

# ONEIDA NATION PUBLIC MEETING NOTICE

**FRIDAY, JUNE 13, 2025 12:15 pm**

Norbert Hill Center-Business Committee Conference Room  
N7210 Seminary Rd., Oneida, Wisconsin

**Find Public Meeting Materials at**

[Oneida-nsn.gov/government/register/public meetings](http://Oneida-nsn.gov/government/register/public%20meetings)

**Send Public Comments to**

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

**Ask Questions here**

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

920-869-4417



## **SANCTIONS AND PENALTIES LAW**

The purpose of the Sanctions and Penalties law is to establish a consistent set of sanctions and penalties that may be imposed upon elected officials of the Nation, including members of the Oneida Business Committee, for misconduct in office; and to establish an orderly and fair process for imposing such sanctions and penalties.

### **The Sanctions and Penalties law will:**

- ♦ Provide what behaviors constitutes misconduct;
- ♦ Describe how an individual can file a complaint against an elected official;
- ♦ Provide that complaints against an elected official shall be handled by the Judiciary Trial Court; and
- ♦ Describe the potential sanctions and penalties that can be imposed upon elected officials found to have engaged in misconduct, and the factors that will be utilized to determine an appropriate sanction or penalty.

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

## **PUBLIC COMMENT PERIOD CLOSES FRIDAY, JUNE 20, 2025**

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 Sanctions and Penalties law please review the public meeting packet at [oneida-nsn.gov/government/register/public meetings](http://oneida-nsn.gov/government/register/public%20meetings).



**Kalihwahníla·tú· Okhale? Atatlihwa?thlewáhtu KayanlÁsla**  
*Giving strength to the issues and Forgiving oneself for the issue at hand Laws*

## **SANCTIONS AND PENALTIES LAW LEGISLATIVE ANALYSIS**

### **SECTION 1. EXECUTIVE SUMMARY**

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Law</b>	<ul style="list-style-type: none"><li>▪ Increase accountability among elected officials of the Nation.</li><li>▪ Create a formal complaint process that allows for corrective actions against elected officials who engage in misconduct.</li></ul>
<b>Purpose</b>	The purpose of this law is to establish a consistent set of sanctions and penalties that may be imposed upon elected officials of the Nation for misconduct in office in order to provide an opportunity for the official to take corrective action to address the misconduct and promote accountability and improved performance of the official [1 O.C. 120.1-1].
<b>Affected Entities</b>	All elected officials of the Nation; Any enrolled member of the Nation or employee age eighteen (18) years and older who has knowledge that an official committed misconduct; Oneida Business Committee; Judiciary Trial Court; Judiciary Court of Appeals; Government Administrative Office.
<b>Related Legislation</b>	Oneida Judiciary Rules of Civil Procedure; Rules of Appellate Procedure; Code of Ethics; Boards, Committees and Commissions law; Garnishment law; Per Capita law; and any of the Nation's laws and bylaws that may be violated by an official.
<b>Enforcement/Due Process</b>	Sanctions and penalties against elected officials will be imposed by the Trial Court. Officials accused of misconduct have the right to be represented by an attorney or advocate. Officials also have the right to submit a written response to the complaint, and an opportunity to appear at the hearing to answer the allegations and provide evidence on their behalf. Complaints against officials must be proven by clear and convincing evidence.
<b>Public Meeting</b>	A public meeting for an earlier draft of this law was held on October 4, 2018. A 2 <sup>nd</sup> public meeting for an updated draft was held on January 7, 2020.
<b>Fiscal Impact</b>	A fiscal impact statement for an earlier draft of this law was prepared by the Finance Department on December 27, 2018. An updated fiscal analysis was prepared on January 20, 2020.

### **SECTION 2. LEGISLATIVE DEVELOPMENT**

**A. Request for Amendments.** The request to develop a sanctions and penalties law was originally added to the Legislative Operating Committee's Active Files List in October of 2014, and has been carried over for the last three legislative terms. When an elected official of the Nation commits misconduct while in office, there are few remedies available for the Nation to discipline that official. Currently, elected officials may be removed in accordance with the Removal Law. However, there may be instances of misconduct that do not rise to the level of removal. In these cases, other remedies such as verbal reprimands, fines, or suspensions may be more appropriate. This Law creates a formal complaint process that gives members of the Nation, employees and entities an opportunity to file complaints against elected officials while ensuring that due process rights for those accused are protected. This

Law also creates a range of potential sanctions and penalties for officials who violate the laws of the Nation or commit other forms of misconduct.

**B. 2016 Special Election Referendum.** During the Special Election held on July 9, 2016, the following referendum question was approved by a vote of 178 to 59: “*Should the BC develop a law which provides for sanctions and due process for elected officials?*” The Election Law requires the Oneida Business Committee to present referendum questions that receive a majority vote to the General Tribal Council (GTC) for discussion and action [1 O.C. 102.12-9(c)].

**C. Presentation to General Tribal Council.** On March 17, 2019, this Law was presented to the General Tribal Council for consideration. The General Tribal Council adopted a motion to defer this item for at least sixty (60) days for GTC to have additional time to consider it and have input. As a result of General Tribal Council’s directive, the LOC held six (6) additional community outreach events – in various locations around the Reservation as well as in Milwaukee. Based on input received from community members during the various outreach efforts, as well as the discussion during the March 17, 2019, GTC Meeting, the LOC determined that the draft should be revised. The LOC intended to include this revised Law on the July 2020 Semi-Annual General Tribal Council meeting agenda before all General Tribal Council meetings were canceled due to COVID-19.

