



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

- I. Call to Order and Approval of the Agenda**
  
- II. Minutes to be Approved**
  - 1. September 18, 2024 LOC Meeting Minutes (pg. 2)
  
- III. Current Business**
  - 1. Oneida Life Insurance Plan Law Amendments (pg. 4)
  - 2. Computer Resources Ordinance Amendments (pg. 19)
  - 3. Investigative Leave Policy Amendments (pg. 42)
  
- IV. New Submissions**
  
- V. Additions**
  
- VI. Administrative Updates**
  
- VII. Executive Session**
  
- VIII. Recess/Adjourn**



**LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES**  
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center  
September 18, 2024  
9:00 a.m.

**Present:** Jonas Hill, Kirby Metoxen, Marlon Skenandore, Jennifer Webster

**Excused:** Jameson Wilson

**Others Present:** Clorissa N. Leeman, Grace Elliott

**Others Present on Microsoft Teams:** Krystal John, Fawn Cottrell, Kaylynn Gresham, Kristal Hill, Maureen Perkins, Rae Skenandore, Mark Powless, Todd Vanden Heuvel, Ralinda Ninham-Lamberies, Carolyn Salutz, Eric Boulanger, Derrick Denny, Fawn Billie, Michelle Hill, Sarah White

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

Kirby Metoxen called the September 18, 2024, Legislative Operating Committee meeting to order at 9:00 a.m.

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

**II. Minutes to be Approved**

**1. September 4, 2024 LOC Meeting Minutes**

Motion by Marlon Skenandore to approve the September 4, 2024, LOC meeting minutes; seconded by Jennifer Webster. Motion carried unanimously.

**III. Current Business**

**1. Vehicle Driver Certification and Fleet Management Law Amendments**

Motion by Jennifer Webster to approve the adoption packet for the proposed amendments to the Vehicle Driver Certification and Fleet Management law and forward to the Oneida Business Committee for consideration; seconded by Jonas Hill. Motion carried unanimously.

**2. Oneida Life Insurance Plan Law Amendments**

Motion by Jonas Hill to approve the legislative analysis for the proposed amendments to the Oneida Life Insurance Plan law; seconded by Marlon Skenandore. Motion carried unanimously.



**3. Landlord Tenant Law Amendments**

Motion by Jennifer Webster to approve the draft of the proposed amendments to the Landlord Tenant law and direct that a legislative analysis be completed; seconded by Marlon Skenandore. Motion carried unanimously.

**IV. New Submissions**

**V. Additions**

**VI. Administrative Items**

**VII. Executive Session**

**VIII. Adjourn**

Motion by Marlon Skenandore to adjourn at 9:12 a.m.; seconded by Jennifer Webster. Motion carried unanimously.



Legislative Operating Committee  
 October 2, 2024

# Oneida Life Insurance Plan Law Amendments

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

**8/29/24:** *Work Meeting.* Present: Jameson Wilson, Marlon Skenandore, Kirby Metoxen, Jonas Hill, Clorissa Leeman, Fawn Cottrell, Kristal Hill, Maureen Perkins, Fawn Billie, Carolyn Salutz. The purpose of this work meeting was to determine what, if any, amendments to make to the Oneida Life Insurance Plan law based on the information received during the One Year Review work meeting held on August 26, 2024.

**9/4/24 LOC:** Motion by Kirby Metoxen to accept the memorandum entitled, One (1) Year Review of the Oneida Life Insurance Plan Law; seconded by Marlon Skenandore. Motion carried unanimously.

Motion by Marlon Skenandore to approve the draft of proposed amendments to the Oneida Life Insurance Plan law and direct that a legislative analysis be developed; seconded by Jonas Hill. Motion carried unanimously.

**9/18/24 LOC:** Motion by Jonas Hill to approve the legislative analysis for the proposed amendments to the Oneida Life Insurance Plan law; seconded by Marlon Skenandore. Motion carried unanimously.

**Next Steps:**

- Approve the public meeting packet for the proposed amendments to the Oneida Life Insurance Plan law, and forward the Oneida Life Insurance Plan law amendments to a public meeting to be held on November 15, 2024.

**ONEIDA NATION PUBLIC MEETING NOTICE****FRIDAY, NOVEMBER 15, 2024, 12:15 pm**Norbert Hill Center-Business Committee Conference Room  
N7210 Seminary Rd., Oneida, WisconsinFind Public Meeting Materials at  
[Oneida-nsn.gov/government/register/public meetings](https://oneida-nsn.gov/government/register/public%20meetings)

Send Public Comments to

[LOC@oneidanation.org](mailto:LOC@oneidanation.org)

Ask Questions here

[LOC@oneidanation.org](mailto:LOC@oneidanation.org)

920-869-4417

**ONEIDA LIFE INSURANCE PLAN LAW AMENDMENTS**

The purpose of the Oneida Life Insurance Plan law is to provide a death benefit through the Oneida Life Insurance Plan for all eligible enrolled Oneida Nation members, pursuant to the Oneida General Welfare law.

**The Oneida Life Insurance Plan law amendments will:**

- ◆ Expand the period of time in which it is required to notify the Oneida Trust Enrollment Department of a decedent's death in order to distribute Oneida Life Insurance Plan benefits to the beneficiary from one (1) year to three (3) years .

Individuals may attend the public meeting for the proposed Oneida Life Insurance Plan law amendments in person at the Norbert Hill Center, or virtually through Microsoft Teams. If you wish to attend the public meeting through Microsoft Teams please contact [LOC@oneidanation.org](mailto:LOC@oneidanation.org).

**PUBLIC COMMENT PERIOD CLOSSES FRIDAY, NOVEMBER 22, 2024**

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



For more information on the proposed Oneida Life Insurance Plan law amendments please review the public meeting packet at [oneida-nsn.gov/government/register/public meetings](https://oneida-nsn.gov/government/register/public%20meetings).



# ONEIDA LIFE INSURANCE PLAN LAW AMENDMENTS LEGISLATIVE ANALYSIS

## SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Proposed Amendments</b>	Expand the period of time in which it is required to notify the Oneida Trust Enrollment Department of a decedent’s death in order to distribute Oneida Life Insurance Plan benefits to the beneficiary from one (1) year to three (3) years. [10 O.C. 1004.5-3].
<b>Purpose</b>	The purpose of this law is to provide a death benefit through the Oneida Life Insurance Plan for all eligible enrolled Oneida Nation members, pursuant to the Oneida General Welfare law. [10 O.C. 1004.1-1].
<b>Affected Entities</b>	Oneida Trust Enrollment Department, Members of the Nation
<b>Public Meeting</b>	A public meeting will be scheduled for November 15, 2024.
<b>Fiscal Impact</b>	A fiscal impact statement has not yet been requested.

## SECTION 2. LEGISLATIVE DEVELOPMENT

- 1 **SECTION 2. LEGISLATIVE DEVELOPMENT**
- 2 **A. Background.** The Oneida Life Insurance Plan law was adopted by the Oneida Business Committee in
- 3 August of 2023 through resolution BC-08-23-23-G. The purpose of the Oneida Life Insurance Plan law
- 4 is to the purpose of providing a death benefit through the Oneida Life Insurance Plan for all eligible
- 5 enrolled Oneida Nation members, pursuant to the Oneida General Welfare law. [10 O.C. 1004.1-1]. It
- 6 is the policy of the Nation to care for its members and their families even after their death. [10 O.C.
- 7 1004.1-2]. The Nation seeks to internalize the Oneida Life Insurance Plan process to ensure equitable
- 8 and expedient distribution to designated beneficiaries. *Id.* The General Tribal Council, through
- 9 resolution GTC-01-17-09-B, approved the concept of the Oneida Life Insurance Plan Plus to replace
- 10 the Oneida Burial Fund. [10 O.C. 1004.1-1(a)]. The General Tribal Council directed implementation
- 11 of a benefit that pays fifteen thousand dollars (\$15,000) to the designated beneficiary or beneficiaries
- 12 of the deceased Oneida Nation member. *Id.* The payment of death benefits through OLIPP to designated
- 13 beneficiaries of a deceased Oneida Nation member is an exercise of self-governance crucial to the
- 14 Oneida Nation’s sovereignty, and health and welfare of the community. *Id.*
- 15 **B. Request for Amendments.** This item added to the Active Files List on June 5, 2024, at the request of
- 16 the Chief Financial Officer (CFO), Ralinda Ninham-Lamberies. The CFO requested the Legislative
- 17 Operating Committee consider an emergency amendment to the Law to remove section 1004.5-3 which
- 18 provides that “the Oneida Trust Enrollment Department shall be notified within one (1) year of the
- 19 member of the Nation’s death in order to distribute the Oneida Life Insurance Plan benefits to the
- 20 beneficiary. Oneida Life Insurance Plan claims made beyond the first anniversary of the decedent’s
- 21 death shall not be processed for distribution.” Finance provided that recently a member of the Nation
- 22 missed the deadline by four (4) days, and there would not be an increase in liability is this provision is
- 23 removed due to limited staff availability. The Legislative Operating Committee determined this request
- 24 did not meet the standard for emergency legislation provided for in section 109.9-5 of the Legislative

25 Procedures Act, but decided to add this item to the Active Files List anyways due to the August 20,  
 26 2023 Oneida Business Committee motion which directed the Legislative Operating Committee to bring  
 27 this Law back for a one (1) year review of its adoption and implementation.

