The employee’s responsibilities. [2 O.C. 208.6-2(f)].▪ Eliminate the requirement that a supervisor must conclude an investigation without waiting for the conclusion of a criminal or licensing matter. [2 O.C. 208.9-1(a)].▪ Eliminate the requirement that an investigative leave must close upon the passing of fifteen (15) days, plus a possible extension of fifteen (15) days, unless an outside agency is conducting the investigation and instead allow the decision makers to close an investigative leave when a reasonable determination based on verifiable facts can be made. [2 O.C. 208.8-1].▪ Expedite investigations by adding a requirement that the supervisor, or the EEO Officer (whichever is overseeing the investigation), provide the Executive Director of the Human Resource Department with weekly updates on the investigation. [2 O.C. 208.8-2].▪ Eliminate the provision that requires the supervisor to conclude an investigation within forty-eight (48) hours of receiving the investigative report when someone else is conducting the investigation. [2 O.C. 208.8-1].▪ Provide the employee who was placed on investigative leave with a redacted copy of the investigative report when requested, instead of only providing the redacted report to an employee who files an appeal. [2 O.C. 208.7-4(c)].▪ Require the supervisor to provide written notice and justification to the Executive Director of the Human Resource Department if they choose not to follow the corrective action recommended by the investigator(s). [2 O.C. 208.7-4(a)(1)].
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	<ul style="list-style-type: none"> ▪ Expand an employee’s responsibilities when on an investigative leave to include the surrender of all property of the Nation, respond to any inquires within twenty-four (24) business hours, and not share anything related to the investigation on social media. [2 O.C. 208.10-2. 2 O.C. 208.12-1]. ▪ Create the option for an exception to be made to the complete prohibition of the employee who is placed on investigative leave entering any public worksite; if, and only if, it is determined that access is necessary, safe, appropriate, and the specific conditions under which access may be allowed are provided for in the notice to the employee. [2 O.C. 208.9-1(a)(1)]. ▪ Require that the employee placed on investigative leave respond to all inquiries within twenty-four (24) business hours. [2 O.C. 208.9-1(e)].
Purpose	The purpose of this law is to set forth a process to address investigative leave for employees undergoing work-related investigations. [2 O.C. 208.1-1].
Affected Entities	Oneida Nation employees.
Related Legislation	Workplace Violence law, Back Pay law, Oneida Personnel Policies and Procedures, Computer Resources Ordinance, Judiciary law, and Oneida Judiciary Rules of Civil Procedure.
Enforcement	Any employee who violates this law is subject to discipline in accordance with the Nation’s laws and policies governing employment. The employee who is the subject of the investigation shall be moved to unpaid status if during the forty-five (45) day paid leave period the employee fails to respond to an inquiry within twenty-four (24) business hours. [2 O.C. 208.10-2].
Due Process	An employee may appeal any disciplinary action arising out of an investigation in accordance with the Nation’s laws and policies governing employment. [2 O.C. 208.11-1].
Public Meeting	A public meeting has not yet been held.
Fiscal Impact	A fiscal impact statement prepared in accordance with the Legislative Procedures Act has not yet been requested.

1 **SECTION 2. LEGISLATIVE DEVELOPMENT**

2 A. **Background.** The Investigative Leave Policy was originally adopted by the Oneida Business
 3 Committee by motion on April 7, 1999, and then through resolutions BC-08-13-14-D, and BC-06-24-
 4 15-A. The Investigative Leave Policy provides the Nation and its employees with a consistent
 5 framework for investigating serious allegations against an employee that protects the Nation and its
 6 employees while also preventing undue harm to the employee who is the subject of the investigation
 7 and has not yet been determined to have committed any wrongdoing. [2 O.C. 208.1-1].

8 B. **Request for Amendments.** This item was carried over from the last three (3) terms. In February 2019,
 9 the Nation’s Human Resources Department requested amendments to this law to address investigative
 10 enforcement. Amendments to the law are being sought to delegate authority to investigators to put
 11 employees on investigative leave, instead of just the supervisor of the employee, and discipline
 12 employees. An amendment was also sought so that if terminated, an employee would be ineligible for
 13 employment with the Nation but may request forgiveness after five (5) years. This item was added to
 14 the Active Files List in conjunction with a request for amendments to the Oneida Personnel Policies
 15 and Procedures and the Workplace Violence law. The current sponsor of the Investigative Leave
 16 Policy amendments is Councilman Marlon Skenandore.

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SECTION 3. CONSULTATION AND OUTREACH

- Representatives from the following departments or entities participated in the development of the amendments to this Law and legislative analysis:
 - Human Resources Department (HRD);
 - Oneida Law Office;
 - Gaming; and
 - General Manager.
- The following laws of the Nation were reviewed in the drafting of this analysis:
 - Back Pay law;
 - Workplace Violence law;
 - Pardon and Forgiveness law;
 - Computer Resources Ordinance;
 - Oneida Personnel Policies and Procedures;
 - Judiciary law; and
 - Oneida Judiciary Rules of Civil Procedure.

SECTION 4. PROCESS

- A. The amendments to this Law comply with the process set forth in the Legislative Procedures Act.
 - On October 7, 2020, the Legislative Operating Committee added this Law to its Active Files List for amendments.
 - On October 3, 2023, the Legislative Operating Committee added this Law to its Active Files List for amendments.
 - On May 15, 2024, the Legislative Operating Committee approved the draft of the Investigative Leave Policy amendments and directed that a legislative analysis be developed.
- B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of the amendments to this law:
 - October 10, 2022: LOC work meeting with HRD.
 - November 11, 2022: LOC work meeting with HRD.
 - December 19, 2022: LOC work meeting with HRD.
 - December 21, 2022: LOC work session.
 - January 20, 2023: LOC work meeting with HRD.
 - On January 26, 2023: LOC work session.
 - February 13, 2023: LOC work meeting with HRD, Oneida Law Office, and Gaming.
 - February 17, 2023: LOC work meeting with HRD and Oneida Law Office.
 - March 7, 2023: LOC work meeting with HRD and Gaming.
 - March 24, 2023: LOC work meeting with HRD and Gaming.
 - April 28, 2023: LOC work meeting with HRD, Gaming, and Oneida Law Office.
 - May 3, 2023: LOC work meeting with HRD.
 - January 8, 2024: LOC work meeting with HRD, Gaming, and Oneida Law Office.
 - March 3, 2024: LOC work meeting with HRD, Gaming, and Oneida Law Office.
 - April 30, 2024: LOC work meeting with HRD, Gaming, and Oneida Law Office.

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SECTION 5. CONTENTS OF THE LEGISLATION (OR AMENDMENTS)

- A. ***Types of Alleged Violations and the Risks an Investigative Leave is Designed to Protect Against.*** The proposed amendments to the Law clarify the nature and severity of the type of an alleged violation that may rise to a level to warrant an investigative leave and examples are listed. [2 O.C. 208.4-1(a)]. The Law currently only identifies that an investigative leave shall be used when the employee allegedly commits an act which would preclude the employee from meeting employment eligibility requirements. [2 O.C. 208.4-1(d)]. The proposed amendments to the Law also clarify some of the risks that an investigative leave is intended to protect against by providing several examples of the Nation’s resources and interests that may be put at risk if the employee were to remain in the workplace. [2 O.C. 208.4-1(b). 2 O.C. 208.4-1(c)].
- *Effect.* Identifying the types of allegations and risks that an investigative leave is intended to protect against will make it easier to identify when an investigative leave should be utilized and that in turn will provide greater protections by facilitating a swift response.
- B. ***Paid and Unpaid Investigative Leave.*** The proposed amendments to the Law eliminate unpaid status for the employee placed on investigative leave for up to forty-five (45) days and provides for them to use their personal and vacation time if the investigative leave extends past forty-five (45) days. [2 O.C. 208.4-2(a). 208.4-2(b)]. Currently, an investigative leave is unpaid unless the employee is placed in an alternate work assignment. [2 O.C. 208.5-5]. The proposed amendments to the Law provide that upon the expiration of forty-five (45) days and the employee’s personal and vacation time, all pay, and benefits will stop. [2 O.C. 208.4-1(c)]. The proposed amendments to the law also require the employee to respond to inquiries within twenty-four (24) business hours and if they fail to respond within the twenty-four (24) hour time frame they will immediately be shifted to unpaid status. [2 O.C. 208.9-1(e)]. The proposed amendments to the Law add protections for the employee placed on investigative leave while also balancing the Nation’s fiscal responsibilities.
- *Effect.* The proposed amendments to the Law prevent undue financial harm to an employee placed on investigative by allowing them to be paid for up to forty-five (45) days and then to use their personal and vacation time after that. Employees placed on investigative will not be paid or retain benefits after the expiration of forty-five (45) days on investigative leave and the exhaustion of the employee’s vacation and personal time, or, if the employee does not respond to an inquiry within twenty-four (24) business hours.
- C. ***Authority to Initiate an Investigative Leave.*** The proposed amendments to the Law extend the authority to initiate an investigative leave to include the Executive Director of the Human Resource Department. [2 O.C. 208.5-1(a)]. The Law currently only authorizes the supervisor to initiate an investigative leave. [Currently 2 O.C. 208.5-1]. However, the seriousness of an allegation that might justify an investigative leave requires a swift response and the Executive Director of the Human Resource Department or their designee may be in the best position to initiate an investigative leave when the supervisor and their division director are not both readily available. When the Executive Director of the Human Resource Department initiates an investigative leave, they shall provide notice to the employee’s supervisor at the same time. The proposed amendments to the Law also clarify that prior to placing an employee on investigative leave a supervisor must secure authorization from both the Executive Director of the Human Resource Department and the

104 supervisor's division director, if there is no division director, the person at the highest level of the
105 chain of command under the Oneida Business Committee. [2 O.C. 208.5-1(b)].

- 106 ▪ *Effect.* The Executive Director of the Human Resource Department is authorized to initiate an
107 investigative leave and the authorizations that a supervisor must secure prior to initiating an
108 investigative leave are clarified.

109 D. ***Authority to Designate the Individual or Agency to Conduct the Investigation.*** The proposed
110 amendments to the Law delegate authority to designate the individual or agency to conduct the
111 investigation to the Executive Director of the Human Resource Department and the supervisor,
112 instead of the employee's supervisor and/or area manager. [2 O.C. 208.7-1)]. The proposed
113 amendments to the Law also provide that when the employee being investigated reports directly to
114 the Oneida Business Committee the Equal Employment Officer does not automatically serve as the
115 investigator but may alternatively serve as a liaison to an investigating agency. [2 O.C. 208.7-1)].

- 116 ▪ *Effect.* The Executive Director of the Human Resource Department and the supervisor
117 designate the individual or agency to conduct the investigation. The Equal Employment Officer
118 may conduct an investigation or serve as the liaison to the agency conducting the investigation.
119 These amendments provide greater flexibility and efficiency in designating the individual or
120 agency that is responsible for conducting the investigation.

121 E. ***Alternate Work Assignments.*** The proposed amendments to the Law eliminate the provision
122 allowing a supervisor to place an employee who is on investigative leave in another position within
123 the Nation. [2 O.C. 208.5-4]. The types of harms that an investigative leave is intended to protect
124 against are serious enough that placing the employee in an alternate work assignment during an
125 investigation may not be prudent.

- 126 ▪ *Effect.* The proposed amendments to the Law completely remove the employee from the
127 workplace which eliminates the potential opportunity to cause harm to the Nation and its
128 resources.

129 F. ***Initial Employee Notice.*** The proposed amendments to the Law expand the requirements that
130 notice to the employee placed on investigative leave must contain. [2 O.C. 208.6-1(a-k)]. The Law
131 currently requires notice to the employee to include: the specific allegations being investigated; the
132 employee is on unpaid status unless placed in an alternative work assignment; the expected length
133 of the investigation; whether the investigation is being forwarded to an outside agency; the
134 telephone number and name of person to contact with questions; the procedure to return to work at
135 the close of the investigation, if applicable; and the employee remains an employee of the Nation.
136 [Currently 2 O.C. 208.6-1(a-f)]. The proposed amendments include the following additional
137 requirements:

- 138 i. The employee must surrender all property of the Nation pursuant to section 208.9-
139 1(c). [2 O.C. 208.6-1(i)].
- 140 ii. Clear documentation regarding the status of pay and benefits. [2 O.C. 208.6-1(a-
141 c)].
- 142 iii. The definition of business hours. The employee is required to respond to inquiries
143 within twenty-four (24) business hours to remain on paid investigative leave within
144 the first forty-five (45) days. Business hours may be different depending on the
145 department and so it is helpful to include that definition in the notice to the
146 employee. [2 O.C. 208.6-1(d)].
- 147 iv. The employee's responsibilities pursuant to section 208.9. [2 O.C. 208.6-1(k)].

- 148 v. The email address of the person the employee may contact if they have questions
149 related to the investigative leave is added to the current disclosure of the name and
150 telephone number. [2 O.C. 208.6-1(h)].
- 151 ■ *Effect.* The employee placed on investigative leave will have full and clear knowledge of what
152 to expect and what is expected of them during the investigative leave because the requirements
153 for the notice have been expanded to include additional details.
- 154 G. **Second Employee Notice.** The proposed amendments to the Law move the timing of the second
155 employee notice from fifteen (15) days to thirty-five (35) days. This ensures that the employee
156 receives a timely reminder that their pay status will change from paid to unpaid at forty-five (45)
157 days. [2 O.C. 208.6-2]. Providing a second notice at fifteen days is no longer beneficial as there is
158 no automatic shift in status at fifteen (15) days and the employee has already been notified that the
159 investigative leave may extend forty-five (45) days or more. The Law currently only requires the
160 second notice to inform the employee that the investigation is being extended and the reason for
161 that extension. [Currently 2 O.C. 208.6-2]. The proposed amendments to the Law now require the
162 second notice to the employee contain the following:
- 163 i. That the employee remains an employee of the Nation. [2 O.C.208.6-2(a)].
164 ii. Clear documentation regarding the cessation of pay and benefits. [2 O.C.208.6-
165 2(b)].
166 iii. The definition of business hours as it pertains to the employee’s particular area of
167 employment. [2 O.C.208.6-2(c)].
168 iv. The expected length of the investigation. [2 O.C.208.6-2(d)].
169 v. The telephone number, email address, and name of the person to contact with
170 questions. [2 O.C.208.6-2(e)].
171 vi. The employee’s responsibilities pursuant to section 208.9. [2 O.C.208.6-2(f)].
- 172 ■ *Effect.* The employee placed on investigative leave will have full and timely knowledge of any
173 change in status, what to expect, and what is expected of them while placed on investigative
174 leave because the expanded requirements for notice provide those additional details.
- 175 H. **Reports.** The proposed amendments to the Law provide the employee with a redacted copy of the
176 investigative report, if requested, rather than only if the employee files an appeal. [2 O.C. 208.7-
177 4(c)]. This eliminates any incentive for the employee to file an appeal simply to gain access to the
178 redacted copy of the investigative report.
- 179 ■ *Effect.* The proposed amendments to the Law provide a redacted copy of the investigative
180 report to the employee who was the subject of the investigation if they request it.
- 181 I. **Corrective Action.** The proposed amendments to the Law include a provision requiring the
182 supervisor to provide written notice to the Executive Director of the Human Resource Department
183 if they choose to take any corrective action which deviates from the recommendation of the
184 investigator(s), and the written notice must provide the justification for the deviation. [2 O.C.
185 208.7-4(a)(1)]. Currently, the supervisor alone determines the course of disciplinary action and is
186 not required to communicate their chosen course of disciplinary action to the Executive Director
187 of the Human Resource Department or any other employee in their chain of command.
- 188 ■ *Effect.* Communication and collaboration are enhanced between the supervisor and the
189 Executive Director of the Human Resource Department by requiring any deviation from the
190 corrective action recommended by the investigator to be justified and shared in writing.

- 191 J. **Concluding an Investigation.** The proposed amendments to the Law clarify the safety standard
192 that must be met in determining when to conclude the investigation. The investigation concludes
193 when it has produced enough verifiable facts and information for the employee’s supervisor and
194 the Executive Director of the Human Resource Department to make a reasonable determination on
195 workplace safety and employee status, the determination is recorded in the employee’s permanent
196 files, and the employee has either returned from work or separated from their employment with the
197 Nation. [2 O.C. 208.8-1)]. The proposed amendments to the Law remove the requirement that an
198 investigative leave closes upon the passing of a certain amount of time. Currently, the law provides
199 that an investigation may last for fifteen (15) days with a possible extension of fifteen (15) days,
200 unless an outside agency is conducting the investigation. [Currently 2 O.C. 208.8-1]. That time
201 based standard is replaced with the requirement that the investigative leave closes when the
202 decision makers have gathered enough information to make a fully informed decision. [2 O.C.
203 208.8-1].
- 204 ▪ *Effect.* The proposed amendments to the Law prioritize safety over the passing of time as the
205 primary factor to be considered when determining when to conclude an investigation and/or
206 investigative leave.
- 207 K. **Weekly Updates.** The proposed amendments to the Law require either the supervisor or the Equal
208 Employment Opportunity Officer to provide weekly updates on the investigation to the Executive
209 Director of the Human Resource Department. [2 O.C. 208.8-2].
- 210 ▪ *Effect.* The proposed amendment to the Law ensures that investigations are conducted in the
211 most efficient manner possible by keeping attention on the investigation and documenting
212 progress via weekly updates.
- 213 L. **Surrender of Property of the Nation.** The proposed amendments to the Law expand on and clarify
214 an employee’s responsibilities when placed on investigative leave to include the surrender of all
215 property of the Nation. [2 O.C. 208.9-1(b). 208.9-1(c)]. The Law currently does not require an
216 employee placed on investigative leave to surrender all work related property of the Nation during
217 an investigation.
- 218 ▪ *Effect.* The proposed amendments to the Law safeguard the Nation’s resources during the
219 investigative leave by removing any property of the Nation from the employee’s control.
- 220 M. **Worksite Access.** An employee placed on investigative leave is prohibited from entering their place
221 of work or worksite. [2 O.C. 208.9-1(a)]. However, the proposed amendments to the Law allow
222 for an exception to be created when appropriate so that the employee may access areas of
223 importance under specific conditions and that information will be included in the notice provided
224 to the employee, if applicable. [2 O.C. 208.9-1(a)(1)].
- 225 ▪ *Effect.* The employee placed on investigative leave is provided with clear documentation of the
226 conditions to be met if they are to be allowed to enter their worksite for the sole purpose of
227 accessing necessary resources. For example, an employee placed on investigative leave who
228 works at the Oneida Health Center might be allowed to enter their worksite for a doctor’s
229 appointment if they meet the conditions provided for in the notice.
- 230 N. **Employee Responsibility to Respond to Inquiries.** The proposed amendments to the Law add a
231 requirement that the employee respond to any inquires within twenty-four (24) business hours. [2
232 O.C. 208.10-2]. This ensures that an investigation can be concluded as efficiently as possible and
233 differentiates an investigative leave from other types of leaves that an employee may take or be
234 placed on. This Law provides that an employee placed on paid investigative leave who fails to

- 235 respond to an inquiry within twenty-four (24) business hours will lose their paid status. [2 O.C.
236 208.10-1].
- 237 ▪ *Effect.* An employee placed on paid investigative leave who fails to respond to an inquiry within
238 twenty-four (24) business hours will immediately be shifted to unpaid status.
- 239 O. **Confidentiality.** The proposed amendments to the Law update confidentiality requirements to
240 prohibit any employee from posting information related to the investigation on social media. [2
241 O.C. 208.12-1].
- 242 ▪ *Effect.* Any employee who posts information about the investigation on social media is in
243 violation this Law and is subject to discipline pursuant to the Nation’s policies and laws
244 governing employment.
245

246 SECTION 6. EFFECT ON EXISTING LEGISLATION

- 247 A. **Related legislation.** The following laws of the Nation are related to the proposed amendments to this
248 Law:
- 249 ▪ *Workplace Violence Law.* The purpose of the Workplace Violence law is to provide all Oneida
250 Nation employees and visitors an environment that is free of violence and the threat of violence
251 by establishing the procedures by which incidents of workplace violence shall be addressed. [2
252 O.C. 223.1-1. 223.1-2].
- 253 ▪ Workplace violence means any intentional act committed by an employee in a workplace
254 that: inflicts, attempts to inflict, or threatens to inflict emotional or bodily harm on
255 another person's; or inflicts, attempts to inflict, or threatens to inflict, damage to property.
256 [2 O.C. 223.3-1(k)].
- 257 ▪ The Workplace Violence law provides that a supervisor may place an employee alleged
258 to be involved in a workplace violence incident on investigative leave, if the supervisor
259 deems the investigative leave necessary and appropriate, in accordance with the Nation’s
260 laws, policies and rules governing investigative leave except for the EEO Officer or
261 designee, not the employee’s supervisor, shall conduct the investigation of the alleged
262 workplace violence incident. [2 O.C. 223.8-4].
- 263 ▪ The Workplace Violence law provides that allegations of workplace violence may be
264 investigated in accordance with the Investigative Leave Policy. [2 O.C. 223.8-4].
- 265 ▪ The amendments to the Law provide that complaints of alleged workplace violence shall
266 be investigated in accordance with the Nation’s Investigative Leave Policy. [2 O.C.
267 208.4-1(a)].
- 268 ▪ The amendments to the Law explicitly list workplace violence as one of the types of
269 allegations of wrongdoing that warrant an employee being placed on an investigative
270 leave. [2 O.C. 208.4-1(a)(1)].
- 271 ▪ *Oneida Personnel Policies and Procedures.* The purpose of the Oneida Personnel Policies and
272 Procedures is to provide the Nation’s employee related policies and procedures including
273 recruitment, selection, compensation and benefits, employee relations, safety and health, program
274 and enterprise rules and regulations, and record keeping.
- 275 ▪ This Law provides that an employee may appeal any disciplinary action arising out of an
276 investigation in accordance with the Nation’s laws and policies governing employment
277 which is the Oneida Personnel, Policies, and Procedures. [2 O.C. 208.11-1].