**D. Elected Officials.** This Law will apply to elected officials of the Nation, including members of the following entities:

**Chart 1. Elected Boards, Committees, and Commissions**

ELECTED BOARDS, COMMITTEES, AND COMMISSIONS
<ul style="list-style-type: none"><li>Oneida Business Committee</li><li>Oneida Election Board</li><li>Oneida Gaming Commission</li><li>Oneida Land Claims Commission</li><li>Oneida Land Commission</li><li>Oneida Nation Commission on Aging (ONCOA)</li><li>Oneida Nation School Board</li><li>Oneida Trust Enrollment Committee</li><li>GTC Legal Resource Center Advocates and Attorney</li></ul>



*\*This law does not apply to members of appointed boards, members of the Judiciary or corporate entities of the Nation.*

### SECTION 3. CONSULTATION AND OUTREACH

**A.** Representatives from the following departments or entities participated in the development of this Law and this legislative analysis:

- Oneida Business Committee;
- Government Administrative Office;
- Records Management Department;
- Human Resources Department;
- Intergovernmental Affairs and Communications Department;
- Cultural Heritage Department;
- Anna John Resident Centered Care Community Board (AJRCCC);
- Oneida Election Board;

- Oneida Environmental Resource Board (ERB);
- Oneida Gaming Commission;
- Oneida Land Commission;
- Oneida Police Commission;
- Oneida Pow-wow Committee;
- Oneida Trust Enrollment Committee, and
- Oneida Nation Veterans Affairs Committee (ONVAC).

**B.** The following laws of the Nation were reviewed in the drafting of this legislative analysis:

- Oneida Judiciary law;
- Oneida Tribal Judiciary Canons of Judicial Conduct;
- Oneida Judiciary Rules of Civil Procedure;
- Oneida Judiciary Rules of Appellate Procedure;
- Removal law;
- Code of Ethics;
- Legal Resource Center law;
- Open Meetings and Open Records law;
- Boards, Committees and Commissions law;
- Garnishment law; and
- Per Capita law.

**C.** In addition, the following other laws were reviewed in drafting this analysis:

- Ho Chunk Nation Code of Ethics 2 HCC 1;
- Oglala Sioux Tribe Code of Ethics Ordinance No. 08-11;
- Pokagon Band of Potawatomi Indians Ethics Code;
- Rosebud Sioux Tribal Code of Ethics Ordinance 86-04;
- Siletz Tribal Council Ethics Ordinance –Siletz Tribal Code 2.200;
- Skokomish Code of Ethics S.T.C. 1.05; and
- Pit River Tribal Government Code of Conduct Section 80.

**D.** *Community Outreach Events.* In addition to the public meeting(s) required by the Legislative Procedures Act held on October 4, 2018, and January 7, 2020, the LOC held the following outreach events on this legislation:

- May 3, 2018: Community pot-luck meeting at Norbert Hill Center to gather community input.
- July 11, 2019: Community outreach event held prior to GTC meeting at Radisson Conference Center.
- July 17, 2019: Community outreach held at Norbert Hill Center in Oneida.
- August 9, 2019: Community outreach held at Veteran’s Breakfast in Oneida.
- August 15, 2019: Community outreach held at Farmer’s Market in Oneida.
- October 7, 2019: Community outreach held at Elder Congregate Meal site in Oneida.
- October 16, 2019: Community outreach held at SEOTS Building in Milwaukee.
- March 6, 2024: Community pot-luck meeting at the Norbert Hill Center to gather community input.
- April 2, 2025: Community work session at the Norbert Hill Center to read the law line-by-line and gather community input.

## SECTION 4. PROCESS

A. *Compliance with LPA.* The development of the proposed Law complies with the process set forth in the Legislative Procedures Act (LPA).

- The law was originally added to the Active Files List on October 15, 2014.
- On September 6, 2017, this Law was readded to the Active Files List for the 2017-2020 legislative term.
- On April 2, 2018, the Legislative Operating Committee accepted the draft of this Law and direct that a community meeting/potluck be held on May 3, 2018.
- On June 6, 2018, the Legislative Operating Committee accepted the draft of this Law and directed that a legislative analysis be completed.
- On July 18, 2018, the Legislative Operating Committee accepted the legislative analysis for this Law and deferred this item to a work meeting.
- On August 15, 2018, the Legislative Operating Committee approved the public meeting packet and forwarded this Law to a public meeting to be held on September 20, 2018; and forwarded this Law to the Finance Office for a fiscal analysis to be completed.
- On September 10, 2018, the Legislative Operating Committee conducted an e-poll entitled, *Approval of the Sanctions and Penalties Law Public Meeting Packet*. The requested action of this e-poll was to approve the public meeting packet and forward the proposed Sanctions and Penalties law to a public meeting to be held on October 4, 2018 – since the September 20, 2018, public meeting on the proposed Law needed to be canceled due to the Kalihwisaks failing to publish the public meeting notice in the September 6, 2018, edition. The e-poll was approved by David P. Jordan, Jennifer Webster, Kirby Metoxen, and Ernest Stevens III. Daniel Guzman King did not provide a response to the e-poll.
- On September 19, 2018, the Legislative Operating Committee entered the e-poll results into the record.
- On October 4, 2018, a public meeting on the proposed law was held. Six (6) members of the community attended the public meeting with three (3) people providing oral comments.
- The public comment period was then held open until October 11, 2018. Four (4) submissions of written comments were received during the public comment period.
- On October 17, 2018, the Legislative Operating Committee accepted the public meeting comments and public meeting comment review memorandum and deferred this item to a work meeting.
- On November 7, 2018, the Legislative Operating Committee accepted the public comment review memorandum and the updated draft.
- On December 5, 2018, the Legislative Operating Committee accepted the updated legislative analysis, including the replacement of page 159 in the packet; and approved the fiscal impact statement memorandum and forwarded the items to the Finance Department directing that a fiscal impact statement of the proposed Law be prepared for inclusion on the January 2, 2019 Legislative Operating Committee meeting agenda.
- On January 7, 2019, the Legislative Operating Committee approved the adoption packet for the proposed Law and forwarded to the Oneida Business Committee for inclusion on the tentatively

scheduled February 24, 2019, General Tribal Council meeting agenda for the General Tribal Council's consideration of adoption.

