



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

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

- II. Minutes to be Approved**
 - 1. October 16, 2024 LOC Meeting Minutes (pg. 2)

- III. Current Business**
 - 1. Investigative Leave Policy Amendments (pg. 4)

- IV. New Submissions**
 - 1. Indian Preference in Contracting Law Amendments (pg. 45)

- V. Additions**

- VI. Administrative Updates**
 - 1. Approval of the December 4, 2024 LOC Community Meeting (pg. 46)
 - 2. Legislative Operating Committee Fiscal Year 2024 Fourth Quarter Report (pg. 47)
 - 3. E-Poll Results: Approval of the LOC and LRO FY 2025 Annual Reports for GTC (pg. 55)

- VII. Executive Session**

- VIII. Recess/Adjourn**



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
October 16, 2024
9:00 a.m.

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

Others Present: Clorissa N. Leeman, Grace Elliott

Others Present on Microsoft Teams: Fawn Cottrell, Kaylynn Gresham, Kristal Hill, Maureen Perkins, Rae Skenandore, Mark Powless, Todd Vanden Heuvel, Carolyn Salutz, Fawn Billie, Michelle Hill, Sarah White, Marie Cornelius, Michelle Braaten, Peggy Helm-Quest, Barbara Webster, Mary Graves, Tavia James-Charles, Jason Martinez, Lee Schuyler

I. Call to Order and Approval of the Agenda

Jameson Wilson called the October 16, 2024, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster to approve the agenda; seconded by Marlon Skenandore. Motion carried unanimously.

II. Minutes to be Approved

III. Current Business

IV. New Submissions

V. Additions

VI. Administrative Updates

1. Certification of Amendments to Real Property Law Rule No. 2 - Comprehensive Housing Division Residential Sales

Motion by Jennifer Webster to certify the amendments to the Real Property Law Rule No. 2 - Comprehensive Housing Division Residential Sales and forward to the Oneida Business Committee; seconded by Marlon Skenandore. Motion carried unanimously.

2. E-Poll Results: Approval of the Canceled October 2, 2024 LOC Meeting Materials

Motion by Jonas Hill to enter into the record the results of the October 2, 2024, e-poll entitled, Approval of the Canceled October 2, 2024 LOC Meeting Materials; seconded by Jennifer Webster. Motion carried unanimously.



VII. Executive Session

VIII. Adjourn

Motion by Marlon Skenandore to adjourn at 9:08 a.m.; seconded by Kirby Metoxen.
Motion carried unanimously.



Legislative Operating Committee
November 6, 2024

Investigative Leave Policy Amendments

Submission Date: 2/6/19	Public Meeting: 9/13/24
LOC Sponsor: Marlon Skenandore	Emergency Enacted: 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. The 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, 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 and 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 have 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.

9/13/24: *Public Meeting Held.* Present: Kirby Metoxen, Kristal Hill, Grace Elliott, Todd Vanden Heuvel, Matthew Denny, Whitney Wheelock, Brooke Doxtator, Carolyn Salutz. A public meeting for the proposed amendments to the Investigative Leave Policy was held at the Norbert Hill Center and on Microsoft Teams. No individuals provided oral comments during the public meeting.

9/20/24: *Public Comment Period Closed.* No individuals provided written comments during the public comment period.


10/2/24: *E-Poll Conducted.* This e-poll was titled, Approval of Canceled October 2, 2024 LOC Meeting Materials. The requested action of this e-poll was to: approve the September 18, 2024, LOC meeting minutes and forward to the Oneida Business Committee; 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; approve the adoption packet for the Computer Resources Ordinance amendments and forward to the Oneida Business Committee for consideration; approve the public comment review memorandum, draft, and legislative analysis for the proposed amendments to the Investigative Leave Policy; and 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. The e-poll was approved by Jennifer Webster, Kirby Metoxen, Jonas Hill, Jameson Wilson, and Marlon Skenandore.

10/16/24 LOC: Motion by Jonas Hill to enter into the record the results of the October 2, 2024, e-poll entitled, Approval of the Canceled October 2, 2024 LOC Meeting Materials; seconded by Jennifer Webster. Motion carried unanimously.

10/18/24 LOC: *Work Meeting.* Present: Jameson Wilson, Jonas Hill, Marlon Skenandore, Clorissa Leeman, Carolyn Salutz, Kristal Hill, Fawn Billie, Fawn Cottrell, Maureen Perkins, Grace Elliott. The purpose of this meeting was to review the terms workplace and worksite. The LOC opted to use workplace consistently.

Next Steps: Approve the adoption packet for the Investigative Leave Policy amendments and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee
FROM: Jameson Wilson, LOC Chairperson 
DATE: November 6, 2024
RE: Adoption of Amendments to the Investigative Leave Policy

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

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

Overview

The purpose of the Investigative Leave Policy is to set forth a process to address investigative leave for employees undergoing work-related investigations. [2 O.C. 208.1-1]. Amendments to the Investigative Leave Policy are being sought to:

- Clarify the severity of an alleged violation that may warrant an investigative leave and provide examples. [2 O.C. 208.4-1(a)].
- Clarify the type of risks that an investigative leave is intended to protect against. [2 O.C. 208.4-1(b)].
- Prevent undue financial harm to an employee placed on investigative leave. [2 O.C. 208.4-2(a)].
- Eliminate unpaid status for the employee placed on investigative leave for up to forty-five (45) days. [2 O.C. 208.4-2(a)].
- Balance the intention to prevent undue financial harm to an employee placed on investigative leave with the Nation's fiscal responsibilities by shifting the employee to unpaid status when an investigation cannot be safely concluded within forty-five (45) days. [2 O.C. 208.4-2(c)].
- Clarify that an employee may use their personal and vacation time if the investigative leave extends past forty-five (45) days. [2 O.C. 208.4-2(b)].
- Provide that when an employee has used their personal and vacation time up all pay and benefits stop. [2 O.C. 208.4-2(c)].
- Extend the authority to initiate an investigative leave to include the Executive Director of the Human Resource Department. [2 O.C. 208.5-1(a)].

- Clarify that when there is no division director a supervisor must secure authorization from the person at the highest level in the chain of command under the Oneida Business Committee prior to placing an employee on investigative leave. [2 O.C. 208.5-1(b)(2)].
- Delegate the authority for designating the individual or agency responsible for completing the investigation to the Executive Director of the Human Resource Department and the supervisor, instead of the employee's supervisor and/or area manager. [2 O.C. 208.7-1].
- Delete the requirement that the Equal Employment Officer always conducts the investigation if the employee being investigated reports directly to the Oneida Business Committee and instead provide that they may also serve as a liaison to an investigating agency when that is more appropriate. [2 O.C. 208.7-1].
- Eliminate the option for a supervisor to place an employee in an alternate work assignment while on investigative leave. [2 O.C. 208.9-1(a)].
- Expand the requirements that notice to the employee placed on investigative leave must contain. The additional requirements are as follows: [2 O.C. 208.6-1].
 - The employee must surrender all property of the Nation. [2 O.C. 208.6-1(i)].
 - Clear documentation regarding the status of pay and benefits. [2 O.C. 208.6-1(c)].
 - The definition of business hours. The employee is required to respond to inquiries within twenty-four (24) business hours to remain on paid investigative leave within the first forty-five (45) days. [2 O.C. 208.6-1(d)].
 - Whether the investigation has been referred to an outside agency. [2 O.C. 208.6-1(g)].
 - List of the employee's responsibilities. [2 O.C. 208.6-1(k)].
 - Email address of the person the employee may contact if they have questions related to the investigative leave. [2 O.C. 208.6-1(h)].
- Extend the issuance of the second notice to the employee placed on investigative leave from fifteen (15) days to thirty-five (35) days. [2 O.C. 208.6-2].
- Clarify that the second notice must provide the employee placed on investigative leave with the following information: [2 O.C. 208.6-2].
 - That the employee remains an employee of the Nation. [2 O.C. 208.6-2(a)].
 - Clear documentation regarding the cessation of pay and benefits. [2 O.C. 208.6-2(b)].
 - The definition of business hours as it pertains to the employee's particular area of employment. [2 O.C. 208.6-2(c)].
 - The expected length of the investigation. [2 O.C. 208.6-2(d)].
 - The telephone number, email address, and name of the person to contact with questions. [2 O.C. 208.6-2(e)].
 - The employee's responsibilities. [2 O.C. 208.6-2(f)].
- Eliminate the requirement that a supervisor must conclude an investigation without waiting for the conclusion of a criminal or licensing matter. [2 O.C. 208.9-1(a)].
- Eliminate the requirement that an investigative leave must close upon the passing of fifteen (15) days, plus a possible extension of fifteen (15) days, unless an outside agency is conducting the investigation and instead allow the decision makers to close an investigative leave when a reasonable determination based on verifiable facts can be made. [2 O.C. 208.8-1].
- Expedite investigations by adding a requirement that the supervisor, or the EEO Officer (whichever is overseeing the investigation), provide the Executive Director of the Human Resource Department with weekly updates on the investigation. [2 O.C. 208.8-2].

- Eliminate the provision that requires the supervisor to conclude an investigation within forty-eight (48) hours of receiving the investigative report when someone else is conducting the investigation. [2 O.C. 208.8-1].
- Provide the employee who was placed on investigative leave with a redacted copy of the investigative report when requested, instead of only providing the redacted report to an employee who files an appeal. [2 O.C. 208.7-4(c)].
- Require the supervisor to provide written notice and justification to the Executive Director of the Human Resource Department if they choose not to follow the corrective action recommended by the investigator(s). [2 O.C. 208.7-4(a)(1)].
- Expand an employee's responsibilities when on an investigative leave to include the surrender of all property of the Nation, respond to any inquires within twenty-four (24) business hours, and not share anything related to the investigation on social media. [2 O.C. 208.10-2. 2 O.C. 208.12-1].
- Create the option for an exception to be made to the complete prohibition of the employee who is placed on investigative leave entering any public worksite; if, and only if, it is determined that access is necessary, safe, appropriate, and the specific conditions under which access may be allowed are provided for in the notice to the employee. [2 O.C. 208.9-1(a)(1)].
- Require that the employee placed on investigative leave respond to all inquiries within twenty-four (24) business hours. [2 O.C. 208.9-1(e)].

The Legislative Operating Committee developed the proposed amendments to the Investigative Leave Policy through collaboration with representatives from the Human Resources Department, Oneida Law Office, Gaming, and General Manager. The Legislative Operating Committee held sixteen (16) work meetings on the development of the amendments to the Investigative Leave Policy.

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

The Legislative Operating Committee held a public meeting on the proposed amendments to the Investigative Leave Policy on September 13, 2024. No individuals provided public comments during this public meeting. The public comment period was then held open until September 20, 2024. No written comments were received during this public comment period.

The amendments to the Investigative Leave Policy will become effective on December 11, 2024.

Requested Action

Adopt the Resolution: Amendments to the Investigative Leave Policy

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # Amendments to the Investigative Leave Policy

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

- 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 Investigative Leave Policy (“the Law”) was adopted by the Oneida Business Committee through resolution BC-04-07-99-A, and amended by resolutions BC-08-13-14-D and BC-06-24-15-A; and
- WHEREAS,** the purpose of this Law is to set forth a process to address investigative leave for employees undergoing work-related investigations; and
- WHEREAS,** the amendments to the Law revise the title and references throughout the Law from “Investigative Leave Policy” to “Investigative Leave Law”; and
- WHEREAS,** the amendments to the Law clarify the level of severity that an alleged violation must reach in order to warrant an investigative leave and provides examples; and
- WHEREAS,** the amendments to the Law prevent undue financial harm to an employee placed on investigative leave; and
- WHEREAS,** the amendments to the Law eliminate unpaid status for the employee placed on investigative leave for up to forty-five (45) days; and
- WHEREAS,** the amendments to the Law 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; and
- WHEREAS,** the amendments to the Law clarify that an employee may use their personal and vacation time if the investigative leave extends past forty-five (45) days; and
- WHEREAS,** the amendments to the Law provide that when an employee has used all of their personal and vacation time up all pay and benefits stop; and
- WHEREAS,** the amendments to the Law extend the authority to initiate an investigative leave to include the Executive Director of the Human Resource Department; and
- WHEREAS,** the amendments to the Law 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

- 47 under the Oneida Business Committee prior to placing an employee on investigative
48 leave; and
49
- 50 **WHEREAS,** the amendments to the Law delegate the authority for designating the individual or agency
51 responsible for completing the investigation to the Executive Director of the Human
52 Resource Department and the supervisor, instead of the employee's supervisor and/or
53 area manager; and
54
- 55 **WHEREAS,** the amendments to the Law delete the requirement that the Equal Employment Officer
56 always conducts the investigation if the employee being investigated reports directly to
57 the Oneida Business Committee and instead provide that they may also serve as a
58 liaison to an investigating agency when that is more appropriate; and
59
- 60 **WHEREAS,** the amendments to the Law eliminate the option for a supervisor to place an employee in
61 an alternate work assignment while on investigative leave; and
62
- 63 **WHEREAS,** the amendments to the Law expand the requirements that notice to the employee placed
64 on investigative leave must contain.
65
- 66 **WHEREAS,** the amendments to the Law extend the issuance of the second notice to the employee
67 placed on investigative leave from fifteen (15) days to thirty-five (35) days; and
68
- 69 **WHEREAS,** the amendments to the Law clarify the requirements that the second notice to the
70 employee placed on investigative leave must contain.
71
- 72 **WHEREAS,** the amendments to the Law eliminate the requirement that a supervisor must conclude
73 an investigation without waiting for the conclusion of a criminal or licensing matter; and
74
- 75 **WHEREAS,** the amendments to the Law eliminate the requirement that an investigative leave must
76 close upon the passing of fifteen (15) days, plus a possible extension of fifteen (15) days,
77 unless an outside agency is conducting the investigation and instead allow the decision
78 makers to close an investigative leave when a reasonable determination based on
79 verifiable facts can be made; and
80
- 81 **WHEREAS,** the amendments to the Law expedite investigations by adding a requirement that the
82 supervisor, or the Equal Employment Officer (whichever is overseeing the investigation),
83 provide the Executive Director of the Human Resource Department with weekly updates
84 on the investigation; and
85
- 86 **WHEREAS,** the amendments to the Law provide the employee who was placed on investigative leave
87 with a redacted copy of the investigative report when requested, instead of only providing
88 the redacted report to an employee who files an appeal; and
89
- 90 **WHEREAS,** the amendments to the Law require the supervisor to provide written notice and
91 justification to the Executive Director of the Human Resource Department if they choose
92 not to follow the corrective action recommended by the investigator(s); and
93
- 94 **WHEREAS,** the amendments to the Law expand an employee's responsibilities when they are placed
95 on an investigative leave to include the surrender of all property of the Nation, respond to
96 any inquires within twenty-four (24) business hours, and not share anything related to the
97 investigation on social media; and
98
- 99 **WHEREAS,** the amendments to the Law create the option for an exception to be made to the complete
100 prohibition of the employee who is placed on investigative leave entering any public
101 worksite; if, and only if, it is determined that access is necessary, safe, appropriate, and

102 the specific conditions under which access may be allowed are provided for in the notice
103 to the employee; and
104

105 **WHEREAS,** the amendments to the Law eliminate the provision that requires the supervisor to conclude
106 an investigation within forty-eight (48) hours of receiving the investigative report when
107 someone else is conducting the investigation; and
108

109 **WHEREAS,** the Legislative Operating Committee developed the proposed amendments to the Law
110 through collaboration with representatives from the Human Resources Department,
111 Oneida Law Office, Gaming, General Manager; and
112

113 **WHEREAS,** in accordance with the Legislative Procedures Act a legislative analysis and fiscal impact
114 statement were completed for the proposed amendments to the Law; and
115

116 **WHEREAS,** the Legislative Operating Committee held a public meeting on the proposed amendments
117 to the Law on September 13, 2024, with no individuals providing oral comments, and the
118 public comment period for the amendments to this Law was held open until September 20,
119 2024, with no submission of written comments received; and
120

121 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts the amendments
122 to the Investigative Leave Policy, now known as the Investigative Leave Law, which shall become effective
123 on December 11, 2024.
124
125
126



Statement of Effect
Amendments to the Investigative Leave Policy

Summary

This resolution adopts amendments to the Investigative Leave Policy.