28 **C. One Year Review.** When the Oneida Life Insurance Plan law was adopted in August of 2023, the  
 29 Oneida Business Committee also directed that the Oneida Life Insurance Plan law be brought back to  
 30 the Legislative Operating Committee in one (1) year for review. On August 26, 2024, the Legislative  
 31 Operating Committee meet with the Trust Enrollments Department, Finance, and the Oneida Law  
 32 Office to discuss the status of implementation of the Oneida Life Insurance Plan law during its first  
 33 year, and to begin discussions on whether any amendments to the law are necessary at this time. The  
 34 Legislative Operating Committee accepted the memorandum entitled, *One (1) Year Review of the*  
 35 *Oneida Life Insurance Plan Law*, on September 4, 2024. Overall, the Trust Enrollments Department,  
 36 Finance, and the Oneida Law Office provided that the implementation of the Oneida Life Insurance  
 37 Plan law has been smooth and the law is operating as it was intended. Although the Oneida Life  
 38 Insurance Plan law is working as intended, the Legislative Operating Committee was asked by Finance  
 39 to consider two (2) areas where amendments to the Oneida Life Insurance Plan law could potentially  
 40 result in improvements in how the law is administered: (1) Section 1004.5-2(d) and 1004.6-3: regarding  
 41 the requirement that funeral expenses be paid directly to the funeral home first before any remaining  
 42 funds are paid to beneficiary; and (2) Section 1004.5-3: regarding the notice of death requirement of  
 43 one (1) year. Ultimately, the Legislative Operating Committee decided to pursue amendments to the  
 44 Oneida Life Insurance Plan law to address the length of time for the notice of death requirement. In the  
 45 one (1) year review the Oneida Trust Enrollment Department provided the following statistics that were  
 46 current as of August 29, 2024, to provide some perspective on how the Oneida Life Insurance Plan has  
 47 been administered during its first year:

<b>Oneida Life Insurance Plan Law Statistics</b>				
<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

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 49

50 **SECTION 3. CONSULTATION AND OUTREACH**

51 **A.** Representatives from the following departments or entities participated in the development of the  
 52 amendments to the Oneida Life Insurance Plan law and this legislative analysis:



- 53       ▪ Oneida Law Office;
- 54       ▪ Finance Administration;
- 55       ▪ Oneida Trust Enrollments Department; and
- 56       ▪ Central Accounting.
- 57 **B.** The following laws were reviewed in the drafting of this analysis:
- 58       ▪ Oneida General Welfare law; and
- 59       ▪ Administrative Rulemaking law.

60

#### 61 **SECTION 4. PROCESS**

- 62 **A.** The development of the proposed amendments to the Oneida Life Insurance Plan law complies with
- 63 the process set forth in the Legislative Procedures Act (LPA).
- 64       ▪ On June 5, 2024, the Legislative Operating Committee added the Oneida Life Insurance Plan law
- 65 to its Active Files List.
- 66       ▪ On September 4, 2024, the Legislative Operating Committee approved the draft of proposed
- 67 amendments to the Oneida Life Insurance Plan law.
- 68       ▪ On September 18, 2024, the Legislative Operating Committee approved the legislative analysis for
- 69 the proposed amendments to the Oneida Life Insurance Plan law.
- 70 **B.** At the time this legislative analysis was developed the following work meetings had been held
- 71 regarding the development of the amendments to this Law:
- 72       ▪ August 26, 2024: LOC work session with the Oneida Law Office, Finance Administration, Oneida
- 73 Trust Enrollments Department, and Central Accounting.
- 74       ▪ August 29, 2024: LOC work session.

75

#### 76 **SECTION 5. CONTENTS OF THE LEGISLATION**

- 77 **A.** *Expansion of the Timeframe for Noticing the Death of a Decedent.* Currently, the Oneida Life
- 78 Insurance Plan law requires that the Oneida Trust Enrollment Department be notified within one (1)
- 79 year of the member of the Nation’s death in order to distribute the Oneida Life Insurance Plan benefits
- 80 to the beneficiary. [10 O.C. 1004.5-3]. The Oneida Life Insurance Plan law is clear that Oneida Life
- 81 Insurance Plan claims made beyond the first anniversary of the decedent’s death shall not be processed
- 82 for distribution. *Id.* The proposed amendments to the Oneida Life Insurance Plan law expand the
- 83 amount of time given to notice the Oneida Trust Enrollment Department of the death of a member from
- 84 one (1) year to three (3) years. [10 O.C. 1004.5-3].
- 85       ▪ *Effect.* The Legislative Operating Committee determined that greater flexibility and consideration
- 86 could be given to members of the Nation by increasing the notification period, but ultimately still
- 87 wanted to maintain some notice requirement to ensure that claims are not held open indefinitely.
- 88 The Legislative Operating Committee determined this is accomplished in the proposed
- 89 amendments to the Oneida Life Insurance Plan law that increase the period of time allowed to
- 90 notify the Oneida Trust Enrollment Department of a death in order to distribute Oneida Life
- 91 Insurance Plan benefits from one (1) year to three (3) years.

92

#### 93 **SECTION 6. EXISTING LEGISLATION**

- 94 **A.** *Related Legislation.* The following laws of the Nation are related to this Law:

- 95       ▪ *Oneida General Welfare Law.* The Oneida General Welfare Law governs how the Nation provides  
96 assistance to eligible members on a non-taxable basis, pursuant to the principles of the General  
97 Welfare Exclusion to Indian Tribal governmental programs that provide benefits to Tribal  
98 members. [10 O.C. 1001.1-1].  
99       ▪ The Oneida Life Insurance Plan is hereby established as an approved program of the Nation in  
100 accordance with the Oneida General Welfare Law. [10 O.C. 1003.4-1]. The Oneida Life  
101 Insurance Plan meets the requirements of the General Test as defined in the Oneida General  
102 Welfare Law. [10 O.C. 1003.4-2].  
103       ▪ *Administrative Rulemaking Law.* The Administrative Rulemaking law provides an efficient,  
104 effective, and democratic process for enacting and revising administrative rules, to ensure that  
105 authorized agencies act in a responsible and consistent manner when enacting and revising  
106 administrative rules. [1 O.C. 106.1-2].  
107       ▪ The Oneida Life Insurance Plan law delegates rulemaking authority to the Oneida Trust  
108 Enrollment Department to promulgate rules to govern the administration of the Oneida Life  
109 Insurance Plan. [10 O.C. 1004.8-1].  
110       ▪ Any rules promulgated by the Oneida Trust Enrollment Department must be done in accordance  
111 with the process and procedures of the Administrative Rulemaking law.

112

## 113 **SECTION 7. OTHER CONSIDERATIONS**

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

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

122

**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

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.

Draft 1(Redline to Current) – PM Draft  
2024 10 02

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 **1004.6. Beneficiary Claim Process and Distribution**

112 1004.6-1. *Evidence as to Passing or Status.* In proceedings under this law, the following rules  
113 relating to determination of death and status are applicable:

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

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

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

124 1004.6-2. *Effect of Homicide on Beneficiary Designation.* A designated beneficiary who  
125 criminally and intentionally causes the death of the decedent shall not be entitled to any benefits  
126 passing under this law.

127 1004.6-3. *Distribution.* Oneida Life Insurance Plan benefits shall be distributed in the following  
128 order:  
129

- 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

**1004.7. Funding**

136 1004.7-1. *Funding Source.* The Oneida Life Insurance Plan shall be contingent on funding by the  
137 Nation.  
138

**1004.8. Administrative Rulemaking**

139  
140 1004.8-1. *Delegation of Administrative Rulemaking Authority.* The Oneida Trust Enrollment  
141 Department shall be delegated administrative rulemaking authority in accordance with the  
142 Administrative Rulemaking law to promulgate rules to govern the administration of the Oneida  
143 Life Insurance Plan.  
144

145  
146 *End.*

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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  
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

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**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 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:

- 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

**1004.7. Funding**

136 1004.7-1. *Funding Source.* The Oneida Life Insurance Plan shall be contingent on funding by the  
137 Nation.  
138

**1004.8. Administrative Rulemaking**

139  
140 1004.8-1. *Delegation of Administrative Rulemaking Authority.* The Oneida Trust Enrollment  
141 Department shall be delegated administrative rulemaking authority in accordance with the  
142 Administrative Rulemaking law to promulgate rules to govern the administration of the Oneida  
143 Life Insurance Plan.  
144

145  
146 *End.*

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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- \_ - \_ - \_ - \_



Legislative Operating Committee  
October 2, 2024

# Computer Resources Ordinance Amendments

<b>Submission Date:</b> 5/15/24	<b>Public Meeting:</b> 8/21/24
<b>LOC Sponsor:</b> Jameson Wilson	<b>Emergency Enacted:</b> 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.

**9/4/24 LOC:** Motion by Kirby Metoxen to approve the public comment review memorandum, draft, and legislative analysis for the proposed amendments to the Computer Resources Ordinance; seconded by Marlon Skenandore. Motion carried unanimously.


Motion by Marlon Skenandore to 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; seconded by Kirby Metoxen. Motion carried unanimously.

Motion by Kirby Metoxen to enter into the record the results of the July 17, 2024, e-poll entitled, Approval of the Canceled July 17, 2024 LOC Meeting Materials; seconded by Jonas Hill. Marlon Skenandore abstained. Motion carried.

### **Next Steps:**

- Approve the adoption packet for the Computer Resources Ordinance amendments and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee  
FROM: Jameson Wilson, LOC Chairperson   
DATE: October 2, 2024  
RE: Adoption of Amendments to the Computer Resources Ordinance

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Please find the following attached backup documentation for your consideration of the adoption of amendments to the Computer Resources Ordinance:

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

### Overview

The purpose of the Computer Resources Ordinance is to regulate the usage of technology resources and processed data owned and operated by the Nation. [2 O.C. 215.1-1]. Amendments to the Computer Resources Ordinance are being sought 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. [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].

The Legislative Operating Committee developed the proposed amendments to the Computer Resources Ordinance through collaboration with representatives from Digital Technology Services. The Legislative Operating Committee held two (2) work meetings on the development of the amendments to the Computer Resources Ordinance.

The development of the amendments to the Computer Resources Ordinance 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 a public meeting on the proposed amendments to the Computer Resources Ordinance on August 21, 2024. No individuals provided public comments during this public meeting. The public comment period was then held open until August 28, 2024. No written comments were received during this public comment period.