- On January 18, 2019, the Oneida Business Committee approved the adoption packet for the Law for consideration at the February 24, 2019, special GTC meeting.
- On January 29, 2019, the Legislative Operating Committee conducted an e-poll entitled, *Approval of the Sanctions and Penalties Law Kalihwisaks Article*. The requested action of this e-poll was to approve the article titled, "*Sanctions and Penalties Law: GTC to Consider in February*" and forward the article to the Kalihwisaks for inclusion in the February 7, 2019, Kalihwisaks edition. The e-poll was approved by David P. Jordan, Jennifer Webster, Daniel Guzman King and Kirby Metoxen. Ernest Stevens III did not provide a response to the e-poll.
- On February 6, 2019, the Legislative Operating Committee entered the results of the January 29, 2019, e-poll into the record.
- On March 17, 2019, the proposed Law was presented to the General Tribal Council, and the General Tribal Council decided to defer this Law for consideration for at least sixty (60) days for GTC to have additional time to consider it and have input.
- On June 19, 19, the Legislative Operating Committee approved the community outreach notice for this Law with one noted change, and forwarded to the Kalihwisaks for publication in the July 3, 2019 Kalihwisaks edition.
- On September 4, 2019, the Legislative Operating Committee approved the community outreach notice and article for this Law, and forwarded to the Kalihwisaks for publication in the September 19, 2019, edition.
- On November 15, 2019, the Legislative Operating Committee conducted an e-poll entitled, *Approval of the Sanctions and Penalties Law Materials for the January 20, 2020, GTC Meeting*. The requested action of this e-poll was to approve the Sanctions and Penalties law materials and forward to the Oneida Business Committee for inclusion in the January 20, 2020, General Tribal Council meeting packet materials. The e-poll was approved by David P. Jordan, Jennifer Webster, Ernest Stevens III, and Daniel Guzman King. Kirby Metoxen did not provide a response to the e-poll during the e-poll time frame.
- On November 20, 2019, the Legislative Operating Committee entered the November 15, 2019, *Sanction and Penalties Law material for the January 20, 2020, GTC Meeting* E-Poll results into record.
- On November 26, 2019, the Oneida Business Committee deferred the Sanctions and Penalties law materials back to the Legislative Operating Committee for consideration of today's discussion and reformatting of the request to General Tribal Council.
- On December 4, 2019, the Legislative Operating Committee approved the January 20, 2020 General Tribal Council Meeting materials with one change and forwarded to the Oneida Business Committee.
- On December 4, 2019, the Legislative Operating Committee conducted an e-poll entitled, *Rescission of the December 4, 2019, LOC Motion Regarding the Sanctions and Penalties Law*. The requested action of this e-poll was to Rescind the December 4, 2019, Legislative Operating Committee motion to "Approve the January 20, 2020, General Tribal Council meeting materials and forward to the Oneida Business Committee." The e-poll was approved by Ernest Stevens III, Kirby Metoxen, Jennifer Webster, David P. Jordan. Daniel Guzman King did not provide a response to the e-poll during the e-poll time frame.

- 173     ■ On December 4, 2019, the Oneida Business Committee adopted the agenda with two (2) changes  
174     [1] delete item IV.A.1. Accept the Sanctions and Penalties law materials and add to the tentatively  
175     scheduled 2020 annual General Tribal Council meeting agenda; and 2) under New Business header,  
176     item A. Cancel the December 26 and 27, 2019, Oneida Business Committee meetings).
- 177     ■ On December 10, 2019, the Legislative Operating Committee conducted an e-poll entitled,  
178     *Approval of January 7, 2020, Public Meeting for the Sanctions and Penalties for Elected Officials*  
179     *Law*. The requested action of this e-poll was to approve the public meeting packet and forward the  
180     Sanctions and Penalties for Elected Officials law to a public meeting to be held on January 7, 2020.  
181     The e-poll was approved by Kirby Metoxen, Jennifer Webster, David P. Jordan, and Daniel  
182     Guzman King. Ernest Stevens III did not provide a response.
- 183     ■ On December 18, 2019, the Legislative Operating Committee entered into the record the December  
184     4, 2019, E-poll results for the Sanctions and Penalties law – rescission of the December 4, 2019,  
185     LOC action; and entered into the record the December 10, 2019, E-poll results for the Sanctions  
186     and Penalties law – approval of a public meeting.
- 187     ■ On January 7, 2020, the Legislative Operating Committee held a public meeting on the proposed  
188     Law. One (1) person provided oral comments during the public meeting.
- 189     ■ The public comment period was held open until January 14, 2020. Two (2) submissions of written  
190     comments were received during the public comment period.
- 191     ■ On January 15, 2020, the Legislative Operating Committee accepted the public comments and  
192     public comment review memorandum and deferred these items to a work meeting for further  
193     consideration.
- 194     ■ On January 15, 2020, the Legislative Operating Committee also conducted an e-poll entitled,  
195     *Approval of the Sanctions and Penalties for Elected Officials Law Updated Materials and Fiscal*  
196     *Impact Statement Request Memorandum*. The requested action of this e-poll was to Approve the  
197     updated public comment review memorandum, draft, legislative analysis, and fiscal impact  
198     statement request memorandum, and forward the fiscal impact statement request memorandum,  
199     with accompanying draft and legislative analysis, to the Finance Department directing that a fiscal  
200     impact statement of the proposed Sanctions and Penalties for Elected Officials law be prepared and  
201     submitted to the Legislative Operating Committee by January 20, 2020. The e-poll was approved  
202     by David P. Jordan, Jennifer Webster, Ernest Stevens III, Kirby Metoxen. Daniel Guzman King  
203     did not provide a response.
- 204     ■ On January 21, 2020, the Legislative Operating Committee conducted an e-poll entitled, *Approval*  
205     *of the Sanctions and Penalties for Elected Officials Law Adoption Packet*. The requested action of  
206     this e-poll was to “Approve the adoption packet for the Sanctions and Penalties for Elected Officials  
207     law and forward to the Oneida Business Committee for inclusion on the tentative March 2020  
208     Special General Tribal Council meeting agenda.” The e-poll was approved by David P. Jordan,  
209     Jennifer Webster, Ernest Stevens III, Kirby Metoxen, and Daniel Guzman King.
- 210     ■ On January 21, 2020, the Legislative Operating Committee conducted an additional e-poll entitled,  
211     *Rescission of the January 21, 2020, LOC Motion Approving the Sanctions and Penalties for Elected*  
212     *Officials Law Adoption Packet*. The requested action of this e-poll was to “Rescind the January 21,  
213     2020, Legislative Operating Committee motion to ‘Approve the adoption packet for the Sanctions  
214     and Penalties for Elected Officials law and forward to the Oneida Business Committee for inclusion  
215     on the tentative March 2020 Special General Tribal Council meeting agenda.’” The e-poll was