Submitted by: Grace L. Elliott, Staff Attorney, Legislative Reference Office

Date: November 6, 2024

Analysis by the Legislative Reference Office

This resolution adopts amendments to the Investigative Leave Policy. The purpose of the Investigative Leave Policy is to set forth a process to address investigative leave for employees undergoing work-related investigations. [2 O.C. 208.1-1]. Amendments to the Investigative Leave Policy are being sought to:

- Clarify the severity of an alleged violation that may warrant an investigative leave and provide examples. [2 O.C. 208.4-1(a)].
- Clarify the type of risks that an investigative leave is intended to protect against. [2 O.C. 208.4-1(b)].
- Prevent undue financial harm to an employee placed on investigative leave. [2 O.C. 208.4-2(a)].
- Eliminate unpaid status for the employee placed on investigative leave for up to forty-five (45) days. [2 O.C. 208.4-2(a)].
- Balance the intention to prevent undue financial harm to an employee placed on investigative leave with the Nation's fiscal responsibilities by shifting the employee to unpaid status when an investigation cannot be safely concluded within forty-five (45) days. [2 O.C. 208.4-2(c)].
- Clarify that an employee may use their personal and vacation time if the investigative leave extends past forty-five (45) days. [2 O.C. 208.4-2(b)].
- Provide that when an employee has used their personal and vacation time up all pay and benefits stop. [2 O.C. 208.4-2(c)].
- Extend the authority to initiate an investigative leave to include the Executive Director of the Human Resource Department. [2 O.C. 208.5-1(a)].
- Clarify that when there is no division director a supervisor must secure authorization from the person at the highest level in the chain of command under the Oneida Business Committee prior to placing an employee on investigative leave. [2 O.C. 208.5-1(b)(2)].
- Delegate the authority for designating the individual or agency responsible for completing the investigation to the Executive Director of the Human Resource Department and the supervisor, instead of the employee's supervisor and/or area manager. [2 O.C. 208.7-1].
- Delete the requirement that the Equal Employment Officer always conducts the investigation if the employee being investigated reports directly to the Oneida Business

Committee and instead provide that they may also serve as a liaison to an investigating agency when that is more appropriate. [2 O.C. 208.7-1].

- Eliminate the option for a supervisor to place an employee in an alternate work assignment while on investigative leave. [2 O.C. 208.9-1(a)].
- Expand the requirements that notice to the employee placed on investigative leave must contain. The additional requirements are as follows: [2 O.C. 208.6-1].
 - The employee must surrender all property of the Nation. [2 O.C. 208.6-1(i)].
 - Clear documentation regarding the status of pay and benefits. [2 O.C. 208.6-1(c)].
 - The definition of business hours. The employee is required to respond to inquiries within twenty-four (24) business hours to remain on paid investigative leave within the first forty-five (45) days. [2 O.C. 208.6-1(d)].
 - Whether the investigation has been referred to an outside agency. [2 O.C. 208.6-1(g)].
 - List of the employee's responsibilities. [2 O.C. 208.6-1(k)].
 - Email address of the person the employee may contact if they have questions related to the investigative leave. [2 O.C. 208.6-1(h)].
- Extend the issuance of the second notice to the employee placed on investigative leave from fifteen (15) days to thirty-five (35) days. [2 O.C. 208.6-2].
- Clarify that the second notice must provide the employee placed on investigative leave with the following information: [2 O.C. 208.6-2].
 - That the employee remains an employee of the Nation. [2 O.C. 208.6-2(a)].
 - Clear documentation regarding the cessation of pay and benefits. [2 O.C. 208.6-2(b)].
 - The definition of business hours as it pertains to the employee's particular area of employment. [2 O.C. 208.6-2(c)].
 - The expected length of the investigation. [2 O.C. 208.6-2(d)].
 - The telephone number, email address, and name of the person to contact with questions. [2 O.C. 208.6-2(e)].
 - The employee's responsibilities. [2 O.C. 208.6-2(f)].
- Eliminate the requirement that a supervisor must conclude an investigation without waiting for the conclusion of a criminal or licensing matter. [2 O.C. 208.9-1(a)].
- Eliminate the requirement that an investigative leave must close upon the passing of fifteen (15) days, plus a possible extension of fifteen (15) days, unless an outside agency is conducting the investigation and instead allow the decision makers to close an investigative leave when a reasonable determination based on verifiable facts can be made. [2 O.C. 208.8-1].
- Expedite investigations by adding a requirement that the supervisor, or the EEO Officer (whichever is overseeing the investigation), provide the Executive Director of the Human Resource Department with weekly updates on the investigation. [2 O.C. 208.8-2].
- Eliminate the provision that requires the supervisor to conclude an investigation within forty-eight (48) hours of receiving the investigative report when someone else is conducting the investigation. [2 O.C. 208.8-1].
- Provide the employee who was placed on investigative leave with a redacted copy of the investigative report when requested, instead of only providing the redacted report to an employee who files an appeal. [2 O.C. 208.7-4(c)].

- Require the supervisor to provide written notice and justification to the Executive Director of the Human Resource Department if they choose not to follow the corrective action recommended by the investigator(s). [2 O.C. 208.7-4(a)(1)].
- Expand an employee’s responsibilities when on an investigative leave to include the surrender of all property of the Nation, respond to any inquires within twenty-four (24) business hours, and not share anything related to the investigation on social media. [2 O.C. 208.10-2. 2 O.C. 208.12-1].
- Create the option for an exception to be made to the complete prohibition of the employee who is placed on investigative leave entering any public worksite; if, and only if, it is determined that access is necessary, safe, appropriate, and the specific conditions under which access may be allowed are provided for in the notice to the employee. [2 O.C. 208.9-1(a)(1)].
- Require that the employee placed on investigative leave respond to all inquiries within twenty-four (24) business hours. [2 O.C. 208.9-1(e)].

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 Investigative Leave Policy amendments complied with all processes and procedures required by the LPA, including the development of a legislative analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. [1 O.C. 109.6, 109.7, 109.8].

The Legislative Operating Committee held a public meeting on the proposed amendments to the Investigative Leave Policy on September 13, 2024. No individuals provided public comments during this public meeting. The public comment period was then held open until September 20, 2024. No written comments were received during this public comment period.

The amendments to the Investigative Leave Policy will become effective on December 11, 2024.

Conclusion

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



INVESTIGATIVE LEAVE LAW AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Legislation or Amendments	<ul style="list-style-type: none"> ▪ Clarify the severity of an alleged violation that may warrant an investigative leave and provide examples. [2 O.C. 208.4-1(a)]. ▪ Clarify the type of risks that an investigative leave is intended to protect against. [2 O.C. 208.4-1(b)]. ▪ Prevent undue financial harm to an employee placed on investigative leave. [2 O.C. 208.4-2(a)]. ▪ Eliminate unpaid status for the employee placed on investigative leave for up to forty-five (45) days. [2 O.C. 208.4-2(a)]. ▪ Balance the intention to prevent undue financial harm to an employee placed on investigative leave with the Nation’s fiscal responsibilities by shifting the employee to unpaid status when an investigation cannot be safely concluded within forty-five (45) days. [2 O.C. 208.4-2(c)]. ▪ Clarify that an employee may use their personal and vacation time if the investigative leave extends past forty-five (45) days. [2 O.C. 208.4-2(b)]. ▪ Provide that when an employee has used their personal and vacation time up all pay and benefits stop. [2 O.C. 208.4-2(c)]. ▪ Extend the authority to initiate an investigative leave to include the Executive Director of the Human Resource Department. [2 O.C. 208.5-1(a)]. ▪ Clarify that when there is no division director a supervisor must secure authorization from the person at the highest level in the chain of command under the Oneida Business Committee prior to placing an employee on investigative leave. [2 O.C. 208.5-1(b)(2)]. ▪ Delegate the authority for designating the individual or agency responsible for completing the investigation to the Executive Director of the Human Resource Department and the supervisor, instead of the employee’s supervisor and/or area manager. [2 O.C. 208.7-1]. ▪ Delete the requirement that the Equal Employment Officer always conducts the investigation if the employee being investigated reports directly to the Oneida Business Committee and instead provide that they may also serve as a liaison to an investigating agency when that is more appropriate. [2 O.C. 208.7-1]. ▪ Eliminate the option for a supervisor to place an employee in an alternate work assignment while on investigative leave. [2 O.C. 208.9-1(a)]. ▪ Expand the requirements that notice to the employee placed on investigative leave must contain. The additional requirements are as follows: [2 O.C. 208.6-1].

	<ul style="list-style-type: none">▪ The employee must surrender all property of the Nation. [2 O.C. 208.6-1(i)].▪ Clear documentation regarding the status of pay and benefits. [2 O.C. 208.6-1(c)].▪ The definition of business hours. The employee is required to respond to inquiries within twenty-four (24) business hours to remain on paid investigative leave within the first forty-five (45) days. [2 O.C. 208.6-1(d)].▪ Whether the investigation has been referred to an outside agency. [2 O.C. 208.6-1(g)].▪ List of the employee’s responsibilities. [2 O.C. 208.6-1(k)].▪ Email address of the person the employee may contact if they have questions related to the investigative leave. [2 O.C. 208.6-1(h)].▪ Extend the issuance of the second notice to the employee placed on investigative leave from fifteen (15) days to thirty-five (35) days. [2 O.C. 208.6-2].▪ Clarify that the second notice must provide the employee placed on investigative leave with the following information: [2 O.C. 208.6-2].<ul style="list-style-type: none">▪ That the employee remains an employee of the Nation. [2 O.C. 208.6-2(a)].▪ Clear documentation regarding the cessation of pay and benefits. [2 O.C. 208.6-2(b)].▪ The definition of business hours as it pertains to the employee’s particular area of employment. [2 O.C. 208.6-2(c)].▪ The expected length of the investigation. [2 O.C. 208.6-2(d)].▪ The telephone number, email address, and name of the person to contact with questions. [2 O.C. 208.6-2(e)].▪ The employee’s responsibilities. [2 O.C. 208.6-2(f)].▪ Eliminate the requirement that a supervisor must conclude an investigation without waiting for the conclusion of a criminal or licensing matter. [2 O.C. 208.9-1(a)].▪ Eliminate the requirement that an investigative leave must close upon the passing of fifteen (15) days, plus a possible extension of fifteen (15) days, unless an outside agency is conducting the investigation and instead allow the decision makers to close an investigative leave when a reasonable determination based on verifiable facts can be made. [2 O.C. 208.8-1].▪ Expedite investigations by adding a requirement that the supervisor, or the EEO Officer (whichever is overseeing the investigation), provide the Executive Director of the Human Resource Department with weekly updates on the investigation. [2 O.C. 208.8-2].▪ Eliminate the provision that requires the supervisor to conclude an investigation within forty-eight (48) hours of receiving the investigative report when someone else is conducting the investigation. [2 O.C. 208.8-1].▪ Provide the employee who was placed on investigative leave with a redacted copy of the investigative report when requested, instead of only providing the redacted report to an employee who files an appeal. [2 O.C. 208.7-4(c)].▪ Require the supervisor to provide written notice and justification to the Executive Director of the Human Resource Department if they choose not to follow the corrective action recommended by the investigator(s). [2 O.C. 208.7-4(a)(1)].
--	--

	<ul style="list-style-type: none"> ▪ Expand an employee’s responsibilities when on an investigative leave to include the surrender of all property of the Nation, respond to any inquires within twenty-four (24) business hours, and not share anything related to the investigation on social media. [2 O.C. 208.10-2. 2 O.C. 208.12-1]. ▪ Create the option for an exception to be made to the complete prohibition of the employee who is placed on investigative leave entering any public worksite; if, and only if, it is determined that access is necessary, safe, appropriate, and the specific conditions under which access may be allowed are provided for in the notice to the employee. [2 O.C. 208.9-1(a)(1)]. ▪ Require that the employee placed on investigative leave respond to all inquiries within twenty-four (24) business hours. [2 O.C. 208.9-1(e)].
Purpose	The purpose of this law is to set forth a process to address investigative leave for employees undergoing work-related investigations. [2 O.C. 208.1-1].
Affected Entities	Oneida Nation employees.
Related Legislation	Workplace Violence law, Back Pay law, Oneida Personnel Policies and Procedures, Computer Resources Ordinance, Judiciary law, and Oneida Judiciary Rules of Civil Procedure.
Enforcement	Any employee who violates this law is subject to discipline in accordance with the Nation’s laws and policies governing employment. The employee who is the subject of the investigation shall be moved to unpaid status if during the forty-five (45) day paid leave period the employee fails to respond to an inquiry within twenty-four (24) business hours. [2 O.C. 208.10-2].
Due Process	An employee may appeal any disciplinary action arising out of an investigation in accordance with the Nation’s laws and policies governing employment. [2 O.C. 208.11-1].
Public Meeting	A public meeting 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.
Fiscal Impact	A fiscal impact statement was provided by the Finance Administration on October 9, 2024.