The amendments to the Computer Resources Ordinance will become effective on October 23, 2024.

**Requested Action**

Adopt the Resolution: Amendments to the Computer Resources Ordinance

# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## BC Resolution # Amendments to the Computer Resources Ordinance

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- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Computer Resources Ordinance (“the Law”) was adopted by the Oneida Business Committee through resolution BC-09-29-04-B; and
- WHEREAS,** the purpose of this Law is to regulate the usage of technology resources and processed data owned and operated by the Nation; and
- WHEREAS,** the amendments to the Law revise the title and references throughout the Law from “computer resources” to “technology resources”; and
- WHEREAS,** the amendments to the Law 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; and
- WHEREAS,** the amendments to the Law 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; and
- WHEREAS,** the amendments to the Law 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; and
- WHEREAS,** the amendments to the Law include a new provision in which Digital Technology Services is delegated rulemaking authority in accordance with the Administrative Rulemaking law to promulgate rules to govern technology resources of the Nation; and
- WHEREAS,** the Legislative Operating Committee developed the proposed amendments to the Law through collaboration with representatives from Digital Technology Services; and
- WHEREAS,** in accordance with the Legislative Procedures Act a legislative analysis and fiscal impact statement were completed for the proposed amendments to the Law; and
- WHEREAS,** the Legislative Operating Committee held a public meeting on the proposed amendments to the Law on August 21, 2024, with no individuals providing oral comments, and the public comment period for the amendments to this Law was held open until August 28, 2024, with no submission of written comments received; and

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**NOW THEREFORE BE IT RESOLVED**, the Oneida Business Committee hereby adopts the amendments to the Computer Resources Ordinance, now known as the Technology Resources law, which shall become effective on October 23, 2024.





## Statement of Effect

### *Amendments to the Computer Resources Ordinance*

#### *Summary*

This resolution adopts amendments to the Computer Resources Ordinance.

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

*Date: September 20, 2024*

#### *Analysis by the Legislative Reference Office*

This resolution adopts 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. [2 O.C. 215.1-1]. Amendments to the Computer Resources Ordinance are being sought 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. [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].

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 Computer Resources Ordinance 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 a public meeting on the proposed amendments to the Computer Resources Ordinance on August 21, 2024. No individuals provided public comments during this public meeting. The public comment period was then held open until August 28, 2024. No written comments were received during this public comment period.

The amendments to the Computer Resources Ordinance will become effective on October 23, 2024.

***Conclusion***

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



# COMPUTER RESOURCES ORDINANCE AMENDMENTS LEGISLATIVE ANALYSIS

## SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Proposed Amendments</b>	<ul style="list-style-type: none"> <li>▪ Revise the title and references throughout the Law from “computer resources” to “technology resources.”</li> <li>▪ 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].</li> <li>▪ 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].</li> <li>▪ 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)].</li> <li>▪ 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].</li> </ul>
<b>Purpose</b>	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].
<b>Affected Entities</b>	DTS, employees, independent contractor personnel, interns, members of boards, committees or commissions, volunteers, guests, and visitors
<b>Public Meeting</b>	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.
<b>Fiscal Impact</b>	A fiscal impact statement was provided by the Finance Administration on September 24, 2024.

## 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     ▪ On September 4, 2024, the Legislative Operating Committee approved the public comment review  
48 memorandum, draft, and legislative analysis for the proposed amendments to the Computer  
49 Resources Ordinance. The Legislative Operating Committee also approved the fiscal impact  
50 statement request memorandum and forwarded the materials to the Finance Department directing  
51 that a fiscal impact statement be prepared and submitted to the LOC by September 18, 2024. The  
52 Legislative Operating Committee also entered into the record the results of the July 17, 2024, e-  
53 poll entitled, *Approval of the Canceled July 17, 2024 LOC Meeting Materials*.

- 54       ▪ On September 24, 2024, the Finance Administration provided the Legislative Operating  
55       Committee with the fiscal impact statement for the proposed amendments to the Computer  
56       Resources Ordinance.
- 57 **B.** At the time this legislative analysis was developed the following work meetings had been held  
58       regarding the development of the amendments to the Computer Resources Ordinance:  
59       ▪ May 31, 2024: LOC work session with DTS.  
60       ▪ July 26, 2024: LOC work session with DTS.

61

## 62 **SECTION 5. CONTENTS OF THE LEGISLATION**

63 **A. *Computer to Technology Resources.*** The proposed amendments to the Law change the title and  
64       references throughout the Law from “computer resources” to “technology resources.” Technology  
65       resources is defined as any tools, systems, and applications that use technology to fulfill their purposes.  
66       [2 *O.C. 215.3-1(e)*]. The Law provides that technology resources may include, but are not limited to,  
67       computers, tablets, telephones, facsimile machines, photocopiers, networks, virtual applications, and  
68       software, such as internet connectivity and access to internet services and electronic mail. *Id.*

69       ▪ *Effect.* The revised title and references throughout the Law are more inclusive of the fact that the  
70       Nation uses many different forms of technology beyond just computers, and the amendments  
71       demonstrate that the Law should apply to all technology used within the Nation, not just computers.

72 **B. *Location of Inappropriate Personal Use.*** Currently, the Law provides that users are expected to  
73       conduct themselves professionally and to refrain from using technology resources of the Nation for  
74       activities that are inappropriate. [2 *O.C. 215.5-1*]. The proposed amendments to the Law add in  
75       clarification that users are expected to conduct themselves professionally and to refrain from using  
76       technology resources of the Nation for activities that are inappropriate no matter in what location the  
77       user utilizes the technology resources of the Nation. *Id.*

78       ▪ *Effect.* The proposed amendments to the Law recognize that the same expectations apply even  
79       though some users of the Nation may be using technology resources of the Nation from a variety  
80       of locations, especially with the ability for some employees of the Nation to telecommute.

81 **C. *Reporting Inappropriate Use.*** The proposed amendments to the Law add in a new section that clarifies  
82       that it shall not be deemed an inappropriate use for a user to share information or evidence regarding  
83       the inappropriate use of another user if reporting the inappropriate use in accordance with the proper  
84       reporting structure. [2 *O.C. 215.5-2*].

85       ▪ *Effect.* The Legislative Operating Committee intended that this new provision to the Law make it  
86       very clear that a user who may forward on or share information or evidence regarding the  
87       inappropriate use of another user will not be found to be engaging in an inappropriate use if using  
88       the information or evidence to report the inappropriate use of another user in accordance with the  
89       proper reporting structure.

90 **D. *Development of Standard Operating Procedures.*** Currently the Law provides that supervisors are  
91       authorized to develop standard operating procedures defining excessive use for users subject to the  
92       Nation’s personnel policies and procedures and who are under the supervisor’s authority. [2 *O.C. 215.7-*  
93       *1(a)*]. The proposed amendments to the Law add further clarification into the Law by providing that  
94       supervisors are authorized to develop standard operating procedures defining excessive use of  
95       technology resources for any user that is an employee of the Nation and subject to the supervisor’s  
96       authority, in addition to the fact that any standard operating procedure is required to be developed in  
97       accordance with all other laws and rules of the Nation. *Id.*

- 98       ▪ *Effect.* The proposed amendment to the Law clarifies that any standard operating procedure  
99       developed by a supervisor needs to be developed in accordance with all other laws and rules of the  
100       Nation. It is important that there is consistency throughout the laws, rules, and standard operating  
101       procedures of the Nation and that no conflicts exist between the various levels of regulations.
- 102 **E. *Delegation of Administrative Rulemaking Authority.*** The proposed amendments to the Law add in a  
103       new provision in which DTS is delegated rulemaking authority in accordance with the Administrative  
104       Rulemaking law to promulgate rules to govern technology resources of the Nation. [2 O.C. 215.9-1].
- 105       ▪ *Effect.* The Administrative Rulemaking law provides that only authorized agencies may  
106       promulgate rules once they are granted rulemaking authority by a law of the Nation. [1 O.C. 106.4-  
107       1]. This new provision of the Law delegates DTS rulemaking authority in accordance with the  
108       Administrative Rulemaking law. This delegation of rulemaking authority will allow DTS to  
109       develop rules to best govern the technology resources of the Nation.  
110

## 111 **SECTION 6. EXISTING LEGISLATION**

- 112 **A. *References to the Other Laws of the Nation.*** The following laws of the Nation are referenced in the  
113       Computer Resources Ordinance.
- 114       ▪ *Oneida Personnel Policies and Procedures.* The purpose of the Oneida Personnel Policies and  
115       Procedures is to provide for the Nation’s employee related policies and procedures including  
116       recruitment, selection, compensation and benefits, employee relations, safety and health, program  
117       and enterprise rules and regulations, and record keeping.
- 118               ▪ This Law provides that employee violations of this law are subject to discipline in  
119               accordance with the Nation’s laws governing employment. [2 O.C. 215.10-3].
- 120               ▪ Any disciplinary action against an employee for a violation of the Computer Resources  
121               Ordinance is required to be conducted in accordance with the Oneida Personnel Policies  
122               and Procedures.
- 123       ▪ *Administrative Rulemaking Law.* The Administrative Rulemaking law provides an efficient,  
124       effective, and democratic process for enacting and revising administrative rules, to ensure that  
125       authorized agencies act in a responsible and consistent manner when enacting and revising  
126       administrative rules. [1 O.C. 106.1-2].
- 127               ▪ This Law delegates rulemaking authority to DTS to promulgate rules to govern technology  
128               resources of the Nation. [2 O.C. 215.9-1].
- 129               ▪ Any rules promulgated by DTS are required to be developed in accordance with the process  
130               and procedures of the Administrative Rulemaking law.
- 131 **B. *Other Laws that Reference the Computer Resources Ordinance.*** The following laws of the Nation  
132       reference the Computer Resources Ordinance. The proposed amendments to the Law do not conflict  
133       with any of the referenced laws.
- 134       ▪ *Social Media Policy.* The Social Media Policy regulates social media accounts, including a social  
135       networking web page, blog or microblog, that is administered on behalf of the Tribe or a Tribal  
136       entity. [2 O.C. 218.1-1].
- 137               ▪ The Social Media Policy is not intended to provide a right for employees to use the internet  
138               or social media while at work for personal use. [2 O.C. 218.1-3]. Supervisors retain  
139               discretion to permit or prohibit the personal use of computers in accordance with the  
140               Computer Resources Ordinance. *Id.*