- 278 ▪ *Judiciary Law.* The purpose of the Judiciary law is to establish a Judiciary, and to provide for the
279 administration of law, justice, judicial procedures and practices by the Oneida Nation as a sovereign
280 nation by exercising the inherent power to make, execute, apply and enforce its own law, and to
281 apply its own customs and traditions in matters affecting the Oneida people. [8 O.C. 801.1-1].
282 ▪ The Judiciary law provides that employment grievances shall be heard in accordance with
283 the Nation’s Personnel Policies and Procedures. [8 O.C. 801.4-6(c)].
284 ▪ This Law provides that an employee placed on an investigative leave may appeal any
285 disciplinary action arising out of that investigation in accordance with the Nation’s laws
286 and policies governing employment, which includes the right to file an appeal with the
287 Judiciary when supported by the Nation’s Personnel, Policies, and Procedures. [2 O.C.
288 208.11-1].
- 289 ▪ *Back Pay law.* The purpose of the Back Pay law is to set forth standards used in the calculation of
290 back pay for all employees in accordance with the Nation’s laws. [2 O.C. 206.1-1].
291 ▪ This Law provides that an employee will receive back pay and benefits for anytime the
292 employee was on unpaid investigative leave pursuant to the laws governing back pay if
293 they return to their position at the conclusion of the investigation. [2 O.C. 208.4-2(d)].
- 294 ▪ *Pardon and Forgiveness law.* The purpose of the Pardon and Forgiveness law includes providing
295 a fair, efficient and formal process by which an employee may receive forgiveness for acts that
296 render them ineligible for employment with the Nation; an occupational license, certification or
297 permit issued by the Nation. [1 O.C. 126-1(a)(3)].
298 ▪ This Law provides that an employee may appeal any disciplinary action arising out of an
299 investigation in accordance with the Nation’s laws and policies governing employment.
300 [2 O.C. 208.11-1].
- 301 ▪ *Computer Resources Ordinance.* The purpose of the Computer Resources Ordinance is to
302 regulate the usage of Nation owned and operated computer resources. [2 O.C. 215.1-1]. The
303 Computer Resources Ordinance includes guidelines for the limited circumstances that an
304 employee may use those resources for personal matters. [2 O.C. 215.7-1].
305 ▪ This Law prohibits any employee from posting any information related to the
306 investigation on social media. [2 O.C. 208.12-1].
- 307 ▪ *Social Media Policy.* The purpose of the Social Media Policy is to regulate social media accounts
308 administered on behalf of the Nation or an entity of the Nation. [2 O.C. 218.1-1]. The Social Media
309 Policy does not provide a right for employees to use the internet or social media while at work for
310 personal use. [2 O.C. 218.1-3]. Supervisors retain discretion to permit or prohibit the personal use
311 of the Nation’s computers in accordance with the Computer Resources Ordinance. [2 O.C. 218.1-
312 3].
313 ▪ This Law prohibits any employee from posting any information related to the
314 investigation on social media. [2 O.C. 208.12-1].
315

316 SECTION 7. ENFORCEMENT AND ACCOUNTABILITY

- 317 A. This Law provides that an employee placed on paid investigative leave who fails to respond to an
318 inquiry within twenty-four (24) business hours will lose their paid status, and any employee who
319 violates this Law shall be subject to discipline pursuant to the Nation’s law and policies governing
320 employment. [2 O.C. 208.10-1. 208.10-2].

321 B. The Oneida Judiciary will provide enforcement and accountability in the grievance process. Employees
322 placed on an investigative leave who receive a disciplinary action they believe to be unfair may
323 challenge the action first to the Area Manager and HRD Manager, and then to the Judiciary Trial Court.
324 *[Section V.D(6)].*
325

326 SECTION 8. OTHER CONSIDERATIONS

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

333 a. **Conclusion.** A fiscal impact statement has not yet been requested.

334 B. **Workplace vs. Worksite.** The LOC may want to consider whether an employee placed on
335 investigative leave should be prohibited from entering any workplace, as defined in the Law, or just
336 their worksite. Workplace is defined broadly to include “any location owned and operated by the
337 Nation, any location where employees are staffing an event sponsored by the Nation, and any location
338 where an employee represents the Nation...” while worksite, not being defined, is understood as it is
339 used in everyday language which would mean only the employee’s place of work. *[2 O.C. 208.3-*
340 *1(e)]*. In earlier discussions a prohibition on entering any workplace was supported, but in processing
341 this legislative analysis I realized that the language only restricts access to the worksite. This may
342 have been an oversight on the drafter’s part and guidance from the LOC is sought.

343 a. **Conclusion.** The LOC will need to review the use of the term “worksite” and determine if it
344 should be revised to “workplace.”
345

346

Title 2. Employment – Chapter 208
INVESTIGATIVE LEAVE ~~LAW~~POLICY

208.1 Purpose and Policy
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208.1 Purpose and Policy

208.1-1 _____The purpose of this ~~law~~Policy is to set forth a process to address investigative leave for employees undergoing work-related investigations.

~~208.1-2.~~ It is the policy of the ~~Oneida Tribe~~ of ~~the Nation~~Indians of Wisconsin to conduct objective, confidential investigations into alleged employee misconduct.~~maintain confidentiality and avoid undue influence when conducting an investigation into an employee’s alleged wrong doings.~~

208.2 Adoption, Amendment, Repeal

208.2-1. This ~~law~~policy was adopted by the Oneida Business Committee by resolution BC-04-07-99-A, and amended by resolution BC-08-13-14-D, ~~and~~ BC-06-24-15-A, and BC- - - -.

208.2-2. This ~~law~~policy may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

208.2-3. Should a provision of this ~~law~~policy or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this ~~law~~policy which are considered to have legal force without the invalid portions.

208.2-4. In the event of a conflict between a provision of this ~~law~~policy and a provision of another ~~law~~policy, the provisions of this ~~law~~policy shall control.

208.2-5. This ~~law~~policy is adopted under authority of the Constitution of the Oneida Nation.~~Tribe of Indians of Wisconsin.~~

208.3 Definitions

208.3-1. This section ~~shall~~ governs the definitions of words and phrases used within this ~~law~~Policy. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Day” means calendar day.

~~(a)(b)~~ “Employee” ~~shall~~ means any individual who is employed by the NationTribe ~~and is subject to the direction and control of the Tribe with respect to the material details of the work performed, or who has the status of an employee under the usual common law rules applicable to determining the employer-employee relationship.~~ “Employee” includes, but is not limited to; an individual employed by any program or enterprise of ~~the Tribe~~, but does not include elected or appointed officials or individuals employed by a corporation chartered by the Nation.~~political appointees.~~

~~(b)(c)~~ “Investigative leave” ~~shall~~ means a temporary absence from an employee’s regular job duties for the purpose of conducting an investigation into alleged employee misconduct.~~to determine whether conduct or alleged conduct by an employee should result in disciplinary action and/or termination of employment.~~

~~(d)~~ “Nation”~~“Tribal” or “Tribe”~~ shall means the Oneida Nation.~~Tribe of Indians of~~

Wisconsin.

~~(e)~~(e) “Workplace” means any location owned and operated by the Nation, any location where employees are staffing an event sponsored by the Nation, and any location where an employee represents the Nation, including over-the-road travel in Nation owned or rented vehicles and any circumstances where an employee is being reimbursed for expenses.

208.4 Scope

208.4-1. An employee shall be placed on investigative leave when a situation requires an investigation be conducted and one (1) of the following occurs:

~~(a)~~ The nature and severity of the alleged violation, or alleged illegal activity, is significant; including but not limited to:~~A situation requires an investigation be conducted and the employee’s presence may influence the outcome.~~

(1) Workplace violence;

(2) Sexual harassment;

(3) Theft;

(4) Arson, bribery, or perjury; or

(5) Obstruction or interference with an investigation authorized by the Nation.

~~(a)~~(b) The employee’s presence in the workplace may result in the destruction of evidence relevant to the investigation, result in loss or damage to property of the Nation, or otherwise damage legitimate interests of the Nation; including, but not limited to classified, privileged, proprietary, financial or medical records; and the privacy of individuals whose data the Nation holds in its systems.

(c) The employee’s presence in the workplace may pose an unacceptable risk to the life, safety, health, or personal property of employees, contractors, vendors or visitors to a facility of the Nation.

~~(b)~~(d) An employee allegedly commits an act which would preclude the employee from meeting employment eligibility including required Licenses, ~~the Tribal F~~idelity bBond, commercial crime policy, or bBackground investigation requirements.

~~208.4 2.— This policy shall not be used as a form of discipline.~~

208.4-2. Investigative leave shall include:

(a) Up to forty-five (45) days without loss of or reduction in:

(1) Pay;

(2) Credit for time or service;

(3) Benefits to which the employee is otherwise entitled to under the Nation’s laws governing employment, except that:

(A) Personal and vacation time shall not accrue.

(b) After forty-five (45) days on paid investigative leave an employee may use their personal and vacation time.

(c) After forty-five (45) days on paid investigative leave and the expiration of any personal and vacation time all pay and benefits shall cease.

(d) After forty-five (45) days of paid investigative leave, an employee shall receive back-pay and benefits for any time the employee was on unpaid investigative leave pursuant to the laws governing back-pay if they return to their position at the conclusion of the investigation.

85 **208.5 Authorization**

86 208.5-1. ~~Investigative~~This leave, or an extension of this leave, shall only be used: ~~when an~~
87 ~~employee's supervisor receives prior approval from the Human Resources Department Manager~~
88 ~~or his or her designee and:~~

- 89 (a) ~~their Division Director; or~~ When initiated by the Executive Director of the Human
90 Resource Department with concurrent written notice to the employee's supervisor; or
91 (b) ~~if there is no Division Director, the person at the highest level of the chain of~~
92 ~~command.~~ When initiated by an employee's supervisor after receiving written approval
93 from the Executive Director of the Human Resource Department or their designee, and:
94 (1) Their division director; or
95 (2) If there is no division director, the person at the highest level of the chain of
96 command under the Oneida Business Committee.

97 ~~208.5-2. If the Human Resources Department Manager or his or her designee and the Division~~
98 ~~Director or his or her equivalent do not agree with placing the employee on investigative leave,~~
99 ~~then the final decision shall rest with the Human Resources Department Manager or his or her~~
100 ~~designee.~~

101 208.5-~~2~~3. ~~The prior approval~~Approval requested in 208.5-1(b) shall be granted or denied by the
102 Executive Director of the Human Resource Department within forty-eight (48) hours of
103 receiving the request.

104 208.5-3. An investigative leave shall initially be authorized for a period of forty-five (45) days.
105 (a) If the investigative leave is not projected to conclude within forty-five (45) days, the
106 initial authorizer(s) may review and authorize the extension of the investigative leave
107 until such time that a safe and equitable determination may reasonably be reached.

108 ~~208.5-4. During the investigative leave, the employee's supervisor shall authorize an~~
109 ~~alternative work assignment if all the following occur:~~

- 110 (a) ~~The alleged action does not preclude the employee from working elsewhere in the~~
111 ~~organization;~~
112 (b) ~~An alternative work assignment is available; and~~
113 (c) ~~The employee meets the minimum job requirements of the alternative work assignment.~~

114 ~~208.5-5. If an employee is placed in an alternative work assignment under section 208.5-4, the~~
115 ~~alternative work assignment shall be considered a part of the investigative leave and the~~
116 ~~employee shall continue to receive their same rate of pay.~~

117
118 **208.6 Employee Notice**

119 208.6-1. When the employee is placed on investigative leave, the employee shall immediately
120 receive a written notice from the employee's supervisor, or if the employee's supervisor is
121 unavailable, their designee of equal or greater authority; the notice shall contain the following:

- 122 (a) ~~The specific allegation(s) being investigated;~~ This action does not denote any
123 wrongdoing on the part of the employee.
124 (b) ~~The employee shall be on unpaid status, unless he or she is placed in an alternative~~
125 ~~work assignment;~~ The employee remains an employee of the Nation.
126 (c) ~~The alternative work assignment, if appropriate;~~ Clear documentation regarding the
127 status of pay and benefits while on investigative leave.
128 (d) ~~The expected length of the investigation;~~ The definition of business hours as it
129 pertains to the employee's particular area of employment.
130 (e) ~~Whether or not the investigation is being forwarded to an outside agency;~~ The specific

131 allegation(s) being investigated.

132 (f) ~~The telephone number and name of person to contact in case of questions;~~The
133 expected length of the investigation.

134 (g) ~~The procedures to return to work upon completion of the investigation; and~~Whether
135 or not the investigation is being forwarded to an outside agency.

136 (h) ~~That the employee still remains as an employee with the Tribe.~~The telephone number,
137 email address, and name of person to contact in case of questions.

138 (i) The employee shall surrender all property of the Nation pursuant to section 208.9-1(c).

139 (j) The procedures to return to work upon completion of the investigation.

140 (Employee responsibilities pursuant to section 208.9.

141 208.6-2. If the employee's investigative leave is projected to ~~extended~~ past the initial forty-five
142 (45)~~original fifteen (15) calendar~~ days pursuant to section 208.~~5-38-1~~, the supervisor or their
143 designee of equal or greater authority shall immediately notice the employee in writing of this
144 extension and the reason for the extension at least ten (10) days prior to the expiration of the
145 initial forty-five (45) days. The notice shall contain the following:

146 (a) That the employee remains an employee of the Nation.

147 (b) Clear documentation regarding the cessation of pay and benefits.

148 (c) The definition of business hours as it pertains to the employee's particular area of
149 employment.

150 (d) The expected length of the investigation.

151 (e) The telephone number, email address, and name of the person to contact in case of
152 questions.

153 (f) Employee responsibilities pursuant to section 208.9.

154 **208.7 Investigator(s) and Reports**

156 208.7-1. The Executive Director of the Human Resource Department, in collaboration with the
157 supervisor,~~employee's supervisor and/or area manager~~ shall be responsible for designating the
158 individual or agency responsible for completing the investigation. If the employee being
159 investigated reports directly to the Oneida Business Committee, the ~~Tribal~~ Equal Employment
160 Opportunity Officer shall either conduct the investigation or serve as the point of contact and
161 coordinator for the investigative agency.

162 208.7-2. If the allegations against the employee include criminal actions, or actions that may
163 affect licensing, the supervisor ~~may~~shall conclude the employment related investigation without
164 waiting for the results of a criminal or licensing investigation.

165 (a) Documentation of criminal proceedings or licensing outcomes shall be maintained in
166 the employee's personnel file within the Human Resource Department.

167 208.7-3. The person(s) conducting an investigation shall prepare a written report that shall
168 include the findings of the investigation, and if someone other than the employee's supervisor
169 conducts the investigation, a copy of the written report shall be provided to the employee's
170 supervisor. ~~If someone other than the employee's supervisor conducts the investigation, within~~
171 ~~forty eight (48) hours of receiving the written report, the supervisor shall complete the~~
172 ~~investigation by determining and documenting any corrective actions needed.~~

173 208.7-4. The employee's supervisor shall prepare a memorandum based on the information
174 produced during the investigation~~written report~~ which shall be provided to the employee and
175 shall inform the employee of the following:

176 (a) C~~e~~orrective actions needed based on the written report, if any; and

177 (1) Should the supervisor choose not to follow the corrective action recommended
178 by the investigator(s), they shall provide written notice and justification to the
179 Executive Director of the Human Resource Department.

180 (b) When to return to work, if applicable, and/or what disciplinary action will be taken
181 against the employee based on the report; and

182 (c) A redacted copy of the written report will be made available to the employee upon
183 request, only in the event the employee appeals any disciplinary action.

184 185 **208.8 Duration**

186 208.8-1. An investigative leave shall conclude when the investigation has produced sufficient
187 information and verifiable facts for the employee's supervisor and the Executive Director of the
188 Human Resource Department to make a reasonable determination on workplace safety and
189 employee status; documentation of that determination has been recorded in permanent files, and
190 the employee has either returned to work or separated from their employment. ~~be no longer than~~
191 ~~fifteen (15) calendar days, with the ability to extend one (1) time for an additional fifteen (15)~~
192 ~~calendar days with a valid explanation of the reason for the extension. The extension shall be~~
193 ~~determined by the same individuals who placed the employee on investigative leave in section~~
194 ~~208.5 1. However, if the investigation is forwarded to an outside agency, these timelines shall~~
195 ~~not apply.~~

196 208.8-2. All investigations shall be completed as expeditiously as circumstances permit. The
197 supervisor shall provide weekly updates to the Executive Director of the Human Resource
198 Department, or if an outside entity is conducting the investigation, the Equal Employment
199 Opportunity Officer shall provide the weekly updates. ~~Investigative leave shall end upon~~
200 ~~any of the following occurrences:~~

201 ~~(a) the expiration of the fifteen (15) calendar day time limit, if applicable;~~

202 ~~(b) the expiration of the fifteen (15) calendar day extension if granted;~~

203 ~~(c) termination of the employee's employment based on the investigation;~~

204 ~~(d) the employee's return to work based on the written report submitted to the employee after~~
205 ~~an investigation is completed; or~~

206 ~~(e) the employee chooses to resign or retire.~~

207 208 **208.9 Employee Responsibilities**

209 208.9-1. An employee placed on investigative leave shall:

210 (a) Not report to work or the worksite without prior supervisory approval;

211 (1) Written permission to enter a public work site and the conditions thereof may
212 be included in the employee notice.

213 ~~(b) Abide by all Tribal laws and policies; and~~ Not discuss the investigation with
214 employees or post information related to the investigation on social media pursuant to
215 section 208.12-1.

216 (c) Surrender all property of the Nation in their possession including but not limited to:

217 (1) Time keeping badge(s),

218 (2) Identification card(s),

219 (3) Laptop(s),

220 (4) Vehicles and key(s),

221 (5) Cell phone.

223 (d) Fully cooperate with the investigation as requested by those conducting the
224 investigation.

225 (e) Respond to all inquiries within twenty-four (24) business hours.