approved by David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Daniel Guzman King.

- On January 22, 2020, the Oneida Business Committee adopted the agenda with two (2) changes [1) add item IV.C. Adopt resolution entitled Energy Infrastructure Deployment on Tribal Lands – 2020 Grant Proposal # DEFOA-0002168; and 2) delete item VIII.B.2. Accept the Sanctions and Penalties for Elected Officials law materials and add to the tentatively scheduled March 16, 2020, special General Tribal Council meeting agenda].
- On February 5, 2020, the Legislative Operating Committee entered into record the e-poll results: Sanctions and Penalties for Elected Officials Law – Approve Updated Materials and Fiscal Impact Statement Request; ratified the January 21, 2020, e-poll results into record; and enter into the record the January 21, 2020, e-poll results for the rescission of the January 21, 2020, LOC motion approving the Sanctions and Penalties for elected Officials Law adoption packet and forward to the OBC for inclusion on the tentative March 2020 GTC meeting agenda.
- On October 7, 2020, this Law was readed to the Active Files List for the 2020-2023 legislative term.
- On October 4, 2023, the Legislative Operating Committee added this Law its Active Files List for the 2023-2026 legislative term.
- On January 29, 2024, the Legislative Operating Committee conducted an e-poll titled, *Approval of the March 6, 2024 LOC Community Meeting Notice*. The requested action of this e-poll was to Approve the Legislative Operating Committee community meeting notice and schedule the community meeting to take place on March 6, 2024. The Sanctions and Penalties law was a topic for discussion included on this e-poll. This e-poll was unanimously approved.
- On February 7, 2024, the Legislative Operating Committee to entered into the record the results of the January 29, 2024, e-poll titled, *Approval of the March 6, 2024, LOC Community Meeting Notice*.
- On March 6, 2024, the Legislative Operating Committee held a community meeting in the Norbert Hill Center Cafeteria in which the Sanctions and Penalties law was a topic of discussion.
- On March 5, 2025, the Legislative Operating Committee approved the updated draft and legislative analysis for the Sanctions and Penalties law. The Legislative Operating Committee also approved the Legislative Operating Committee Sanctions and Penalties law community work session notice, and scheduled a community work session to occur on April 2, 2025.
- On April 2, 2025, the Legislative Operating Committee held a community work session in the Norbert Hill Center’s Business Committee Conference Room and on Microsoft Teams for the purpose of reading the Sanctions and Penalties law line-by-line and collecting input and suggestions from the community.

**B. Work Meetings.** At the time this legislative analysis was developed, the following work meetings had been held regarding the development of this Law and legislative analysis:

- September 6, 2017: LOC work meeting.
- November 1, 2017: LOC work meeting with representatives from the following boards, committees and commissions: Police Commission, Trust Enrollment Committee, Election Board, Land Commission, Oneida Gaming Commission, Pow-wow Committee. All boards, committees and committees were invited to attend this work meeting.
- December 6, 2017: LOC work meeting.
- March 9, 2018: LOC work meeting.



- 260     ▪ March 16, 2018: LOC work meeting.
- 261     ▪ May 2, 2018: LRO work meeting.
- 262     ▪ May 3, 2018: Community pot-luck meeting with LOC, Oneida community members, Government
- 263         Administrative Office, and representatives from the following boards, committees and
- 264         commissions: Oneida Police Commission, Oneida Nation Veterans Affair Committee,
- 265         Environmental Resource Board, Anna John Resident Centered Care Community Board, and
- 266         Gaming Commission. All boards, committees and commissions were invited to attend this meeting.
- 267     ▪ May 11, 2018: LOC work meeting.
- 268     ▪ May 16, 2018: LOC work meeting.
- 269     ▪ July 9, 2018: Work meeting with Government Administrative Office.
- 270     ▪ August 1, 2018: LOC work meeting.
- 271     ▪ September 10, 2018: LOC work meeting.
- 272     ▪ October 17, 2018: LOC work meeting.
- 273     ▪ October 25, 2018: LOC work meeting.
- 274     ▪ November 30, 2018: LOC work meeting.
- 275     ▪ December 20, 2018: Work meeting with Cultural Heritage.
- 276     ▪ January 2, 2019: LOC Work meeting.
- 277     ▪ January 24, 2019: LOC Work meeting.
- 278     ▪ February 4, 2019: LOC Work meeting.
- 279     ▪ February 6, 2019: LOC work meeting.
- 280     ▪ February 8, 2019: LOC work meeting.
- 281     ▪ February 14, 2019: LOC work meeting.
- 282     ▪ February 20, 2019: LOC work meeting.
- 283     ▪ March 1, 2019: LOC work meeting.
- 284     ▪ March 15, 2019: LOC work meeting.
- 285     ▪ March 20, 2019: LOC work meeting
- 286     ▪ March 28, 2019: LOC work meeting.
- 287     ▪ May 1, 2019: LOC work meeting.
- 288     ▪ June 13, 2019: LOC work meeting.
- 289     ▪ July 11, 2019: LOC community outreach event at the Radisson Hotel and Conference Center prior
- 290         to a GTC meeting.
- 291     ▪ July 17, 2019: LOC community outreach event at the Norbert Hill Center's Business Committee
- 292         Conference room.
- 293     ▪ August 9, 2019: LOC community outreach event at the Veteran's Breakfast.
- 294     ▪ August 15, 2019: LOC community outreach event at the Oneida Farmer's Market.
- 295     ▪ August 21, 2019: LOC work meeting.
- 296     ▪ October 7, 2019: LOC community outreach event at the Elder Services Congregate Meal Site.
- 297     ▪ October 16, 2019: LOC work meeting.
- 298     ▪ October 18, 2019: LOC community outreach event at the SEOTS building in Milwaukee.
- 299     ▪ October 31, 2019: LOC work meeting.
- 300     ▪ November 6, 2019: LOC work meeting.
- 301     ▪ November 15, 2019: LOC work meeting.
- 302     ▪ November 19, 2019: LOC work meeting.
- 303     ▪ November 20, 2019: LOC work meeting.