- 141       ▪ *Boards, Committees, and Commissions Law.* The Boards, Committees, and Commissions law  
142 governs boards, committees, and commissions of the Nation, including the procedures regarding  
143 the appointment and election of persons to boards, committees and commissions, creation of  
144 bylaws, maintenance of official records, compensation, and other items related to boards,  
145 committees and commissions [1 O.C. 105.1-1].  
146       ▪ The Boards, Committees, and Commissions law provides that a member of an entity shall  
147 sign an acknowledgment form provided by the Nation’s Secretary indicating notice of the  
148 Nation’s applicable computer and media related laws, policies and rules. [1 O.C. 105.14-  
149 3(d)].  
150

151 **SECTION 7. OTHER CONSIDERATIONS**

- 152 A. *Fiscal Impact.* Under the Legislative Procedures Act, a fiscal impact statement is required for all  
153 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-  
154 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*  
155 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete  
156 a fiscal impact statement at various stages of the legislative process, as well as timeframes for  
157 completing the fiscal impact statement.  
158       ▪ *Conclusion.* The Legislative Operating Committee received a fiscal impact statement from the  
159 Finance Administration on September 24, 2024.

160

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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	<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 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



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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  
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2024 10 02

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- - - -~~

162  
 163 #

## 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

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### 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,

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.

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#### 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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## **215.6 Privacy.**

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

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

## **215.7 Limitations on Use.**

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

(a) Supervisors are hereby authorized to develop standard operating procedures defining excessive use of technology resources for any user that is an employee of the Nation and subject to the supervisor's authority. 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 technology resources for personal use. Supervisors shall provide adequate notice of the terms of any standard operating procedures to all individuals covered by such procedures.

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

## **215.8 Technology Resources Acknowledgment Form.**

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

215.10-1. 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 technology resources of the Nation.

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

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

*End.*

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



# MEMORANDUM

TO: RaLinda Ninham-Lamberies, Chief Financial Officer  
 FROM: Rae Skenandore, Senior Analyst/Budget Coordinator  
 DATE: September 24, 2024  
 RE: **Fiscal Impact of the Amendments to the Computer Resource Ordinance Law**

## I. Estimated Fiscal Impact Summary

<b>Law:</b> Amendments to the Computer Resource Ordinance Law		Draft 1
<b>Implementing Agency</b>	Digital Technology Services (DTS)	
<b>Estimated time to comply</b>	10 days, in compliance with the Legislative Procedures Act	
<b>Estimated Impact</b>	<b>Current Fiscal Year</b>	<b>10 Year Estimate</b>
<b>Total Estimated Fiscal Impact</b>	No Fiscal Impact	No Fiscal Impact

## II. Background

This Law was originally adopted by the Oneida Business Committee in 2004 through resolution BC-09-29-04-B.

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

According to the Legislative Reference Office (LRO), the amendments to the law include the following.

- Revise the title and references from “computer resources” to “technology resources.”
- Clarify that users are expected to display professional conduct.
- Clarify that it is appropriate to share information or evidence regarding the inappropriate use of another user 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 must be developed in accordance with all other laws and rules of the Nation.
- Includes a new provision in which Digital Technology Services is delegated rulemaking authority in accordance with the Administrative Rulemaking law to promulgate rules to govern technology resources of the Nation.

### **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.

### **IV. Findings**

As stated, this Law has been in place since 2004. 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.

### **V. Financial Impact**

There is no fiscal impact of implementing this legislation.

### **VI. Recommendation**

Finance does not make a recommendation about a course of action in this matter. Rather, it is the purpose of this analysis to disclose the 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  
October 2, 2024

# Investigative Leave Policy Amendments

<b>Submission Date:</b> 2/6/19	<b>Public Meeting:</b> n/a
<b>LOC Sponsor:</b> Marlon Skenandore	<b>Emergency Enacted:</b> n/a <b>Expires:</b> 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 20<sup>th</sup>, 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.
- 7/17/24 LOC:** *E-poll.* The Legislative Operating Committee conducted an e-poll entitled, Approval of the Canceled *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. On July 30, 2024, the Legislative Operating Committee conducted an e-poll entitled, *Approval of the Investigative Leave Policy Amendments Public Meeting Packet*. The requested action of this e-poll was to approve the Investigative Leave Policy amendments public meeting packet and forward the Investigative Leave Policy amendments to a public meeting to be held on September 13, 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.

**7/30/24:** On July 30, 2024, the Legislative Operating Committee conducted an e-poll entitled, *Approval of the Investigative Leave Policy Amendments Public Meeting Packet*. The requested action of this e-poll was to approve the Investigative Leave Policy amendments public meeting packet and forward the Investigative Leave Policy amendments to a public meeting to be held on September 13, 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.

**9/13/24:** *Public Meeting Held.* On September 13, 2024, the public meeting was held for the proposed amendments to the Investigative Leave Policy. No individuals provided oral comments during the public meeting.

**9/20/24:** *Public Comment Period Closed.* Zero (0) people provided written comments during the public comment period.

### Next Steps:

- Approve the public comment review memorandum, draft, and legislative analysis for the proposed amendments to the Investigative Leave Policy.
- 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 October 16, 2024.



TO: Legislative Operating Committee (LOC)  
FROM: Grace Elliott, Legislative Reference Office, Staff Attorney *Grace Elliott*  
DATE: October 2, 2024  
RE: Investigative Leave Policy Amendments: Public Comment Review

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On September 13, 2024, a public meeting was held regarding the proposed amendments to the Investigative Leave Policy. The public comment period was then held open until September 20, 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.

## Title 2. Employment – Chapter 208

### INVESTIGATIVE LEAVE ~~LAW~~POLICY

208.1 Purpose and Policy  
 208.2 Adoption, Amendment, Repeal  
 208.3 Definitions  
 208.4 Scope  
 208.5 Authorization  
 208.6 Employee Notice  
 208.7 Investigator(s) and Reports

208.8 Duration  
 208.9 Employee Responsibilities  
 208.10 ~~Enforcement~~Pay and Benefits  
 208.11 ~~Appeal~~Enforcement  
 208.12 ~~Confidentiality~~Appeal  
 208.13 ~~Confidentiality~~

#### 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~~ Fidelity 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 ~~208.5-23.~~ The prior approvalApproval 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.~~

## 117 208.6 Employee Notice

118 208.6-1. When the employee is placed on investigative leave, the employee shall immediately  
 119 receive a written notice from the employee's supervisor, or if the employee's supervisor is  
 120 unavailable, their designee of equal or greater authority; the notice shall contain the following:

- 121 (a) ~~The specific allegation(s) being investigated;~~ This action does not denote any  
 122 wrongdoing on the part of the employee.  
 123 (b) ~~The employee shall be on unpaid status, unless he or she is placed in an alternative~~  
 124 ~~work assignment;~~ The employee remains an employee of the Nation.  
 125 (c) ~~The alternative work assignment, if appropriate;~~ Clear documentation regarding the  
 126 status of pay and benefits while on investigative leave.  
 127 (d) ~~The expected length of the investigation;~~ The definition of business hours as it  
 128 pertains to the employee's particular area of employment.  
 129 (e) ~~Whether or not the investigation is being forwarded to an outside agency;~~ The specific  
 130

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 (h) 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) Corrective actions needed based on the written report, if any; and

(1) Should the supervisor choose not to follow the corrective action recommended by the investigator(s), they shall provide written notice and justification to the Executive Director of the Human Resource Department.

(b) ~~When to return to work, if applicable, and/or what disciplinary action will be taken against the employee based on the report; and~~

(c) ~~Aa redacted copy of the written report will be made available to the employee upon request, only in the event the employee appeals any disciplinary action.~~

## 208.8 Duration

208.8-1. An investigative leave shall conclude when the investigation has produced sufficient information and verifiable facts for the employee's supervisor and the Executive Director of the Human Resource Department to make a reasonable determination on workplace safety and employee status; documentation of that determination has been recorded in permanent files, and the employee has either returned to work or separated from their employment. ~~be no longer than fifteen (15) calendar days, with the ability to extend one (1) time for an additional fifteen (15) calendar days with a valid explanation of the reason for the extension. The extension shall be determined by the same individuals who placed the employee on investigative leave in section 208.5 1. However, if the investigation is forwarded to an outside agency, these timelines shall not apply.~~

208.8-2. All investigations shall be completed as expeditiously as circumstances permit. The supervisor shall provide weekly updates to the Executive Director of the Human Resource Department, or if an outside entity is conducting the investigation, the Equal Employment Opportunity Officer shall provide the weekly updates. ~~Investigative leave shall end upon any of the following occurrences:~~

~~(a) the expiration of the fifteen (15) calendar day time limit, if applicable;~~

~~(b) the expiration of the fifteen (15) calendar day extension if granted;~~

~~(c) termination of the employee's employment based on the investigation;~~

~~(d) the employee's return to work based on the written report submitted to the employee after an investigation is completed; or~~

~~(e) the employee chooses to resign or retire.~~

## 208.9 Employee Responsibilities

208.9-1. An employee placed on investigative leave shall:

(a) Not report to work or the worksite without prior supervisory approval;

(1) Written permission to enter a public work site and the conditions thereof may be included in the employee notice.