226
227 **208.10 Pay and Benefits**

228 ~~208.10 1. Paid leave shall not be authorized.~~

229 ~~208.10 2. An employee placed on investigative leave shall not receive any wages or benefits~~
230 ~~unless placed in an alternative work assignment. If the employee refuses the alternative work~~
231 ~~assignment and is returned to work, the employee shall not receive any back pay or benefits.~~

232 ~~208.10 3. If an alternative work assignment is not available, the employee may use his or her~~
233 ~~accrued vacation and/or personal time while on investigative leave.~~

234 ~~208.10 4. An employee shall receive back pay and benefits for the time the employee was on~~
235 ~~investigative leave pursuant to the Back Pay Policy if all of the following occur:~~

236 ~~(a) The employee was not offered an alternative work assignment when placed on~~
237 ~~investigative leave; and~~

238 ~~(b) The employee is returned to his or her position; and~~

239 ~~(c) The employee is not disciplined based on the investigation.~~

240
241 **208.10~~1~~ Enforcement**

242 208.10~~1~~-1. Any employee found violating this ~~law~~Policy shall be subject to discipline in
243 accordance with the Nation's/Tribe's laws and policies governing employment, personnel policies
244 ~~and procedures.~~

245 208.10-2. Failure by the employee to respond to inquiries within twenty-four (24) business hours
246 will result in the termination of paid investigative leave and immediately shift the employee to
247 unpaid status.

248
249 **208.1~~1~~2 Appeal**

250 208.1~~1~~2-1. An employee may appeal any disciplinary action arising out of an investigation in
251 accordance with the Nation's laws and policies governing employment.~~Tribe's personnel~~
252 ~~policies and procedures.~~

253
254 **208.1~~2~~3 Confidentiality**

255 208.1~~2~~3-1. Information related to an investigation is confidential and may not be released in any
256 manner, including social media, except~~only be released~~ in accordance with relevant laws, and
257 ~~personnel policies and procedures.~~

258 208.1~~2~~3-2. All investigation materials shall be maintained in the employee's personnel file with
259 the Human Resources Department.

260
261 *End.*

262
263 OBC Approved 4-07-99-A
264 Amended- 08-13-14-D
265 Amended – BC-06-24-15-A
266 Amended BC- - - -

Title 2. Employment – Chapter 208 INVESTIGATIVE LEAVE

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208.12 Confidentiality

1

2 **208.1 Purpose and Policy**

3 208.1-1. The purpose of this law is to set forth a process to address investigative leave for
4 employees undergoing work-related investigations.

5 208.1-2. It is the policy of the of the Nation to conduct objective, confidential investigations
6 into alleged employee misconduct.

7

8 **208.2 Adoption, Amendment, Repeal**

9 208.2-1. This law was adopted by the Oneida Business Committee by resolution BC-04-07-99-
10 A, and amended by resolution BC-08-13-14-D, BC-06-24-15-A, and BC- - - - -.

11 208.2-2. This law may be amended or repealed by the Oneida Business Committee or the
12 General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

13 208.2-3. Should a provision of this law or the application thereof to any person or circumstances
14 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
15 to have legal force without the invalid portions.

16 208.2-4. In the event of a conflict between a provision of this law and a provision of another
17 law, the provisions of this law shall control.

18 208.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

19

20 **208.3 Definitions**

21 208.3-1. This section governs the definitions of words and phrases used within this law. All
22 words not defined herein shall be used in their ordinary and everyday sense.

23 (a) “Day” means calendar day.

24 (b) “Employee” means any individual who is employed by the Nation but does not include
25 elected or appointed officials or individuals employed by a corporation chartered by the
26 Nation.

27 (c) “Investigative leave” means a temporary absence from an employee’s job duties for the
28 purpose of conducting an investigation into alleged employee misconduct.

29 (d) “Nation” means the Oneida Nation.

30 (e) “Workplace” means any location owned and operated by the Nation, any location
31 where employees are staffing an event sponsored by the Nation, and any location where an
32 employee represents the Nation, including over-the-road travel in Nation owned or rented
33 vehicles and any circumstances where an employee is being reimbursed for expenses.

34

35 **208.4 Scope**

36 208.4-1. An employee shall be placed on investigative leave when a situation requires an
37 investigation be conducted and one (1) of the following occurs:

38 (a) The nature and severity of the alleged violation, or alleged illegal activity, is significant;

- 39 including but not limited to:
- 40 (1) Workplace violence;
- 41 (2) Sexual harassment;
- 42 (3) Theft;
- 43 (4) Arson, bribery, or perjury; or
- 44 (5) Obstruction or interference with an investigation authorized by the Nation.
- 45 (b) The employee's presence in the workplace may result in the destruction of evidence
- 46 relevant to the investigation, result in loss or damage to property of the Nation, or otherwise
- 47 damage legitimate interests of the Nation; including, but not limited to classified,
- 48 privileged, proprietary, financial or medical records; and the privacy of individuals whose
- 49 data the Nation holds in its systems.
- 50 (c) The employee's presence in the workplace may pose an unacceptable risk to the life,
- 51 safety, health, or personal property of employees, contractors, vendors, or visitors to a
- 52 facility of the Nation.
- 53 (d) An employee allegedly commits an act which would preclude the employee from
- 54 meeting employment eligibility including required licenses, fidelity bond, commercial
- 55 crime policy, or background investigation requirements.

56 208.4-2. Investigative leave shall include:

- 57 (a) Up to forty-five (45) days without loss of or reduction in:
- 58 (1) Pay;
- 59 (2) Credit for time or service;
- 60 (3) Benefits to which the employee is otherwise entitled to under the Nation's laws
- 61 governing employment, except that:
- 62 (A) Personal and vacation time shall not accrue.
- 63 (b) After forty-five (45) days on paid investigative leave an employee may use their
- 64 personal and vacation time.
- 65 (c) After forty-five (45) days on paid investigative leave and the expiration of any personal
- 66 and vacation time all pay and benefits shall cease.
- 67 (d) After forty-five (45) days of paid investigative leave, an employee shall receive back-
- 68 pay and benefits for any time the employee was on unpaid investigative leave pursuant to
- 69 the laws governing back-pay if they return to their position at the conclusion of the
- 70 investigation.

71

72 **208.5 Authorization**

- 73 208.5-1. Investigative leave, or an extension of this leave, shall only be used:
- 74 (a) When initiated by the Executive Director of the Human Resource Department with
- 75 concurrent written notice to the employee's supervisor; or
- 76 (b) When initiated by an employee's supervisor after receiving written approval from the
- 77 Executive Director of the Human Resource Department or their designee, and:
- 78 (1) Their division director; or
- 79 (2) If there is no division director, the person at the highest level of the chain of
- 80 command under the Oneida Business Committee.
- 81 208.5-2. Approval requested in 208.5-1(b) shall be granted or denied by the Executive Director
- 82 of the Human Resource Department within forty-eight (48) hours of receiving the request.
- 83 208.5-3. An investigative leave shall initially be authorized for a period of forty-five (45) days.
- 84 (a) If the investigative leave is not projected to conclude within forty-five (45) days, the

85 initial authorizer(s) may review and authorize the extension of the investigative leave until
86 such time that a safe and equitable determination may reasonably be reached.
87

88 **208.6 Employee Notice**

89 208.6-1. When the employee is placed on investigative leave, the employee shall immediately
90 receive a written notice from the employee's supervisor, or if the employee's supervisor is
91 unavailable, their designee of equal or greater authority; the notice shall contain the following:

- 92 (a) This action does not denote any wrongdoing on the part of the employee.
- 93 (b) The employee remains an employee of the Nation.
- 94 (c) Clear documentation regarding the status of pay and benefits while on investigative
95 leave.
- 96 (d) The definition of business hours as it pertains to the employee's particular area of
97 employment.
- 98 (e) The specific allegation(s) being investigated.
- 99 (f) The expected length of the investigation.
- 100 (g) Whether or not the investigation is being forwarded to an outside agency.
- 101 (h) The telephone number, email address, and name of person to contact in case of
102 questions.
- 103 (i) The employee shall surrender all property of the Nation pursuant to section 208.9-1(c).
- 104 (j) The procedures to return to work upon completion of the investigation.
- 105 (h) Employee responsibilities pursuant to section 208.9.

106 208.6-2. If the employee's investigative leave is projected to extend past the initial forty-five
107 (45) days pursuant to section 208.5-3, the supervisor or their designee of equal or greater authority
108 shall immediately notice the employee in writing of this extension and the reason for the extension
109 at least ten (10) days prior to the expiration of the initial forty-five (45) days. The notice shall
110 contain the following:

- 111 (a) That the employee remains an employee of the Nation.
- 112 (b) Clear documentation regarding the cessation of pay and benefits.
- 113 (c) The definition of business hours as it pertains to the employee's particular area of
114 employment.
- 115 (d) The expected length of the investigation.
- 116 (e) The telephone number, email address, and name of the person to contact in case of
117 questions.
- 118 (f) Employee responsibilities pursuant to section 208.9.

120 **208.7 Investigator(s) and Reports**

121 208.7-1. The Executive Director of the Human Resource Department, in collaboration with the
122 supervisor, shall be responsible for designating the individual or agency responsible for completing
123 the investigation. If the employee being investigated reports directly to the Oneida Business
124 Committee, the Equal Employment Opportunity Officer shall either conduct the investigation or
125 serve as the point of contact and coordinator for the investigative agency.

126 208.7-2. If the allegations against the employee include criminal actions, or actions that may
127 affect licensing, the supervisor may conclude the employment related investigation without
128 waiting for the results of a criminal or licensing investigation.

- 129 (a) Documentation of criminal proceedings or licensing outcomes shall be maintained in the
130 employee's personnel file within the Human Resource Department.

131 208.7-3. The person(s) conducting an investigation shall prepare a written report that shall
132 include the findings of the investigation, and if someone other than the employee's supervisor
133 conducts the investigation, a copy of the written report shall be provided to the employee's
134 supervisor.

135 208.7-4. The employee's supervisor shall prepare a memorandum based on the information
136 produced during the investigation which shall be provided to the employee and shall inform the
137 employee of the following:

- 138 (a) Corrective actions needed based on the written report, if any; and
139 (1) Should the supervisor choose not to follow the corrective action recommended
140 by the investigator(s), they shall provide written notice and justification to the
141 Executive Director of the Human Resource Department.
142 (b) When to return to work, if applicable.
143 (c) A redacted copy of the written report will be made available to the employee upon
144 request.
145

146 **208.8 Duration**

147 208.8-1. An investigative leave shall conclude when the investigation has produced sufficient
148 information and verifiable facts for the employee's supervisor and the Executive Director of the
149 Human Resource Department to make a reasonable determination on workplace safety and
150 employee status; documentation of that determination has been recorded in permanent files, and
151 the employee has either returned to work or separated from their employment.

152 208.8-2. All investigations shall be completed as expeditiously as circumstances permit. The
153 supervisor shall provide weekly updates to the Executive Director of the Human Resource
154 Department, or if an outside entity is conducting the investigation, the Equal Employment
155 Opportunity Officer shall provide the weekly updates.
156

157 **208.9 Employee Responsibilities**

158 208.9-1. An employee placed on investigative leave shall:

- 159 (a) Not report to work or the worksite without prior supervisory approval;
160 (1) Written permission to enter a public work site and the conditions thereof may
161 be included in the employee notice.
162 (b) Not discuss the investigation with employees or post information related to the
163 investigation on social media pursuant to section 208.12-1.
164 (c) Surrender all property of the Nation in their possession including but not limited to:
165 (1) Time keeping badge(s),
166 (2) Identification card(s),
167 (3) Laptop(s),
168 (4) Vehicles and key(s),
169 (5) Cell phone.
170 (d) Fully cooperate with the investigation as requested by those conducting the
171 investigation.
172 (e) Respond to all inquiries within twenty-four (24) business hours.
173

174 **208.10 Enforcement**

175 208.10-1. Any employee found violating this law shall be subject to discipline in accordance
176 with the Nation's laws and policies governing employment.

177 208.10-2. Failure by the employee to respond to inquiries within twenty-four (24) business hours
178 will result in the termination of paid investigative leave and immediately shift the employee to
179 unpaid status.

180
181 **208.11 Appeal**

182 208.11-1. An employee may appeal any disciplinary action arising out of an investigation in
183 accordance with the Nation's laws and policies governing employment.

184
185 **208.12 Confidentiality**

186 208.12-1. Information related to an investigation is confidential and may not be released in any
187 manner, including social media, except in accordance with relevant laws.

188 208.12-2. All investigation materials shall be maintained in the employee's personnel file with
189 the Human Resources Department.

190
191 *End.*

192
193 OBC Approved 4-07-99-A
194 Amended- 08-13-14-D
195 Amended – BC-06-24-15-A
196 Amended – BC-__-__-__-__

July 30, 2024, Legislative Operating Committee E-Poll Approval of the September 4, 2024 LOC Community Meeting

E-POLL REQUEST: Approval of the September 4, 2024 LOC Community Meeting

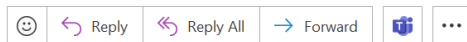


LOC

To: Jameson J. Wilson; Jennifer A. Webster; Jonas G. Hill; Kirby W. Metoxen;

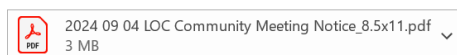
Marlon G. Skenandore

Cc: Fawn J. Billie; Fawn L. Cottrell; Kristal E. Hill; Maureen S. Perkins; Clorissa N. Leeman



Tue 7/30/2024 12:38 PM

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



Good Afternoon Legislative Operating Committee,

This e-mail serves as the e-poll for the approval of the September 4, 2024, Legislative Operating community meeting.

EXECUTIVE SUMMARY

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

The Legislative Operating Committee intends to hold a community meeting on September 4, 2024, from 5:30 p.m. through 7:30 p.m. in the Norbert Hill Center's cafeteria. Topics discussed during the community meeting included brief overview of the legislative process as well as a discussion of the following topics:

- Limited Liability Company Law; and
- Probate Law.

Attached to this e-poll please find the notice for the Legislative Operating Committee's September 4, 2024, community meeting. The LOC is now being asked to approve by e-poll the Legislative Operating Committee's September 4, 2024, community meeting notice and schedule this community meeting.

An e-poll is necessary for this matter to meet the August 1, 2024, Kalihwisaks submission deadline because the next Legislative Operating Committee meeting will not occur until September 4, 2024.

REQUESTED ACTION

Approve the LOC community meeting notice and schedule the community meeting to take place on September 4, 2024.

DEADLINE FOR RESPONSE

July 31, 2024 at 12:30 p.m.

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



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

E-POLL RESULTS:

The e-poll was approved by Jennifer Webster, Jonas Hill, and Kirby Metoxen. Jameson Wilson did not provide a response. Marlon Skenandore is on a personal leave and therefore did not provide a response.

RE: E-POLL REQUEST: Approval of the September 4, 2024 LOC Community Meeting



Jennifer A. Webster

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

Reply Reply All Forward [Share] [More]

Tue 7/30/2024 1:09 PM

Start your reply all with: [Approved.](#) [Thank you for your approval.](#) [Thank you!](#) [Feedback](#)

Approve afternoon's request.
Jenny

Sent from my Galaxy

Re: E-POLL REQUEST: Approval of the September 4, 2024 LOC Community Meeting



Jonas G. Hill

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

Reply Reply All Forward [Share] [More]

Tue 7/30/2024 1:14 PM

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Approve

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Re: E-POLL REQUEST: Approval of the September 4, 2024 LOC Community Meeting



Kirby W. Metoxen

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

Reply Reply All Forward [Share] [More]

Tue 7/30/2024 2:47 PM

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LEGISLATIVE OPERATING COMMITTEE

COMMUNITY MEETING

WEDNESDAY, SEP. 4

5:30PM – 7:30PM

NORBERT HILL CENTER
BUSINESS COMMITTEE CONFERENCE ROOM
N7210 Seminary Rd, Oneida, WI 54155



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

- ◆ **Limited Liability Company Law**
- ◆ **Probate Law**

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

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



LEGISLATIVE OPERATING COMMITTEE MEMBERS



Jameson Wilson
LOC Chairman



Kirby Metoxen
LOC Vice Chairman



Jennifer Webster
LOC Member



Marlon Skenandore
LOC Member



Jonas Hill
LOC Member



August 1, 2024, Legislative Operating Committee E-Poll Certification of the Landlord Tenant Law Rule No. 2 Amendments

E-POLL REQUEST: Certification of the Landlord Tenant Law Rule No. 2 Amendments



LOC

To Jameson J. Wilson; Jennifer A. Webster; Jonas G. Hill; Kirby W. Metoxen;

Marlon G. Skenandore

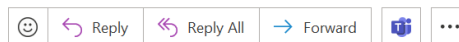
Cc Fawn J. Billie; Fawn L. Cottrell; Kristal E. Hill; Maureen S. Perkins; Clorissa N. Leeman

Vote by clicking Vote in the Respond group above.

This message was sent with High importance.



2024 08 01 E-Poll Backup Materials.pdf
5 MB



Thu 8/1/2024 11:03 AM

Good Morning Legislative Operating Committee,

This e-mail serves as the e-poll for the certification of the Landlord Tenant Law Rule No. 2 Amendments.

EXECUTIVE SUMMARY

The Comprehensive Housing Division provided the Legislative Operating Committee the certification packet for the amendments to the Landlord-Tenant Law Rule No. 2 – Income Based Rental Program Eligibility, Selection and Other Requirements (“Rule”). The Legislative Operating Committee is responsible for certifying a proposed rule after determining the authorized agency has complied with the requirements for certification stated in section 106.7-2 of the Administrative Rulemaking law, and forwarding the rule to the Oneida Business Committee for consideration of adoption. [1 O.C. 106.7-3].

Certification by the Legislative Operating Committee means:

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

The Legislative Operating Committee certified the Rule on August 1, 2024. finding good cause under section 106.7-1(a) of the Administrative Rulemaking law to certify the Rule, despite being presented for certification outside of the time limits allowed by Law upon closure of the public comment period. [1 O.C. 106.7-1(a)].

The purpose of the Rule is to provide additional eligibility requirements, selection procedures and general requirements that govern the Comprehensive Housing Division’s income-based rental programs. [Rule 2.1-1]. The mission of the income-based housing program is to develop, maintain, and operate affordable housing in safe, sanitary, and healthy environments within the reservation. *Id.*

The Rule provides that pursuant to the Native American Housing Assistance and Self Determination Act (NAHASDA), in order to be eligible for an income-based rental agreement, the household must qualify as low income at the time of initial occupancy. [Rule 2.4-2]. The Rule further provides that in order to qualify as low-income, applicants’ household income may not exceed eighty percent (80%) of the regional gross annual income based on the data from Outagamie County. *Id.*

The proposed amendments to the Rule remove the provisions on how the Comprehensive Housing Division calculates income, and instead provides that the Comprehensive Housing Division shall calculate income in accordance with 24 CFR § 5.609 and shall provide the effective language to the Legislative Reference Office to be published as Appendix 01 to this Rule so that applicable income calculations are publicly available on the Oneida Register. *[Rule 2.4-2]*.

The Rule was developed in accordance with the Landlord-Tenant law, which was adopted for purposes of provide mechanisms for protecting the rights of the landlords and tenants of the Nation’s rental programs. *[6 O.C. 611.1-1]*. The Landlord-Tenant law (“the Law”) confers administrative rulemaking authority to the Comprehensive Housing Division and the Oneida Land Commission as authorized by the Administrative Rulemaking law. *[6 O.C. 611.4]*. The Law states that the Comprehensive Housing Division shall provide residential rental programs to low-income members of the Nation and their families. *[6 O.C. 611.4-1(b)]*. The Oneida Land Commission and the Comprehensive Housing Division are required to jointly establish rules naming said programs and providing the specific requirements and regulations that apply to each program. *[6 O.C. 611.4-1]*. Additionally, the Land Commission and the Comprehensive Housing Division are required to jointly develop rules governing the selection of applicants for the issuance of rental agreements. *[6 O.C. 611.4-3]*. The Law also provides where such rental requirements relate solely to premises administered pursuant to federal funding, the Comprehensive Housing Division has sole authority. *[6 O.C. 611.3-1(g)]*. Accordingly, the Comprehensive Housing Division has sole rulemaking authority for these rules.

The amendments to the Rule are now ready to be considered by the Oneida Business Committee for adoption. The amendments to the Rule would become effective immediately upon adoption by the Oneida Business Committee in accordance with section 106.9-1 of the Administrative Rulemaking law.

An e-poll is necessary for this matter to avoid an undue delay in the processing of the adoption of this Rule because the next Legislative Operating Committee meeting will not occur until September 4, 2024.