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.

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.

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 ▪ On October 2, 2024, the Legislative Operating Committee conducted an e-poll entitled,
71 Approval of Canceled October 2, 2024 LOC Meeting Materials. The requested action of this
72 e-poll was to: approve the September 18, 2024, LOC meeting minutes and forward to the
73 Oneida Business Committee; approve the public meeting packet for the proposed amendments
74 to the Oneida Life Insurance Plan law, and forward the Oneida Life Insurance Plan law
75 amendments to a public meeting to be held on November 15, 2024; approve the adoption packet
76 for the Computer Resources Ordinance amendments and forward to the Oneida Business
77 Committee for consideration; approve the public comment review memorandum, draft, and
78 legislative analysis for the proposed amendments to the Investigative Leave Policy; and
79 approve the fiscal impact statement request memorandum and forward the materials to the
80 Finance Department directing that a fiscal impact statement be prepared and submitted to the
81 LOC by October 16, 2024. The e-poll was approved by Jennifer Webster, Kirby Metoxen,
82 Jonas Hill, Jameson Wilson, and Marlon Skenandore.
- 83 ▪ On October 9, 2024, the Finance Administration provided the Legislative Operating Committee
84 with the fiscal impact statement for the proposed amendments to the Investigative Leave
85 Policy.
- 86 ▪ On October 16, 2024, the Legislative Operating Committee entered into the record the results
87 of the October 2, 2024, e-poll, Approval of the Canceled October 2, 2024 LOC Meeting
88 Materials.

89
90 **B.** At the time this legislative analysis was developed the following work meetings had been held
91 regarding the development of the amendments to this law:

- 92 ▪ October 10, 2022: LOC work meeting with HRD.
- 93 ▪ November 11, 2022: LOC work meeting with HRD.
- 94 ▪ December 19, 2022: LOC work meeting with HRD.
- 95 ▪ December 21, 2022: LOC work session.
- 96 ▪ January 20, 2023: LOC work meeting with HRD.
- 97 ▪ On January 26, 2023: LOC work session.
- 98 ▪ February 13, 2023: LOC work meeting with HRD, Oneida Law Office, and Gaming.
- 99 ▪ February 17, 2023: LOC work meeting with HRD and Oneida Law Office.
- 100 ▪ March 7, 2023: LOC work meeting with HRD and Gaming.
- 101 ▪ March 24, 2023: LOC work meeting with HRD and Gaming.
- 102 ▪ April 28, 2023: LOC work meeting with HRD, Gaming, and Oneida Law Office.

- 103 ▪ May 3, 2023: LOC work meeting with HRD.
- 104 ▪ January 8, 2024: LOC work meeting with HRD, Gaming, and Oneida Law Office.
- 105 ▪ March 3, 2024: LOC work meeting with HRD, Gaming, and Oneida Law Office.
- 106 ▪ April 30, 2024: LOC work meeting with HRD, Gaming, and Oneida Law Office.
- 107 ▪ October 18, 2024: LOC work session.

108

109 SECTION 5. CONTENTS OF THE LEGISLATION (OR AMENDMENTS)

110 A. *Types of Alleged Violations and the Risks an Investigative Leave is Designed to Protect Against.*

111 The proposed amendments to the Law clarify the nature and severity of the type of an alleged
112 violation that may rise to a level to warrant an investigative leave and examples are listed. [2 O.C.
113 208.4-1(a)]. The Law currently only identifies that an investigative leave shall be used when the
114 employee allegedly commits an act which would preclude the employee from meeting employment
115 eligibility requirements. [2 O.C. 208.4-1(d)]. The proposed amendments to the Law also clarify
116 some of the risks that an investigative leave is intended to protect against by providing several
117 examples of the Nation’s resources and interests that may be put at risk if the employee were to
118 remain in the workplace. [2 O.C. 208.4-1(b). 2 O.C. 208.4-1(c)].

- 119 ▪ *Effect.* Identifying the types of allegations and risks that an investigative leave is intended to
120 protect against will make it easier to identify when an investigative leave should be utilized
121 and that in turn will provide greater protections by facilitating a swift response.

122 B. *Paid and Unpaid Investigative Leave.* The proposed amendments to the Law eliminate unpaid 123 status for the employee placed on investigative leave for up to forty-five (45) days and provides for 124 them to use their personal and vacation time if the investigative leave extends past forty-five (45) 125 days. [2 O.C. 208.4-2(a). 208.4-2(b)]. Currently, an investigative leave is unpaid unless the 126 employee is placed in an alternate work assignment. [2 O.C. 208.5-5]. The proposed amendments 127 to the Law provide that upon the expiration of forty-five (45) days and the employee’s personal 128 and vacation time, all pay, and benefits will stop. [2 O.C. 208.4-1(c)]. The proposed amendments 129 to the law also require the employee to respond to inquiries within twenty-four (24) business hours 130 and if they fail to respond within the twenty-four (24) hour time frame they will immediately be 131 shifted to unpaid status. [2 O.C. 208.9-1(e)]. The proposed amendments to the Law add protections 132 for the employee placed on investigative leave while also balancing the Nation’s fiscal 133 responsibilities.

- 134 ▪ *Effect.* The proposed amendments to the Law prevent undue financial harm to an employee
135 placed on investigative by allowing them to be paid for up to forty-five (45) days and then to
136 use their personal and vacation time after that. Employees placed on investigative will not be
137 paid or retain benefits after the expiration of forty-five (45) days on investigative leave and the
138 exhaustion of the employee’s vacation and personal time, or, if the employee does not respond
139 to an inquiry within twenty-four (24) business hours.

140 C. *Authority to Initiate an Investigative Leave.* The proposed amendments to the Law extend the 141 authority to initiate an investigative leave to include the Executive Director of the Human Resource 142 Department. [2 O.C. 208.5-1(a)]. The Law currently only authorizes the supervisor to initiate an 143 investigative leave. [Currently 2 O.C. 208.5-1]. However, the seriousness of an allegation that 144 might justify an investigative leave requires a swift response and the Executive Director of the 145 Human Resource Department or their designee may be in the best position to initiate an 146 investigative leave when the supervisor and their division director are not both readily available.

147 When the Executive Director of the Human Resource Department initiates an investigative leave,
148 they shall provide notice to the employee's supervisor at the same time. The proposed amendments
149 to the Law also clarify that prior to placing an employee on investigative leave a supervisor must
150 secure authorization from both the Executive Director of the Human Resource Department and the
151 supervisor's division director, if there is no division director, the person at the highest level of the
152 chain of command under the Oneida Business Committee. [2 O.C. 208.5-1(b)].

153 ■ *Effect.* The Executive Director of the Human Resource Department is authorized to initiate an
154 investigative leave and the authorizations that a supervisor must secure prior to initiating an
155 investigative leave are clarified.

156 D. ***Authority to Designate the Individual or Agency to Conduct the Investigation.*** The proposed
157 amendments to the Law delegate authority to designate the individual or agency to conduct the
158 investigation to the Executive Director of the Human Resource Department and the supervisor,
159 instead of the employee's supervisor and/or area manager. [2 O.C. 208.7-1)]. The proposed
160 amendments to the Law also provide that when the employee being investigated reports directly to
161 the Oneida Business Committee the Equal Employment Officer does not automatically serve as the
162 investigator but may alternatively serve as a liaison to an investigating agency. [2 O.C. 208.7-1)].

163 ■ *Effect.* The Executive Director of the Human Resource Department and the supervisor
164 designate the individual or agency to conduct the investigation. The Equal Employment Officer
165 may conduct an investigation or serve as the liaison to the agency conducting the investigation.
166 These amendments provide greater flexibility and efficiency in designating the individual or
167 agency that is responsible for conducting the investigation.

168 E. ***Alternate Work Assignments.*** The proposed amendments to the Law eliminate the provision
169 allowing a supervisor to place an employee who is on investigative leave in another position within
170 the Nation. [2 O.C. 208.5-4]. The types of harms that an investigative leave is intended to protect
171 against are serious enough that placing the employee in an alternate work assignment during an
172 investigation may not be prudent.

173 ■ *Effect.* The proposed amendments to the Law completely remove the employee from the
174 workplace which eliminates the potential opportunity to cause harm to the Nation and its
175 resources.

176 F. ***Initial Employee Notice.*** The proposed amendments to the Law expand the requirements that
177 notice to the employee placed on investigative leave must contain. [2 O.C. 208.6-1(a-k)]. The Law
178 currently requires notice to the employee to include: the specific allegations being investigated; the
179 employee is on unpaid status unless placed in an alternative work assignment; the expected length
180 of the investigation; whether the investigation is being forwarded to an outside agency; the
181 telephone number and name of person to contact with questions; the procedure to return to work at
182 the close of the investigation, if applicable; and the employee remains an employee of the Nation.
183 [Currently 2 O.C. 208.6-1(a-f)]. The proposed amendments include the following additional
184 requirements:

- 185 i. The employee must surrender all property of the Nation pursuant to section 208.9-
186 1(c). [2 O.C. 208.6-1(i)].
- 187 ii. Clear documentation regarding the status of pay and benefits. [2 O.C. 208.6-1(a-
188 c)].
- 189 iii. The definition of business hours. The employee is required to respond to inquiries
190 within twenty-four (24) business hours to remain on paid investigative leave within

191 the first forty-five (45) days. Business hours may be different depending on the
192 department and so it is helpful to include that definition in the notice to the
193 employee. [2 O.C. 208.6-1(d)].

194 iv. The employee’s responsibilities pursuant to section 208.9. [2 O.C. 208.6-1(k)].
195 v. The email address of the person the employee may contact if they have questions
196 related to the investigative leave is added to the current disclosure of the name and
197 telephone number. [2 O.C. 208.6-1(h)].

198 ■ *Effect.* The employee placed on investigative leave will have full and clear knowledge of what
199 to expect and what is expected of them during the investigative leave because the requirements
200 for the notice have been expanded to include additional details.

201 G. **Second Employee Notice.** The proposed amendments to the Law move the timing of the second
202 employee notice from fifteen (15) days to thirty-five (35) days. This ensures that the employee
203 receives a timely reminder that their pay status will change from paid to unpaid at forty-five (45)
204 days. [2 O.C. 208.6-2]. Providing a second notice at fifteen days is no longer beneficial as there is
205 no automatic shift in status at fifteen (15) days and the employee has already been notified that the
206 investigative leave may extend forty-five (45) days or more. The Law currently only requires the
207 second notice to inform the employee that the investigation is being extended and the reason for
208 that extension. [Currently 2 O.C. 208.6-2]. The proposed amendments to the Law now require the
209 second notice to the employee contain the following:

- 210 i. That the employee remains an employee of the Nation. [2 O.C.208.6-2(a)].
- 211 ii. Clear documentation regarding the cessation of pay and benefits. [2 O.C.208.6-
212 2(b)].
- 213 iii. The definition of business hours as it pertains to the employee’s particular area of
214 employment. [2 O.C.208.6-2(c)].
- 215 iv. The expected length of the investigation. [2 O.C.208.6-2(d)].
- 216 v. The telephone number, email address, and name of the person to contact with
217 questions. [2 O.C.208.6-2(e)].
- 218 vi. The employee’s responsibilities pursuant to section 208.9. [2 O.C.208.6-2(f)].

219 ■ *Effect.* The employee placed on investigative leave will have full and timely knowledge of any
220 change in status, what to expect, and what is expected of them while placed on investigative
221 leave because the expanded requirements for notice provide those additional details.

222 H. **Reports.** The proposed amendments to the Law provide the employee with a redacted copy of the
223 investigative report, if requested, rather than only if the employee files an appeal. [2 O.C. 208.7-
224 4(c)]. This eliminates any incentive for the employee to file an appeal simply to gain access to the
225 redacted copy of the investigative report.

226 ■ *Effect.* The proposed amendments to the Law provide a redacted copy of the investigative
227 report to the employee who was the subject of the investigation if they request it.

228 I. **Corrective Action.** The proposed amendments to the Law include a provision requiring the
229 supervisor to provide written notice to the Executive Director of the Human Resource Department
230 if they choose to take any corrective action which deviates from the recommendation of the
231 investigator(s), and the written notice must provide the justification for the deviation. [2 O.C.
232 208.7-4(a)(1)]. Currently, the supervisor alone determines the course of disciplinary action and is
233 not required to communicate their chosen course of disciplinary action to the Executive Director
234 of the Human Resource Department or any other employee in their chain of command.

- 235 ▪ *Effect.* Communication and collaboration are enhanced between the supervisor and the
236 Executive Director of the Human Resource Department by requiring any deviation from the
237 corrective action recommended by the investigator to be justified and shared in writing.
- 238 J. **Concluding an Investigation.** The proposed amendments to the Law clarify the safety standard
239 that must be met in determining when to conclude the investigation. The investigation concludes
240 when it has produced enough verifiable facts and information for the employee’s supervisor and
241 the Executive Director of the Human Resource Department to make a reasonable determination on
242 workplace safety and employee status, the determination is recorded in the employee’s permanent
243 files, and the employee has either returned from work or separated from their employment with the
244 Nation. [2 O.C. 208.8-1)]. The proposed amendments to the Law remove the requirement that an
245 investigative leave closes upon the passing of a certain amount of time. Currently, the law provides
246 that an investigation may last for fifteen (15) days with a possible extension of fifteen (15) days,
247 unless an outside agency is conducting the investigation. [Currently 2 O.C. 208.8-1]. That time
248 based standard is replaced with the requirement that the investigative leave closes when the
249 decision makers have gathered enough information to make a fully informed decision. [2 O.C.
250 208.8-1].
- 251 ▪ *Effect.* The proposed amendments to the Law prioritize safety over the passing of time as the
252 primary factor to be considered when determining when to conclude an investigation and/or
253 investigative leave.
- 254 K. **Weekly Updates.** The proposed amendments to the Law require either the supervisor or the Equal
255 Employment Opportunity Officer to provide weekly updates on the investigation to the Executive
256 Director of the Human Resource Department. [2 O.C. 208.8-2].
- 257 ▪ *Effect.* The proposed amendment to the Law ensures that investigations are conducted in the
258 most efficient manner possible by keeping attention on the investigation and documenting
259 progress via weekly updates.
- 260 L. **Surrender of Property of the Nation.** The proposed amendments to the Law expand on and clarify
261 an employee’s responsibilities when placed on investigative leave to include the surrender of all
262 property of the Nation. [2 O.C. 208.9-1(b). 208.9-1(c)]. The Law currently does not require an
263 employee placed on investigative leave to surrender all work related property of the Nation during
264 an investigation.
- 265 ▪ *Effect.* The proposed amendments to the Law safeguard the Nation’s resources during the
266 investigative leave by removing any property of the Nation from the employee’s control.
- 267 M. **Worksite Access.** An employee placed on investigative leave is prohibited from entering their place
268 of work or worksite. [2 O.C. 208.9-1(a)]. However, the proposed amendments to the Law allow
269 for an exception to be created when appropriate so that the employee may access areas of
270 importance under specific conditions and that information will be included in the notice provided
271 to the employee, if applicable. [2 O.C. 208.9-1(a)(1)].
- 272 ▪ *Effect.* The employee placed on investigative leave is provided with clear documentation of the
273 conditions to be met if they are to be allowed to enter their worksite for the sole purpose of
274 accessing necessary resources. For example, an employee placed on investigative leave who
275 works at the Oneida Health Center might be allowed to enter their worksite for a doctor’s
276 appointment if they meet the conditions provided for in the notice.
- 277 N. **Employee Responsibility to Respond to Inquiries.** The proposed amendments to the Law add a
278 requirement that the employee respond to any inquires within twenty-four (24) business hours. [2

279 *O.C. 208.10-2*]. This ensures that an investigation can be concluded as efficiently as possible and
280 differentiates an investigative leave from other types of leaves that an employee may take or be
281 placed on. This Law provides that an employee placed on paid investigative leave who fails to
282 respond to an inquiry within twenty-four (24) business hours will lose their paid status. [2 *O.C.*
283 *208.10-1*].