~~(b) Abide by all Tribal laws and policies; and~~ Not discuss the investigation with employees or post information related to the investigation on social media pursuant to section 208.12-1.

(c) Surrender all property of the Nation in their possession including but not limited to:

(1) Time keeping badge(s),

(2) Identification card(s),

(3) Laptop(s),

(4) Vehicles and key(s),

(5) Cell phone.

(d) Fully cooperate with the investigation as requested by those conducting the investigation.

(e) Respond to all inquiries within twenty-four (24) business hours.

### **208.10 Pay and Benefits**

~~208.10-1. Paid leave shall not be authorized.~~

~~208.10-2. An employee placed on investigative leave shall not receive any wages or benefits unless placed in an alternative work assignment. If the employee refuses the alternative work assignment and is returned to work, the employee shall not receive any back pay or benefits.~~

~~208.10-3. If an alternative work assignment is not available, the employee may use his or her accrued vacation and/or personal time while on investigative leave.~~

~~208.10-4. An employee shall receive back pay and benefits for the time the employee was on investigative leave pursuant to the Back Pay Policy if all of the following occur:~~

~~(a) The employee was not offered an alternative work assignment when placed on investigative leave; and~~

~~(b) The employee is returned to his or her position; and~~

~~(c) The employee is not disciplined based on the investigation.~~

### **208.10~~1~~ Enforcement**

~~208.10~~1~~-1. Any employee found violating this law ~~Policy~~ shall be subject to discipline in accordance with the Nation's/Tribe's laws and policies governing employment. ~~personnel policies and procedures.~~~~

208.10-2. Failure by the employee to respond to inquiries within twenty-four (24) business hours will result in the termination of paid investigative leave and immediately shift the employee to unpaid status.

### **208.1~~1~~2 Appeal**

~~208.1~~1~~2-1. An employee may appeal any disciplinary action arising out of an investigation in accordance with the Nation's laws and policies governing employment. ~~Tribe's personnel policies and procedures.~~~~

### **208.1~~2~~3 Confidentiality**

~~208.1~~2~~3-1. Information related to an investigation is confidential and may not be released in any manner, including social media, except ~~only be released~~ in accordance with relevant laws. and ~~personnel policies and procedures.~~~~

~~208.1~~2~~3-2. All investigation materials shall be maintained in the employee's personnel file with the Human Resources Department.~~

*End.*

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OBC Approved 4-07-99-A

Amended- 08-13-14-D

Amended – BC-06-24-15-A

Amended BC- - - -



**LEGISLATIVE OPERATING COMMITTEE  
PUBLIC MEETING**

**Investigative Leave Policy Amendments**

Norbert Hill Center Business Committee Conference Room and Microsoft Teams  
September 13, 2024  
12:15 p.m.

**Present:** Kirby Metoxen, Kristal Hill, Grace Elliott, Brooke Doxtator, Todd Vanden Heuvel, Matthew Denny, Whitney Wheelock, Carolyn Salutz.

**Kirby Metoxen:** 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 a meeting material of a future LOC meeting.

All persons who wish to be present, or to present oral testimony in person need to register in the sign in sheet, individuals who wish to present oral testimony on Microsoft Teams, please raise your hand and you will be called on. And I'm just going to ask if you two can help me monitor that, I'm going to try to keep track of that. If you leave an e-mail address on the sign in sheet or 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 LRO Legislative Reference Office in person, by US mail, interoffice mail, e-mail, fax, as provided on the Public Meeting Notice. These comments must be received by close of business day on Friday, September 20th, 2024.

In attendance from the LOC is Councilman Kirby Metoxen, myself.

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

We will now begin today's public meeting for the proposed amendments to the Investigative Leave.

The purpose of this law is to set forth a process to address investigative leave for employees undergoing work related investigations.

The Investigative Leave amendments will be, now, just, we got quite a bit here, so I'm going to read through these, so just be patient with me, and so I won't be seeing the monitor, if you guys see a hand up, please let me know.

Clarify the severity of an alleged violation may be warrant on investigative leave and provide examples. These are some of the amendments we're looking at:

- Clarifying the type of risks that an investigative leave is intended to protect against.
- Prevent undue financial harm to an employee placed on investigative leave.
- Eliminate unpaid status for the employees placed on investigative leave for up to 45 days.
- 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 an unpaid status when an investigation cannot be safely concluded within 45 days.
- Clarifying that an employee may use their personal and vacation time if the investigative leave extends past the 45 days.
- Provide a written, provide that when an employee was, has used all their personal and vacation time up, all pay, and benefits stop.
- Extend the authority to initiate an investigative leave to include the Executive Director of the Human Resource Department.
- Clarify that when there is no division director, a supervisor must secure, a supervisor must secure authorization from the person at the highest level in the chain of command under the Business Committee prior to placing an employee on investigative leave.
- Delegate the authority to designating the individual or agency responsible for completing the investigation to the Executive Director of Human, the director of HRD and the supervisor, instead of the employee supervisor and/or area manager.
- Delete the requirement that equal employment officer always conducts the investigation if the employee being investigated reports directly to the business committee and instead provide that they may also serve as a liaison to an investigating agency when that is more appropriate.
- Eliminate the option for a supervisor to place an employee in an alternative work assignment while on investigative leave.
- Expand the requirement that notice to the employee placed on investigative leave must contain.

The additional requirements are as follows:

- The employee must surrender all property of the Nation.
- Clear documentation regarding the status of pay and benefits.

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



- The definition of “business hours.”
  - The employee is required to respond to inquiries within 24 hour business hours to remain on paid investigative leave within the first 45 days.
  - Whether the investigation has been referred to an outside agency.
  - List of employee’s responsibilities.
  - E-mail address of the person the employee may contact if they have questions related to the investigative leave.
- Also extend the extend the issuance of the second notice to the employee placed on investigative leave from 15 days to 35 days.
  - Clarify that the second notice must provide the employees placed on the investigative leave with the following information:
    - That the employee remained an employee of the Nation.
    - Clear documentation regarding the sensation of pay cessation of pay and benefits.
    - The definition of business hours as it pertains to the employee’s particular area of employment.
    - The expected length of the investigation.
    - The telephone number, e-mail and name of the person to contact with questions.
    - The employee's responsibilities.
  - Eliminate the requirement that a supervisor must conclude an investigation without waiting for the conclusion of a criminal or licensing matter.
  - Eliminate the requirement that investigative leave must close upon the passing of 15 days plus a possible extension of 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. Two more pages here.
  - Expedite investigations by adding the requirements that the supervisor or the EEO officer which is overseeing the investigation provide the Executive Director of the Human Resource Department with weekly updates on the investigation.
  - Eliminate the provision that requires the supervisor to conclude an investigation within 48 hours of receiving the investigative report when someone else is conducting the investigation.
  - Provide the employee who was placed on investigative leave with the redacted copy of the investigative report when requested, instead of only providing the redacted report to an employee who files an appeal.
  - Require the supervisor to provide a 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 investigators.
  - Expand an employee's responsibilities when they are placed on an investigative leave to include the surrender of all property of the Nation.
  - Respond to any inquiries within 24 business hours and not share anything related to the investigation on social media.
  - Create the option for an exception, 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.

- Require that the employee placed on investigative leave respond to all inquiries within 24 hours, business hours.

So now those who wish to speak, please raise your hand. Please state your name when you make the comment, and we have no one signed in here.

So, we're open and we will stay open. I think it's 15 minutes. So, is it 15 minutes from now or 15 minutes from when we started? If you say it's from now, it's from now. I would have went with from when I started. Yes. So, we'll wait.

I don't see any hands up there, you guys. All those that have called in are on, on virtually thank yous for listening in. I was going to say chiming in, but nobody's "chimed" yet. Matt, Todd.

So, we're just in silence waiting for 15 minutes bell ring to ring. Otherwise, with there being no more speakers, we will continue to wait, just in case anybody runs in in the 11th hour here.

But keeping in mind those that are online, that written comments may be submitted until the close of business day on Friday, September 20th, 24, which I think is next week Friday.

So, it looks like we'd be keeping this open until about 12:40, I think is when we'd be pretty good. And I'll just continue to sit here and wait.

And we have about 5 more minutes for this last 15 minutes to wait, and I'll continue to sit and wait. And I guess the 15 minutes is our due diligence, of, you know, just giving the general public, time to get here, if they choose. That we don't shut it down, "Nobody's here. Shut it down." you know, give them some time.

Okay, and I guess we're getting ready to wrap things up here. We waited 15 minutes after the proposed amendments were read, and with there being no more speakers, this public meeting for the proposed amendment to the Investigative Leave law is now closed at 12:40 PM.

Written comments may still be submitted until the close of business day on Friday, September 20th, 2024.



So Matt, if you have anything you want to send in by Friday, September 20th, 2024, at 4:30 PM.

Thank you. And make it a great day.