REQUESTED ACTION

Certify the amendments to the Landlord-Tenant Law Rule No. 2 – Income Based Rental Program Eligibility, Selection and Other Requirements finding good cause in accordance with section 106.7-1(a) of the Administrative Rulemaking law, and forward to the Oneida Business Committee for consideration.

DEADLINE FOR RESPONSE

August 2, 2024 at 11:00 a.m.

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




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

E-POLL RESULTS:

The e-poll was approved by Kirby Metoxen, Jennifer Webster, Jameson Wilson, and Jonas Hill. Marlon Skenandore is on a personal leave and therefore did not provide a response.

Re: E-POLL REQUEST: Certification of the Landlord Tenant Law Rule No. 2 Amendments

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

Reply Reply All Forward


Thu 8/1/2024 11:10 AM

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RE: E-POLL REQUEST: Certification of the Landlord Tenant Law Rule No. 2 Amendments


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

Reply Reply All Forward

Thu 8/1/2024 11:45 AM

Approve,
Jenny

Sent from my Galaxy

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

Reply Reply All Forward

Thu 8/1/2024 1:33 PM

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Approve

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Re: E-POLL REQUEST: Certification of the Landlord Tenant Law Rule No. 2 Amendments

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

Reply Reply All Forward

Thu 8/1/2024 3:28 PM

If there are problems with how this message is displayed, click here to view it in a web browser.

Approve


Sincerely,



Jonas G Hill
Councilman
Oneida Nation Business Committee
Phone: 920-606-3966
Email: JHILL1@oneidanation.org
PO Box 365
Oneida, WI 54155
www.oneida-nsn.gov

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



TO: Oneida Business Committee
FROM: Jameson Wilson, Legislative Operating Committee Chairman 
DATE: August 1, 2024
RE: Certification of Amendments to the Landlord-Tenant Law Rule No. 2 – Income Based Rental Program Eligibility, Selection and Other Requirements

The Legislative Operating Committee reviewed the certification packet provided for the amendments to the Landlord-Tenant Law Rule No. 2 – Income Based Rental Program Eligibility, Selection and Other Requirements (“Rule”). The Legislative Operating Committee is responsible for certifying a proposed rule after determining the authorized agency has complied with the requirements for certification stated in section 106.7-2 of the Administrative Rulemaking law, and forwarding the rule to the Oneida Business Committee for consideration of adoption. [1 O.C. 106.7-3].

Certification by the Legislative Operating Committee means:

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

The Legislative Operating Committee certified the Rule on August 1, 2024, finding good cause under section 106.7-1(a) of the Administrative Rulemaking law to certify the Rule, despite being presented for certification outside of the time limits allowed by Law upon closure of the public comment period. [1 O.C. 106.7-1(a)].

The purpose of the Rule is to provide additional eligibility requirements, selection procedures and general requirements that govern the Comprehensive Housing Division’s income-based rental programs. [Rule 2.1-1]. The mission of the income-based housing program is to develop, maintain, and operate affordable housing in safe, sanitary, and healthy environments within the reservation. *Id.*

The Rule provides that pursuant to the Native American Housing Assistance and Self Determination Act (NAHASDA), in order to be eligible for an income-based rental agreement, the household must qualify as low income at the time of initial occupancy. [Rule 2.4-2]. The Rule further provides that in order to qualify as low-income, applicants’ household income may not exceed eighty percent (80%) of the regional gross annual income based on the data from Outagamie County. *Id.*

The proposed amendments to the Rule remove the provisions on how the Comprehensive Housing Division calculates income, and instead provides that the Comprehensive Housing Division shall

calculate income in accordance with 24 CFR § 5.609 and shall provide the effective language to the Legislative Reference Office to be published as Appendix 01 to this Rule so that applicable income calculations are publicly available on the Oneida Register. *[Rule 2.4-2]*.

The Rule was developed in accordance with the Landlord-Tenant law, which was adopted for purposes of provide mechanisms for protecting the rights of the landlords and tenants of the Nation’s rental programs. *[6 O.C. 611.1-1]*. The Landlord-Tenant law (“the Law”) confers administrative rulemaking authority to the Comprehensive Housing Division and the Oneida Land Commission as authorized by the Administrative Rulemaking law. *[6 O.C. 611.4]*. The Law states that the Comprehensive Housing Division shall provide residential rental programs to low-income members of the Nation and their families. *[6 O.C. 611.4-1(b)]*. The Oneida Land Commission and the Comprehensive Housing Division are required to jointly establish rules naming said programs and providing the specific requirements and regulations that apply to each program. *[6 O.C. 611.4-1]*. Additionally, the Land Commission and the Comprehensive Housing Division are required to jointly develop rules governing the selection of applicants for the issuance of rental agreements. *[6 O.C. 611.4-3]*. The Law also provides where such rental requirements relate solely to premises administered pursuant to federal funding, the Comprehensive Housing Division has sole authority. *[6 O.C. 611.3-1(g)]*. Accordingly, the Comprehensive Housing Division has sole rulemaking authority for these rules.

The amendments to the Rule are now ready to be considered by the Oneida Business Committee for adoption. The amendments to the Rule would become effective immediately upon adoption by the Oneida Business Committee in accordance with section 106.9-1 of the Administrative Rulemaking law.

Requested Action

Consider the adoption of amendments to the Landlord-Tenant Law Rule No. 2 – Income Based Rental Program Eligibility, Selection and Other Requirements.

MEMORANDUM

TO: Legislative Operating Committee

FROM: Lisa Rauschenbach, CHD Director
Krystal John, OLO Staff Attorney

DATE: July 2, 2024

SUBJECT: Request for Certification of Procedural Compliance
Landlord-Tenant Rule No. 2 – Income Based Rental Program Eligibility, Selection and
Other Requirements

The Comprehensive Housing Division, as defined in the Landlord Tenant law, is exercising its rulemaking authority to revise Rule No. 2 – Income Based Rental Program Eligibility, Selection and Other Requirements to align with Code of Federal Regulations (CFR 24 Part 5.609) that has redefined the definition of household income used for federally funded housing programs.

In accordance with the Administrative Rulemaking law, a public meeting was held for this rule on December 13, 2023, for which the comment period expired on December 20, 2023.

The following attachments are included for your review:

1. Rule No. 2 – Income Based Rental Program Eligibility, Selection and Other Requirements
2. Comprehensive Housing Division (Oneida Housing Authority) Approval
3. Summary Report
4. Public Meeting Notice
5. Copy of Public Meeting Published in the Kalihwisaks – Page 31 of the December 2023 issue.
6. Public Meeting Sign-in Sheet
7. Public meeting transcription from the December 13, 2023, Public Meeting
8. Public Meeting Comment Memorandum

Following certification, this rule shall become effective immediately.

I understand that pursuant to the Administrative Rulemaking Law there are requirements for bringing the request for certification forward within 6 months of the public meeting unless otherwise approved by the Oneida Business Committee and that the timeline for that expired June 20, 2024. There was a misunderstanding that occurred between CHD staff and the Oneida Law Office wherein each party thought the other had submitted the certification materials for LOC's consideration in January/February, which was well within the 6 month time period allowed by the law.

CHD and the Oneida Law Office are hereby requesting that the OBC consider adopting this rule without requiring an additional public meeting for the following reasons:

1. There was little to no public interest/comments received during the first round of public comments and CHD has not heard any concerns outside of the comment period;
2. The revisions are NOT DISCRETIONARY. The changes to the rule are required to be made to comply with changes in federal HUD regulations regarding how income calculated for income-based housing where federal funding subsidizes the cost of housing. The changes in the federal rules became effective January 1, 2024.

Please contact Lisa Rauschenbach, CHD Director, with any questions you may have or if any additional information is required.

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



NOTICE OF
PUBLIC MEETING

TO BE HELD

December 13, 2023 at 10:00 A.M.

IN THE

CHD Conference Room

2913 Commission Street, Oneida, WI 54155

In accordance with the Administrative Rulemaking Law, the Comprehensive Housing Division (CHD) is hosting this Public Meeting to gather feedback from the community regarding the following rule:

**Landlord-Tenant Rule No. 2 -
Income Based Rental Program Eligibility, Selection and
Other Requirements**

This is a proposal to amend the rule by:

- Updating the maximum income calculation requirements to bring Oneida's rule into compliance with amendments adopted to 24 CFR § 5.609 required to become effective on January 1, 2024.
- The CFR previously approached income from a list of things that were counted as income and now approaches it by counting all income from all sources except for the listed deductions from income.

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

**PUBLIC COMMENT PERIOD
OPEN UNTIL December 20, 2023**

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

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



10

Title 6. Property and Land – Chapter 611

LANDLORD-TENANT

Rule # 2 – Income Based Rental Program Eligibility, Selection and Other Requirements

- 2.1. Purpose and Delegation
- 2.2. Adoption, Amendment and Repeal
- 2.3. Definitions
- 2.4. Eligibility Requirements
- 2.5. Application Process and Wait List
- 2.6. Tenant Selection
- 2.7. Rental Unit Catalog, Setting Rents and Security Deposits
- 2.8. Annual Inspection and Rental Agreement Renewal
- 2.9. Rental Agreement Cancellation

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2.1. Purpose and Delegation

2.1-1. *Purpose.* The purpose of this rule is to provide additional eligibility requirements, selection procedures and general requirements that govern the Comprehensive Housing Division's income-based rental programs. The mission of the income-based housing program is to develop, maintain, and operate affordable housing in safe, sanitary and healthy environments within the reservation.

2.1-2. *Authority.* The Landlord-Tenant law delegated the Comprehensive Housing Division and Land Commission joint rulemaking authority pursuant to the Administrative Rulemaking law. However that delegation excluded the Land Commission from having joint authority where the rules relate solely to premises administered pursuant to federal funding. Accordingly, the Comprehensive Housing Division has sole rulemaking authority for these rules.

2.2. Adoption, Amendment and Repeal

2.2-1. This rule was adopted by the Comprehensive Housing Division in accordance with the procedures of the Administrative Rulemaking law.

2.2-2. This rule may be amended or repealed by the approval of the Comprehensive Housing Division pursuant to the procedures set out in the Administrative Rulemaking law.

2.2-3. Should a provision of this rule or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this rule which are considered to have legal force without the invalid portions.

2.2-4. In the event of a conflict between a provision of this rule and a provision of another rule, internal policy, procedure or other regulation, the provisions of this rule control.

2.2-5. This rule supersedes all prior rules, regulations, internal policies or other requirements relating to the Landlord-Tenant law.

2.3. Definitions

2.3-1. This section governs the definitions of words and phrases used within this rule. All words not defined herein are to be used in their ordinary and everyday sense.

43 (a) “Comprehensive Housing Division” means the entity responsible for housing matters
 44 specifically related to rental agreements as defined by Oneida Business Committee
 45 Resolution.¹

46 (b) “Household” means all persons residing within the income-based rental unit.

47 (c) “HUD” means the United States Department of Housing and Urban Development.

48 (b) “Landlord” means the Nation in its capacity to rent real property subject to a rental
 49 agreement.

50 (c) “Nation” means the Oneida Nation.

51 (d) “Premises” means the property covered by a rental agreement, including not only the
 52 real property and fixtures, but also any personal property furnished by the landlord pursuant
 53 to a rental agreement.

54 (e) “Rental Agreement” means a written contract between a landlord and a tenant, whereby
 55 the tenant is granted the right to use or occupy the premises for a residential purpose for
 56 one (1) year or less.

57 (f) “Tenant” means the person granted the right to use or occupy a premises pursuant to a
 58 rental agreement.

59 (g) “Tribal member” means an enrolled member of the Nation.

60 (h) “Security Deposit” means a payment made to the landlord by the tenant to ensure that
 61 rent will be paid and other responsibilities of the rental agreement performed.

62 63 **2.4. Eligibility Requirements**

64 2.4-1. *Tribal Member Status.* At least one (1) of the household members listed in the household
 65 composition is required to be a Tribal member. Comprehensive Housing Division staff shall verify
 66 enrollment status by either requiring a copy of the Tribal Identification Card or requesting
 67 verification from the Trust Enrollment Department.

68 2.4-2. *Maximum Income.* Pursuant to the Native American Housing Assistance and Self
 69 Determination Act (NAHASDA), in order to be eligible for an income-based rental agreement, the
 70 household must qualify as low income at the time of initial occupancy. In order to qualify as low-
 71 income, applicants’ household income may not exceed eighty percent (80%) of the regional gross
 72 annual income based on the data from Outagamie County.² For the purposes of this section, ~~gross~~
 73 ~~annual income is all income from any and all sources of income from all adult members of the~~
 74 ~~household anticipated to be received in an upcoming twelve (12) month period unless specifically~~
 75 ~~excluded from income in this section. Applicants shall provide Comprehensive Housing Division~~
 76 ~~staff written verification of income.~~ CHD shall calculate income in accordance with 24 CFR §
 77 5.609 and shall provide the effective language to the Legislative Reference Office to be published
 78 as Appendix 01 to this Rule so that applicable income calculations are publicly available on the
 79 Oneida Register.

80 (a) ~~For purposes of calculating income to determine eligibility, the Comprehensive~~
 81 ~~Housing Division staff shall include per capita payments to the extent that receipt of per~~
 82 ~~capita payment may be verified for the prior year based on the tax return.~~

¹ See BC Resolution 10-12-16-D providing that for purposes of the Landlord-Tenant law, the Comprehensive Housing Division means the Division of Land Management for general rental agreements, the Oneida Housing Authority for income-based rental agreements and Elder Services for rental agreements through the Elder Services program.

² Pursuant to resolution BC-01-25-12-A, Outagamie County is designated as the data source for collecting regional gross income for determining low-income housing eligibility because the income in that area is generally higher than Brown County’s and results in more persons being eligible based on the income requirements.

~~(b) For the purpose of calculating income to determine eligibility, the Comprehensive Housing Division staff shall include in annual income net income from household assets where net household assets are defined in accordance with 24 CFR 5.603.³~~

~~(b) For purposes of calculating income to determine eligibility, the Comprehensive Housing Division staff may not include the following:~~

~~(1) Income from employment of any household minors;~~

~~(2) Payments received for the care of foster children and/or handicapped/mentally incompetent adults;~~

~~(3) Lump-sum additions to household assets including, but not limited to, inheritances, insurance payments, capital gains, and settlements for personal and/or property losses, excluding payments in lieu of earnings, such as unemployment, disability compensation, worker's compensation, and severance pay, which are included in income;~~

~~(4) Amounts received by the household that is specifically for, or in reimbursement of, the cost of medical expenses for any member of the household;~~

~~(5) Income of a live-in medical aide;~~

~~(6) Any amounts received as student financial assistance;~~

~~(7) Income of any adult household members that are students, other than the head of household, in excess of \$480 annually; the first \$480 of annual income received by an adult student household member shall be included as income;~~

~~(8) Payments made to any member of the household serving in the armed forces for exposure to hostile fire;~~

~~(9) Amounts received under training programs funded by HUD; —~~

~~(10) — Amounts received by persons with disabilities, which amounts are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because such amounts are set aside for use under a Plan for Achieving Self Support;~~

~~(11) — Temporary, nonrecurring and/or sporadic income (including gifts);~~

~~(12) — Adoption assistance payments that exceed \$480 annually; the first \$480 of annual adoption assistance payments shall be included as income;~~

~~(13) — Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump-sum amount or in prospective monthly amounts.~~

~~(14) — Amounts paid by a state agency to a member of the household with a developmental disability to offset the cost of services and/or equipment needed to keep the developmentally disabled member living in the household; and~~

~~(15) — Amounts specifically excluded from income by any applicable federal statute and/or regulation, specifically those identified in the Federal Register.⁴~~

2.4-3. *Minimum Income.* Applicants shall meet a minimum household income of \$7,800 per year.

2.4-4. *Outstanding Debts.* Applicants for a rental agreement may not have a past due balance greater than two hundred dollars (\$200) owed to any utility provider and may not have any prior debt owed to the Comprehensive Housing Division.

2.4-5. *Prior Comprehensive Housing Division Eviction.* Applicants that have had a rental agreement with the Comprehensive Housing Division subject to an eviction and termination within two (2) years from the date of the application are not eligible to participate in the income-based rental program.

³ See HUD Occupancy Handbook, Exhibit 5-2: Assets.

⁴ The most recent notice of federally required exclusions was published on December 14, 2012 and can be found in the Federal Register at 77 FR 74495.

126 2.4-6. *Criminal Convictions.* Applicants with any of the following types of convictions are not
 127 eligible for participation in the income-based rental program, provided that the Pardon and
 128 Forgiveness law may provide an exception to the conditions contained in this section:

- 129 (a) A drug conviction within three (3) years from the date of application;
- 130 (b) A felony conviction within five (5) years from the date of application; and/or
- 131 (c) A criminal conviction based upon an act of violence within two (2) years from the date
 132 of the application.

133 2.4-7. *Pardon and Forgiveness.* A grant of a pardon or forgiveness pursuant to the Nation's
 134 Pardon and Forgiveness law may result in an otherwise ineligible tenant becoming eligible.
 135

136 **2.5. Application Process and Wait List**

137 2.5-1. *Applying.* Persons wishing to participate in the income-based housing program shall
 138 complete the Comprehensive Housing Division rental agreement application and any other
 139 accompanying forms required based on the income-based program eligibility requirements. The
 140 Comprehensive Housing Division staff may not consider any applications for selection and/or
 141 placement on the wait list until the application and all accompanying forms are complete. Upon
 142 receipt of a completed application, including all supplementary forms, Comprehensive Housing
 143 Division staff shall date and time stamp the application. If, regardless of a complete application
 144 submittal, additional information is required to determine eligibility, the Comprehensive Housing
 145 Division staff shall request such information and maintain the application submittal date provided
 146 that the applicant responds to the information requests in a reasonably timely fashion.

147 (a) *Household Composition Form.* The Comprehensive Housing Division staff shall
 148 require applicants to the income-based housing program to complete a Household
 149 Composition Form which provides the full name, age and date of birth of each person
 150 contemplated to reside in the income-based rental unit. In order to verify such information,
 151 the Comprehensive Housing Division staff shall require that applicants submit the
 152 following with the Household Composition Form:

- 153 (1) Copies of social security cards for each person contemplated to reside in the
 154 income-based rental unit, provided that for newly born babies that have not yet been
 155 issued a social security card a birth certificate is sufficient;
- 156 (2) A copy of a picture identification card for each adult contemplated to reside in
 157 the income-based rental unit;
- 158 (3) If any adults in the home are enrolled in post-secondary education, verification
 159 of enrollment in the form of a financial aid award letter or other documentation
 160 directly from the school; and
- 161 (4) If an adult in the household is the custodial parent/guardian of a minor, a copy
 162 of the court documents which awarded such placement.

163 (b) *Background Checks.* In order to ensure compliance with the eligibility requirements
 164 of the Landlord-Tenant law and these rules, Comprehensive Housing Division staff shall
 165 perform a background check on each adult in the household. Household adults are also
 166 subject to annual background checks upon annual rental agreement renewal pursuant to
 167 2.8-5 and as may be determined to be necessary to maintain the safety of the community
 168 by the Comprehensive Housing Division staff.

169 2.5-2. *Notification of Eligibility, Placement on the Wait List.* When Comprehensive Housing
 170 Division staff completes its review of an application and determines the applicant(s) eligible for
 171 the income-based rental program, the staff shall:

172 (a) Place the applicant(s) into one (1) of the following categories of renters based on the
173 household size and needs as provided below:

174 (1) Single Adult/Adult Couple – A maximum of two (2) adults in the household,
175 no children.

176 (2) Small Household – A maximum four (4) household members in the household.

177 (3) Large Household – A household of five (5) or more household members.

178 (4) Elder – A household with a maximum of two (2) adults and no children wherein
179 at least one (1) adult is sixty-two (62) years old or older at the time of application.

180 (5) Minimum Handicap Accessibility Required – For each of the category types
181 provided in subsections (1)-(4) above, there shall be an additional category for each
182 requiring minimum handicap accessibility. This category shall be reserved for
183 households with at least one (1) household member requiring permanent and
184 minimal handicap accessibility (i.e. permanent use of a walker); this category
185 includes all handicap needs that do not amount to full wheelchair accessibility.