284 ▪ *Effect.* An employee placed on paid investigative leave who fails to respond to an inquiry within
285 twenty-four (24) business hours will immediately be shifted to unpaid status.

286 O. **Confidentiality.** The proposed amendments to the Law update confidentiality requirements to
287 prohibit any employee from posting information related to the investigation on social media. [2
288 *O.C. 208.12-1*].

289 ▪ *Effect.* Any employee who posts information about the investigation on social media is in
290 violation this Law and is subject to discipline pursuant to the Nation’s policies and laws
291 governing employment.
292

293 SECTION 6. EFFECT ON EXISTING LEGISLATION

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

296 ▪ *Workplace Violence Law.* The purpose of the Workplace Violence law is to provide all Oneida
297 Nation employees and visitors an environment that is free of violence and the threat of violence
298 by establishing the procedures by which incidents of workplace violence shall be addressed. [2
299 *O.C. 223.1-1, 223.1-2*].

300 ▪ Workplace violence means any intentional act committed by an employee in a workplace
301 that: inflicts, attempts to inflict, or threatens to inflict emotional or bodily harm on
302 another person's; or inflicts, attempts to inflict, or threatens to inflict, damage to property.
303 [2 *O.C. 223.3-1(k)*].

304 ▪ The Workplace Violence law provides that a supervisor may place an employee alleged
305 to be involved in a workplace violence incident on investigative leave, if the supervisor
306 deems the investigative leave necessary and appropriate, in accordance with the Nation’s
307 laws, policies and rules governing investigative leave except for the EEO Officer or
308 designee, not the employee’s supervisor, shall conduct the investigation of the alleged
309 workplace violence incident. [2 *O.C. 223.8-4*].

310 ▪ The Workplace Violence law provides that allegations of workplace violence may be
311 investigated in accordance with the Investigative Leave Policy. [2 *O.C. 223.8-4*].

312 ▪ The amendments to the Law provide that complaints of alleged workplace violence shall
313 be investigated in accordance with the Nation’s Investigative Leave Policy. [2 *O.C.*
314 *208.4-1(a)*].

315 ▪ The amendments to the Law explicitly list workplace violence as one of the types of
316 allegations of wrongdoing that warrant an employee being placed on an investigative
317 leave. [2 *O.C. 208.4-1(a)(1)*].

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

- 322 ▪ This Law provides that an employee may appeal any disciplinary action arising out of an
323 investigation in accordance with the Nation’s laws and policies governing employment
324 which is the Oneida Personnel, Policies, and Procedures. [2 O.C. 208.11-1].
- 325 ▪ *Judiciary Law.* The purpose of the Judiciary law is to establish a Judiciary, and to provide for the
326 administration of law, justice, judicial procedures and practices by the Oneida Nation as a sovereign
327 nation by exercising the inherent power to make, execute, apply and enforce its own law, and to
328 apply its own customs and traditions in matters affecting the Oneida people. [8 O.C. 801.1-1].
 - 329 ▪ The Judiciary law provides that employment grievances shall be heard in accordance with
330 the Nation’s Personnel Policies and Procedures. [8 O.C. 801.4-6(c)].
 - 331 ▪ This Law provides that an employee placed on an investigative leave may appeal any
332 disciplinary action arising out of that investigation in accordance with the Nation’s laws
333 and policies governing employment, which includes the right to file an appeal with the
334 Judiciary when supported by the Nation’s Personnel, Policies, and Procedures. [2 O.C.
335 208.11-1].
- 336 ▪ *Back Pay law.* The purpose of the Back Pay law is to set forth standards used in the calculation of
337 back pay for all employees in accordance with the Nation’s laws. [2 O.C. 206.1-1].
 - 338 ▪ This Law provides that an employee will receive back pay and benefits for anytime the
339 employee was on unpaid investigative leave pursuant to the laws governing back pay if
340 they return to their position at the conclusion of the investigation. [2 O.C. 208.4-2(d)].
- 341 ▪ *Pardon and Forgiveness law.* The purpose of the Pardon and Forgiveness law includes providing
342 a fair, efficient and formal process by which an employee may receive forgiveness for acts that
343 render them ineligible for employment with the Nation; an occupational license, certification or
344 permit issued by the Nation. [1 O.C. 126-1(a)(3)].
 - 345 ▪ This Law provides that an employee may appeal any disciplinary action arising out of an
346 investigation in accordance with the Nation’s laws and policies governing employment.
347 [2 O.C. 208.11-1].
- 348 ▪ *Computer Resources Ordinance.* The purpose of the Computer Resources Ordinance is to
349 regulate the usage of Nation owned and operated computer resources. [2 O.C. 215.1-1]. The
350 Computer Resources Ordinance includes guidelines for the limited circumstances that an
351 employee may use those resources for personal matters. [2 O.C. 215.7-1].
 - 352 ▪ This Law prohibits any employee from posting any information related to the
353 investigation on social media. [2 O.C. 208.12-1].
- 354 ▪ *Social Media Policy.* The purpose of the Social Media Policy is to regulate social media accounts
355 administered on behalf of the Nation or an entity of the Nation. [2 O.C. 218.1-1]. The Social Media
356 Policy does not provide a right for employees to use the internet or social media while at work for
357 personal use. [2 O.C. 218.1-3]. Supervisors retain discretion to permit or prohibit the personal use
358 of the Nation's computers in accordance with the Computer Resources Ordinance. [2 O.C. 218.1-
359 3].
 - 360 ▪ This Law prohibits any employee from posting any information related to the
361 investigation on social media. [2 O.C. 208.12-1].

363 SECTION 7. ENFORCEMENT AND ACCOUNTABILITY

- 364 A. This Law provides that an employee placed on paid investigative leave who fails to respond to an
365 inquiry within twenty-four (24) business hours will lose their paid status, and any employee who

366 violates this Law shall be subject to discipline pursuant to the Nation’s law and policies governing
367 employment. [2 O.C. 208.10-1. 208.10-2].

368 **B.** The Oneida Judiciary will provide enforcement and accountability in the grievance process. Employees
369 placed on an investigative leave who receive a disciplinary action they believe to be unfair may
370 challenge the action first to the Area Manager and HRD Manager, and then to the Judiciary Trial Court.
371 [Section V.D(6)].

372

373 **SECTION 8. OTHER CONSIDERATIONS**

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

380 a. **Conclusion.** The Legislative Operating Committee received a fiscal impact statement from
381 the Finance Administration on October 9, 2024.

382

Title 2. Employment – Chapter 208
INVESTIGATIVE LEAVE LAWPOLICY

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~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

208.1 Purpose and Policy

208.1-1 _____The purpose of this lawPolicy 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 lawpolicy 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 lawpolicy 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 lawpolicy or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this lawpolicy 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 lawpolicy and a provision of another lawpolicy, the provisions of this lawpolicy shall control.

208.2-5. This lawpolicy 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 lawPolicy. 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 Nation Tribe and is subject to the direction and control of the Tribe with respect to the material details of the work performed, or who has the status of an employee under the usual common law rules applicable to determining the employer-employee relationship. “Employee” includes, but is not limited to; an individual employed by any program or enterprise of the Tribe, but does not include elected or appointed officials or individuals employed by a corporation chartered by the Nation. political appointees.~~

~~(b)(c) “Investigative leave” shall means a temporary absence from an employee’s regular job duties for the purpose of conducting an investigation into alleged employee misconduct to determine whether conduct or alleged conduct by an employee should result in disciplinary action and/or termination of employment.~~

(d) “Nation”~~“Tribal” or “Tribe”~~ shall means the Oneida Nation. ~~Tribe of Indians of~~

~~Wisconsin.~~

~~(e)~~(e) “Workplace” means any location owned and operated by the Nation, any location where employees are staffing an event sponsored by the Nation, and any location where an employee represents the Nation, including over-the-road travel in Nation owned or rented vehicles and any circumstances where an employee is being reimbursed for expenses.

208.4 Scope

208.4-1. An employee shall be placed on investigative leave when a situation requires an investigation be conducted and one (1) of the following occurs:

~~(a)~~ The nature and severity of the alleged violation, or alleged illegal activity, is significant; including but not limited to:~~A situation requires an investigation be conducted and the employee’s presence may influence the outcome.~~

(1) Workplace violence;

(2) Sexual harassment;

(3) Theft;

(4) Arson, bribery, or perjury; or

(5) Obstruction or interference with an investigation authorized by the Nation.

~~(a)~~(b) The employee’s presence in the workplace may result in the destruction of evidence relevant to the investigation, result in loss or damage to property of the Nation, or otherwise damage legitimate interests of the Nation; including, but not limited to classified, privileged, proprietary, financial or medical records; and the privacy of individuals whose data the Nation holds in its systems.

(c) The employee’s presence in the workplace may pose an unacceptable risk to the life, safety, health, or personal property of employees, contractors, vendors or visitors to a facility of the Nation.

~~(b)~~(d) An employee allegedly commits an act which would preclude the employee from meeting employment eligibility including required Licenses, ~~the Tribal F~~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 approval~~Approval requested in 208.5-1(b) shall be granted or denied by the
102 Executive Director of the Human Resource Department within forty-eight (48) hours of
103 receiving the request.

104 ~~208.5-3. An investigative leave shall initially be authorized for a period of forty-five (45) days.~~
105 (a) If the investigative leave is not projected to conclude within forty-five (45) days, the
106 initial authorizer(s) may review and authorize the extension of the investigative leave
107 until such time that a safe and equitable determination may reasonably be reached.

108 ~~208.5-4.— During the investigative leave, the employee's supervisor shall authorize an~~
109 ~~alternative work assignment if all the following occur:~~

- 110 (a) ~~The alleged action does not preclude the employee from working elsewhere in the~~
111 ~~organization;~~
112 (b) ~~An alternative work assignment is available; and~~
113 (c) ~~The employee meets the minimum job requirements of the alternative work assignment.~~

114 ~~208.5-5.— If an employee is placed in an alternative work assignment under section 208.5-4, the~~
115 ~~alternative work assignment shall be considered a part of the investigative leave and the~~
116 ~~employee shall continue to receive their same rate of pay.~~

117 208.6 Employee Notice

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

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

allegation(s) being investigated.

~~(f) The telephone number and name of person to contact in case of questions;~~The expected length of the investigation.

~~(g) The procedures to return to work upon completion of the investigation; and~~Whether or not the investigation is being forwarded to an outside agency.

~~(h) That the employee still remains as an employee with the Tribe.~~The telephone number, email address, and name of person to contact in case of questions.

(i) The employee shall surrender all property of the Nation pursuant to section 208.9-1(c).

(j) The procedures to return to work upon completion of the investigation.

(k) Employee responsibilities pursuant to section 208.9.

208.6-2. If the employee's investigative leave is ~~projected to~~ extended past the initial forty-five (45) original fifteen (15) calendar days pursuant to section 208.5-38-1, the supervisor ~~or their designee of equal or greater authority~~ shall immediately notice the employee in writing of this extension and the reason for the extension at least ten (10) days prior to the expiration of the initial forty-five (45) days. The notice shall contain the following:

(a) That the employee remains an employee of the Nation.

(b) Clear documentation regarding the cessation of pay and benefits.

(c) The definition of business hours as it pertains to the employee's particular area of employment.

(d) The expected length of the investigation.

(e) The telephone number, email address, and name of the person to contact in case of questions.

(f) Employee responsibilities pursuant to section 208.9.

208.7 Investigator(s) and Reports

208.7-1. The Executive Director of the Human Resource Department, in collaboration with the supervisor,~~employee's supervisor and/or area manager~~ shall be responsible for designating the individual or agency responsible for completing the investigation. If the employee being investigated reports directly to the Oneida Business Committee, the ~~Tribal~~ Equal Employment Opportunity Officer shall either conduct the investigation or serve as the point of contact and coordinator for the investigative agency.

208.7-2. If the allegations against the employee include criminal actions, or actions that may affect licensing, the supervisor ~~may~~shall conclude the employment related investigation without waiting for the results of a criminal or licensing investigation.

(a) Documentation of criminal proceedings or licensing outcomes shall be maintained in the employee's personnel file within the Human Resource Department.

208.7-3. The person(s) conducting an investigation shall prepare a written report that shall include the findings of the investigation, and if someone other than the employee's supervisor conducts the investigation, a copy of the written report shall be provided to the employee's supervisor. ~~If someone other than the employee's supervisor conducts the investigation, within forty eight (48) hours of receiving the written report, the supervisor shall complete the investigation by determining and documenting any corrective actions needed.~~

208.7-4. The employee's supervisor shall prepare a memorandum based on the information produced during the investigation~~written report~~ which shall be provided to the employee and shall inform the employee of the following:

(a) C~~e~~orrective 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) ~~A~~ 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~~ workplace without prior supervisory approval;

(1) Written permission to enter a public workplace 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~~e) 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.