**-End of Meeting-**



# INVESTIGATIVE LEAVE LAW AMENDMENTS LEGISLATIVE ANALYSIS

## SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Legislation or Amendments</b>	<ul style="list-style-type: none"> <li>▪ Clarify the severity of an alleged violation that may warrant an investigative leave and provide examples. [2 O.C. 208.4-1(a)].</li> <li>▪ Clarify the type of risks that an investigative leave is intended to protect against. [2 O.C. 208.4-1(b)].</li> <li>▪ Prevent undue financial harm to an employee placed on investigative leave. [2 O.C. 208.4-2(a)].</li> <li>▪ Eliminate unpaid status for the employee placed on investigative leave for up to forty-five (45) days. [2 O.C. 208.4-2(a)].</li> <li>▪ 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)].</li> <li>▪ 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)].</li> <li>▪ 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)].</li> <li>▪ 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)].</li> <li>▪ 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)].</li> <li>▪ 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].</li> <li>▪ 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].</li> <li>▪ 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)].</li> <li>▪ 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].</li> </ul>

- 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"> <li>▪ 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].</li> <li>▪ 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)].</li> <li>▪ 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)].</li> </ul>
<b>Purpose</b>	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].
<b>Affected Entities</b>	Oneida Nation employees.
<b>Related Legislation</b>	Workplace Violence law, Back Pay law, Oneida Personnel Policies and Procedures, Computer Resources Ordinance, Judiciary law, and Oneida Judiciary Rules of Civil Procedure.
<b>Enforcement</b>	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].
<b>Due Process</b>	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].
<b>Public Meeting</b>	A public meeting was held on September 13, 2024. The public comment period was held open until September 20, 2024. No public comments were received during the public meeting or comment period.
<b>Fiscal Impact</b>	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.  
17  
18

### 19 SECTION 3. CONSULTATION AND OUTREACH

- 20 • Representatives from the following departments or entities participated in the development of the  
21 amendments to this Law and legislative analysis:
    - 22 ▪ Human Resources Department (HRD);
    - 23 ▪ Oneida Law Office;
    - 24 ▪ Gaming; and
    - 25 ▪ General Manager.
  - 26 • The following laws of the Nation were reviewed in the drafting of this analysis:
    - 27 ▪ Back Pay law;
    - 28 ▪ Workplace Violence law;
    - 29 ▪ Pardon and Forgiveness law;
    - 30 ▪ Computer Resources Ordinance;
    - 31 ▪ Oneida Personnel Policies and Procedures;
    - 32 ▪ Judiciary law; and
    - 33 ▪ Oneida Judiciary Rules of Civil Procedure.
- 34

### 35 SECTION 4. PROCESS

- 36 A. The amendments to this Law comply with the process set forth in the Legislative Procedures Act.
- 37 ▪ On October 7, 2020, the Legislative Operating Committee added this Law to its Active Files  
38 List for amendments.
  - 39 ▪ On October 3, 2023, the Legislative Operating Committee added this Law to its Active Files  
40 List for amendments.
  - 41 ▪ On May 15, 2024, the Legislative Operating Committee approved the draft of the Investigative  
42 Leave Policy amendments and directed that a legislative analysis be developed.
  - 43 ▪ On July 17, 2024, the Legislative Operating Committee conducted an e-poll entitled, *Approval*  
44 *of the Canceled July 17, 2024 LOC Meeting Materials*. The requested action of this e-poll was  
45 to: approve the June 19, 2024 Legislative Operating Committee meeting minutes and forward  
46 to the Oneida Business Committee; approve the adoption packet for the proposed amendments  
47 to the Back Pay law and forward to the Oneida Business Committee for consideration; accept  
48 the legislative analysis for the proposed amendments to the Investigative Leave Policy; accept  
49 the memorandum from James Snitgen and remove the Environmental Review Law from the  
50 Active Files List; add the Petition: L. Blackowl – New Recreation/Community Center Build to  
51 the Active Files List with Jameson Wilson as the sponsor; accept the status update for the  
52 Petition: L. Blackowl – New Recreation/Community Center Build and forward to the Oneida  
53 Business Committee; enter into the record the results of the July 1, 2024 e-poll entitled,  
54 Approval of the Computer Resources Ordinance Amendments Public Meeting Packet, and  
55 approve the Legislative Operating Committee Fiscal Year 2024 Third Quarter Report and  
56 forward to the Oneida Business Committee. This e-poll was approved by Kirby Metoxen,  
57 Jennifer Webster, Jonas Hill, and Jameson Wilson. Marlon Skenandore is on a personal leave  
58 and therefore did not provide a response to the e-poll.

- 59       ▪ On July 30, 2024, the Legislative Operating Committee conducted an e-poll entitled, *Approval*  
60       *of the Investigative Leave Policy Amendments Public Meeting Packet*. The requested action of  
61       this e-poll was to approve the Investigative Leave Policy amendments public meeting packet  
62       and forward the Investigative Leave Policy amendments to a public meeting to be held on  
63       September 13, 2024. This e-poll was approved by Jennifer Webster, Jonas Hill, Jameson  
64       Wilson, and Kirby Metoxen. Marlon Skenandore is on a personal leave and therefore did not  
65       provide a response to the e-poll.
- 66       ▪ On September 13, 2024, the public meeting was held for the proposed amendments to the  
67       Investigative Leave Policy. No individuals provided oral comments during the public meeting.
- 68       ▪ On September 20, 2024, the public comment period closed. No individuals provided written  
69       comment during the public comment period.

70  
71 **B.** At the time this legislative analysis was developed the following work meetings had been held  
72 regarding the development of the amendments to this law:

- 73       ▪ October 10, 2022: LOC work meeting with HRD.
- 74       ▪ November 11, 2022: LOC work meeting with HRD.
- 75       ▪ December 19, 2022: LOC work meeting with HRD.
- 76       ▪ December 21, 2022: LOC work session.
- 77       ▪ January 20, 2023: LOC work meeting with HRD.
- 78       ▪ On January 26, 2023: LOC work session.
- 79       ▪ February 13, 2023: LOC work meeting with HRD, Oneida Law Office, and Gaming.
- 80       ▪ February 17, 2023: LOC work meeting with HRD and Oneida Law Office.
- 81       ▪ March 7, 2023: LOC work meeting with HRD and Gaming.
- 82       ▪ March 24, 2023: LOC work meeting with HRD and Gaming.
- 83       ▪ April 28, 2023: LOC work meeting with HRD, Gaming, and Oneida Law Office.
- 84       ▪ May 3, 2023: LOC work meeting with HRD.
- 85       ▪ January 8, 2024: LOC work meeting with HRD, Gaming, and Oneida Law Office.
- 86       ▪ March 3, 2024: LOC work meeting with HRD, Gaming, and Oneida Law Office.
- 87       ▪ April 30, 2024: LOC work meeting with HRD, Gaming, and Oneida Law Office.

88  
89

## 90 **SECTION 5. CONTENTS OF THE LEGISLATION (OR AMENDMENTS)**

- 91       A. *Types of Alleged Violations and the Risks an Investigative Leave is Designed to Protect Against.*  
92       The proposed amendments to the Law clarify the nature and severity of the type of an alleged  
93       violation that may rise to a level to warrant an investigative leave and examples are listed. [2 O.C.  
94       208.4-1(a)]. The Law currently only identifies that an investigative leave shall be used when the  
95       employee allegedly commits an act which would preclude the employee from meeting employment  
96       eligibility requirements. [2 O.C. 208.4-1(d)]. The proposed amendments to the Law also clarify  
97       some of the risks that an investigative leave is intended to protect against by providing several  
98       examples of the Nation’s resources and interests that may be put at risk if the employee were to  
99       remain in the workplace. [2 O.C. 208.4-1(b). 2 O.C. 208.4-1(c)].

- 100       ▪ *Effect.* Identifying the types of allegations and risks that an investigative leave is intended to  
101       protect against will make it easier to identify when an investigative leave should be utilized  
102       and that in turn will provide greater protections by facilitating a swift response.
- 103    B. ***Paid and Unpaid Investigative Leave.*** The proposed amendments to the Law eliminate unpaid  
104       status for the employee placed on investigative leave for up to forty-five (45) days and provides for  
105       them to use their personal and vacation time if the investigative leave extends past forty-five (45)  
106       days. [2 O.C. 208.4-2(a). 208.4-2(b)]. Currently, an investigative leave is unpaid unless the  
107       employee is placed in an alternate work assignment. [2 O.C. 208.5-5]. The proposed amendments  
108       to the Law provide that upon the expiration of forty-five (45) days and the employee’s personal  
109       and vacation time, all pay, and benefits will stop. [2 O.C. 208.4-1(c)]. The proposed amendments  
110       to the law also require the employee to respond to inquiries within twenty-four (24) business hours  
111       and if they fail to respond within the twenty-four (24) hour time frame they will immediately be  
112       shifted to unpaid status. [2 O.C. 208.9-1(e)]. The proposed amendments to the Law add protections  
113       for the employee placed on investigative leave while also balancing the Nation’s fiscal  
114       responsibilities.
- 115       ▪ *Effect.* The proposed amendments to the Law prevent undue financial harm to an employee  
116       placed on investigative by allowing them to be paid for up to forty-five (45) days and then to  
117       use their personal and vacation time after that. Employees placed on investigative will not be  
118       paid or retain benefits after the expiration of forty-five (45) days on investigative leave and the  
119       exhaustion of the employee’s vacation and personal time, or, if the employee does not respond  
120       to an inquiry within twenty-four (24) business hours.
- 121    C. ***Authority to Initiate an Investigative Leave.*** The proposed amendments to the Law extend the  
122       authority to initiate an investigative leave to include the Executive Director of the Human Resource  
123       Department. [2 O.C. 208.5-1(a)]. The Law currently only authorizes the supervisor to initiate an  
124       investigative leave. [Currently 2 O.C. 208.5-1]. However, the seriousness of an allegation that  
125       might justify an investigative leave requires a swift response and the Executive Director of the  
126       Human Resource Department or their designee may be in the best position to initiate an  
127       investigative leave when the supervisor and their division director are not both readily available.  
128       When the Executive Director of the Human Resource Department initiates an investigative leave,  
129       they shall provide notice to the employee’s supervisor at the same time. The proposed amendments  
130       to the Law also clarify that prior to placing an employee on investigative leave a supervisor must  
131       secure authorization from both the Executive Director of the Human Resource Department and the  
132       supervisor’s division director, if there is no division director, the person at the highest level of the  
133       chain of command under the Oneida Business Committee. [2 O.C. 208.5-1(b)].
- 134       ▪ *Effect.* The Executive Director of the Human Resource Department is authorized to initiate an  
135       investigative leave and the authorizations that a supervisor must secure prior to initiating an  
136       investigative leave are clarified.
- 137    D. ***Authority to Designate the Individual or Agency to Conduct the Investigation.*** The proposed  
138       amendments to the Law delegate authority to designate the individual or agency to conduct the  
139       investigation to the Executive Director of the Human Resource Department and the supervisor,  
140       instead of the employee’s supervisor and/or area manager. [2 O.C. 208.7-1]. The proposed  
141       amendments to the Law also provide that when the employee being investigated reports directly to  
142       the Oneida Business Committee the Equal Employment Officer does not automatically serve as the  
143       investigator but may alternatively serve as a liaison to an investigating agency. [2 O.C. 208.7-1].