186 (6) Maximum Handicap Accessibility Required – For each of the category types
187 provided in subsections (1)-(4) above, there shall be an additional category for each
188 in which as least one (1) household member requires full wheelchair handicap
189 accessibility.

190 (b) Determine whether there is a wait list for the type of rental unit required based on the
191 applicant's category of renter.

192 (1) If there is a wait list established, place the applicant on the wait list based on
193 the date and time stamp of the application. At such time, Comprehensive Housing
194 Division staff shall provide the applicant with notice of their placement on the wait
195 list and the requirement to update their application should anything change prior to
196 their designated use of rental unit becoming available. An applicant may request
197 to be removed from the wait list at any time.

198 (2) If there is not a wait list established and there are available rental units available
199 for the applicant's renter category, move to the tenant selection process provided in
200 sections 2.6-3 and 2.6-4.

201 2.5-3. *Notification of Ineligibility.* If review of a complete submitted application and/or annual
202 renewal reveals that an applicant is ineligible to participate in the income-based rental program
203 based on the Landlord-Tenant law and/or rules, the Comprehensive Housing Division staff shall
204 notify the applicant of the cause of the ineligibility and how the applicant may become eligible in
205 the future. At such time, Comprehensive Housing Division staff shall also inform the applicant of
206 other housing opportunities offered by the Nation for which the applicant may be eligible, if
207 applicable.

208 2.5-4. *Required Application Updates.* Applicants on the wait list are required to update the
209 application, at a minimum, annually, but also whenever information submitted on the application
210 has changed. Applicants that fail to complete the application update within the allotted timeframe
211 will be removed from the wait list and required to re-apply for future consideration absent proof
212 of extenuating circumstances, for which Comprehensive Housing Division staff may provide a
213 grace period of a maximum of ten (10) calendar days. For any updated application that reveals an
214 applicant has become ineligible, Comprehensive Housing Division staff shall remove the applicant
215 from the wait list and provide the applicant notice of the cause for ineligibility.

216

217 **2.6. Tenant Selection**

218 2.6-1. *Household Size and Available Units.* When a rental premise becomes available, the
 219 Comprehensive Housing Division staff shall preliminarily select a tenant based on the first
 220 applicant on the wait list for the said unit type based on the corresponding renter and unit
 221 categorization. In the event that a handicap accessible unit becomes available and there are no
 222 applicants on the wait list for the said type of handicap accessible unit, an applicant from the same
 223 renter category that does not require handicap accessibility may be selected for the said unit.

224 2.6-2. *Notice of Tenant Selection.* When an applicant is selected for a rental unit in accordance
 225 with this section, the Comprehensive Housing Division staff shall provide the applicant with notice
 226 of tenant selection. The notice, at a minimum, shall include the address of the rental premise, the
 227 required security deposit and monthly rent, and a requirement that the applicant respond within
 228 fifteen (15) calendar days to accept/reject the rental premise noting that the security deposit is due
 229 at the time of acceptance. Applicants that pay a security deposit and fail to complete the selection
 230 process to actually take occupancy forfeit the security deposit to the Comprehensive Housing
 231 Division as consideration for holding the unit. Comprehensive Housing Division shall return the
 232 security deposit to the applicant only in circumstances where the applicant is prevented from
 233 entering the rental agreement based on a loss of eligibility due to circumstances outside of the
 234 applicant's control (i.e. death of a Tribal member that made the household eligible for the income-
 235 based rental program).

236 (a) *Failure to Respond or Rejecting a Rental Premise.* If a rental premise is rejected for
 237 any reason or the applicant fails to respond to the notice, Comprehensive Housing Division
 238 staff shall remove the applicant from the wait list; in such circumstances the applicant may
 239 re-apply for the income-based rental program following a ninety (90) calendar day period
 240 of ineligibility.

241 (b) *Accepting a Rental Premise.* In order for an applicant's acceptance of a rental premise
 242 to be complete, the applicant shall submit along with the acceptance a payment for the full
 243 security deposit. Prior to accepting a security deposit payment, Comprehensive Housing
 244 Department staff shall verify that the applicant remains eligible for the income-based rental
 245 program and the rental unit type based on the household's categorization.

246 (1) *Standard Timeframe for Completing the Rental Agreement and Taking*
 247 *Occupancy.* Except as provided in subsection (2) below, applicants that have
 248 accepted a rental premise from the income-based rental program have five (5)
 249 calendar days from the date of acceptance and payment of the security deposit to:

250 (A) Reconfirm that they remain eligible for the income-based rental
 251 program and remain in the same category of renters;

252 (B) Pay the first month's rent; and

253 (C) Execute the rental agreement and all required supplemental forms,
 254 provided that the agreement may not be executed until (A) and (B) are
 255 complete.

256 (2) *Extended Timeframe for Completing the Rental Agreement for Applicants*
 257 *Providing Termination Notice to Another Landlord or Housing Program.* The
 258 Comprehensive Housing Division offers an extended timeframe for applicants
 259 required to provide thirty (30) or more calendar or business days' notice of
 260 termination of a rental agreement to a current landlord or housing program. In such
 261 circumstances, in order to qualify for the extended timeframe, the applicant shall
 262 provide proof of the notice requirement in his/her current rental agreement by

263 submitting the signed rental agreement to the Comprehensive Housing Division.
 264 Upon submittal of such proof, the applicant shall have thirty (30) calendar days
 265 from the date of acceptance and payment of the security deposit to:

266 (A) Reconfirm that they remain eligible for the income-based rental
 267 program and remain in the same category of renters;

268 (B) Pay the first month's rent; and

269 (C) Execute the rental agreement and all required supplemental forms,
 270 provided that the agreement may not be executed until (A) and (B) are
 271 complete.

272 (3) *Taking Occupancy.* The Comprehensive Housing Division shall provide the
 273 tenant with keys to the rental premises upon execution of the rental agreement. As
 274 such time, the Comprehensive Housing Division staff shall provide the tenant with
 275 a check-in sheet and notice the tenant that he/she has seven (7) calendar days from
 276 the date the tenant takes occupancy to complete the check-in sheet and submit it to
 277 the Comprehensive Housing Division.
 278

279 **2.7. Rental Unit Catalog, Setting Rents and Security Deposits**

280 2.7-1. *Rental Unit Catalog.* The Comprehensive Housing Division shall maintain a catalog of all
 281 rental units included in the income-based rental program. Said catalog shall categorize each rental
 282 unit based on designated use for the type of renter in accordance with the types of renters
 283 established in section 2.5-2(a).

284 2.7-2. *Setting Rents.* The Comprehensive Housing Division shall determine the required monthly
 285 rent for each household based on the household's income in accordance with the following:

286 (a) Rent may not exceed thirty percent (30%) of the household's adjusted gross income
 287 based on the income calculation requirements provided in section 2.4-3. Adjusted gross
 288 income means the annual household income remaining after the Comprehensive Housing
 289 Division staff applies the following deductions:

290 (1) *Dependent Deduction.* A deduction of \$480.00 from annual income for each
 291 household minor dependent or adult dependent where the adult dependent is either
 292 a full-time student or a person with disabilities.

293 (2) *Elder and/or Disabled Deduction.* A total deduction of \$400.00 from annual
 294 income for a household in which:

295 (A) A household member is sixty-two (62) years of age or older; and/or

296 (B) A household member is a person with a disability.

297 (3) *Medical and Attendant Expenses.* For a household qualifying under 2.7-2(a)(2),
 298 a deduction for medical expenses⁵ that are in excess of three percent (3%) of annual
 299 income and all expenses for live-in periodic attendant care assistance or apparatus
 300 to the extent necessary to enable a member of the family to be employed.

301 (4) *Child Care Expenses.* A deduction for reasonable child care expenses from
 302 annual income if the child care:

303 (A) Enables an adult household member to seek employment activity, be
 304 gainfully employed, or further his/her education; and

305 (B) Expenses are not reimbursed.

306 (5) *Child Support for a Household Minor.* A deduction for the full amount of child
 307 support paid by a household member for a household minor (i.e. when the parent

⁵ Medical expenses are those identified in Title VII, Section IV of NAHASDA.

308 paying child support lives in the same household as the child for which the parent
309 is paying child support).

310 (6) *Earned Income of Minors*. A deduction in the amount of any earned income of
311 any minor household member.

312 (7) *Travel Expenses for Employment or Education-Related Travel*. A maximum
313 deduction of \$25.00 per week for travel expenses for employment or education
314 related travel.

315 (b) Monthly rent may not exceed the fair market rents of the rental premise as determined
316 by the data for Outagamie County.

317 (c) Households with any member that qualifies as a party listed below shall receive
318 preferential rent wherein the Comprehensive Housing Division may not charge rent that
319 exceeds twenty percent (20%) of the household's adjusted gross income based on the
320 income calculation requirements provided in section 2.4-3.

321 (1) Elder Tribal Member – A Tribal member that is sixty-two (62) years old or
322 older.

323 (2) Handicapped Tribal Member – A Tribal member that has a physical disability
324 as documented by a medical provider/or proof of disability payments.

325 (3) Legally Incompetent Adult Tribal Member – A Tribal member that has been
326 determined to be a legally incompetent adult based on the findings of a court of
327 competent jurisdiction.

328 (4) Mentally Disabled Minor Tribal Member – A Tribal member under the age of
329 eighteen (18) years old that has a mental disability as documented by a medical
330 provider.

331 2.7-3. *Standard Security Deposit*. Comprehensive Housing Division staff shall set the standard
332 security deposit required for each rental premise in the income-based rental program at \$350.00.

333 2.7-4. *Increased Security Deposit for Pets*. Tenants in the Comprehensive Housing Division's
334 general rental program may have pets in accordance with the Domestic Animal Ordinance,
335 provided that an increased security deposit is required.

336 (a) The standard security deposit does not apply to tenants with pets. Comprehensive
337 Housing Division staff shall set the increased security deposit required for households with
338 pets at a rate of \$350.00 plus an additional \$200.00 per pet.

339 (b) In the event that a tenant wishes to acquire a pet after the rental agreement has been
340 signed, the tenant shall notify the Comprehensive Housing Division and shall pay the
341 difference between the increased security deposit for pets and the standard security deposit.
342 Tenants that fail to report a pet in the household may be assessed charges for an increased
343 security deposit for pets if such pets are reported to the Comprehensive Housing Division
344 and/or discovered at the time of an inspection.
345

346 **2.8. Annual Inspection and Rental Agreement Renewal**

347 2.8-1. *Scheduling Annual Inspections*. Comprehensive Housing Division staff shall schedule
348 tenants' annual inspections for a date that is within ninety (90) calendar days of the expiration of
349 the tenants' rental agreement.

350 2.8-2. *Inspection Checklist*. Comprehensive Housing Division staff completing the annual
351 inspection shall use the checklist that is approved by the Comprehensive Housing Division
352 director. Upon completion of the inspection, Comprehensive Housing Division staff shall request
353 that the tenant(s) sign the completed checklist.

354 2.8-3. *Damages.* Tenants are required to pay costs to repair any damages to the rental premises
355 discovered during the annual inspection that do not amount to normal wear and tear. Payment for
356 such costs must be received by the Comprehensive Housing Division prior to signing a rental
357 agreement renewal, provided that the Comprehensive Housing Division may offer the tenant a
358 payment agreement in for the damages, in which case the repayment agreement shall be signed
359 prior to the rental agreement renewal.

360 2.8-4. *Immediate Notice of Change in Household Composition and/or Income.* Tenants shall
361 immediately notify the Comprehensive Housing Division of any change in the tenant's household
362 composition and/or income, regardless of the date scheduled for the annual renewal.

363 (a) *Change in Household Composition.* If a change in the household composition changes
364 the tenant's category of renter based on section 2.5-2(a), the Comprehensive Housing
365 Division staff shall work to transfer the household to a rental unit of corresponding
366 category as soon as possible. If no such units are currently available, Comprehensive
367 Housing Division staff shall move the tenant to the top of the waiting list. In order to be
368 transferred or placed on a wait list, the tenant shall demonstrate that they remain eligible
369 for the income-based rental program and are current with rent and utility payments.
370 Tenants are only eligible for rental unit transfers within their current category of renter if,
371 in the Comprehensive Housing Division's discretion, the transfer is needed to better
372 accommodate the household composition.

373 (b) *Change in Household Income.* A change in household income may cause a change in
374 the amount of monthly rent required, accordingly, any change in household income that is
375 not reported within thirty (30) calendar days of the change shall result in a retroactive
376 adjustment of the rent if the change results in an increase of rent payments. Retroactive
377 rent shall be applied for each month there was a change in income that was not reported,
378 excluding the initial thirty (30) calendar days provided to the tenant to report the change.
379 The tenant is responsible for payment of all current and retroactive adjustments of rent and
380 may be eligible for a repayment agreement, provided that in all circumstances and
381 retroactive rental arrears shall be paid in full within one (1) year.

382 (c) *Rental Agreement Amendment.* Should a change in household size and/or income cause
383 a change in the terms of the tenant's rental agreement, an amendment to the rental
384 agreement is required to be executed.

385 2.8-5. *Rental Agreement Renewal.* Each rental agreement is limited to a twelve (12) month term.
386 Tenants wishing to remain in the property are required to complete the annual rental agreement
387 renewal by verifying that the household continues to meet all eligibility requirements contained in
388 the Landlord-Tenant law and rules excluding the maximum income requirement provided in article
389 2.4-2. Once continued eligibility is verified, tenants that remain eligible are required to sign a
390 rental agreement renewal.

391 (a) The Comprehensive Housing Division may, in its discretion, decline renewal of a rental
392 agreement if it determines that the renewal is not in the best interest of the Nation. (b)

393 In the event a tenant fails to enter a rental agreement renewal and has not vacated the
394 rental premises within thirty (30) calendar days of the expiration of the rental agreement,
395 the Comprehensive Housing Division shall initiate the eviction process pursuant to the
396 Eviction and Termination law.

397 2.8-6. *Ineligibility Due to Renewal or an Update of Household Information.* Comprehensive
398 Housing Division staff shall provide tenants that become ineligible to participate in the income-
399 based rental program based on a renewal or update of household information with notice

400 specifying the cause of the ineligibility and, if possible, how the household may reinstate
401 eligibility.

402 (a) *Ineligibility Due to Renewal.* In circumstances where the tenant learns of ineligibility
403 as part of the annual renewal, Comprehensive Housing Division staff shall include in the
404 notice of ineligibility that renewal of the rental agreement is not available at such time and
405 that the tenant is entitled to a minimum of a thirty (30) day notice to cure, by reinstating
406 eligibility, or vacate.

407 (b) *Ineligibility Due to an Update of Household Information.* In circumstances where the
408 tenant learns of ineligibility as part of an update of household information, Comprehensive
409 Housing Division staff shall include in the notice of ineligibility the warning of potential
410 termination in accordance with the rental agreement. In the event the tenant is unable to
411 or fails to reinstate their eligibility in accordance with the timeline provided in the notice,
412 the Comprehensive Housing Division shall permit the tenant to remain in the unit for the
413 longer of the duration of the rental agreement or ninety (90) calendar days from the date of
414 the notice of ineligibility.

415 (1) If the tenants' circumstances result in the tenant completing the term of the
416 rental agreement, eligibility shall be reconsidered at the time of the annual renewal.
417 If the tenant remains ineligible at the time of renewal, article 2.8-6(a) applies.

418 (2) If the tenants' circumstances result in the tenant receiving a thirty (30) calendar
419 day notice to cure or ninety (90) calendar day notice to vacate, the tenant shall enter
420 a limited term rental agreement to cover any time which exceeds the current rental
421 agreement.

422 (c) *Limited Term Rental Agreements.* Limited term rental agreements are available in
423 accordance with article 2.8-6(a) and (b) of these rules and section 611.9-4 of the Landlord-
424 Tenant law. At a minimum, limited term rental agreement shall include:

425 (1) The date of the original notice of ineligibility;

426 (2) An explanation that the tenant has thirty (30) calendar days to reinstate
427 eligibility;

428 (3) As applicable, an explanation that if eligibility is not timely reinstated, that the
429 limited term rental agreement takes the place of the thirty (30) calendar day notice
430 to cure or vacate required by the Eviction and Termination law; and

431 (4) An explanation that if eligibility is not timely reinstated, the rental unit will be
432 reclaimed including the date the locks will be changed.

433

434 **2.9. Rental Agreement Cancellation**

435 2.9-1. *Two Week Notice Required.* Tenant wishing to cancel a rental agreement in the general
436 rental program are requested to provide the Comprehensive Housing Division with a minimum of
437 two (2) weeks of notice.

438 2.9-2. *Prorated Rent.* In the event of cancellation of a rental agreement or abandonment of the
439 rental premises, the Comprehensive Housing Division staff shall prorate the required last month's
440 rent payment based upon the greater of the following:

441 (a) The number of calendar days the unit was occupied in the last month; or

442 (b) Two (2) weeks from the date of cancellation or the date the Comprehensive Housing
443 Division learns of abandonment.

444

445 *End.*

446

447 Original effective date: 04-13-2017
448



10

Title 6. Property and Land – Chapter 611

LANDLORD-TENANT

Rule # 2 – Income Based Rental Program Eligibility, Selection and Other Requirements

- 2.1. Purpose and Delegation
- 2.2. Adoption, Amendment and Repeal
- 2.3. Definitions
- 2.4. Eligibility Requirements
- 2.5. Application Process and Wait List
- 2.6. Tenant Selection
- 2.7. Rental Unit Catalog, Setting Rents and Security Deposits
- 2.8. Annual Inspection and Rental Agreement Renewal
- 2.9. Rental Agreement Cancellation

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2.1. Purpose and Delegation

2.1-1. *Purpose.* The purpose of this rule is to provide additional eligibility requirements, selection procedures and general requirements that govern the Comprehensive Housing Division's income-based rental programs. The mission of the income-based housing program is to develop, maintain, and operate affordable housing in safe, sanitary and healthy environments within the reservation.

2.1-2. *Authority.* The Landlord-Tenant law delegated the Comprehensive Housing Division and Land Commission joint rulemaking authority pursuant to the Administrative Rulemaking law. However that delegation excluded the Land Commission from having joint authority where the rules relate solely to premises administered pursuant to federal funding. Accordingly, the Comprehensive Housing Division has sole rulemaking authority for these rules.

2.2. Adoption, Amendment and Repeal

2.2-1. This rule was adopted by the Comprehensive Housing Division in accordance with the procedures of the Administrative Rulemaking law.

2.2-2. This rule may be amended or repealed by the approval of the Comprehensive Housing Division pursuant to the procedures set out in the Administrative Rulemaking law.

2.2-3. Should a provision of this rule or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this rule which are considered to have legal force without the invalid portions.

2.2-4. In the event of a conflict between a provision of this rule and a provision of another rule, internal policy, procedure or other regulation, the provisions of this rule control.

2.2-5. This rule supersedes all prior rules, regulations, internal policies or other requirements relating to the Landlord-Tenant law.

2.3. Definitions

2.3-1. This section governs the definitions of words and phrases used within this rule. All words not defined herein are to be used in their ordinary and everyday sense.

43 (a) “Comprehensive Housing Division” means the entity responsible for housing matters
 44 specifically related to rental agreements as defined by Oneida Business Committee
 45 Resolution.¹

46 (b) “Household” means all persons residing within the income-based rental unit.

47 (c) “HUD” means the United States Department of Housing and Urban Development.

48 (b) “Landlord” means the Nation in its capacity to rent real property subject to a rental
 49 agreement.

50 (c) “Nation” means the Oneida Nation.

51 (d) “Premises” means the property covered by a rental agreement, including not only the
 52 real property and fixtures, but also any personal property furnished by the landlord pursuant
 53 to a rental agreement.

54 (e) “Rental Agreement” means a written contract between a landlord and a tenant, whereby
 55 the tenant is granted the right to use or occupy the premises for a residential purpose for
 56 one (1) year or less.

57 (f) “Tenant” means the person granted the right to use or occupy a premises pursuant to a
 58 rental agreement.

59 (g) “Tribal member” means an enrolled member of the Nation.

60 (h) “Security Deposit” means a payment made to the landlord by the tenant to ensure that
 61 rent will be paid and other responsibilities of the rental agreement performed.