OBC Approved 4-07-99-A

Amended- 08-13-14-D

Amended – BC-06-24-15-A

Amended BC- - - -

Title 2. Employment – Chapter 208 INVESTIGATIVE LEAVE LAW

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
208.11 Appeal
208.12 Confidentiality

1

2 **208.1 Purpose and Policy**

3 208.1-1 The purpose of this law is to set forth a process to address investigative leave for
4 employees undergoing work-related investigations.

5 It is the policy of the of the Nation to conduct objective, confidential investigations into alleged
6 employee misconduct.

7

8 **208.2 Adoption, Amendment, Repeal**

9 208.2-1. This law was adopted by the Oneida Business Committee by resolution BC-04-07-99-
10 A, and amended by resolution BC-08-13-14-D, BC-06-24-15-A, and BC-__-__-__.

11 208.2-2. This law may be amended or repealed by the Oneida Business Committee or the
12 General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

13 208.2-3. Should a provision of this law or the application thereof to any person or circumstances
14 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
15 to have legal force without the invalid portions.

16 208.2-4. In the event of a conflict between a provision of this law and a provision of another
17 law, the provisions of this law shall control.

18 208.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

19

20 **208.3 Definitions**

21 208.3-1. This section governs the definitions of words and phrases used within this law. All
22 words not defined herein shall be used in their ordinary and everyday sense.

23 (a) “Day” means calendar day.

24 (b) “Employee” means any individual who is employed by the Nation but does not include
25 elected or appointed officials or individuals employed by a corporation chartered by the
26 Nation.

27 (c) “Investigative leave” means a temporary absence from an employee’s job duties for the
28 purpose of conducting an investigation into alleged employee misconduct.

29 (d) “Nation” means the Oneida Nation.

30 (e) “Workplace” means any location owned and operated by the Nation, any location
31 where employees are staffing an event sponsored by the Nation, and any location where an
32 employee represents the Nation, including over-the-road travel in Nation owned or rented
33 vehicles and any circumstances where an employee is being reimbursed for expenses.

34

35 **208.4 Scope**

36 208.4-1. An employee shall be placed on investigative leave when a situation requires an
37 investigation be conducted and one (1) of the following occurs:

38 (a) The nature and severity of the alleged violation, or alleged illegal activity, is significant;
39 including but not limited to:

40 (1) Workplace violence;

41 (2) Sexual harassment;

42 (3) Theft;

43 (4) Arson, bribery, or perjury; or

44 (5) Obstruction or interference with an investigation authorized by the Nation.

45 (b) The employee's presence in the workplace may result in the destruction of evidence
46 relevant to the investigation, result in loss or damage to property of the Nation, or otherwise
47 damage legitimate interests of the Nation; including, but not limited to classified,
48 privileged, proprietary, financial or medical records; and the privacy of individuals whose
49 data the Nation holds in its systems.

50 (c) The employee's presence in the workplace may pose an unacceptable risk to the life,
51 safety, health, or personal property of employees, contractors, vendors or visitors to a
52 facility of the Nation.

53 (d) An employee allegedly commits an act which would preclude the employee from
54 meeting employment eligibility including required licenses, fidelity bond, commercial
55 crime policy, or background investigation requirements.

56 208.4-2. Investigative leave shall include:

57 (a) Up to forty-five (45) days without loss of or reduction in:

58 (1) Pay;

59 (2) Credit for time or service;

60 (3) Benefits to which the employee is otherwise entitled to under the Nation's laws
61 governing employment, except that:

62 (A) Personal and vacation time shall not accrue.

63 (b) After forty-five (45) days on paid investigative leave an employee may use their
64 personal and vacation time.

65 (c) After forty-five (45) days on paid investigative leave and the expiration of any personal
66 and vacation time all pay and benefits shall cease.

67 (d) After forty-five (45) days of paid investigative leave, an employee shall receive back-
68 pay and benefits for any time the employee was on unpaid investigative leave pursuant to
69 the laws governing back-pay if they return to their position at the conclusion of the
70 investigation.

71 208.5 Authorization

72 208.5-1. Investigative leave, or an extension of this leave, shall only be used:

73 (a) When initiated by the Executive Director of the Human Resource Department with
74 concurrent written notice to the employee's supervisor; or

75 (b) When initiated by an employee's supervisor after receiving written approval from the
76 Executive Director of the Human Resource Department or their designee, and:

77 (1) Their division director; or

78 (2) If there is no division director, the person at the highest level of the chain of
79 command under the Oneida Business Committee.

80 208.5-2. Approval requested in 208.5-1(b) shall be granted or denied by the Executive Director
81 of the Human Resource Department within forty-eight (48) hours of receiving the request.
82
83

84 208.5-3. An investigative leave shall initially be authorized for a period of forty-five (45) days.
85 (a) If the investigative leave is not projected to conclude within forty-five (45) days, the
86 initial authorizer(s) may review and authorize the extension of the investigative leave until
87 such time that a safe and equitable determination may reasonably be reached.
88

89 **208.6 Employee Notice**

90 208.6-1. When the employee is placed on investigative leave, the employee shall immediately
91 receive a written notice from the employee's supervisor, or if the employee's supervisor is
92 unavailable, their designee of equal or greater authority; the notice shall contain the following:
93 (a) This action does not denote any wrongdoing on the part of the employee.
94 (b) The employee remains an employee of the Nation.
95 (c) Clear documentation regarding the status of pay and benefits while on investigative
96 leave.
97 (d) The definition of business hours as it pertains to the employee's particular area of
98 employment.
99 (e) The specific allegation(s) being investigated.
100 (f) The expected length of the investigation.
101 (g) Whether or not the investigation is being forwarded to an outside agency.
102 (h) The telephone number, email address, and name of person to contact in case of
103 questions.
104 (i) The employee shall surrender all property of the Nation pursuant to section 208.9-1(c).
105 (j) The procedures to return to work upon completion of the investigation.
106 (k) Employee responsibilities pursuant to section 208.9.

107 208.6-2. If the employee's investigative leave is projected to extend past the initial forty-five
108 (45) days pursuant to section 208.5-3, the supervisor or their designee of equal or greater authority
109 shall immediately notice the employee in writing of this extension and the reason for the extension
110 at least ten (10) days prior to the expiration of the initial forty-five (45) days. The notice shall
111 contain the following:

112 (a) That the employee remains an employee of the Nation.
113 (b) Clear documentation regarding the cessation of pay and benefits.
114 (c) The definition of business hours as it pertains to the employee's particular area of
115 employment.
116 (d) The expected length of the investigation.
117 (e) The telephone number, email address, and name of the person to contact in case of
118 questions.
119 (f) Employee responsibilities pursuant to section 208.9.
120

121 **208.7 Investigator(s) and Reports**

122 208.7-1. The Executive Director of the Human Resource Department, in collaboration with the
123 supervisor, shall be responsible for designating the individual or agency responsible for completing
124 the investigation. If the employee being investigated reports directly to the Oneida Business
125 Committee, the Equal Employment Opportunity Officer shall either conduct the investigation or
126 serve as the point of contact and coordinator for the investigative agency.

127 208.7-2. If the allegations against the employee include criminal actions, or actions that may
128 affect licensing, the supervisor may conclude the employment related investigation without
129 waiting for the results of a criminal or licensing investigation.

130 (a) Documentation of criminal proceedings or licensing outcomes shall be maintained in the
131 employee's personnel file within the Human Resource Department.

132 208.7-3. The person(s) conducting an investigation shall prepare a written report that shall
133 include the findings of the investigation, and if someone other than the employee's supervisor
134 conducts the investigation, a copy of the written report shall be provided to the employee's
135 supervisor.

136 208.7-4. The employee's supervisor shall prepare a memorandum based on the information
137 produced during the investigation which shall be provided to the employee and shall inform the
138 employee of the following:

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

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

143 (b) When to return to work, if applicable.

144 (c) A redacted copy of the written report will be made available to the employee upon
145 request.

146

147 **208.8 Duration**

148 208.8-1. An investigative leave shall conclude when the investigation has produced sufficient
149 information and verifiable facts for the employee's supervisor and the Executive Director of the
150 Human Resource Department to make a reasonable determination on workplace safety and
151 employee status; documentation of that determination has been recorded in permanent files, and
152 the employee has either returned to work or separated from their employment.

153 208.8-2. All investigations shall be completed as expeditiously as circumstances permit. The
154 supervisor shall provide weekly updates to the Executive Director of the Human Resource
155 Department, or if an outside entity is conducting the investigation, the Equal Employment
156 Opportunity Officer shall provide the weekly updates.

157

158 **208.9 Employee Responsibilities**

159 208.9-1. An employee placed on investigative leave shall:

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

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

163 (b) Not discuss the investigation with employees or post information related to the
164 investigation on social media pursuant to section 208.12-1.

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

166 (1) Time keeping badge(s),

167 (2) Identification card(s),

168 (3) Laptop(s),

169 (4) Vehicles and key(s),

170 (5) Cell phone.

171

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

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

175

176

177 **208.10 Enforcement**178 208.10-1. Any employee found violating this law shall be subject to discipline in accordance
179 with the Nation’s laws and policies governing employment.180 208.10-2. Failure by the employee to respond to inquiries within twenty-four (24) business
181 hours will result in the termination of paid investigative leave and immediately shift the
182 employee to unpaid status.

183

184 **208.11 Appeal**185 208.11-1. An employee may appeal any disciplinary action arising out of an investigation in
186 accordance with the Nation’s laws and policies governing employment.

187

188 **208.12 Confidentiality**189 208.12-1. Information related to an investigation is confidential and may not be released in any
190 manner, including social media, except in accordance with relevant laws.191 208.12-2. All investigation materials shall be maintained in the employee’s personnel file with
192 the Human Resources Department.

193

194 *End.*

195

196 OBC Approved 4-07-99-A

197 Amended- 08-13-14-D

198 Amended – BC-06-24-15-A

199 Amended _ BC-__-__-__-__

FINANCE ADMINISTRATION

Fiscal Impact Statement



MEMORANDUM

TO: RaLinda Ninham-Lamberies, Chief Financial Officer
 FROM: Rae Skenandore, Senior Analyst/Budget Coordinator
 DATE: October 8, 2024
 RE: **Fiscal Impact of the Proposed Amendments to the Investigative Leave Policy**

I. Estimated Fiscal Impact Summary

Law: Amendments to the Investigative Leave Policy		Draft 1
Implementing Agency	Human Resource Department (HRD)	
Estimated time to comply	10 days, in compliance with the Legislative Procedures Act	
Estimated Impact	Current Fiscal Year	10 Year Estimate
Total Estimated Fiscal Impact	No Fiscal Impact	No Fiscal Impact

II. Background

This Policy was originally adopted by the Oneida Business Committee on April 7, 1999, and then through resolutions BC-08-13-14-D, and BC-06-24-3 15-A. The purpose of this Policy is to provide a consistent process to complete an investigation for allegations against an employee of the Nation.

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

- Clarify the severity of an alleged violation that may warrant an investigative leave and provide examples.
- Clarify 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 employee placed on investigative leave for up to forty-five (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 unpaid status when an investigation cannot be safely concluded within forty-five (45) days.
- Clarify that an employee may use their personal and vacation time if the investigative leave extends past forty-five (45) days.
- Provide that when an employee has used 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 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.
- 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.
- 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.
- Eliminate the option for a supervisor to place an employee in an alternate work assignment while on investigative leave.
- Expand the requirements 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.
 - 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.
 - Whether the investigation has been referred to an outside agency.
 - List of the employee’s responsibilities.
 - Email address of the person the employee may contact if they have questions related to the investigative leave.

- Extend the issuance of the second notice to the employee placed on investigative leave from fifteen (15) days to thirty-five (35) days.
- Clarify that the second notice must provide the employee placed on investigative leave with the following information:
 - That the employee remains an employee of the Nation.
 - Clear documentation regarding the 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, email address, 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 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.
- 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.
- 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.
- 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.
- 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).
- 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.

- 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.
- Require that the employee placed on investigative leave respond to all inquiries within twenty-four (24) business hours.

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 Policy has been in place since 1999. There are no start-up costs, no increases in personnel are needed, and no increases in office or documentation costs. HRD has identified twenty business days or four (4) weeks as the amount of time necessary to comply with the Law after approval.

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 fiscal impact of this legislation, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

AGENDA REQUEST FORM

- 1) Request Date: November 6, 2024
- 2) Contact Person(s): Clorissa N. Leeman
Dept: Legislative Reference Office
Phone Number: (920) 869-4417 Email: cleeman@oneidation.org
- 3) Agenda Title: Indian Preference In Contracting Law Amendments
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
At the 10/11/24 OBC Work Session the OBC directed the LOC to add this law to its AFL to incorporate guidance from resolution BC-04-08-20-K into the law.

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

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

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

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

- 7) Do you consider this request urgent? Yes No
If yes, please indicate why:

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

Signature of Requester:



Please send this form and all supporting materials to:

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



LEGISLATIVE OPERATING COMMITTEE

COMMUNITY MEETING

WEDNESDAY, DEC. 4

5:30PM - 7:30PM

NORBERT HILL CENTER CAFETERIA

N7210 Seminary Rd, Oneida, WI 54155



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

- ◆ **Marijuana Law**
- ◆ **Short Term Rental Law**
- ◆ **Boards, Committees & Commissions Law Amendments**

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

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



LEGISLATIVE OPERATING COMMITTEE MEMBERS

Kirby Metoxen
LOC Vice Chairman



Jameson
Wilson
LOC Chairman



Jennifer
Webster
LOC Member



Marlon
Skenandore
LOC Member



Jonas Hill
LOC Member





Legislative Operating Committee Fiscal Year 2024 Fourth Quarter Report July 2024 – September 2024

Legislative Operating Committee Strategic Directions

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

- Improving relationships through communication;
- Improving internal processes and strategy;
- Educating and engaging stakeholders, including youth; and
- Implementing efficient use of technology.

Legislative Operating Committee Action on Legislative Requests

During the FY24 Fourth Quarter the Legislative Operating Committee added no legislative items to its Active Files List. The Legislative Operating Committee denied one (1) legislative item during the FY24 Fourth Quarter.

On September 4, 2024, the Legislative Operating Committee accepted the request for amendments to the Workplace Violence law as information, noting the Workplace Violence law is already on the Active Files List. On the same day, the Legislative Operating Committee denied the request to add the Oneida General Welfare law amendments to the Active Files List.