- 144       ▪ *Effect.* The Executive Director of the Human Resource Department and the supervisor  
145       designate the individual or agency to conduct the investigation. The Equal Employment Officer  
146       may conduct an investigation or serve as the liaison to the agency conducting the investigation.  
147       These amendments provide greater flexibility and efficiency in designating the individual or  
148       agency that is responsible for conducting the investigation.
- 149   E. ***Alternate Work Assignments.*** The proposed amendments to the Law eliminate the provision  
150   allowing a supervisor to place an employee who is on investigative leave in another position within  
151   the Nation. [2 O.C. 208.5-4]. The types of harms that an investigative leave is intended to protect  
152   against are serious enough that placing the employee in an alternate work assignment during an  
153   investigation may not be prudent.
- 154       ▪ *Effect.* The proposed amendments to the Law completely remove the employee from the  
155       workplace which eliminates the potential opportunity to cause harm to the Nation and its  
156       resources.
- 157   F. ***Initial Employee Notice.*** The proposed amendments to the Law expand the requirements that  
158   notice to the employee placed on investigative leave must contain. [2 O.C. 208.6-1(a-k)]. The Law  
159   currently requires notice to the employee to include: the specific allegations being investigated; the  
160   employee is on unpaid status unless placed in an alternative work assignment; the expected length  
161   of the investigation; whether the investigation is being forwarded to an outside agency; the  
162   telephone number and name of person to contact with questions; the procedure to return to work at  
163   the close of the investigation, if applicable; and the employee remains an employee of the Nation.  
164   [Currently 2 O.C. 208.6-1(a-f)]. The proposed amendments include the following additional  
165   requirements:
- 166       i. The employee must surrender all property of the Nation pursuant to section 208.9-  
167       1(c). [2 O.C. 208.6-1(i)].
- 168       ii. Clear documentation regarding the status of pay and benefits. [2 O.C. 208.6-1(a-  
169       c)].
- 170       iii. The definition of business hours. The employee is required to respond to inquiries  
171       within twenty-four (24) business hours to remain on paid investigative leave within  
172       the first forty-five (45) days. Business hours may be different depending on the  
173       department and so it is helpful to include that definition in the notice to the  
174       employee. [2 O.C. 208.6-1(d)].
- 175       iv. The employee’s responsibilities pursuant to section 208.9. [2 O.C. 208.6-1(k)].
- 176       v. The email address of the person the employee may contact if they have questions  
177       related to the investigative leave is added to the current disclosure of the name and  
178       telephone number. [2 O.C. 208.6-1(h)].
- 179       ▪ *Effect.* The employee placed on investigative leave will have full and clear knowledge of what  
180       to expect and what is expected of them during the investigative leave because the requirements  
181       for the notice have been expanded to include additional details.
- 182   G. ***Second Employee Notice.*** The proposed amendments to the Law move the timing of the second  
183   employee notice from fifteen (15) days to thirty-five (35) days. This ensures that the employee  
184   receives a timely reminder that their pay status will change from paid to unpaid at forty-five (45)  
185   days. [2 O.C. 208.6-2]. Providing a second notice at fifteen days is no longer beneficial as there is  
186   no automatic shift in status at fifteen (15) days and the employee has already been notified that the  
187   investigative leave may extend forty-five (45) days or more. The Law currently only requires the



188 second notice to inform the employee that the investigation is being extended and the reason for  
189 that extension. [Currently 2 O.C. 208.6-2]. The proposed amendments to the Law now require the  
190 second notice to the employee contain the following:

- 191 i. That the employee remains an employee of the Nation. [2 O.C.208.6-2(a)].
  - 192 ii. Clear documentation regarding the cessation of pay and benefits. [2 O.C.208.6-  
193 2(b)].
  - 194 iii. The definition of business hours as it pertains to the employee’s particular area of  
195 employment. [2 O.C.208.6-2(c)].
  - 196 iv. The expected length of the investigation. [2 O.C.208.6-2(d)].
  - 197 v. The telephone number, email address, and name of the person to contact with  
198 questions. [2 O.C.208.6-2(e)].
  - 199 vi. The employee’s responsibilities pursuant to section 208.9. [2 O.C.208.6-2(f)].
- 200 ▪ *Effect.* The employee placed on investigative leave will have full and timely knowledge of any  
201 change in status, what to expect, and what is expected of them while placed on investigative  
202 leave because the expanded requirements for notice provide those additional details.

203 H. **Reports.** The proposed amendments to the Law provide the employee with a redacted copy of the  
204 investigative report, if requested, rather than only if the employee files an appeal. [2 O.C. 208.7-  
205 4(c)]. This eliminates any incentive for the employee to file an appeal simply to gain access to the  
206 redacted copy of the investigative report.

- 207 ▪ *Effect.* The proposed amendments to the Law provide a redacted copy of the investigative  
208 report to the employee who was the subject of the investigation if they request it.

209 I. **Corrective Action.** The proposed amendments to the Law include a provision requiring the  
210 supervisor to provide written notice to the Executive Director of the Human Resource Department  
211 if they choose to take any corrective action which deviates from the recommendation of the  
212 investigator(s), and the written notice must provide the justification for the deviation. [2 O.C.  
213 208.7-4(a)(1)]. Currently, the supervisor alone determines the course of disciplinary action and is  
214 not required to communicate their chosen course of disciplinary action to the Executive Director  
215 of the Human Resource Department or any other employee in their chain of command.

- 216 ▪ *Effect.* Communication and collaboration are enhanced between the supervisor and the  
217 Executive Director of the Human Resource Department by requiring any deviation from the  
218 corrective action recommended by the investigator to be justified and shared in writing.

219 J. **Concluding an Investigation.** The proposed amendments to the Law clarify the safety standard  
220 that must be met in determining when to conclude the investigation. The investigation concludes  
221 when it has produced enough verifiable facts and information for the employee’s supervisor and  
222 the Executive Director of the Human Resource Department to make a reasonable determination on  
223 workplace safety and employee status, the determination is recorded in the employee’s permanent  
224 files, and the employee has either returned from work or separated from their employment with the  
225 Nation. [2 O.C. 208.8-1)]. The proposed amendments to the Law remove the requirement that an  
226 investigative leave closes upon the passing of a certain amount of time. Currently, the law provides  
227 that an investigation may last for fifteen (15) days with a possible extension of fifteen (15) days,  
228 unless an outside agency is conducting the investigation. [Currently 2 O.C. 208.8-1)]. That time  
229 based standard is replaced with the requirement that the investigative leave closes when the  
230 decision makers have gathered enough information to make a fully informed decision. [2 O.C.  
231 208.8-1)].

- 232           ▪ *Effect.* The proposed amendments to the Law prioritize safety over the passing of time as the  
233           primary factor to be considered when determining when to conclude an investigation and/or  
234           investigative leave.
- 235       K. ***Weekly Updates.*** The proposed amendments to the Law require either the supervisor or the Equal  
236       Employment Opportunity Officer to provide weekly updates on the investigation to the Executive  
237       Director of the Human Resource Department. [2 O.C. 208.8-2].
- 238           ▪ *Effect.* The proposed amendment to the Law ensures that investigations are conducted in the  
239           most efficient manner possible by keeping attention on the investigation and documenting  
240           progress via weekly updates.
- 241       L. ***Surrender of Property of the Nation.*** The proposed amendments to the Law expand on and clarify  
242       an employee’s responsibilities when placed on investigative leave to include the surrender of all  
243       property of the Nation. [2 O.C. 208.9-1(b). 208.9-1(c)]. The Law currently does not require an  
244       employee placed on investigative leave to surrender all work related property of the Nation during  
245       an investigation.
- 246           ▪ *Effect.* The proposed amendments to the Law safeguard the Nation’s resources during the  
247           investigative leave by removing any property of the Nation from the employee’s control.
- 248       M. ***Worksite Access.*** An employee placed on investigative leave is prohibited from entering their place  
249       of work or worksite. [2 O.C. 208.9-1(a)]. However, the proposed amendments to the Law allow  
250       for an exception to be created when appropriate so that the employee may access areas of  
251       importance under specific conditions and that information will be included in the notice provided  
252       to the employee, if applicable. [2 O.C. 208.9-1(a)(1)].
- 253           ▪ *Effect.* The employee placed on investigative leave is provided with clear documentation of the  
254           conditions to be met if they are to be allowed to enter their worksite for the sole purpose of  
255           accessing necessary resources. For example, an employee placed on investigative leave who  
256           works at the Oneida Health Center might be allowed to enter their worksite for a doctor’s  
257           appointment if they meet the conditions provided for in the notice.
- 258       N. ***Employee Responsibility to Respond to Inquiries.*** The proposed amendments to the Law add a  
259       requirement that the employee respond to any inquires within twenty-four (24) business hours. [2  
260       O.C. 208.10-2]. This ensures that an investigation can be concluded as efficiently as possible and  
261       differentiates an investigative leave from other types of leaves that an employee may take or be  
262       placed on. This Law provides that an employee placed on paid investigative leave who fails to  
263       respond to an inquiry within twenty-four (24) business hours will lose their paid status. [2 O.C.  
264       208.10-1].
- 265           ▪ *Effect.* An employee placed on paid investigative leave who fails to respond to an inquiry within  
266           twenty-four (24) business hours will immediately be shifted to unpaid status.
- 267       O. ***Confidentiality.*** The proposed amendments to the Law update confidentiality requirements to  
268       prohibit any employee from posting information related to the investigation on social media. [2  
269       O.C. 208.12-1].
- 270           ▪ *Effect.* Any employee who posts information about the investigation on social media is in  
271           violation this Law and is subject to discipline pursuant to the Nation’s policies and laws  
272           governing employment.
- 273