62 63 **2.4. Eligibility Requirements**

64 2.4-1. *Tribal Member Status.* At least one (1) of the household members listed in the household
 65 composition is required to be a Tribal member. Comprehensive Housing Division staff shall verify
 66 enrollment status by either requiring a copy of the Tribal Identification Card or requesting
 67 verification from the Trust Enrollment Department.

68 2.4-2. *Maximum Income.* Pursuant to the Native American Housing Assistance and Self
 69 Determination Act (NAHASDA), in order to be eligible for an income-based rental agreement, the
 70 household must qualify as low income at the time of initial occupancy. In order to qualify as low-
 71 income, applicants’ household income may not exceed eighty percent (80%) of the regional gross
 72 annual income based on the data from Outagamie County.² For the purposes of this section, CHD
 73 shall calculate income in accordance with 24 CFR § 5.609 and shall provide the effective language
 74 to the Legislative Reference Office to be published as Appendix 01 to this Rule so that applicable
 75 income calculations are publicly available on the Oneida Register.

76 (a)

77 2.4-3. *Minimum Income.* Applicants shall meet a minimum household income of \$7,800 per year.

78 2.4-4. *Outstanding Debts.* Applicants for a rental agreement may not have a past due balance
 79 greater than two hundred dollars (\$200) owed to any utility provider and may not have any prior
 80 debt owed to the Comprehensive Housing Division.

81 2.4-5. *Prior Comprehensive Housing Division Eviction.* Applicants that have had a rental
 82 agreement with the Comprehensive Housing Division subject to an eviction and termination within

¹ See BC Resolution 10-12-16-D providing that for purposes of the Landlord-Tenant law, the Comprehensive Housing Division means the Division of Land Management for general rental agreements, the Oneida Housing Authority for income-based rental agreements and Elder Services for rental agreements through the Elder Services program.

² Pursuant to resolution BC-01-25-12-A, Outagamie County is designated as the data source for collecting regional gross income for determining low-income housing eligibility because the income in that area is generally higher than Brown County’s and results in more persons being eligible based on the income requirements.

83 two (2) years from the date of the application are not eligible to participate in the income-based
84 rental program.

85 2.4-6. *Criminal Convictions.* Applicants with any of the following types of convictions are not
86 eligible for participation in the income-based rental program, provided that the Pardon and
87 Forgiveness law may provide an exception to the conditions contained in this section:

- 88 (a) A drug conviction within three (3) years from the date of application;
- 89 (b) A felony conviction within five (5) years from the date of application; and/or
- 90 (c) A criminal conviction based upon an act of violence within two (2) years from the date
91 of the application.

92 2.4-7. *Pardon and Forgiveness.* A grant of a pardon or forgiveness pursuant to the Nation's
93 Pardon and Forgiveness law may result in an otherwise ineligible tenant becoming eligible.

94

95 **2.5. Application Process and Wait List**

96 2.5-1. *Applying.* Persons wishing to participate in the income-based housing program shall
97 complete the Comprehensive Housing Division rental agreement application and any other
98 accompanying forms required based on the income-based program eligibility requirements. The
99 Comprehensive Housing Division staff may not consider any applications for selection and/or
100 placement on the wait list until the application and all accompanying forms are complete. Upon
101 receipt of a completed application, including all supplementary forms, Comprehensive Housing
102 Division staff shall date and time stamp the application. If, regardless of a complete application
103 submittal, additional information is required to determine eligibility, the Comprehensive Housing
104 Division staff shall request such information and maintain the application submittal date provided
105 that the applicant responds to the information requests in a reasonably timely fashion.

106 (a) *Household Composition Form.* The Comprehensive Housing Division staff shall
107 require applicants to the income-based housing program to complete a Household
108 Composition Form which provides the full name, age and date of birth of each person
109 contemplated to reside in the income-based rental unit. In order to verify such information,
110 the Comprehensive Housing Division staff shall require that applicants submit the
111 following with the Household Composition Form:

- 112 (1) Copies of social security cards for each person contemplated to reside in the
113 income-based rental unit, provided that for newly born babies that have not yet been
114 issued a social security card a birth certificate is sufficient;
- 115 (2) A copy of a picture identification card for each adult contemplated to reside in
116 the income-based rental unit;
- 117 (3) If any adults in the home are enrolled in post-secondary education, verification
118 of enrollment in the form of a financial aid award letter or other documentation
119 directly from the school; and
- 120 (4) If an adult in the household is the custodial parent/guardian of a minor, a copy
121 of the court documents which awarded such placement.

122 (b) *Background Checks.* In order to ensure compliance with the eligibility requirements
123 of the Landlord-Tenant law and these rules, Comprehensive Housing Division staff shall
124 perform a background check on each adult in the household. Household adults are also
125 subject to annual background checks upon annual rental agreement renewal pursuant to
126 2.8-5 and as may be determined to be necessary to maintain the safety of the community
127 by the Comprehensive Housing Division staff.

128 2.5-2. *Notification of Eligibility, Placement on the Wait List.* When Comprehensive Housing

129 Division staff completes its review of an application and determines the applicant(s) eligible for
 130 the income-based rental program, the staff shall:

131 (a) Place the applicant(s) into one (1) of the following categories of renters based on the
 132 household size and needs as provided below:

133 (1) Single Adult/Adult Couple – A maximum of two (2) adults in the household,
 134 no children.

135 (2) Small Household – A maximum four (4) household members in the household.

136 (3) Large Household – A household of five (5) or more household members.

137 (4) Elder – A household with a maximum of two (2) adults and no children wherein
 138 at least one (1) adult is sixty-two (62) years old or older at the time of application.

139 (5) Minimum Handicap Accessibility Required – For each of the category types
 140 provided in subsections (1)-(4) above, there shall be an additional category for each
 141 requiring minimum handicap accessibility. This category shall be reserved for
 142 households with at least one (1) household member requiring permanent and
 143 minimal handicap accessibility (i.e. permanent use of a walker); this category
 144 includes all handicap needs that do not amount to full wheelchair accessibility.

145 (6) Maximum Handicap Accessibility Required – For each of the category types
 146 provided in subsections (1)-(4) above, there shall be an additional category for each
 147 in which as least one (1) household member requires full wheelchair handicap
 148 accessibility.

149 (b) Determine whether there is a wait list for the type of rental unit required based on the
 150 applicant's category of renter.

151 (1) If there is a wait list established, place the applicant on the wait list based on
 152 the date and time stamp of the application. At such time, Comprehensive Housing
 153 Division staff shall provide the applicant with notice of their placement on the wait
 154 list and the requirement to update their application should anything change prior to
 155 their designated use of rental unit becoming available. An applicant may request
 156 to be removed from the wait list at any time.

157 (2) If there is not a wait list established and there are available rental units available
 158 for the applicant's renter category, move to the tenant selection process provided in
 159 sections 2.6-3 and 2.6-4.

160 *2.5-3. Notification of Ineligibility.* If review of a complete submitted application and/or annual
 161 renewal reveals that an applicant is ineligible to participate in the income-based rental program
 162 based on the Landlord-Tenant law and/or rules, the Comprehensive Housing Division staff shall
 163 notify the applicant of the cause of the ineligibility and how the applicant may become eligible in
 164 the future. At such time, Comprehensive Housing Division staff shall also inform the applicant of
 165 other housing opportunities offered by the Nation for which the applicant may be eligible, if
 166 applicable.

167 *2.5-4. Required Application Updates.* Applicants on the wait list are required to update the
 168 application, at a minimum, annually, but also whenever information submitted on the application
 169 has changed. Applicants that fail to complete the application update within the allotted timeframe
 170 will be removed from the wait list and required to re-apply for future consideration absent proof
 171 of extenuating circumstances, for which Comprehensive Housing Division staff may provide a
 172 grace period of a maximum of ten (10) calendar days. For any updated application that reveals an
 173 applicant has become ineligible, Comprehensive Housing Division staff shall remove the applicant
 174 from the wait list and provide the applicant notice of the cause for ineligibility.

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2.6. Tenant Selection

2.6-1. *Household Size and Available Units.* When a rental premise becomes available, the Comprehensive Housing Division staff shall preliminarily select a tenant based on the first applicant on the wait list for the said unit type based on the corresponding renter and unit categorization. In the event that a handicap accessible unit becomes available and there are no applicants on the wait list for the said type of handicap accessible unit, an applicant from the same renter category that does not require handicap accessibility may be selected for the said unit.

2.6-2. *Notice of Tenant Selection.* When an applicant is selected for a rental unit in accordance with this section, the Comprehensive Housing Division staff shall provide the applicant with notice of tenant selection. The notice, at a minimum, shall include the address of the rental premise, the required security deposit and monthly rent, and a requirement that the applicant respond within fifteen (15) calendar days to accept/reject the rental premise noting that the security deposit is due at the time of acceptance. Applicants that pay a security deposit and fail to complete the selection process to actually take occupancy forfeit the security deposit to the Comprehensive Housing Division as consideration for holding the unit. Comprehensive Housing Division shall return the security deposit to the applicant only in circumstances where the applicant is prevented from entering the rental agreement based on a loss of eligibility due to circumstances outside of the applicant's control (i.e. death of a Tribal member that made the household eligible for the income-based rental program).

(a) *Failure to Respond or Rejecting a Rental Premise.* If a rental premise is rejected for any reason or the applicant fails to respond to the notice, Comprehensive Housing Division staff shall remove the applicant from the wait list; in such circumstances the applicant may re-apply for the income-based rental program following a ninety (90) calendar day period of ineligibility.

(b) *Accepting a Rental Premise.* In order for an applicant's acceptance of a rental premise to be complete, the applicant shall submit along with the acceptance a payment for the full security deposit. Prior to accepting a security deposit payment, Comprehensive Housing Department staff shall verify that the applicant remains eligible for the income-based rental program and the rental unit type based on the household's categorization.

(1) *Standard Timeframe for Completing the Rental Agreement and Taking Occupancy.* Except as provided in subsection (2) below, applicants that have accepted a rental premise from the income-based rental program have five (5) calendar days from the date of acceptance and payment of the security deposit to:

(A) Reconfirm that they remain eligible for the income-based rental program and remain in the same category of renters;

(B) Pay the first month's rent; and

(C) Execute the rental agreement and all required supplemental forms, provided that the agreement may not be executed until (A) and (B) are complete.

(2) *Extended Timeframe for Completing the Rental Agreement for Applicants Providing Termination Notice to Another Landlord or Housing Program.* The Comprehensive Housing Division offers an extended timeframe for applicants required to provide thirty (30) or more calendar or business days' notice of termination of a rental agreement to a current landlord or housing program. In such circumstances, in order to qualify for the extended timeframe, the applicant shall

221 provide proof of the notice requirement in his/her current rental agreement by
 222 submitting the signed rental agreement to the Comprehensive Housing Division.
 223 Upon submittal of such proof, the applicant shall have thirty (30) calendar days
 224 from the date of acceptance and payment of the security deposit to:

225 (A) Reconfirm that they remain eligible for the income-based rental
 226 program and remain in the same category of renters;

227 (B) Pay the first month's rent; and

228 (C) Execute the rental agreement and all required supplemental forms,
 229 provided that the agreement may not be executed until (A) and (B) are
 230 complete.

231 (3) *Taking Occupancy*. The Comprehensive Housing Division shall provide the
 232 tenant with keys to the rental premises upon execution of the rental agreement. As
 233 such time, the Comprehensive Housing Division staff shall provide the tenant with
 234 a check-in sheet and notice the tenant that he/she has seven (7) calendar days from
 235 the date the tenant takes occupancy to complete the check-in sheet and submit it to
 236 the Comprehensive Housing Division.
 237

238 **2.7. Rental Unit Catalog, Setting Rents and Security Deposits**

239 2.7-1. *Rental Unit Catalog*. The Comprehensive Housing Division shall maintain a catalog of all
 240 rental units included in the income-based rental program. Said catalog shall categorize each rental
 241 unit based on designated use for the type of renter in accordance with the types of renters
 242 established in section 2.5-2(a).

243 2.7-2. *Setting Rents*. The Comprehensive Housing Division shall determine the required monthly
 244 rent for each household based on the household's income in accordance with the following:

245 (a) Rent may not exceed thirty percent (30%) of the household's adjusted gross income
 246 based on the income calculation requirements provided in section 2.4-3. Adjusted gross
 247 income means the annual household income remaining after the Comprehensive Housing
 248 Division staff applies the following deductions:

249 (1) *Dependent Deduction*. A deduction of \$480.00 from annual income for each
 250 household minor dependent or adult dependent where the adult dependent is either
 251 a full-time student or a person with disabilities.

252 (2) *Elder and/or Disabled Deduction*. A total deduction of \$400.00 from annual
 253 income for a household in which:

254 (A) A household member is sixty-two (62) years of age or older; and/or

255 (B) A household member is a person with a disability.

256 (3) *Medical and Attendant Expenses*. For a household qualifying under 2.7-2(a)(2),
 257 a deduction for medical expenses³ that are in excess of three percent (3%) of annual
 258 income and all expenses for live-in periodic attendant care assistance or apparatus
 259 to the extent necessary to enable a member of the family to be employed.

260 (4) *Child Care Expenses*. A deduction for reasonable child care expenses from
 261 annual income if the child care:

262 (A) Enables an adult household member to seek employment activity, be
 263 gainfully employed, or further his/her education; and

264 (B) Expenses are not reimbursed.

265 (5) *Child Support for a Household Minor*. A deduction for the full amount of child

³ Medical expenses are those identified in Title VII, Section IV of NAHASDA.

266 support paid by a household member for a household minor (i.e. when the parent
267 paying child support lives in the same household as the child for which the parent
268 is paying child support).

269 (6) *Earned Income of Minors*. A deduction in the amount of any earned income of
270 any minor household member.

271 (7) *Travel Expenses for Employment or Education-Related Travel*. A maximum
272 deduction of \$25.00 per week for travel expenses for employment or education
273 related travel.

274 (b) Monthly rent may not exceed the fair market rents of the rental premise as determined
275 by the data for Outagamie County.

276 (c) Households with any member that qualifies as a party listed below shall receive
277 preferential rent wherein the Comprehensive Housing Division may not charge rent that
278 exceeds twenty percent (20%) of the household's adjusted gross income based on the
279 income calculation requirements provided in section 2.4-3.

280 (1) Elder Tribal Member – A Tribal member that is sixty-two (62) years old or
281 older.

282 (2) Handicapped Tribal Member – A Tribal member that has a physical disability
283 as documented by a medical provider/or proof of disability payments.

284 (3) Legally Incompetent Adult Tribal Member – A Tribal member that has been
285 determined to be a legally incompetent adult based on the findings of a court of
286 competent jurisdiction.

287 (4) Mentally Disabled Minor Tribal Member – A Tribal member under the age of
288 eighteen (18) years old that has a mental disability as documented by a medical
289 provider.

290 2.7-3. *Standard Security Deposit*. Comprehensive Housing Division staff shall set the standard
291 security deposit required for each rental premise in the income-based rental program at \$350.00.

292 2.7-4. *Increased Security Deposit for Pets*. Tenants in the Comprehensive Housing Division's
293 general rental program may have pets in accordance with the Domestic Animal Ordinance,
294 provided that an increased security deposit is required.

295 (a) The standard security deposit does not apply to tenants with pets. Comprehensive
296 Housing Division staff shall set the increased security deposit required for households with
297 pets at a rate of \$350.00 plus an additional \$200.00 per pet.

298 (b) In the event that a tenant wishes to acquire a pet after the rental agreement has been
299 signed, the tenant shall notify the Comprehensive Housing Division and shall pay the
300 difference between the increased security deposit for pets and the standard security deposit.
301 Tenants that fail to report a pet in the household may be assessed charges for an increased
302 security deposit for pets if such pets are reported to the Comprehensive Housing Division
303 and/or discovered at the time of an inspection.

304

305 **2.8. Annual Inspection and Rental Agreement Renewal**

306 2.8-1. *Scheduling Annual Inspections*. Comprehensive Housing Division staff shall schedule
307 tenants' annual inspections for a date that is within ninety (90) calendar days of the expiration of
308 the tenants' rental agreement.

309 2.8-2. *Inspection Checklist*. Comprehensive Housing Division staff completing the annual
310 inspection shall use the checklist that is approved by the Comprehensive Housing Division
311 director. Upon completion of the inspection, Comprehensive Housing Division staff shall request

312 that the tenant(s) sign the completed checklist.

313 2.8-3. *Damages.* Tenants are required to pay costs to repair any damages to the rental premises
314 discovered during the annual inspection that do not amount to normal wear and tear. Payment for
315 such costs must be received by the Comprehensive Housing Division prior to signing a rental
316 agreement renewal, provided that the Comprehensive Housing Division may offer the tenant a
317 payment agreement in for the damages, in which case the repayment agreement shall be signed
318 prior to the rental agreement renewal.

319 2.8-4. *Immediate Notice of Change in Household Composition and/or Income.* Tenants shall
320 immediately notify the Comprehensive Housing Division of any change in the tenant's household
321 composition and/or income, regardless of the date scheduled for the annual renewal.

322 (a) *Change in Household Composition.* If a change in the household composition changes
323 the tenant's category of renter based on section 2.5-2(a), the Comprehensive Housing
324 Division staff shall work to transfer the household to a rental unit of corresponding
325 category as soon as possible. If no such units are currently available, Comprehensive
326 Housing Division staff shall move the tenant to the top of the waiting list. In order to be
327 transferred or placed on a wait list, the tenant shall demonstrate that they remain eligible
328 for the income-based rental program and are current with rent and utility payments.
329 Tenants are only eligible for rental unit transfers within their current category of renter if,
330 in the Comprehensive Housing Division's discretion, the transfer is needed to better
331 accommodate the household composition.

332 (b) *Change in Household Income.* A change in household income may cause a change in
333 the amount of monthly rent required, accordingly, any change in household income that is
334 not reported within thirty (30) calendar days of the change shall result in a retroactive
335 adjustment of the rent if the change results in an increase of rent payments. Retroactive
336 rent shall be applied for each month there was a change in income that was not reported,
337 excluding the initial thirty (30) calendar days provided to the tenant to report the change.
338 The tenant is responsible for payment of all current and retroactive adjustments of rent and
339 may be eligible for a repayment agreement, provided that in all circumstances and
340 retroactive rental arrears shall be paid in full within one (1) year.

341 (c) *Rental Agreement Amendment.* Should a change in household size and/or income cause
342 a change in the terms of the tenant's rental agreement, an amendment to the rental
343 agreement is required to be executed.

344 2.8-5. *Rental Agreement Renewal.* Each rental agreement is limited to a twelve (12) month term.
345 Tenants wishing to remain in the property are required to complete the annual rental agreement
346 renewal by verifying that the household continues to meet all eligibility requirements contained in
347 the Landlord-Tenant law and rules excluding the maximum income requirement provided in article
348 2.4-2. Once continued eligibility is verified, tenants that remain eligible are required to sign a
349 rental agreement renewal.

350 (a) The Comprehensive Housing Division may, in its discretion, decline renewal of a rental
351 agreement if it determines that the renewal is not in the best interest of the Nation. (b)

352 In the event a tenant fails to enter a rental agreement renewal and has not vacated the
353 rental premises within thirty (30) calendar days of the expiration of the rental agreement,
354 the Comprehensive Housing Division shall initiate the eviction process pursuant to the
355 Eviction and Termination law.

356 2.8-6. *Ineligibility Due to Renewal or an Update of Household Information.* Comprehensive
357 Housing Division staff shall provide tenants that become ineligible to participate in the income-

358 based rental program based on a renewal or update of household information with notice
 359 specifying the cause of the ineligibility and, if possible, how the household may reinstate
 360 eligibility.

361 (a) *Ineligibility Due to Renewal.* In circumstances where the tenant learns of ineligibility
 362 as part of the annual renewal, Comprehensive Housing Division staff shall include in the
 363 notice of ineligibility that renewal of the rental agreement is not available at such time and
 364 that the tenant is entitled to a minimum of a thirty (30) day notice to cure, by reinstating
 365 eligibility, or vacate.