FY24 Fourth Quarter Legislative Accomplishments

During the FY24 Fourth Quarter the Legislative Operating Committee brought forward the following legislative items for amendment:

Back Pay Law Amendments

On July 24, 2024, the Oneida Business Committee adopted amendments to the Back Pay law, now known as the Back Pay and Reinstatement law, through adoption of resolution BC-07-24-24-C. The purpose of the Back Pay and Reinstatement law is to set forth standards used in the reinstatement of an employee and the calculation of back pay for all employees of the Nation in accordance with the Nation’s laws. [2 O.C. 206.1-1]. The amendments to the Back Pay law:

- Include a new section in the law which provides for the reinstatement of employee who had involuntary separation overturned and addresses such issues as:
 - Requirement to hold a position pending litigation [2 O.C. 206.4-1];

- Amending the position description or eliminating the position pending an employee appeal [2 O.C. 206.4-2];
- Reinstatement to the position the employee was involuntarily separated from [2 O.C. 206.4-3];
- Clarify that back pay calculations shall be made using the employee's last wage in the position which they were terminated from [2 O.C. 206.5-1]; and
- Clarify the circumstances in which an employee is not eligible to work, and therefore is not eligible for back pay [2 O.C. 206.5-2(d)].

Vehicle Driver Certification and Fleet Management Law Amendments

On September 25, 2024, the Oneida Business Committee adopted amendments to the Vehicle Driver Certification and Fleet Management law through the adoption of resolution BC-09-25-24-B. The purpose of the Vehicle Driver Certification and Fleet Management law is to establish standards that certify employees, elected and appointed officials, and volunteers to drive a fleet vehicle or personal vehicle on official business and regulate the use of all vehicles owned and leased by the Nation. [2 O.C. 210.1-1]. Amendments to the Vehicle Driver Certification and Fleet Management law are being sought to remove the responsibility of the Fleet Management Department to purchase fleet vehicles. [2 O.C. 210.6-1].

FY24 Fourth Quarter Administrative Accomplishments

During the FY24 Fourth Quarter the Legislative Operating Committee brought forward the following administrative accomplishments:

Landlord-Tenant Law Rule No. 2 - Income Based Rental Program Eligibility, Selection and Other Requirements Amendments

The Legislative Operating Committee certified and forwarded the Landlord-Tenant Law Rule No. 2 - Income Based Rental Program Eligibility, Selection and Other Requirements Amendments to the Oneida Business Committee. On August 14, 2024, the Oneida Business Committee adopted the amendments to the Landlord-Tenant Law Rule No. 2 - Income Based Rental Program Eligibility, Selection and Other Requirements.

Petition: L. Blackowl - New Recreation/Community Center Build

The Legislative Operating Committee approved the statement of effect for the Petition: L. Blackowl - New Recreation/Community Center Build drafted by the Legislative Reference Office and forwarded it to the Oneida Business Committee. The Oneida Business Committee accepted the statement of effect on August 14, 2024.

FY24 Fourth Quarter Community Outreach Efforts

Focusing on its efforts to enhance community involvement through outreach and communication, during the FY24 Fourth Quarter the Legislative Operating Committee held one (1) community outreach event.

On September 4, 2024, from 5:30 p.m. through 7:30 p.m. the Legislative Operating Committee held a community meeting in the Norbert Hill Center’s cafeteria. Topics discussed during the community meeting included brief overview of the legislative process as well as a discussion of the development of two (2) new laws for the Nation: a Limited Liability company law and a Probate law. The purpose of this community meeting was to provide an opportunity for open discussion in which people could share comments, questions, or suggestions on potential issues that should be addressed regarding the topics discussed.

The Legislative Operating Committee intends to hold community outreach events on a quarterly basis and encourages everyone to attend and participate in future community outreach events.

FY24 Fourth Quarter Legislative Highlights

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

Business Corporations Law

This item is sponsored by Jameson Wilson. The Legislative Operating Committee held three (3) work meetings during the FY24 Fourth Quarter regarding this legislative matter.

Computer Resources Ordinance Amendments

This item is sponsored by Jameson Wilson. The Legislative Operating Committee held one (1) work meeting during the FY24 Fourth Quarter regarding this legislative matter. On July 1, 2024, the Legislative Operating Committee conducted an e-poll 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. Then on July 17, 2024, the Legislative Operating Committee conducted an e-poll to enter into the record the results of the July 1, 2024 e-poll entitled, Approval of the Computer Resources Ordinance Amendments Public Meeting Packet. On August 21, 2024, a public meeting was held. No individuals provided oral comments during the public meeting. The public comment period was then held open until August 28, 2024. No individuals provided written comment during the public comment period. On September 4, 2024, the Legislative Operating Committee approved the public comment review memorandum, draft, and legislative analysis for the proposed amendments to the Computer Resources Ordinance, and approved the fiscal impact statement request memorandum and forwarded the materials to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by September 18, 2024. On this day the Legislative Operating Committee also entered into the record the results of the July 17, 2024, e-poll entitled, Approval of the Canceled July 17, 2024 LOC Meeting Materials. The Legislative Operating Committee received the fiscal impact statement from Finance on September 24, 2024.

Culturally Significant Event Participation Program Law

This item is sponsored by Jameson Wilson. The Legislative Operating Committee held one (1) work meeting during the FY24 Fourth Quarter regarding this legislative matter.

Environmental Review Law

This item is sponsored by Kirby Metoxen and Jonas Hill. The Legislative Operating Committee held two (2) work meeting during the FY24 Fourth Quarter regarding this legislative matter. On July 17, 2024, the Legislative Operating Committee conducted an e-poll to accept the memorandum from James Snitgen and remove the Environmental Review Law from the Active Files List. On September 4, 2024, the Legislative Operating Committee entered into the record the results of the July 17, 2024, e-poll entitled, Approval of the Canceled July 17, 2024 LOC Meeting Materials.

Eviction and Termination Law Amendments

This item is sponsored by Jonas Hill and Marlon Skenandore. On July 1, 2024, the General Tribal Council adopted a motion to accept item VII.A. [*VII.A Accept update regarding the Eviction and Termination law*] and VII.B. as information.

Furlough Law Amendments

This item was sponsored by Jennifer Webster. The Legislative Operating Committee held one (1) work meeting during the FY24 Fourth Quarter regarding this legislative matter.

GTC Government Participation GWE Law

This item is sponsored by Jonas Hill. The Legislative Operating Committee held one (1) work meeting during the FY24 Fourth Quarter regarding this legislative matter.

Guardianship Law Amendments

This item is sponsored by Marlon Skenandore. The Legislative Operating Committee held two (2) work meetings during the FY24 Fourth Quarter regarding this legislative matter.

Higher Education Scholarship Law

This item is sponsored by Jameson Wilson. The Legislative Operating Committee held two (2) work meetings during the FY24 Fourth Quarter regarding this legislative matter.

Independent Contractor Policy Amendments

This item is sponsored by Jonas Hill. The Legislative Operating Committee held one (1) work meeting during the FY24 Fourth Quarter regarding this legislative matter.

Investigative Leave Policy Amendments

This item is sponsored by Marlon Skenandore. On July 17, 2024, the Legislative Operating Committee conducted an e-poll to accept the legislative analysis for the proposed amendments to the Investigative Leave Policy. On July 30, 2024, the Legislative Operating Committee conducted an e-poll to approve the public meeting packet for the Investigative Leave Policy amendments and forward the Investigative Leave Policy amendments to a public meeting to be held on September 13, 2024. On September 4, 2024, the Legislative Operating Committee entered into the record the

results of the July 17th and July 30th e-polls. A public meeting was held on September 13, 2024. No one provided public comment during the public meeting. The public comment period was then held open until September 20, 2024. No one provided written comments during the public comment period.

Landlord Tenant Law Amendments

This item is sponsored by Jonas Hill. The Legislative Operating Committee held two (2) work meetings during the FY24 Fourth Quarter regarding this legislative matter. On September 18, 2024, the Legislative Operating Committee approved the draft of the Landlord Tenant law amendments and directed that a legislative analysis be developed.

Law Enforcement Ordinance Amendments

This item is sponsored by Jonas Hill. The Legislative Operating Committee held three (3) work meetings during the FY24 Fourth Quarter regarding this legislative matter. On September 4, 2024, the Legislative Operating Committee approved the draft of the proposed amendments to the Oneida Law Enforcement Ordinance and directed that a legislative analysis be completed.

Layoff Policy Amendments

This item is sponsored by Jennifer Webster. The Legislative Operating Committee held two (2) work meetings during the FY24 Fourth Quarter regarding this legislative matter.

Oneida General Welfare Law Amendments.

This item was sponsored by Jameson Wilson and Jonas Hill. The Legislative Operating Committee held one (1) work meeting during the FY24 Fourth Quarter regarding this legislative matter. On September 4, 2024, the Legislative Operating Committee accepted the memorandum entitled, Removal of the Oneida General Welfare Law from the Active Files List, and removed the Oneida General Welfare law from the Active Files List.

Oneida Life Insurance Plan Law Amendments

This item is sponsored by Jameson Wilson. The Legislative Operating Committee held two (2) work meetings during the FY24 Fourth Quarter regarding this legislative matter. On September 4, 2024, the Legislative Operating Committee accepted the memorandum entitled, One (1) Year Review of the Oneida Life Insurance Plan Law, and approved the draft of proposed amendments to the Oneida Life Insurance Plan law and directed that a legislative analysis be developed. On September 18, 2024, the Legislative Operating Committee approved the legislative analysis for the proposed amendments to the Oneida Life Insurance Plan law.

Oneida Personnel Policies and Procedures

This item is sponsored by all members of the Legislative Operating Committee. The Legislative Operating Committee held one (1) work meeting during the FY24 Fourth Quarter regarding this legislative matter.

Probate Law

This item is sponsored by Kirby Metoxen, Jameson Wilson, Marlon Skenandore. The Legislative Operating Committee held five (5) work meetings during the FY24 Fourth Quarter regarding this legislative matter. On September 4, 2024, the Legislative Operating Committee held a community meeting in which the development of a Probate law was a topic for discussion.

Real Property Law Amendments

This item is sponsored by Jameson Wilson. The Legislative Operating Committee held two (2) work meeting during the FY24 Fourth Quarter regarding this legislative matter.

Recycling and Solid Waste Disposal Law Amendments

This item is sponsored by Kirby Metoxen and Jonas Hill. The Legislative Operating Committee held four (4) work meeting during the FY24 Fourth Quarter regarding this legislative matter.

Renewable Energy Law

This item is sponsored by Jameson Wilson. The Legislative Operating Committee held one (1) work meeting during the FY24 Fourth Quarter regarding this legislative matter.

Taxation Law

This item is sponsored by Jameson Wilson. The Legislative Operating Committee held two (2) work meetings during the FY24 Fourth Quarter regarding this legislative matter.

Tribal Sovereignty in Data Research Law

This item is sponsored by Jennifer Webster. The Legislative Operating Committee held two (2) work meetings during the FY24 Fourth Quarter regarding this legislative matter.

Two Spirit Inclusion Law

This item is sponsored by Jennifer Webster. The Legislative Operating Committee held one (1) work meeting during the FY24 Fourth Quarter regarding this legislative matter.

Uniform Commercial Code

This item is sponsored by Jameson Wilson. The Legislative Operating Committee held one (1) work meeting during the FY24 Fourth Quarter regarding this legislative matter.

Workplace Violence Law Amendments

This item is sponsored by Jennifer Webster. The Legislative Operating Committee held one (1) work meeting during the FY24 Fourth Quarter regarding this legislative matter.

FY24 Fourth Quarter Legislative Operating Committee Meetings

All Legislative Operating Committee meetings are open to the public and held on the first and

Fourth Wednesday of each month, at 9:00 a.m. in the Norbert Hill Center’s Business Committee Conference Room and on Microsoft Teams.

The Legislative Operating Committee held the following meetings during the FY24 Fourth Quarter:

- September 4, 2024 – Regular meeting; and
- September 18, 2024 – Regular meeting.

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

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

Goals for FY25 First Quarter

During the FY25 First Quarter the Legislative Operating Committee will focus its legislative efforts on the following matters:

- Hold an additional LOC Community meeting.
- Adoption of the Computer Resources Ordinance amendments.
- Adoption of the Investigative Leave Policy Amendments.
- Hold public meeting for the Oneida Life Insurance Plan Law Amendments.

Legislative Reference Office

The Legislative Reference Office’s mission is to provide support for the Legislative Operating Committee in developing clear and consistent legislation that reflects the Nation’s values, builds upon the Nation’s strong foundation, and reaffirms our inherent sovereignty.

In addition to the assisting the Legislative Operating Committee with the development of legislation, the Legislative Reference Office also:

- Drafts statements of effect for Oneida Business Committee and General Tribal Council resolutions;
- Drafts statements of effect for General Tribal Council resolutions petitions;
- Drafts and provides other assistance to various department and entities of the Nation with administrative rulemaking;
- Drafts and provides other assistance to various department and entities of the Nation with bylaws; and

- Manages all other administrative duties and recordkeeping for the Legislative Operating Committee.

During the FY24 Fourth Quarter the Legislative Reference Office was staffed by the following individuals:

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

Legislative Operating Committee Contact Information

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

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



The Legislative Operating Committee from left to right: Kirby Metoxen, Jameson Wilson, Jennifer Webster, Marlon Skenandore, Jonas Hill.

October 2, 2024, Legislative Operating Committee E-Poll

Approval of the Canceled October 2, 2024 LOC Meeting Materials

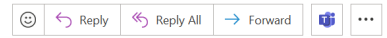
E-POLL REQUEST: Approval of the Canceled October 2, 2024 LOC Meeting Materials



LOC

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

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



Wed 10/2/2024 9:04 AM

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



Good Morning Legislative Operating Committee,

This e-mail serves as the e-poll for the approval of the canceled October 2, 2024, Legislative Operating Committee meeting materials.

EXECUTIVE SUMMARY

The October 2, 2024, Legislative Operating Committee meeting was canceled due to a lack of quorum based on scheduling conflicts. In an effort to not delay work moving forward, the Legislative Operating Committee is being asked to e-poll the materials originally included on the October 2, 2024, Legislative Operating Committee meeting agenda.