- November 26, 2019: LOC work meeting.
- December 2, 2019: LOC work meeting.
- December 4, 2019: LOC work meeting.
- December 9, 2019: LOC work meeting.
- January 8, 2020: LOC work meeting with the Communications Department.
- January 14, 2020: OBC work meeting.
- January 15, 2020: LOC work meeting.
- January 20, 2020: LOC work meeting.
- December 6, 2023: LOC work meeting.
- March 6, 2024: LOC work meeting.
- March 6, 2024: LOC community outreach event at the Norbert Hill Center's cafeteria.
- March 20, 2024: LOC work session.
- January 10, 2025: LOC work session with Oneida Business Committee.
- February 19, 2025: LOC work session.
- April 16, 2025: LOC work session.

## SECTION 5. CONTENTS OF THE LEGISLATION.

A. *What Qualifies as Misconduct.* The Oneida Nation expects elected officials to uphold high standards of conduct. [1 O.C. 120.4-1]. Officials who engage in misconduct may be subject to sanctions and penalties. [1 O.C. 120.4-2]. Under this Law, the definition of misconduct is very broad and includes any of the following:

- Violating the Oneida Constitution or any law, policy or rule of the Oneida Nation. [1 O.C. 120.4-2(a)].
  - Examples include the Code of Ethics and Conflict of Interest law.
- Violating the bylaws or standard operating procedures of the entity the official serves on. [1 O.C. 120.4-2(b)].
- Being convicted of a felony under federal or Wisconsin law, or being convicted of a crime elsewhere that would be considered a felony in the state of Wisconsin or the United States. [1 O.C. 120.4-2(c)].

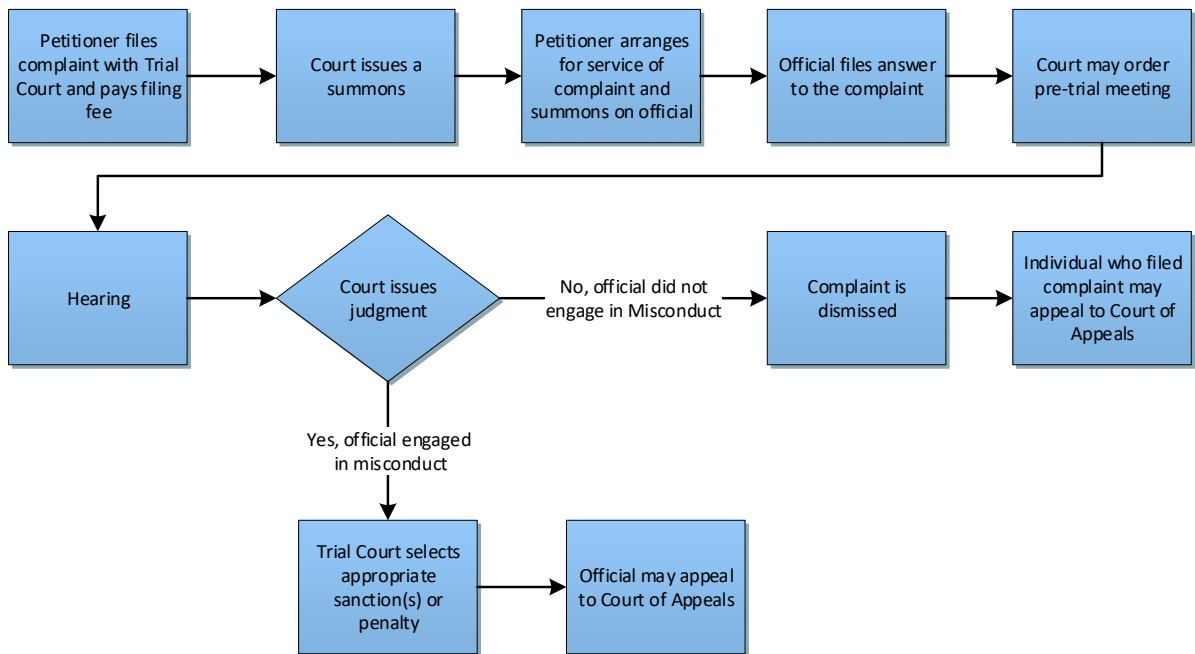
### B. *Filing a Complaint.*

- *Who Can File a Complaint?* Under this Law, any enrolled member of the Nation or employee of the Nation age eighteen (18) years or older can file a complaint, so long as they have knowledge or reason to believe that an official has committed misconduct. [1 O.C. 120.5-1]. Entities of the Nation, such as a board, committee or commission, can also file complaints against elected officials. *Id.*
- *When to File Complaint?* The complaint must be filed within sixty (60) days of when the alleged misconduct occurred or was discovered [1 O.C. 120.5-2].
- *Contents of the Complaint.* Complaints must include the following information [1 O.C. 120.5-3]:
  - Information about the official, including the official's name and the entity they serve on.
  - Information about the alleged misconduct, including date, time, location and specific details.
  - The specific law, policy, rule or bylaw that the official violated.
  - Information about any witnesses or others with knowledge of the violation.
  - Contact information of the individual filing the complaint.