274       **SECTION 6. EFFECT ON EXISTING LEGISLATION**

275 A. **Related legislation.** The following laws of the Nation are related to the proposed amendments to this  
276 Law:

- 277     ▪ *Workplace Violence Law.* The purpose of the Workplace Violence law is to provide all Oneida  
278 Nation employees and visitors an environment that is free of violence and the threat of violence  
279 by establishing the procedures by which incidents of workplace violence shall be addressed. [2  
280 O.C. 223.1-1. 223.1-2].
  - 281         ▪ Workplace violence means any intentional act committed by an employee in a workplace  
282 that: inflicts, attempts to inflict, or threatens to inflict emotional or bodily harm on  
283 another person's; or inflicts, attempts to inflict, or threatens to inflict, damage to property.  
284 [2 O.C. 223.3-1(k)].
  - 285         ▪ The Workplace Violence law provides that a supervisor may place an employee alleged  
286 to be involved in a workplace violence incident on investigative leave, if the supervisor  
287 deems the investigative leave necessary and appropriate, in accordance with the Nation's  
288 laws, policies and rules governing investigative leave except for the EEO Officer or  
289 designee, not the employee's supervisor, shall conduct the investigation of the alleged  
290 workplace violence incident. [2 O.C. 223.8-4].
  - 291         ▪ The Workplace Violence law provides that allegations of workplace violence may be  
292 investigated in accordance with the Investigative Leave Policy. [2 O.C. 223.8-4].
  - 293         ▪ The amendments to the Law provide that complaints of alleged workplace violence shall  
294 be investigated in accordance with the Nation's Investigative Leave Policy. [2 O.C.  
295 208.4-1(a)].
  - 296         ▪ The amendments to the Law explicitly list workplace violence as one of the types of  
297 allegations of wrongdoing that warrant an employee being placed on an investigative  
298 leave. [2 O.C. 208.4-1(a)(1)].
- 299     ▪ *Oneida Personnel Policies and Procedures.* The purpose of the Oneida Personnel Policies and  
300 Procedures is to provide the Nation's employee related policies and procedures including  
301 recruitment, selection, compensation and benefits, employee relations, safety and health, program  
302 and enterprise rules and regulations, and record keeping.
  - 303         ▪ This Law provides that an employee may appeal any disciplinary action arising out of an  
304 investigation in accordance with the Nation's laws and policies governing employment  
305 which is the Oneida Personnel, Policies, and Procedures. [2 O.C. 208.11-1].
- 306     ▪ *Judiciary Law.* The purpose of the Judiciary law is to establish a Judiciary, and to provide for the  
307 administration of law, justice, judicial procedures and practices by the Oneida Nation as a sovereign  
308 nation by exercising the inherent power to make, execute, apply and enforce its own law, and to  
309 apply its own customs and traditions in matters affecting the Oneida people. [8 O.C. 801.1-1].
  - 310         ▪ The Judiciary law provides that employment grievances shall be heard in accordance with  
311 the Nation's Personnel Policies and Procedures. [8 O.C. 801.4-6(c)].
  - 312         ▪ This Law provides that an employee placed on an investigative leave may appeal any  
313 disciplinary action arising out of that investigation in accordance with the Nation's laws  
314 and policies governing employment, which includes the right to file an appeal with the  
315 Judiciary when supported by the Nation's Personnel, Policies, and Procedures. [2 O.C.  
316 208.11-1].
- 317     ▪ *Back Pay law.* The purpose of the Back Pay law is to set forth standards used in the calculation of  
318 back pay for all employees in accordance with the Nation's laws. [ 2 O.C. 206.1-1].

- 319           ▪ This Law provides that an employee will receive back pay and benefits for anytime the  
320           employee was on unpaid investigative leave pursuant to the laws governing back pay if  
321           they return to their position at the conclusion of the investigation. [2 O.C. 208.4-2(d)].
- 322           ▪ *Pardon and Forgiveness law.* The purpose of the Pardon and Forgiveness law includes providing  
323           a fair, efficient and formal process by which an employee may receive forgiveness for acts that  
324           render them ineligible for employment with the Nation; an occupational license, certification or  
325           permit issued by the Nation. [1 O.C. 126-1(a)(3)].
  - 326           ▪ This Law provides that an employee may appeal any disciplinary action arising out of an  
327           investigation in accordance with the Nation’s laws and policies governing employment.  
328           [2 O.C. 208.11-1].
- 329           ▪ *Computer Resources Ordinance.* The purpose of the Computer Resources Ordinance is to  
330           regulate the usage of Nation owned and operated computer resources. [2 O.C. 215.1-1]. The  
331           Computer Resources Ordinance includes guidelines for the limited circumstances that an  
332           employee may use those resources for personal matters. [2 O.C. 215.7-1].
  - 333           ▪ This Law prohibits any employee from posting any information related to the  
334           investigation on social media. [2 O.C. 208.12-1].
- 335           ▪ *Social Media Policy.* The purpose of the Social Media Policy is to regulate social media accounts  
336           administered on behalf of the Nation or an entity of the Nation. [2 O.C. 218.1-1]. The Social Media  
337           Policy does not provide a right for employees to use the internet or social media while at work for  
338           personal use. [2 O.C. 218.1-3]. Supervisors retain discretion to permit or prohibit the personal use  
339           of the Nation’s computers in accordance with the Computer Resources Ordinance. [2 O.C. 218.1-  
340           3].
  - 341           ▪ This Law prohibits any employee from posting any information related to the  
342           investigation on social media. [2 O.C. 208.12-1].

## 344 SECTION 7. ENFORCEMENT AND ACCOUNTABILITY

- 345 A. This Law provides that an employee placed on paid investigative leave who fails to respond to an  
346     inquiry within twenty-four (24) business hours will lose their paid status, and any employee who  
347     violates this Law shall be subject to discipline pursuant to the Nation’s law and policies governing  
348     employment. [2 O.C. 208.10-1. 208.10-2].
- 349 B. The Oneida Judiciary will provide enforcement and accountability in the grievance process. Employees  
350     placed on an investigative leave who receive a disciplinary action they believe to be unfair may  
351     challenge the action first to the Area Manager and HRD Manager, and then to the Judiciary Trial Court.  
352     [Section V.D(6)].

## 354 SECTION 8. OTHER CONSIDERATIONS

- 355 A. **Fiscal Impact.** Under the Legislative Procedures Act, a fiscal impact statement is required for all  
356     legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution  
357     BC-10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative*  
358     *Procedures Act,*” provides further clarification on who the Legislative Operating Committee may  
359     direct complete a fiscal impact statement at various stages of the legislative process, as well as  
360     timeframes for completing the fiscal impact statement.
  - 361     a. **Conclusion.** A fiscal impact statement has not yet been requested.

362 B. **Workplace vs. Worksite.** The LOC may want to consider whether an employee placed on  
363 investigative leave should be prohibited from entering any workplace, as defined in the Law, or just  
364 their worksite. Workplace is defined broadly to include “any location owned and operated by the  
365 Nation, any location where employees are staffing an event sponsored by the Nation, and any location  
366 where an employee represents the Nation...” while worksite, not being defined, is understood as it is  
367 used in everyday language which would mean only the employee’s place of work. [2 O.C. 208.3-  
368 1(e)]. In earlier discussions a prohibition on entering any workplace was supported, but in processing  
369 this legislative analysis I realized that the language only restricts access to the worksite. This may  
370 have been an oversight on the drafter’s part and guidance from the LOC is sought.

371 a. **Conclusion.** The LOC will need to review the use of the term “worksite” and determine if it  
372 should be revised to “workplace.”

373  
374



TO: Ralinda Ninham-Lamberies, Chief Financial Officer  
FROM: Jameson Wilson, Legislative Operating Committee Chairman  
DATE: October 2, 2024  
RE: Investigative Leave Policy Amendments Fiscal Impact Statement

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The Legislative Operating Committee (LOC) is currently developing amendments to the Investigative Leave Policy. 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 October 2, 2024, the Legislative Operating Committee approved the final draft of the proposed amendments to the Investigative Leave Policy. Therefore, the LOC is directing the Finance Department to provide a fiscal impact statement on the proposed amendments to the Investigative Leave Policy by October 16, 2024.

A copy of the proposed amendments to the Investigative Leave Policy, 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 Investigative Leave Policy by October 16, 2024.

# October 2024

October 2024

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November 2024

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MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
Sep 30	Oct 1	2 8:30am LOC Prep Meeting (Microsoft Teams Meeting) - Clorissa N. Leeman 9:00am Legislative Operating Committee Meeting (Microsoft Teams Meeting;	3	4 9:30am LOC/LRO/OLO Strategy Meeting (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Clorissa N. Leeman
7 10:00am Elder Protection Law Work Meeting (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Clorissa N. Leeman	8	9	10 1:30pm LOC Work Session (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Clorissa N. Leeman	11
14 3:00pm Vendor Licensing amendments - work meeting (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Carolyn A. Salutz	15	16 8:30am LOC Prep Meeting (Microsoft Teams Meeting; 9:00am Legislative Operating Committee Meeting (Microsoft 1:30pm LOC Work Session	17	18 11:00am Marijuana law - work meeting (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Carolyn A. Salutz
21	22	23	24 10:30am Recycling and Solid Waste amendments - work meeting (Teams; 1:30pm LOC Work Session (Microsoft Teams Meeting; BC_Exec_Conf_Room) -	25
28	29	30	31	Nov 1