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

- **September 18, 2024 Legislative Operating Committee Meeting Minutes.**
 - The Legislative Operating Committee is being asked to approve the September 18, 2024 Legislative Operating Committee meeting minutes and forward to the Oneida Business Committee.
 - The September 18, 2024 Legislative Operating Committee meeting minutes are included in the attached backup materials.
- **Oneida Life Insurance Plan Law Amendments.**
 - The Legislative Operating Committee is being asked to 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.
 - Included in the attached backup materials are the following documents for this item:
 - Coversheet;
 - Public Meeting Notice;
 - Legislative Analysis;
 - Public Meeting Draft (Redline to Current); and
 - Public Meeting Draft (Clean).
 - The Kalihwisaks submission deadline is October 3, 2024.
- **Computer Resources Ordinance Amendments.**
 - The Legislative Operating Committee is being asked to approve the adoption packet for the proposed amendments to the Computer Resources Ordinance and forward to the Oneida Business Committee for consideration.
 - Included in the attached backup materials are the following documents for this item:
 - Coversheet;
 - Adoption Memo;
 - Resolution;

- Statement of Effect;
- Legislative Analysis;
- Draft (Redline to Current);
- Draft (Clean); and
- Fiscal Impact Statement.
- ***Investigative Leave Policy Amendments.***
 - The Legislative Operating Committee is being asked to approve the public comment review memorandum, draft, and legislative analysis for the proposed amendments to the Investigative Leave Policy; and 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.
 - Included in the attached backup materials are the following documents for this item:
 - Public Comment Review Memorandum;
 - Public Meeting Draft;
 - Public Meeting Transcript;
 - Legislative Analysis; and
 - Fiscal Impact Statement Request Memorandum.

The October 2, 2024, Legislative Operating Committee meeting packet has been attached to this e-poll a backup documentation. Further details on all the items included in this e-poll can be found in the attached backup materials.

An e-poll is necessary for this matter in order to avoid a delay in work being processed because the October 2, 2024, Legislative Operating Committee meeting has been canceled.

REQUESTED ACTION

The requested actions are as follows:

- Approve the September 18, 2024, LOC meeting minutes and forward to the Oneida Business Committee.
- 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.
- Approve the adoption packet for the Computer Resources Ordinance amendments and forward to the Oneida Business Committee for consideration.
- 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.

DEADLINE FOR RESPONSE

October 3, 2024 at 9:00 a.m.

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



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

E-POLL RESULTS:

The e-poll was approved by Jennifer Webster, Kirby Metoxen, Jonas Hill, Jameson Wilson, and Marlin Skenandore.

RE: E-POLL REQUEST: Approval of the Canceled October 2, 2024 LOC Meeting Materials



Jennifer A. Webster

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

[Reply](#) [Reply All](#) [Forward](#)

Wed 10/2/2024 10:18 AM

Approve,
Approve,
Approve,
Approve,
Approve.
Thanks,
Jenny

Sent from my Galaxy

Re: E-POLL REQUEST: Approval of the Canceled October 2, 2024 LOC Meeting Materials



Kirby W. Metoxen

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

[Reply](#) [Reply All](#) [Forward](#)

Wed 10/2/2024 11:22 AM

If there are problems with how this message is displayed, click here to view it in a web browser.

Approve

Get [Outlook for Android](#)

Re: E-POLL REQUEST: Approval of the Canceled October 2, 2024 LOC Meeting Materials



Jonas G. Hill

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

[Reply](#) [Reply All](#) [Forward](#)

Wed 10/2/2024 11:42 AM

If there are problems with how this message is displayed, click here to view it in a web browser.

Support
Support
Support
Support
Support

Get [Outlook for iOS](#)

Re: E-POLL REQUEST: Approval of the Canceled October 2, 2024 LOC Meeting Materials



Jameson J. Wilson

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

[Reply](#) [Reply All](#) [Forward](#)

Wed 10/2/2024 1:54 PM

If there are problems with how this message is displayed, click here to view it in a web browser.

- Approve the September 18, 2024, LOC meeting minutes and forward to the Oneida Business Committee.
- 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.
- Approve the adoption packet for the Computer Resources Ordinance amendments and forward to the Oneida Business Committee for consideration.
- 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.



Jameson Wilson
Councilman
Oneida Business Committee

Re: E-POLL REQUEST: Approval of the Canceled October 2, 2024 LOC Meeting Materials



Marlon G. Skenandore

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

Reply Reply All Forward [Share icon] [More options icon]

Wed 10/2/2024 2:35 PM

If there are problems with how this message is displayed, click here to view it in a web browser.

Approve

Marlon

Get [Outlook for iOS](#)



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

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

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

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

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

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-meetings)

Send Public Comments to

LOC@oneidanation.org

Ask Questions here

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.

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.



ONEIDA LIFE INSURANCE PLAN LAW AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	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].
Purpose	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].
Affected Entities	Oneida Trust Enrollment Department, Members of the Nation
Public Meeting	A public meeting will be scheduled for November 15, 2024.
Fiscal Impact	A fiscal impact statement has not yet been requested.

SECTION 2. LEGISLATIVE DEVELOPMENT

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

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:

Oneida Life Insurance Plan Law Statistics				
<i>Month</i>	<i>Deaths Reported</i>	<i>OLIP Claims</i>	<i>Claims that Provided a Beneficiary</i>	<i>Claims that Did Not Provide a Beneficiary</i>
September 2023	13	12	9	3
October 2023	12	12	11	1
November 2023	10	9	9	0
December 2023	18	16	13	3
January 2024	16	17	15	2
February 2024	22	22	19	3
March 2024	15	13	13	0
April 2024	10	10	10	0
May 2024	23	23	21	2
June 2024	13	13	10	3
July 2024	10	9	8	1
August 2024	12	2	2	0

48
 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 **1004.4. Establishment**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

111

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

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

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

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

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

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

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

- 130 (a) Funeral expenses shall be paid to the funeral home pursuant to receipt of a valid
- 131 invoice therefrom;
- 132 (1) Any expenses beyond the funeral expenses shall be the responsibility of the
- 133 beneficiary, family of the decedent, or any other responsible parties.
- 134 (b) Residual benefits shall be paid to the designated beneficiary.
- 135

136 **1004.7. Funding**

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

139
140 **1004.8. Administrative Rulemaking**

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

145
146 *End.*

147
148
149 Emergency Adopted – BC-09-28-22-C
150 Emergency Extension – BC-03-22-23-C
151 Adopted – BC-08-23-23-G
152 Amended – BC- - - -

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

1004.1. Purpose and Policy
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

Draft 1 – PM Draft
2024 10 02

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 – 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
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.*

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- _ - _ - _ - _



Legislative Operating Committee
October 2, 2024

Computer Resources Ordinance Amendments

Submission Date: 5/15/24	Public Meeting: 8/21/24
LOC Sponsor: Jameson Wilson	Emergency Enacted: N/A

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

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

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

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

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

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

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

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

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

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

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

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.

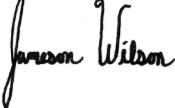
Motion by Marlon Skenandore to approve the fiscal impact statement request memorandum and forward the materials to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by September 18, 2024; seconded by Kirby Metoxen. Motion carried unanimously.

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

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

- 1
- 2
- 3
- 4 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe
- 5 recognized by the laws of the United States of America; and
- 6
- 7 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- 8
- 9 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,
- 10 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- 11
- 12 **WHEREAS,** the Computer Resources Ordinance (“the Law”) was adopted by the Oneida Business
- 13 Committee through resolution BC-09-29-04-B; and
- 14
- 15 **WHEREAS,** the purpose of this Law is to regulate the usage of technology resources and processed
- 16 data owned and operated by the Nation; and
- 17
- 18 **WHEREAS,** the amendments to the Law revise the title and references throughout the Law from
- 19 “computer resources” to “technology resources”; and
- 20
- 21 **WHEREAS,** the amendments to the Law clarify that users are expected to conduct themselves
- 22 professionally and to refrain from using technology resources of the Nation for activities
- 23 that are inappropriate no matter in what location the user utilizes the technology resources
- 24 of the Nation; and
- 25
- 26 **WHEREAS,** the amendments to the Law clarify that it shall not be deemed an inappropriate use for a
- 27 user to share information or evidence regarding the inappropriate use of another user if
- 28 reporting the inappropriate use in accordance with the proper reporting structure; and
- 29
- 30 **WHEREAS,** the amendments to the Law clarify that any standard operating procedure defining
- 31 excessive use of technology resources for any user that is an employee of the Nation is
- 32 required to be developed in accordance with all other laws and rules of the Nation; and
- 33
- 34 **WHEREAS,** the amendments to the Law include a new provision in which Digital Technology Services
- 35 is delegated rulemaking authority in accordance with the Administrative Rulemaking law to
- 36 promulgate rules to govern technology resources of the Nation; and
- 37
- 38 **WHEREAS,** the Legislative Operating Committee developed the proposed amendments to the Law
- 39 through collaboration with representatives from Digital Technology Services; and
- 40
- 41 **WHEREAS,** in accordance with the Legislative Procedures Act a legislative analysis and fiscal impact
- 42 statement were completed for the proposed amendments to the Law; and
- 43
- 44 **WHEREAS,** the Legislative Operating Committee held a public meeting on the proposed amendments
- 45 to the Law on August 21, 2024, with no individuals providing oral comments, and the public
- 46 comment period for the amendments to this Law was held open until August 28, 2024, with
- 47 no submission of written comments received; and

48

49 **NOW THEREFORE BE IT RESOLVED**, the Oneida Business Committee hereby adopts the amendments
50 to the Computer Resources Ordinance, now known as the Technology Resources law, which shall become
51 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>	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> ▪ Revise the title and references throughout the Law from “computer resources” to “technology resources.” ▪ Clarify that users are expected to conduct themselves professionally and to refrain from using technology resources of the Nation for activities that are inappropriate no matter in what location the user utilizes the technology resources of the Nation. [2 O.C. 215.5-1]. ▪ Clarify that it shall not be deemed an inappropriate use for a user to share information or evidence regarding the inappropriate use of another user if reporting the inappropriate use in accordance with the proper reporting structure. [2 O.C. 215.5-2]. ▪ Clarify that any standard operating procedure defining excessive use of technology resources for any user that is an employee of the Nation is required to be developed in accordance with all other laws and rules of the Nation. [2 O.C. 215.7-1(a)]. ▪ Include a new provision in which DTS is delegated rulemaking authority in accordance with the Administrative Rulemaking law to promulgate rules to govern technology resources of the Nation. [2 O.C. 215.9-1].
Purpose	The purpose of this law is to regulate the usage of technology resources and processed data owned and operated by the Nation. [2 O.C. 215.1-1].
Affected Entities	DTS, employees, independent contractor personnel, interns, members of boards, committees or commissions, volunteers, guests, and visitors
Public Meeting	A public meeting was held on August 21, 2024. The public comment period was held open until August 28, 2024. No public comments were received during the public meeting or comment period.
Fiscal Impact	A fiscal impact statement 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

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

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

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

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

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

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

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

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

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

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

65 215.4 Acceptable Use.

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

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

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

74 215.5 Inappropriate Personal Use.

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

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

Draft 1 (Redline to Current) for OBC Consideration
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.*

158 Emergency Adopted ~~BC # 3-03-24-04-A~~ *(Emergency Adoption)*
 159 Adopted ~~BC # 9-09-29-04-B~~ *(Permanent Adoption)*
 160 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

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.
52

53 **215.5 Inappropriate Personal Use.**

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

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

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

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

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

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

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

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

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

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

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

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

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

83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126

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 #

FINANCE ADMINISTRATION

Fiscal Impact Statement



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

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

II. Background

This Law was 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

Submission Date: 2/6/19	Public Meeting: n/a
LOC Sponsor: Marlon Skenandore	Emergency Enacted: n/a Expires: n/a

Summary: *This item was carried over from the last three (3) terms. In February 2019, the Nation’s Human Resources Department requested amendments to this law to address investigative enforcement. Amendments to the law are being sought to delegate authority to investigators to put employees on investigative leave, instead of just the supervisor of the employee, and discipline employees. An amendment was also sought so that if terminated, an employee would be ineligible for employment with the Nation but may request forgiveness after five (5) years. This item was added to the Active Files List in conjunction with a request for amendments to the Oneida Personnel Policies and Procedures and the Workplace Violence law.*

10/7/20 LOC: Motion by Jennifer Webster to add the Investigative Leave Policy Amendments to the Active Files List with David Jordan as the sponsor; seconded by Marie Summers. Motion carried unanimously.

10/10/22: *Work Meeting.* Present Todd Vanden Heuvel, Matthew Denny, Nicolas Reynolds, Joshua Cottrell, Wendy Alvarez, Whitney Wheelock, Clorissa Santiago, Carolyn Salutz, Grace Elliott. This was an introductory meeting to open discussions around the Investigative Leave Policy and any potential additional amendments including but not limited to amending the leave to a paid status rather than unpaid.

11/29/22: *Work Meeting.* Present Todd Vanden Heuvel, Matthew Denny, Nicolas Reynolds, Joshua Cottrell, Wendy Alvarez, Whitney Wheelock, Clorissa Santiago, Carolyn Salutz, Grace Elliott. This meeting continued discussions around delegating authority to investigators so that they are empowered act quickly to ensure a safe work environment; and, to amend the policy in a comprehensive manner that more accurately reflects its investigative purpose. The comprehensive amendment discussion included but was not limited to paid leave, continuation of benefits and credit for service time.

12/19/22: *Work Meeting.* Present Todd Vanden Heuvel, Matthew Denny, Nicolas Reynolds, Joshua Cottrell, Wendy Alvarez, Whitney Wheelock, Clorissa Santiago, Carolyn Salutz, Grace Elliott. This purpose of this meeting was to review draft language

implementing proposed amendments, and to discuss the use of investigative leaves in other Laws.