- 348           ▪ Supporting documents and any other information required by the Oneida Judiciary Rules  
349           of Civil Procedure. [8 O.C. 803.5-1].
- 350       ▪ *Where to File Complaints?* Complaints against elected officials are filed with the Trial Court, with  
351       is located within the Oneida Judiciary. [1 O.C. 120.5-4].
- 352       ▪ *Retaliation.* Retaliation against someone who files a complaint or cooperates with a misconduct  
353       investigation is not allowed. [1 O.C. 120.5-5].
- 354   **C. *Complaint Procedure.*** Complaints against elected officials will be heard by the Nation’s Trial Court.  
355   [1 O.C. 120.6-1]. The law outlines the process for how the Judiciary will hear the complaint:
  - 356       ▪ *Right to an Attorney or Advocate.* Any official who has been accused of misconduct has the right  
357       to be represented by an attorney or an advocate, at their own expense. [1 O.C. 120.6-2].
    - 358           ▪ *Legal Resource Center.* The Legal Resource Center law established an office, the Legal  
359           Resource Center, to provide legal advice and representation to Tribal members and  
360           employees in cases before the Judiciary. [8 O.C. 811.1-1].
  - 361       ▪ *Burden of Proof.* The burden of proof for allegations made under this law is “clear and convincing  
362       evidence.” [1 O.C. 120.6-3]. This is the same standard the Nation uses in misconduct cases against  
363       judges in the Oneida Judiciary. [8 O.C. 801.12-6(c)].
    - 364           ▪ This means that the person filing the complaint must provide evidence “indicating that the  
365           [allegation] to be proved is highly probably or reasonably certain” [Black’s Law  
366           Dictionary]. This is a greater burden than “preponderance of the evidence,” the standard  
367           in most civil trials, but less than evidence “beyond a reasonable doubt,” which is used for  
368           criminal trials.
  - 369       ▪ *Confidentiality.* All complaints against officials of the nation will be handled confidentially, with  
370       hearings and proceedings regarding the complaint closed to the public. [1 O.C. 120.6-4]. Records  
371       of the hearings will be kept confidential. [120.6-4(b)]. However, the final decision of the Judiciary  
372       and any sanctions and penalties imposed against an official will be public information. *Id.*
    - 373           ▪ *Judiciary Law.* The Judiciary law states that proceedings of the court are open to the public  
374           except for peacemaking, mediation, proceedings where the judge has safety or  
375           confidentiality concerns, or “if expressly prohibited by law.” [8 O.C. 801.4-4].
- 376   **D. *Hearings Under Oneida Judiciary Rules of Civil Procedure.*** All hearings under this law must follow  
377   the Oneida Judiciary Rules of Civil Procedure. [8 O.C. 803]. The following is a brief overview of how  
378   a civil case is processed by the Trial Court using the Oneida Judiciary Rules of Civil Procedure. For  
379   more detailed information regarding the trial court process, see the Oneida Judiciary Rules of Civil  
380   Procedure in the Nation’s Code of Laws.
  - 381       ▪ *Petitioner Files a Complaint with the Trial Court and Pays Filing Fee.* The Trial Court has a  
382       standard complaint form with instructions to fill out the complaint.
    - 383           ▪ *Complaint.* At the time this analysis was drafted, the Oneida Judiciary Rules of Civil  
384           Procedure require the complaint to include the full name and address of the plaintiff and  
385           defendant, why the defendant is being sued, facts supporting each claim, why the trial court  
386           has jurisdiction, specifically what relief is sought from the defendant, and a summons. [8  
387           O.C. 803.5-1].
    - 388           ▪ *Filing Fee.* The Oneida Judiciary Trial Court currently charges a fifty dollar (\$50) filing  
389           fee to file a general civil case. However, individuals may request a fee waiver from the  
390           court for the following reasons: unemployed, health/medical, or below poverty level.