366 (b) *Ineligibility Due to an Update of Household Information.* In circumstances where the
 367 tenant learns of ineligibility as part of an update of household information, Comprehensive
 368 Housing Division staff shall include in the notice of ineligibility the warning of potential
 369 termination in accordance with the rental agreement. In the event the tenant is unable to
 370 or fails to reinstate their eligibility in accordance with the timeline provided in the notice,
 371 the Comprehensive Housing Division shall permit the tenant to remain in the unit for the
 372 longer of the duration of the rental agreement or ninety (90) calendar days from the date of
 373 the notice of ineligibility.

374 (1) If the tenants' circumstances result in the tenant completing the term of the
 375 rental agreement, eligibility shall be reconsidered at the time of the annual renewal.

376 If the tenant remains ineligible at the time of renewal, article 2.8-6(a) applies.

377 (2) If the tenants' circumstances result in the tenant receiving a thirty (30) calendar
 378 day notice to cure or ninety (90) calendar day notice to vacate, the tenant shall enter
 379 a limited term rental agreement to cover any time which exceeds the current rental
 380 agreement.

381 (c) *Limited Term Rental Agreements.* Limited term rental agreements are available in
 382 accordance with article 2.8-6(a) and (b) of these rules and section 611.9-4 of the Landlord-
 383 Tenant law. At a minimum, limited term rental agreement shall include:

384 (1) The date of the original notice of ineligibility;

385 (2) An explanation that the tenant has thirty (30) calendar days to reinstate
 386 eligibility;

387 (3) As applicable, an explanation that if eligibility is not timely reinstated, that the
 388 limited term rental agreement takes the place of the thirty (30) calendar day notice
 389 to cure or vacate required by the Eviction and Termination law; and

390 (4) An explanation that if eligibility is not timely reinstated, the rental unit will be
 391 reclaimed including the date the locks will be changed.

392

393 **2.9. Rental Agreement Cancellation**

394 2.9-1. *Two Week Notice Required.* Tenant wishing to cancel a rental agreement in the general
 395 rental program are requested to provide the Comprehensive Housing Division with a minimum of
 396 two (2) weeks of notice.

397 2.9-2. *Prorated Rent.* In the event of cancellation of a rental agreement or abandonment of the
 398 rental premises, the Comprehensive Housing Division staff shall prorate the required last month's
 399 rent payment based upon the greater of the following:

400 (a) The number of calendar days the unit was occupied in the last month; or

401 (b) Two (2) weeks from the date of cancellation or the date the Comprehensive Housing
 402 Division learns of abandonment.

403

404 *End.*

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Original effective date: 04-13-2017

Title 6. Property and Land - Chapter 611, Landlord-Tenant, Rule #2 - Income Based Rental Program, Eligibility, Selection and Other Requirements - Appendix 01

§ 5.609

(5) For the Shelter Plus Care Program, the “Recipient” as defined in 24 CFR 582.5;

(6) For the Supportive Housing Program, the “recipient” as defined in 24 CFR 583.5;

(7) For the Section 202 Supportive Housing Program for the Elderly, the “Owner” as defined in 24 CFR 891.205;

(8) For the Section 202 Direct Loans for Housing for the Elderly and Persons with Disabilities, the “Borrower” as defined in 24 CFR 891.505; and

(9) For the Section 811 Supportive Housing Program for Persons with Disabilities, the “owner” as defined in 24 CFR 891.305.

Tenant rent. The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing). (This term is not used in the Section 8 voucher program.)

Total tenant payment. See § 5.628.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. The amount, if any, by which the utility allowance for a unit, if applicable, exceeds the total tenant payment for the family occupying the unit. (This definition is not used in the Section 8 voucher program, or for a public housing family that is paying a flat rent.)

Very low income family. A family whose annual income does not exceed 50 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50 percent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Welfare assistance. Welfare or other payments to families or individuals, based on need, that are made under

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programs funded, separately or jointly, by Federal, State or local governments (including assistance provided under the Temporary Assistance for Needy Families (TANF) program, as that term is defined under the implementing regulations issued by the Department of Health and Human Services at 45 CFR 260.31).

Work activities. See definition at section 407(d) of the Social Security Act (42 U.S.C. 607(d)).

[61 FR 54498, Oct. 18, 1996, as amended at 65 FR 16716, Mar. 29, 2000; 65 FR 55161, Sept. 12, 2000; 66 FR 6223, Jan. 19, 2001; 67 FR 47432, July 18, 2002; 81 FR 12370, Mar. 8, 2016]

FAMILY INCOME

§ 5.609 Annual income.

(a) *Annual income* means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) Annual income includes, but is not limited to:

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash

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or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) *Welfare assistance payments.* (i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifi-

cally designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section).

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition and any other required fees and charges, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

(c) Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

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(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in § 5.403;

(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8)(i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for

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the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of \$480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the FEDERAL REGISTER and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

(d) *Annualization of income.* If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income), or the PHA believes that past income is the best available indicator of expected future income, the PHA may annualize the income anticipated for a shorter period, subject

Office of the Secretary, HUD**§ 5.615**

to a redetermination at the end of the shorter period.

[61 FR 54498, Oct. 18, 1996, as amended at 65 FR 16716, Mar. 29, 2000; 67 FR 47432, July 18, 2002; 70 FR 77743, Dec. 30, 2005; 79 FR 36164, June 25, 2014; 81 FR 12370, Mar. 8, 2016]

§ 5.611 Adjusted income.

Adjusted income means annual income (as determined by the responsible entity, defined in § 5.100 and § 5.603) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) *Mandatory deductions.* In determining adjusted income, the responsible entity must deduct the following amounts from annual income:

- (1) \$480 for each dependent;
- (2) \$400 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:

(i) Unreimbursed medical expenses of any elderly family or disabled family; and

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(b) *Additional deductions.* (1) For public housing, a PHA may adopt additional deductions from annual income. The PHA must establish a written policy for such deductions.

(2) For the HUD programs listed in § 5.601(d), the responsible entity shall calculate such other deductions as required and permitted by the applicable program regulations.

[66 FR 6223, Jan. 19, 2001]

§ 5.612 Restrictions on assistance to students enrolled in an institution of higher education.

No assistance shall be provided under section 8 of the 1937 Act to any individual who:

- (a) Is enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002);
- (b) Is under 24 years of age;
- (c) Is not a veteran of the United States military;
- (d) Is unmarried;
- (e) Does not have a dependent child;
- (f) Is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the 1937 Act and was not receiving assistance under section 8 of the 1937 Act as of November 30, 2005; and
- (g) Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under section 8 of the 1937 Act.

[70 FR 77743, Dec. 30, 2005, as amended at 73 FR 49333, Aug. 21, 2008]

§ 5.613 Public housing program and Section 8 tenant-based assistance program: PHA cooperation with welfare agency.

(a) This section applies to the public housing program and the Section 8 tenant-based assistance program.

(b) The PHA must make best efforts to enter into cooperation agreements with welfare agencies under which such agencies agree:

(1) To target public assistance, benefits and services to families receiving assistance in the public housing program and the Section 8 tenant-based assistance program to achieve self-sufficiency;

(2) To provide written verification to the PHA concerning welfare benefits for families applying for or receiving assistance in these housing assistance programs.

[65 FR 16717, Mar. 29, 2000]

§ 5.615 Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public

Financial Analysis for:**Rule #2 - Income Based Rental Program Eligibility, Selection, and Other Requirements**

Type of Cost	Description/Comment	Dollar Amount
Start Up Costs		\$0.00
Personnel		\$0.00
Office		\$0.00
Documentation Costs		\$0.00
Estimate of time necessary for an individual or agency to comply with the rule after implementation	Upon approval, CHD will administer changes to Rule #2 effective January 1, 2024, in conjunction with changes to CFR Part 5.609	N/A
Other, please explain		
Total	Annual Net Revenue	

Summary Report for: Income Based Rental Program Rule #2

Original effective date: 4/13/17

Amendment effective date: Immediately upon adoption.

Name of law being interpreted: Title 6. Property and Land – Chapter 611, Landlord Tenant

Rule Number: 2

Other Laws or Rules that may be affected: Rule #4 - Income Based Rent-to-Own Program

Brief Summary of the proposed rule: The Income Based Rental Program Rule provides additional eligibility requirements, selection procedures, and general requirements that govern this income-based rental program.

The U.S. Department of Housing and Urban Development (HUD) has made changes to 24 Code of Federal Regulation (CFR) Part 5.609 that introduces new definitions pertaining to Annual Income and forms of income excluded from Annual Income calculations, that are used in determining program eligibility and income-based rent rates for programs funded through HUD.

Statement of Effect: See attached.

Financial Analysis: See attached.



Statement of Effect

Amendments to Landlord-Tenant Rule No.2 – Income Based Rental Program Eligibility, Selection and Other Requirements

Summary

The proposed amendments to the Landlord-Tenant Rule No.2 – Income Based Rental Program Eligibility, Selection and Other Requirements remove the provisions on how the Comprehensive Housing Division calculates income, and instead provides that the Comprehensive Housing Division shall calculate income in accordance with 24 CFR § 5.609 and shall provide the effective language to the Legislative Reference Office to be published as Appendix 01 to this Rule so that applicable income calculations are publicly available on the Oneida Register. [Rule 2.4-2].

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

Date: November 14, 2023

Analysis by the Legislative Reference Office

The Landlord-Tenant law (“the Law”) confers administrative rulemaking authority to the Comprehensive Housing Division and the Oneida Land Commission as authorized by the Administrative Rulemaking law. [see Landlord-Tenant law section 611.4]. The Law states that the Comprehensive Housing Division shall provide residential rental programs to low-income members of the Nation and their families. [see Landlord-Tenant law section 611.4-1]. The Oneida Land Commission and the Comprehensive Housing Division are required to jointly establish rules naming said programs and providing the specific requirements and regulations that apply to each program. [see Landlord-Tenant law section 611.4-1]. Additionally, the Land Commission and the Comprehensive Housing Division are required to jointly develop rules governing the selection of applicants for the issuance of rental agreements. [see Landlord-Tenant law section 611.4-3]. Oneida Business Committee Resolution BC-10-12-16-D provides that for purposes of this law, the Comprehensive Housing Division means the Oneida Housing Authority for income-based rental agreements. The Law also provides where such rental requirements relate solely to premises administered pursuant to federal funding, the Comprehensive Housing Division has sole authority. Accordingly, the Comprehensive Housing Division has sole rulemaking authority for these rules.

Landlord-Tenant Rule No. 2 - Income Based Rental Program Eligibility, Selection and Other Requirements (“the Rule”) provides additional eligibility requirements, selection procedures and general requirements that govern the Comprehensive Housing Division’s income-based rental programs. The mission of the income-based housing program is to develop, maintain, and operate affordable housing in safe, sanitary, and healthy environments within the reservation.

The Rule provides that pursuant to the Native American Housing Assistance and Self Determination Act (NAHASDA), in order to be eligible for an income-based rental agreement, the household must qualify as low income at the time of initial occupancy. [Rule 2.4-2]. The Rule further provides that in order to qualify as low-income, applicants’ household income may not

exceed eighty percent (80%) of the regional gross annual income based on the data from Outagamie County. *Id.*

The proposed amendments to the Rule remove the provisions on how the Comprehensive Housing Division calculates income, and instead provides that the Comprehensive Housing Division shall calculate income in accordance with 24 CFR § 5.609 and shall provide the effective language to the Legislative Reference Office to be published as Appendix 01 to this Rule so that applicable income calculations are publicly available on the Oneida Register. *[Rule 2.4-2]*.

Conclusion

There are no legal bars to adopting the amendments to the Landlord-Tenant Rule No.2– Income Based Rental Program Eligibility, Selection and Other Requirements.

**Comprehensive Housing Division
Public Meeting****Rule No. 2 – Income Based Rental Program Eligibility, Selection and Other Requirements**

Comprehensive Housing Division Conference Room

December 13, 2023, 10:00 a.m.

Present:

Lisa Rauschenbach, Comprehensive Housing Division; Scott Denny, Comprehensive Housing Division

Scott Denny:

Good morning. The time is 10:00 a.m. and today's date is December 13, 2023. I will now call the public meeting for the Landlord Tenant Rule No. 2 – Income Based Rental Program Eligibility, Selection and Other Requirements to order.

The Comprehensive Housing Division is holding this meeting to inform the Oneida community of changes to the program rule, based on Chapter 24 of Code of Federal Regulations, Part 5.609 changes in how income is defined for HUD funded programs.

All persons who wish to present oral testimony will need to register on the sign-in sheet provided.

Written comments may be submitted to the Comprehensive Housing Division, by U.S. mail, interoffice mail, email or fax as provided on the public meeting notice. These comments must be received by close of business on December 20, 2023.

In attendance from the Comprehensive Housing Division is:

- Scott Denny - Area Manager for Residential Rentals & Outreach
- Lisa Rauschenbach, Division Director

We will begin today's public meeting for Landlord Tenant Rule No. 2 – Income Based Rental Program Eligibility, Selection and Other Requirements.

In summary, this rule reflects the following pertaining to 24 CFR Part 5.609

- Income is all amounts, not specifically excluded in Part 5.609(b).
- Part 5.609 offers a more elaborate and detailed definition of excluded student income.
- Part 5.609 offers a more elaborate and detailed definition of excluded veteran income.

Scott Denny:

With there being no speakers registered, the public meeting for Rule No. 2 – Income Based Rental Program Eligibility, Selection and Other Requirements is now closed at 10:35 a.m.

Written comments may be submitted until close of business on December 20, 2023.

-End of Meeting-



**Comprehensive Housing Division
Public Meeting**

Rule No. 2 – Income Based Rental Program Eligibility, Selection and Other Requirements

Comprehensive Housing Division Conference Room

December 13, 2023, 10:00 a.m.

Present:

Lisa Rauschenbach, Comprehensive Housing Division; Scott Denny, Comprehensive Housing Division

There were no community members present at the Public Meeting, and Comprehensive Housing Division received no written comment within the period provided.



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



LEGISLATIVE OPERATING COMMITTEE PUBLIC MEETING

Comprehensive Housing Division Conference Room

December 13, 2023 10:00a.m.

CHD Public Meeting - Rule #2 – Income Based Rental Program Eligibility, Selection & Other Requirements

PUBLIC MEETING SIGN IN SHEET

	Name: (Print clearly)	Email Address / Phone #	Department/Roll #	Oral Testimony (Y) or (N)
1.	<i>Scott Denny</i>	<i>sdenny@oneidanation.org</i>	<i>CHD 1465</i>	
2.	<i>Lisa Rauschenbach</i>	<i>lrausche@oneidanation.org</i>	<i>CHD 13218</i>	
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				

C. Approve request for Certification of Procedural Compliance

Sponsor: Krystal John

Motion by Donald McLester to approve forwarding the rule changes to the Legislative Operating Committee for certification of procedural compliance, seconded by Sherrole Benton. Motion carried:

Ayes: Sherrole Benton, Donald McLester
 Abstained: Patricia Cornelius, Frederick Muscavitch

Patricia Cornelius arrived at 5:15 p.m.

Item VII.B. revisited.

Motion by Donald McLester to go into executive session at 5:29 p.m., seconded by Patricia Cornelius. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Donald McLester, Frederick Muscavitch

Motion by Patricia Cornelius to come out of executive session at 6:01 p.m., seconded by Donald McLester. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Donald McLester, Frederick Muscavitch

D. Legal Opinion(s)

Sponsor: Krystal John

1. Real Estate Tools – Rights of First Offer, Rights of First Refusal and Options to Purchase, Waving Contingencies; and other tools

Motion by Sherrole Benton to accept as information the update regarding Real Estate Tools – Rights of First Offer, Rights of First Refusal and Options to Purchase, Waving Contingencies and other tools and defer to the August 12, 2024, meeting, seconded by Donald McLester. Motion carried:

Ayes: Sherrole Benton, Patricia Cornelius, Donald McLester, Frederick Muscavitch

2. Required Approvals for Initiating a Land Acquisition

For the Record: Attorney Krystal John advised she modified her submission and only submitted one legal opinion so the motion under VII.D.1. was good.

VIII. REPORTS (FY-24 DEADLINES Q1-FEB 6, SEMI-ANNUAL-APR, Q2-APR 30, Q3-AUG 6, ANNUAL-OCT, Q4-NOV 5)

August 1, 2024, Legislative Operating Committee E-Poll Statement of Effect for the Petition: L. Blackowl – New Recreation/Community Center Build

E-POLL REQUEST: Statement of Effect for the Petition: L. Blackowl – New Recreation/Community Center Build



LOC

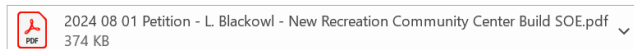
To ● Jameson J. Wilson; ● Jennifer A. Webster; ● Jonas G. Hill; ● Kirby W. Metoxen;
○ Marlon G. Skenandore

Cc ● Fawn J. Billie; ● Fawn L. Cottrell; ● Kristal E. Hill; ● Maureen S. Perkins; ● Clorissa N. Leeman



Thu 8/1/2024 4:14 PM

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



Good Afternoon Legislative Operating Committee,

This e-mail serves as the e-poll for processing the statement of effect for the Petition: L. Blackowl – New Recreation/Community Center Build.

EXECUTIVE SUMMARY

On June 10, 2024, the Petition: L. Blackowl – New Recreation/Community Center Build (“the Petition”) was submitted to the Government Administrative Office by Lindsey Blackowl and has since been verified by the Oneida Trust Enrollment Department on June 18, 2024. On June 26, 2024, the Oneida Business Committee acknowledged receipt of the Petition and directed that the Legislative Reference Office complete a statement of effect for the Petition with status updates to be submitted for the July 24, 2024, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. On July 17, 2024, the Legislative Operating Committee added the Petition to the Active Files List to be worked on by the Legislative Reference Office.

The Legislative Reference Office has now completed the statement of effect for this Petition. The statement of effect provides that after a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: L. Blackowl – New Recreation/Community Center Build would have the following legislative effect:

1. The Petition’s various directives for the General Tribal Council’s consideration that ultimately relate to funding a new recreation or community center have a legislative impact, specifically on the Budget and Finances law.
 - The Fiscal Year 2024 budget was adopted prior to this Petition being submitted or presented to the General Tribal Council for consideration. It is intended that the Fiscal Year 2025 budget will be adopted prior to this Petition being submitted to the General Tribal Council for consideration. Therefore, any allocations of funding to specifically support the requests of this Petition have not been included in the Fiscal Year 2024 budget or the Fiscal Year 2025 budget. All expenditures of the Nation are required to be made in accordance with the annual budget. Unless it is necessary to avoid a budget deficit, an amendment to the Fiscal Year 2025 budget to provide any allocation of funding to support the requests of this Petition would not be permissible under the Budget and Finances law.
 - Any allocation of funding to support the requests of this Petition for future fiscal years would be required to be budgeted for in accordance with the process and procedures contained within the Budget and Finances law.

- Any action taken by the General Tribal Council in regard to this Petition that would involve any capital improvements would need to comply with the requirements of the Budget and Finances law regarding capital improvements.
- 2. The Petition’s request that certain considerations be presented to and made by the General Tribal Council prior to the review and approval of the “Fiscal Year 2024-2025 budget” conflicts with the General Tribal Council’s directive provided through resolution GTC-01-21-19-A which sets the one hundred and eighty (180) day timeframe for presenting petitions to the General Tribal Council for consideration, and impacts the overall intent of the Ten Day Notice Policy.
- 3. The Petition’s directives in regard to the approval of the composition and design of the new recreation or community center would have no legislative impacts.

The statement of effect for this Petition has been attached to this e-poll.

An e-poll is necessary for this matter to avoid an undue delay in the processing of the adoption of this statement of effect because the next Legislative Operating Committee meeting will not occur until September 4, 2024, and an update or the actual statement of effect is due at the August 14, 2024, Oneida Business Committee meeting.

REQUESTED ACTION

Accept the statement of effect for the Petition: L. Blackowl – New Recreation/Community Center Build and forward to the Oneida Business Committee

DEADLINE FOR RESPONSE

August 2, 2024 at 4:00 p.m.

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



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

E-POLL RESULTS:

The e-poll was approved by Jennifer Webster, Jonas Hill, Kirby Metoxen, and Jameson Wilson. Marlon Skenandore is on a personal leave and therefore did not provide a response.