- 12/21/22:** *Work Meeting.* Present: David Jordan, Jennifer Webster, Daniel Guzman, Marie Cornelius, Kirby Metoxen, Carolyn Salutz, Clorissa Leeman, Grace Elliott. The purpose of this meeting was to gather feedback from the LOC on amending the Investigative Leave Policy from unpaid leave to paid leave. The consensus was to move forward with drafting paid leave options for consideration.
- 01/12/23:** *Work Meeting.* Present: David Jordan, Jennifer Webster, Daniel Guzman, Kristal Hill, Carolyn Salutz, Clorissa Leeman, Grace Elliott. The purpose of the meeting was to gather direction from the LOC on whether an objective of the Investigative Leave Policy should be to consolidate all investigative leave policies in one Law. Consensus from the members present supported moving in a consolidated direction, to be considered further in conjunction with HRD at another meeting scheduled January 20th, 2023.
- 01/20/23:** *Work Meeting.* Present: David Jordan, Jennifer Webster, Marie Cornelius, Daniel Guzman, Carolyn Salutz, Clorissa Leeman, Grace Elliott, Todd Vanden Heuvel, Matthew Denny, Joshua Cottrell, Peggy Van Gheem, Whitney Wheelock, Wendy Alvarez. This was a work meeting held through Microsoft Teams. The purpose of this meeting was to begin review of the draft paid investigative leave language.
- 1/26/23 LOC:** Present: David Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman, Clorissa Leeman, Carolyn Salutz, Grace Elliott. The purpose of this meeting was to update with a review of edits drafted based on suggestions from the prior meeting.
- 2/13/23:** *Work meeting.* Present: Brenda Mendolla-Buckley, Carolyn Salutz, Chad Fuss, Clorissa Leeman, Debra Powless, Derrick King, Grace Elliott, Kathleen King, Lorna Skenandore, Lucy Neville, Mark Powless, Peggy Van Gheem, Sarah White. The purpose of this meeting was to solicit feedback and share information regarding amendments under consideration, and the Investigative Leave Policy in general, with the General Managers and their delegates.
- 2/17/23:** *Work Meeting.* Present: David Jordan, Kirby Metoxen, Marie Cornelius, Daniel Guzman, Debra Powless, Mark Powless, Peggy Van Gheem, Wendy Alvarez, Matthew Denny, Whitney Wheelock, Rita Reiter, Todd Vanden Heuvel, Grace Elliott. The purpose of this meeting was to consider feedback and review an amended and proposed final draft Investigative Leave Policy.
- 3/7/23:** *Work Meeting.* Present: Kirby Metoxen, Marie Cornelius, Daniel Guzman, Jennifer Webster, Clorissa Leeman, Carolyn Salutz, Matthew Denny, Rhiannon Metoxen, Derrick King, Lorna Skenandore, Donna Smith, Joshua Cottrell, Rita Reiter, Wendy Alvarez, Louise Cornelius, Kristal Hill, Mark Powless, Debra Powless, Todd Vanden Heuvel, Grace Elliott. The purpose of this meeting was to continue development of potential paid and unpaid aspects of an investigative leave.

- 3/24/23:** *Work Meeting.* Present: David Jordan, Jennifer Webster, Marie Cornelius, Daniel Guzman, Todd Vanden Heuvel, Lorna Skenandore, Derrick King, Mark Powless, Wendy Alvarez, Debra Powless, Matthew Denny, Kristal Hill, Donna Smith, Grace Elliott. The purpose of this meeting was to discuss the extent to which benefits will be made available on investigative leave, and to continue to develop notice criteria, lines of authority and responsibilities.
- 4/28/23:** *Work Meeting.* Present: David Jordan, Marie Cornelius, Daniel Guzman, Debra Powless, Peggy Van Gheem, Todd Vanden Heuvel, Whitney Wheelock, Wendy Alvarez, Laura Laitinen-Warren, Derrick King, Rita Reiter, Rhiannon Metoxen, Lorna Skenandore, Daniel Habeck. The purpose of this meeting was to evaluate various options for specific sections of the law.
- 5/3/23:** *Work Meeting.* David Jordan, Marie Cornelius, Daniel Guzman, Kirby Metoxen, Clorissa Leeman, Kristal Hill, Matthew Denny. The purpose of this meeting is to evaluate options for specific sections of the Law that had evolved through discussion at the previous meeting.
- 10/4/23 LOC:** Motion by Jennifer Webster to add the Investigative Leave Policy Amendments to the Active Files List with Marlon Skenandore as the sponsor; seconded by Jonas Hill. Motion carried unanimously.
- 1/8/24:** *Work Meeting.* Present: Jameson Wilson, Kirby Metoxen, Jonas Hill, Marlon Skenandore, Jennifer Webster, Clorissa Leeman, Grace Elliott, Fawn Cottrell, Fawn Billie, Kristal Hill, Maureen Perkins, Todd Vanden Heuvel, Matthew Denny, Peggy Van Gheem, Mark Powless, Lucy Neville, Dana Thyssen, Wendy Alvarez, Whitney Wheelock, Carolyn Salutz. The purpose of this meeting was to provide an introduction to the Investigative Leave law and begin review of the law.
- 3/4/24:** *Work Meeting.* Present: Jameson Wilson, Kirby Metoxen, Jonas Hill, Marlon Skenandore, Jennifer Webster, Clorissa Leeman, Grace Elliott, Fawn Cottrell, Fawn Billie, Kristal Hill, Maureen Perkins, Todd Vanden Heuvel, Matthew Denny, Peggy Van Gheem, Mark Powless, Lucy Neville, Dana Thyssen, Wendy Alvarez, Whitney Wheelock. The purpose of this meeting was to review the law with a particular focus on amendments that were made pursuant to the January 8, 2024, meeting.
- 4/30/24:** *Work Meeting.* Present: Kirby Metoxen, Jameson Wilson, Marlon Skenandore, Grace Elliott, Fawn Cottrell, Kristal Hill, Peggy Van Gheem, Todd Vanden Heuvel, Matthew Denny, Mark Powless, Lucy Neville, Maureen Perkins, Carolyn Salutz, Fawn Billie. The purpose of this meeting was to review the final draft of the Investigative Leave law for any additional amendments.
- 5/15/24 LOC:** Motion by Jonas Hill to approve the draft of the Investigative Leave Policy amendments and direct that a legislative analysis be developed; seconded by Marlon Skenandore. Motion carried unanimously.
- 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

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 LAWPOLICY

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 lawPolicy 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 wrongdoings.~~

208.2 Adoption, Amendment, Repeal

208.2-1. This lawpolicy 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 lawpolicy 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 lawpolicy or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this lawpolicy 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 lawpolicy and a provision of another lawpolicy, the provisions of this lawpolicy shall control.

208.2-5. This lawpolicy 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 lawPolicy. 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 lawPolicy shall be subject to discipline in accordance with the Nation'sTribe'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.

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>	
Intent of the Legislation or Amendments	<ul style="list-style-type: none"> ▪ Clarify the severity of an alleged violation that may warrant an investigative leave and provide examples. [2 O.C. 208.4-1(a)]. ▪ Clarify the type of risks that an investigative leave is intended to protect against. [2 O.C. 208.4-1(b)]. ▪ Prevent undue financial harm to an employee placed on investigative leave. [2 O.C. 208.4-2(a)]. ▪ Eliminate unpaid status for the employee placed on investigative leave for up to forty-five (45) days. [2 O.C. 208.4-2(a)]. ▪ Balance the intention to prevent undue financial harm to an employee placed on investigative leave with the Nation’s fiscal responsibilities by shifting the employee to unpaid status when an investigation cannot be safely concluded within forty-five (45) days. [2 O.C. 208.4-2(c)]. ▪ Clarify that an employee may use their personal and vacation time if the investigative leave extends past forty-five (45) days. [2 O.C. 208.4-2(b)]. ▪ Provide that when an employee has used their personal and vacation time up all pay and benefits stop. [2 O.C. 208.4-2(c)]. ▪ Extend the authority to initiate an investigative leave to include the Executive Director of the Human Resource Department. [2 O.C. 208.5-1(a)]. ▪ Clarify that when there is no division director a supervisor must secure authorization from the person at the highest level in the chain of command under the Oneida Business Committee prior to placing an employee on investigative leave. [2 O.C. 208.5-1(b)(2)]. ▪ Delegate the authority for designating the individual or agency responsible for completing the investigation to the Executive Director of the Human Resource Department and the supervisor, instead of the employee’s supervisor and/or area manager. [2 O.C. 208.7-1]. ▪ Delete the requirement that the Equal Employment Officer always conducts the investigation if the employee being investigated reports directly to the Oneida Business Committee and instead provide that they may also serve as a liaison to an investigating agency when that is more appropriate. [2 O.C. 208.7-1]. ▪ Eliminate the option for a supervisor to place an employee in an alternate work assignment while on investigative leave. [2 O.C. 208.9-1(a)]. ▪ Expand the requirements that notice to the employee placed on investigative leave must contain. The additional requirements are as follows: [2 O.C. 208.6-1].

- The employee must surrender all property of the Nation. [2 O.C. 208.6-1(i)].
- Clear documentation regarding the status of pay and benefits. [2 O.C. 208.6-1(c)].
- The definition of business hours. The employee is required to respond to inquiries within twenty-four (24) business hours to remain on paid investigative leave within the first forty-five (45) days. [2 O.C. 208.6-1(d)].
- Whether the investigation has been referred to an outside agency. [2 O.C. 208.6-1(g)].
- List of the employee's responsibilities. [2 O.C. 208.6-1(k)].
- Email address of the person the employee may contact if they have questions related to the investigative leave. [2 O.C. 208.6-1(h)].
- Extend the issuance of the second notice to the employee placed on investigative leave from fifteen (15) days to thirty-five (35) days. [2 O.C. 208.6-2].
- Clarify that the second notice must provide the employee placed on investigative leave with the following information: [2 O.C. 208.6-2].
 - That the employee remains an employee of the Nation. [2 O.C. 208.6-2(a)].
 - Clear documentation regarding the cessation of pay and benefits. [2 O.C. 208.6-2(b)].
 - The definition of business hours as it pertains to the employee's particular area of employment. [2 O.C. 208.6-2(c)].
 - The expected length of the investigation. [2 O.C. 208.6-2(d)].
 - The telephone number, email address, and name of the person to contact with questions. [2 O.C. 208.6-2(e)].
 - The employee's responsibilities. [2 O.C. 208.6-2(f)].
- Eliminate the requirement that a supervisor must conclude an investigation without waiting for the conclusion of a criminal or licensing matter. [2 O.C. 208.9-1(a)].
- Eliminate the requirement that an investigative leave must close upon the passing of fifteen (15) days, plus a possible extension of fifteen (15) days, unless an outside agency is conducting the investigation and instead allow the decision makers to close an investigative leave when a reasonable determination based on verifiable facts can be made. [2 O.C. 208.8-1].
- Expedite investigations by adding a requirement that the supervisor, or the EEO Officer (whichever is overseeing the investigation), provide the Executive Director of the Human Resource Department with weekly updates on the investigation. [2 O.C. 208.8-2].
- Eliminate the provision that requires the supervisor to conclude an investigation within forty-eight (48) hours of receiving the investigative report when someone else is conducting the investigation. [2 O.C. 208.8-1].
- Provide the employee who was placed on investigative leave with a redacted copy of the investigative report when requested, instead of only providing the redacted report to an employee who files an appeal. [2 O.C. 208.7-4(c)].
- Require the supervisor to provide written notice and justification to the Executive Director of the Human Resource Department if they choose not to follow the corrective action recommended by the investigator(s). [2 O.C. 208.7-4(a)(1)].

	<ul style="list-style-type: none"> ▪ Expand an employee’s responsibilities when on an investigative leave to include the surrender of all property of the Nation, respond to any inquires within twenty-four (24) business hours, and not share anything related to the investigation on social media. [2 O.C. 208.10-2. 2 O.C. 208.12-1]. ▪ Create the option for an exception to be made to the complete prohibition of the employee who is placed on investigative leave entering any public worksite; if, and only if, it is determined that access is necessary, safe, appropriate, and the specific conditions under which access may be allowed are provided for in the notice to the employee. [2 O.C. 208.9-1(a)(1)]. ▪ Require that the employee placed on investigative leave respond to all inquiries within twenty-four (24) business hours. [2 O.C. 208.9-1(e)].
Purpose	The purpose of this law is to set forth a process to address investigative leave for employees undergoing work-related investigations. [2 O.C. 208.1-1].
Affected Entities	Oneida Nation employees.
Related Legislation	Workplace Violence law, Back Pay law, Oneida Personnel Policies and Procedures, Computer Resources Ordinance, Judiciary law, and Oneida Judiciary Rules of Civil Procedure.
Enforcement	Any employee who violates this law is subject to discipline in accordance with the Nation’s laws and policies governing employment. The employee who is the subject of the investigation shall be moved to unpaid status if during the forty-five (45) day paid leave period the employee fails to respond to an inquiry within twenty-four (24) business hours. [2 O.C. 208.10-2].
Due Process	An employee may appeal any disciplinary action arising out of an investigation in accordance with the Nation’s laws and policies governing employment. [2 O.C. 208.11-1].
Public Meeting	A public meeting 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.
Fiscal Impact	A fiscal impact statement prepared in accordance with the Legislative Procedures Act has not yet been requested.

SECTION 2. LEGISLATIVE DEVELOPMENT

A. **Background.** The Investigative Leave Policy was originally adopted by the Oneida Business Committee by motion on April 7, 1999, and then through resolutions BC-08-13-14-D, and BC-06-24-15-A. The Investigative Leave Policy provides the Nation and its employees with a consistent framework for investigating serious allegations against an employee that protects the Nation and its employees while also preventing undue harm to the employee who is the subject of the investigation and has not yet been determined to have committed any wrongdoing. [2 O.C. 208.1-1].

B. **Request for Amendments.** 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

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

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

Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

November 2024

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

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

November 2024

November 2024

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

December 2024

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
Oct 28	29	30	31	Nov 1
<p>4</p> <p>10:30am Oneida Personnel Policies and Procedures Amendments Work</p> <p>3:00pm Meeting Prep: LOC/LRO/OLO Strategy (Microsoft Teams Meeting;</p>	<p>5</p> <p>1:30pm LOC/LRO/OLO Strategy Meeting (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Clorissa N. Leeman</p>	<p>6</p> <p>8:30am LOC Prep Meeting (Microsoft Teams Meeting) - Clorissa N. Leeman</p> <p>9:00am Legislative Operating Committee Meeting (Microsoft Teams Meeting;</p>	<p>7</p>	<p>8</p> <p>1:30pm Independent Contractor Policy amendments - work meeting (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Carolyn A. Salutz</p>
11	12	13	<p>14</p> <p>1:30pm Boards, Committees, and Commissions amendments - work meeting (Microsoft Teams Meeting) - Carolyn A. Salutz</p>	<p>15</p> <p>12:15pm PUBLIC MEETING: Oneida Life Insurance Plan Law Amendments (Microsoft Teams Meeting; BC_Conf_Room) - LOC</p>
18	<p>19</p> <p>11:00am FW: Data Sovereignty - Overseeing Research (Microsoft Teams Meeting) - Grace L. Elliott</p> <p>2:00pm UCC Law (Microsoft Teams Meeting) - Grace L. Elliott</p>	<p>20</p> <p>8:30am LOC Prep Meeting (Microsoft Teams Meeting;</p> <p>9:00am Legislative Operating Committee Meeting (Microsoft Meeting (Microsoft</p> <p>1:30pm LOC Work Session: Tribal</p>	21	<p>22</p> <p>1:30pm Furlough Law and Layoff Policy - work meeting (Microsoft Teams Meeting) - Carolyn A. Salutz</p>
25	26	27	28	29