- 391           ▪ *Summons*: A summons is a document ordering a defendant to appear before a judge. The  
392           Trial Court has a standard summons form. [8 O.C. 803.3-1(oo), 803.5-2].
- 393       ▪ *Complaint and Summons are served on Official*. The complaint and summons must be delivered to  
394       the elected official within thirty (30) days after the complaint is filed. [8 O.C. 803.5-3]. In addition,  
395       for complaints against officials, notice must also be served to the Secretary's office. *Id.* The  
396       petitioner must provide proof to the Court that the complaint and summons were delivered to the  
397       defendant within ten (10) days of delivery. [8 O.C. 803.5-3(b)]. If proof of service is not completed,  
398       then the case will be dismissed. [8 O.C. 803.5-3(c)].
- 399       ▪ *Official Files an Answer*. The official responds to the complaint by filing an answer. [8 O.C. 803.7-  
400       2(b)]. The official can either admit to or deny the allegations made in the complaint and provide  
401       defenses to each claim made in the complaint [8 O.C. 803.7].
- 402       ▪ *Pre-Trial Meeting*. A pre-trial meeting may be scheduled between the judge, petitioner and  
403       defendant. [8 O.C. 803.12-1]. The purpose for this meeting could include preparing for the trial,  
404       creating a plan regarding discovery, or facilitating a settlement, such as peacemaking [8 O.C.  
405       803.12].
- 406       ▪ *Hearing*. Hearings are conducted in accordance with the Oneida Judiciary Rules of Civil Procedure,  
407       which may include opening statements, presentation of the parties' cases, rebuttals and closing  
408       statements [8 O.C. 803.38].
- 409       ▪ *Judgment*. If the Trial Court determines, by clear and convincing evidence, that there is enough  
410       evidence to substantiate the allegations of misconduct by the official, then the Trial Court will  
411       impose any sanctions and penalties that they deem appropriate. [1 O.C. 120.6-5]. If the Trial Court  
412       does not find there is clear and convincing evidence to support the allegations, the complaint will  
413       be dismissed. *Id.*
- 414       ▪ *Appeals*. Both the official accused of misconduct and the individual who filed the complaint have  
415       the right to appeal the decision of the Trial Court to the Court of Appeals. [1 O.C. 120.6-6; 8 O.C.  
416       803.39-1]. The appeal must be filed with the Court of Appeals in accordance with the Oneida  
417       Judiciary Rules of Appellate Procedure. *Id.*
  - 418           ▪ *Timeline for Appeal*. Appeals of judgments of the Trial Court must be filed with the Court  
419           of Appeals within thirty (30) days after the judgment was rendered. [8 O.C 805.5-2(a)].

**Chart 2. Complaint Process Against Elected Officials – Overview of Oneida Judiciary Rules of Civil Procedure.**



**E. Sanctions and Penalties.** This Law includes a list of sanctions and penalties that may be imposed on an official for misconduct in office. [1 O.C. 120.4-1, 120.7-2]. The Trial Court is responsible for imposing sanctions and penalties on an elected official. [1 O.C. 120.7-3].

- **Conditional Penalties.** Sanctions and penalties may be imposed on a conditional basis. [1 O.C.120.7-4]. For example, an official could be ordered to make a public apology and attend mandatory training, or otherwise face suspension.
- **Failure to Comply.** If an official fails to comply with a sanction or penalty imposed against them, that official can face additional sanctions as a result of additional misconduct complaints under this Law. [1 O.C. 120.7-6]. An example would be an official failing to pay a fine, failing to attend mandatory training or violating the terms of their suspension .

**Chart 3. List of Potential Sanctions and Penalties for Elected Officials.**

Potential Sanctions and Penalties:
<ul style="list-style-type: none"> <li>▪ Verbal Reprimand</li> <li>▪ Public Apology</li> <li>▪ Written Reprimand</li> <li>▪ Suspension</li> <li>▪ Restitution</li> <li>▪ Fines</li> <li>▪ Loss of Stipend</li> <li>▪ Mandatory Training</li> <li>▪ Removal, in accordance with Removal Law</li> </ul>

- 453     ▪ **Verbal Reprimand.** During an Oneida Business Committee or General Tribal Council meeting,  
454     the Nation’s chairperson will read the following statement: *[Insert name of official] who serves on*  
455     *[Insert name of entity] is receiving this reprimand because they have been found by the Nation’s*  
456     *Judiciary to have engaged in misconduct. High standards of conduct amongst officials of the Nation*  
457     *are essential to the conduct of government. [Insert name of official’s] behavior did not rise to the*  
458     *high standards of conduct that is expected of the Nation’s elected officials. The following are the*  
459     *findings from the Trial Court regarding [Insert name of official’s] misconduct: [identify the*  
460     *judicial findings regarding the misconduct.] Any future misconduct may result in the imposition of*  
461     *additional sanctions or penalties. [1 O.C. 120.7-2(a)].*
- 462     ▪ **Public Apology.** An official may be ordered to make a public apology at an Oneida Business  
463     Committee or General Tribal Council meeting. *[1 O.C. 120.7-2(b)].* The apology is required to  
464     identify the judicial findings regarding the official’s misconduct and include a “clear and  
465     unambiguous” apology. *Id.*
- 466     ▪ **Written Reprimand.** The Judiciary Trial Court may publish a written reprimand in the Nation’s  
467     official media outlets. *[1 O.C. 120.7-2(c)].* Resolution BC-02-22-17-B, *Identifying Official Oneida*  
468     *Media Outlets*, identifies the Nation’s official media outlets as the Oneida Nation website and the  
469     Kalihwisaks newspaper. The written reprimand will include the same information as a verbal  
470     reprimand. *[1 O.C. 120.7-2(c)(1)].*
- 471     ▪ **Suspension.** The Trial Court may suspend part-time officials for up to two (2) meetings. *[1 O.C.*  
472     *120.7-2(d)].* Full-time officials, such as members of the Oneida Business Committee or Oneida  
473     Gaming Commission, may be suspended for up to fifteen (15) business days. *Id.* During a  
474     suspension, the official cannot attend meetings, trainings, or conferences. *[1 O.C. 120.7-2(d)(1)(A)-*  
475     *(B)].* The official also cannot vote or perform work for the entity. *[1 O.C. 120.7-2(d)(1)(C)-(D)].*  
476     In addition, the official cannot earn any stipends, salary, or mileage during the suspension. *[1 O.C.*  
477     *120.7-2(d)(1)(E)].*
  - 478         ▪ **Multiple Suspensions on One Entity.** If multiple officials on the same entity are suspended  
479         at the same time, the suspensions may be imposed on a staggered basis so that the business  
480         of the Nation is not interrupted. *[1 O.C. 120.7-2(d)(3)].* For example, if multiple members  
481         of the Oneida Business Committee are suspended, each member could be suspended one  
482         at a time on a staggered basis.
- 483     ▪ **Restitution.** An official can be ordered to pay restitution, which means paying back any improperly  
484     received benefit, such as returning funds or paying to replace damaged property. *[1 O.C. 120.7-*  
485     *2(e)].* The point of restitution is to make someone whole.
- 486     ▪ **Fines.** An official can be ordered to pay a fine for each act of misconduct. *[1 O.C. 120.7-2(f)].*  
487     Unlike restitution, a fine is a punishment. The maximum amount of each fine is two thousand five  
488     hundred dollars (\$2,500). *Id.*
  - 489         ▪ **Fine Process.** All fines are paid to the Trial Court and deposited into the Nation’s General  
490         Fund. *[120.7-2(f)(1)].* Officials must pay their fine within ninety (90) days after the fine is  
491         issued or upheld on final appeal. *[1 O.C. 120.7-2(f)(3)].* If the fine is not paid on time, the  
492         Nation may collect the money through garnishment or attachment of the official’s per  
493         capita payment. *Id.*
  - 494         ▪ **Community Service Alternative.** An official can complete community service to make up  
495         all or part of their fine. *[1 O.C. 120.7-2(f)(2)].* The rate earned for community service is  
496         the Nation’s minimum wage rate. The Nation currently allows community service for fines