RE: E-POLL REQUEST: Statement of Effect for the Petition: L. Blackowl – New Recreation/Community Center Build



Jennifer A. Webster

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

Reply
 Reply All
 Forward

Thu 8/1/2024 4:19 PM

Support,
Thanks,
Jenny

Re: E-POLL REQUEST: Statement of Effect for the Petition: L. Blackowl – New Recreation/Community Center Build



Jonas G. Hill

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

Reply Reply All Forward

Thu 8/1/2024 4:25 PM

If there are problems with how this message is displayed, click here to view it in a web browser.

Accept

Sincerely,



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

Jonas G Hill
Councilman
Oneida Nation Business Committee
Phone: 920-606-3966
Email: JHILL1@oneidanation.org
PO Box 365
Oneida, WI 54155
www.oneida-nsn.gov

Re: E-POLL REQUEST: Statement of Effect for the Petition: L. Blackowl – New Recreation/Community Center Build



Kirby W. Metoxen

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

Reply Reply All Forward

Thu 8/1/2024 7:31 PM

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Support

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Re: E-POLL REQUEST: Statement of Effect for the Petition: L. Blackowl – New Recreation/Community Center Build



Jameson J. Wilson

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

Reply Reply All Forward

Thu 8/1/2024 7:51 PM

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Approve

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Statement of Effect

*Petition: L. Blackowl – New Recreation/Community Center Build
#2024-02*

Summary

This petition requests the General Tribal Council to consider various directives regarding the construction of a new recreation or community center.

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

Date: August 1, 2024

Analysis by the Legislative Reference Office

On June 10, 2024, the Petition: L. Blackowl – New Recreation/Community Center Build (“the Petition”) was submitted to the Government Administrative Office by Lindsey Blackowl and has since been verified by the Oneida Trust Enrollment Department on June 18, 2024. On June 26, 2024, the Oneida Business Committee acknowledged receipt of the Petition and directed that the Legislative Reference Office complete a statement of effect for the Petition with status updates to be submitted for the July 24, 2024, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. On July 17, 2024, the Legislative Operating Committee added the Petition to the Active Files List to be worked on by the Legislative Reference Office.

The purpose of this Petition is to call a special meeting of the General Tribal Council to consider the following:

- *Direct that a new Recreation/Community Center shall begin construction in Fiscal Year 2025;*
- *Direct the design of the new Recreation Center be presented to and approved by the GTC prior to the FY2024-2025 Budget approval;*
- *Direct the design of the Recreation Center shall include, but not be limited to, the following:*
 - *Multi-level facility (3 or more levels) with or without a parking ramp*
 - *Aquatic area that includes a swimming pool area for adults and children, hot tub, etc.*
 - *Indoor: Basketball and volleyball courts, football and/or lacrosse field(s), walking track, boxing, etc.*
 - *Fitness Center*

- *Daily use lockers, individual showers, and changing rooms for all genders, elders, disabled, and families*
- *Breastfeeding rooms*
- *Food prep and instructional/teaching areas (i.e. nutrition, etc.)*
- *Library and Learning Center(s) for children and adults*
- *Recreation, activity, and community rooms*
- *Concession and seating area large enough to seat 300+ guests for large events*
- *Multiple elevators*
- *Direct the design and cost of the new Recreation Center shall be presented to and approved by the GTC only;*
- *Direct the cost of the new Recreation Center, payment plan(s), and any payments that would impact the FY 2024-2025 budget shall be presented and approved by the GTC prior to or along with the FY 2024-2025 budget review and approval by GTC;*
- *Discuss funding the project with the Oneida Nation General Fund, allocated and/or unallocated carryover funds, liquidation of assets, unclaimed GTC per capita/GWA payments/distributions, a loan(s), grant(s), donation(s), left over covid funds, fundraisers, etc.; and*
- *GTC reserves the right to review, discuss, and take any other actions deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

All applicable laws and policies of the Nation were reviewed in developing this statement of effect for the Petition.

Funding the New Recreation/Community Center

The Petition contains various directives for the General Tribal Council's consideration that ultimately relate to funding a new recreation or community center, such as the following directives:

- *Direct that a new Recreation/Community Center shall begin construction in Fiscal Year 2025;*
- *Direct the design and cost of the new Recreation Center shall be presented to and approved by the GTC only;*
- *Direct the cost of the new Recreation Center, payment plan(s), and any payments that would impact the FY 2024-2025 budget shall be presented and approved by the GTC prior to or along with the FY 2024-2025 budget review and approval by GTC; and*
- *Discuss funding the project with the Oneida Nation General Fund, allocated and/or unallocated carryover funds, liquidation of assets, unclaimed GTC per capita/GWA payments/distributions, a loan(s), grant(s), donation(s), left over covid funds, fundraisers, etc.*

Directives related to the funding of a new recreation or community center would have an impact on legislation of the Nation, specifically, the Budget and Finances law.

The Budget and Finances law sets forth the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which:

- institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets;
- provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes;
- identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects;
- establish a framework for effective financial risk management; and
- encourage participation by the Nation’s membership. [1 O.C. 121.1-1].

The Nation is required to develop, adopt, and manage an annual budget. [1 O.C. 121.5-1]. All revenues and expenditures of the Nation are required to be made in accordance with the annual budget. *Id.* The Nation’s annual budget is required to be a balanced budget, which does not propose to spend more funds than are reasonably expected to become available to the Nation during that fiscal year. *Id.* The Budget and Finances law provides for the process and procedures to be used for the development and adoption of the Nation’s budget. [1 O.C. 121.5-4].

Since expenditures of the Nation are required to be made in accordance with an annual budget, construction on a new recreation or community center could not begin in Fiscal Year 2025 as directed by this Petition unless the expenditures for the construction were included in an approved budget.

This Petition intends that the cost of the new recreation or community center any payment plan be presented and approved by the General Tribal Council prior to or along with the Fiscal Year 2024-2025 budget review and approval by General Tribal Council. Although the Petition references a “Fiscal Year 2024-2025” budget, it must be noted that the Nation does adopt and manage annual budgets, so the Fiscal Year 2024 budget is separate from the Fiscal Year 2025 budget. Neither the Fiscal Year 2024 budget nor the Fiscal Year 2025 budget included any allocation of funding to specifically support the requests of this Petition.

The Fiscal Year 2024 budget was already adopted by the General Tribal Council in 2023. On September 25, 2023, the General Tribal Council adopted resolution GTC-09-25-23-A, *Adoption of Fiscal Year 2024 Budget*, which adopted the Fiscal Year 2024 budget in the amount of \$528,978,084 as approved by the General Tribal Council for implementation with review and oversight by the Oneida Business Committee. The Fiscal Year 2024 budget was adopted prior to this Petition being submitted or presented to the General Tribal Council for consideration. Therefore, any allocation of funding to support the requests of this Petition were not included in the Fiscal Year 2024 budget. All expenditures of the Nation are required to be made in accordance with the annual budget. [1 O.C. 121.5-1].

Although the Fiscal Year 2025 budget has not yet been adopted by the General Tribal Council at the time this statement of effect was drafted, the Fiscal Year 2025 budget is intended to be presented to the General Tribal Council for adoption on October 23, 2024. The Budget and Finances law provides that in the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution until such time as a budget is adopted. [1 O.C. 121.5-4(e)(1)]. The Oneida Business Committee intends to adopt a continuing budget resolution at the September 25, 2024, Oneida Business Committee meeting.¹

At the July 10, 2024, Oneida Business Committee meeting, the Oneida Business Committee took action to schedule a special General Tribal Council meeting on November 17, 2024, to address this Petition. Therefore, it is likely that the Fiscal Year 2025 budget will be adopted prior to this Petition being presented to the General Tribal Council for consideration. Therefore, any allocation of funding to specifically support the requests of this Petition may not be included in the Fiscal Year 2025 budget. All expenditures of the Nation are required to be made in accordance with the annual budget. [1 O.C. 121.5-1].

After the budget is adopted, amendments of the budget are not permitted unless it is necessary to avoid a budget deficit. [1 O.C. 121.5-5]. The Treasurer and Chief Financial Officer are required to identify when forecasted revenue and forecasted expenses are impacted in a manner which creates a deficit for the current fiscal year, and then the Chief Financial Officer is required to provide the Oneida Business Committee a written fiscal analysis and any input on the potential budget amendment. *Id.* The Oneida Business Committee is responsible for adopting an amendment to the budget through resolution of the Nation. *Id.* The Oneida Business Committee is required to present notification of the budget amendment at the next available General Tribal Council meeting. *Id.* So unless it is necessary to avoid a budget deficit, an amendment to the Fiscal Year 2025 budget to provide any allocation of funding to support the requests of this Petition would not be permissible under the Budget and Finances law.

¹ Oneida Business Committee Resolution BC-04-10-24-A, *Fiscal Year 2025 Budget Considerations and Calendar*, set forth the budget considerations and calendar for the Fiscal Year 2025 budget.

Additionally, unbudgeted expenditures are permitted under the Budget and Finances law if granted approval by the Oneida Business Committee. [1 O.C. 121.6-4(a)]. The Chief Financial Officer is required to provide the Oneida Business Committee with a written fiscal analysis and any input on any potential unbudgeted expenditure. *Id.* The approval of any unbudgeted expenditure is required to be made by the Oneida Business Committee through the adoption of a resolution prior to the expenditure being made by a fund unit. *Id.* Any unbudgeted expenditure for items and specific projects which were not identified in the approved budget made for over two hundred and fifty thousand dollars (\$250,000) is required to be formally noticed by the Oneida Business Committee to the General Tribal Council at the next available General Tribal Council regular or special meeting. [1 O.C. 121.6-4(b), BC-05-11-22-B, BC-10-08-08-A.].

Any allocation of funding to support the requests of this Petition for future fiscal years would be required to be budgeted for in accordance with the process and procedures contained within the Budget and Finances law.

The Budget and Finances law also specifically addresses capital improvements. A capital improvement is a non-recurring expenditure for physical improvements, including costs for: the acquisition of existing buildings, land, or interests in land; construction of new buildings or other structures, including additions and major alterations; acquisition of fixed equipment; landscaping; physical infrastructure; and similar expenditures with a cost of five thousand dollars (\$5,000.00) or more and a useful life of one (1) year or more. [1 O.C. 121.3-1(d)]. The Budget and Finances law differentiates between capital improvements for government services, which are any area or activity of the Nation that is not expected to create revenue for the Nation and not expected to make a profit at any time, and capital improvements for enterprises, which are any area or activity of the Nation that is engaged in for the business of profit. [1 O.C. 121.3-1(h)&(o)]. In regard to capital improvements for government services, the Oneida Business Committee is delegated the responsibility to develop, and the General Tribal Council is delegated the responsibility to approve, a capital improvement plan for government services. [1 O.C. 121.6-9(a)]. The capital improvement plan for government services covers a period of five (5) to ten (10) years and includes any risks and liabilities. [1 O.C. 121.6-9(a)(1)]. The capital improvement plan for government services is required to be reassessed once every five (5) years. [1 O.C. 121.6-9(a)(2)]. The Oneida Business Committee is responsible for providing a status report and recommendation for any improvements that have not been completed or that have been modified at the time of the reassessment. *Id.* Capital improvement plans for enterprises may be brought forward as needed, provided that the Oneida Business Committee is delegated the responsibility to approve all capital improvement plans for enterprises. [1 O.C. 121.6-9(b)]. Capital improvement plans for both government services and enterprises are implemented, contingent on available funding capacity. [1 O.C. 121.6-9(c)]. Unexpended capital improvement funds carry over to the next fiscal year's budget, provided that such funds are required to remain appropriated for the same purpose as

originally budgeted until the project is complete. [1 O.C. 121.6-6(a)]. Once a capital improvement project is complete, any remaining unexpended funds shall be returned to the General Fund. *Id.*

Therefore, any action taken by the General Tribal Council in regard to this Petition that would involve any capital improvements would need to comply with the requirements of the Budget and Finances law regarding capital improvements.

180 Day Timeframe for Petitions

The Petition contains various directives for the General Tribal Council’s consideration that ultimately relate to the timing of when this Petition is presented to the General Tribal Council, such as the following directives:

- Direct the design of the new Recreation Center be presented to and approved by the GTC prior to the FY2024-2025 Budget approval; and
- Direct the cost of the new Recreation Center, payment plan(s), and any payments that would impact the FY 2024-2025 budget shall be presented and approved by the GTC prior to or along with the FY 2024-2025 budget review and approval by GTC.

Overall, the Petition directs that certain considerations be presented to and made by the General Tribal Council prior to the review and approval of the Fiscal Year 2024-2025 budget. It is being assumed the Petition is referencing the Fiscal Year 2025 budget. The Fiscal Year 2025 budget is intended to be presented to the General Tribal Council for adoption on October 23, 2024.

Article III, Section 6 of the Constitution and Bylaws of the Oneida Nation (“the Constitution”) sets forth the process by which members of the Nation may petition to call a special meeting to bring a subject before the General Tribal Council for consideration. [Constitution Article III, Section 6]. The Constitution provides that the chairman or fifty (50) qualified voters may, by written notice, call special meetings of the General Tribal Council. *Id.*

The General Tribal Council enacted the Ten Day Notice Policy on March 4, 1991, for the purpose of providing notice to the General Tribal Council of regular or special business to be conducted or action taken at a General Tribal Council meeting. [1 O.C. 110.1-1]. Requiring prior notice of the agenda items and information related to items assisted in creating informed discussion and improved decision-making by the General Tribal Council on matters that affected the Nation which became increasingly more complex and technical.

In an effort to provide consistency in the timeframe for when petitions are presented to the General Tribal Council, on July 17, 2017, the General Tribal Council adopted a motion which required petitions submitted under Article III, Section 6 of the Constitution to be processed and brought to the General Tribal Council within one hundred and twenty (120) days of submission.

In an effort to balance General Tribal Council's desire to have timely presentations of petitions with the acknowledgement that one hundred and twenty (120) days does not provide enough time to properly develop the necessary analyses to provide information to the General Tribal Council to make an informed decisions while also recognizing scheduling constraints, on January 21, 2019, the General Tribal Council adopted resolution GTC-01-21-19-A, *Amending the 120-Day Petition Timeline Adopted by the General Tribal Council*. Resolution GTC-01-21-19-A adopted a rule regarding petitions which superseded the July 17, 2017, action setting a one hundred and twenty (120) day timeframe, and instead required that petitions be presented to the General Tribal Council within one hundred and eighty (180) days of receipt by the Oneida Business

This Petition was submitted to the Government Administrative Office on June 10, 2024. The Oneida Business Committee then acknowledged receipt of the Petition on June 26, 2024. In accordance with resolution GTC-01-21-19-A, the Oneida Business Committee has until December 7, 2024, to present this Petition to the General Tribal Council. At the July 10, 2024, Oneida Business Committee meeting, the Oneida Business Committee took action to schedule a special General Tribal Council meeting on November 17, 2024, to address this Petition.

Therefore, the Petition's directives that certain considerations be presented to and made by the General Tribal Council prior to the review and approval of the Fiscal Year 2024-2025 budget, which is scheduled to occur on October 23, 2024 – one hundred and thirty-five (135) days after receipt of the Petition, conflict with General Tribal Council resolution GTC-01-21-19-A, and impacts the overall intent of the Ten Day Notice Policy.

If the General Tribal Council wanted to amend resolution GTC-01-21-19-A to change the one hundred and eighty (180) day timeline for presenting a petition to the General Tribal Council for consideration, then the Ten Day Notice Policy would require that any action to overrule a previously passed motion or resolution of the General Tribal Council requires a two-thirds (2/3) majority vote. [1 O.C. 110.3-1(a)(3)].

Design Approval of the Recreation or Community Center

The Petition contains directives for the General Tribal Council's consideration that ultimately relate to the approval of the design and composition of the new recreation or community center, including the following:

- *Direct the design of the new Recreation Center be presented to and approved by the GTC prior to the FY2024-2025 Budget approval;*
- *Direct the design of the Recreation Center shall include, but not be limited to, the following:*
 - *Multi-level facility (3 or more levels) with or without a parking ramp*

- *Aquatic area that includes a swimming pool area for adults and children, hot tub, etc.*
- *Indoor: Basketball and volleyball courts, football and/or lacrosse field(s), walking track, boxing, etc.*
- *Fitness Center*
- *Daily use lockers, individual showers, and changing rooms for all genders, elders, disabled, and families*
- *Breastfeeding rooms*
- *Food prep and instructional/teaching areas (i.e. nutrition, etc.)*
- *Library and Learning Center(s) for children and adults*
- *Recreation, activity, and community rooms*
- *Concession and seating area large enough to seat 300+ guests for large events*
- *Multiple elevators*

The Petition's directives in regard to the approval of the composition and design of the new recreation or community center would have no legislative impacts.

Conclusion

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: L. Blackowl – New Recreation/Community Center Build would have the following legislative effect:

1. The Petition's various directives for the General Tribal Council's consideration that ultimately relate to funding a new recreation or community center have a legislative impact, specifically on the Budget and Finances law.
 - The Fiscal Year 2024 budget was adopted prior to this Petition being submitted or presented to the General Tribal Council for consideration. It is intended that the Fiscal Year 2025 budget will be adopted prior to this Petition being submitted to the General Tribal Council for consideration. Therefore, any allocations of funding to specifically support the requests of this Petition have not been included in the Fiscal Year 2024 budget or the Fiscal Year 2025 budget. All expenditures of the Nation are required to be made in accordance with the annual budget. Unless it is necessary to avoid a budget deficit, an amendment to the Fiscal Year 2025 budget to provide any allocation of funding to support the requests of this Petition would not be permissible under the Budget and Finances law.
 - Any allocation of funding to support the requests of this Petition for future fiscal years would be required to be budgeted for in accordance with the process and procedures contained within the Budget and Finances law.
 - Any action taken by the General Tribal Council in regard to this Petition that would involve any capital improvements would need to comply with the requirements of the Budget and Finances law regarding capital improvements.

2. The Petition’s request that certain considerations be presented to and made by the General Tribal Council prior to the review and approval of the “Fiscal Year 2024-2025 budget” conflicts with the General Tribal Council’s directive provided through resolution GTC-01-21-19-A which sets the one hundred and eighty (180) day timeframe for presenting petitions to the General Tribal Council for consideration, and impacts the overall intent of the Ten Day Notice Policy.
3. The Petition’s directives in regard to the approval of the composition and design of the new recreation or community center would have no legislative impacts.

Requested Action

Accept the statement of effect for the Petition: L. Blackowl – New Recreation/Community Center Build

September 2024

September 2024

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
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15	16	17	18	19	20	21
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29	30					

October 2024

Su	Mo	Tu	We	Th	Fr	Sa
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27	28	29	30	31		

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
Sep 2	3	4 8:30am LOC Prep Meeting (Microsoft Teams) 9:00am Legislative Operating Committee 1:30pm LOC Work Session (Microsoft) 5:30pm LOC Community Meeting: Limited	5	6 1:00pm Marijuana law - work meeting (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Carolyn A. Salutz
9 1:00pm Vendor Licensing amendments - work meeting (Microsoft Teams Meeting); 2:00pm Recycling and Solid Waste - work meeting, LOC only (Microsoft Teams)	10 2:00pm Higher Education Mapping Session (BC_Exec_Conf_Room) - Grace L. Elliott	11	12 1:00pm Draft Probate law (Microsoft Teams Meeting; LBD_ConferenceRoom) - Grace L. Elliott	13 12:15pm PUBLIC MEETING: Investigative Leave Policy Amendments 12:15pm PUBLIC MEETING: Investigative Leave Policy Amendments
16	17	18 8:30am LOC Prep Meeting (Microsoft Teams Meeting); 9:00am Legislative Operating Committee Meeting (Microsoft) 1:30pm LOC Work Session	19 1:30pm Tax Discussion (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Grace L. Elliott	20
23	24	25	26 10:00am LOC Work Session (Microsoft Teams Meeting; BC_Exec_Conf_Room) - 1:00pm Two-spirit Inclusion law - focus group (Microsoft Teams Meeting);	27 1:00pm Furlough Law (and Layoff Policy) - work meeting (Microsoft Teams Meeting; BC_Conf_Room) - Carolyn A. Salutz
30	Oct 1	2	3	4