issued in the Hunting, Fishing and Trapping law and Curfew law for examples. [4 O.C. 406.10-5(a), 3 O.C. 308.7-1(b)].

- **Loss of Stipend.** An official may lose their stipend for up to two (2) meetings. [1 O.C. 120.7-2(g)]. Members of elected boards may receive up to twenty-four (24) meeting stipends per year, so this could amount to the loss of approximately one (1) month's stipends for a member of a board that meets twice monthly [1 O.C. 105.13-3(b)].
- **Mandatory Training.** An official can be ordered to complete a mandatory training program to address their behavior. [1 O.C. 120.7-2(h)]. Examples include anger management or sexual harassment training.
- **Removal.** The Trial Court can recommend that the removal process be initiated for an official in accordance with the Removal Law. [1 O.C. 120.7-2(i)]. However, this would only be a recommendation and identification that the standards for removal have been met. The Removal Law provides a strict process that must be followed to remove elected officials. [1 O.C. 104].
  - **Removal Law Process.** In order to remove an elected official, an eligible voter must file a petition with the Secretary signed by at least fifty eligible voters or thirty percent (30%) of the vote cast in the previous general election, whichever is greater. [1 O.C. 104.5-1]. For example, the number of votes cast in the 2017 general election was one thousand six hundred and twelve (1,612), so the number of signatures needed to initiate removal is approximately four hundred and eighty-four (484). Then, the Judiciary conducts a preliminary review to determine whether there are sufficient grounds for removal. [1 O.C. 104.6-1]. If sufficient grounds exist, the Judiciary holds a hearing. [1 O.C. 104.7]. If the Judiciary determines that sufficient grounds for removal has been proven by clear and convincing evidence, the findings are forwarded to the Nation's Chairperson, who schedules a General Tribal Council meeting. [1 O.C. 104.7-3, 104.8-1]. At the General Tribal Council meeting, an elected official may be removed from office after a two-thirds (2/3) majority vote. [1 O.C. 104.8-3].

**F. Factors in Determining Appropriate Sanction and/or Penalty.** The Trial Court may consider the following when deciding which sanction or penalty to impose:

- How severe the misconduct was, whether it was intentional, and how likely the official is to repeat the misconduct.
- The damage to the finances or reputation of the Nation, the entity, or any person or organization.
- Whether the official has expressed remorse and is willing to take steps to correct the harm done.
- Whether any prior complaints have been filed against the official. For example, whether this is the first complaint against the official or represents a pattern of behavior. [1 O.C. 120.7-3].

**G. Civil Liability and Criminal Prosecution.** In addition to the sanctions and penalties in this law, an official who commits misconduct may also experience other consequences. [1 O.C. 120.7-5]. These include:

- Removal from office in accordance with the Removal law. [1 O.C. 120.7-5(a)].
- Criminal prosecution, if the official violated a criminal law. [1 O.C. 120.7-5(b)]. For example, criminal charges for theft or violent acts.
- Civil liability, in accordance with any applicable law of any jurisdiction. [1 O.C. 120.7-5(c)]. For example, a lawsuit for damages.
- Any other penalties listed in another law of the Oneida Nation. [1 O.C. 120.7-5(d)].

- For example, a violation of the Technology Resources law may result in loss of access to the Nation's computer resources. [2 O.C. 215.10-1].
- H. **Effect of Resignation by an Official.** If an official resigns from office after a complaint has been filed, that complaint will still be investigated, and sanctions and penalties may still be pursued. [1 O.C. 120.8]. Resigning from office does not end or prevent an investigation.
- I. **Record of Conduct.** A record of conduct for each official will be maintained by the Judiciary. [1 O.C. 120.9-1]. The record of conduct maintained for each official will include copies of complaints filed against the official, recordings and transcripts from any hearings or proceedings, outcomes of the complaints, and any sanctions and penalties the official received. [1 O.C. 120.9-2]. This record is required to be maintained for at least seven (7) years. [1 O.C. 120.9-3].
  - **Public Access to Record of Conduct.** The record of conduct maintained by the Judiciary will only be made available for review to the Judiciary. [1 O.C. 120.9-1]. The purpose of the record of conduct is so that the Trial Court can review previous complaints against the official when determining a potential sanction or penalty. [1 O.C. 120.7-3(h)].
  - **Public Access to Judiciary Decisions.** However, the decisions of the Judiciary regarding a complaint against an elected official and any sanctions and penalties imposed against an official will be public information. [1 O.C. 120.6-4(b)].

## SECTION 6. EFFECT ON EXISTING LEGISLATION

- A. **References to the Other Laws of the Nation:** The following laws of the Nation are referenced in this law. This law does not conflict with any of the referenced laws.
  - **Oneida Judiciary Rules of Civil Procedure.** The Oneida Judiciary Rules of Civil Procedure governs all civil actions that fall under the jurisdiction of the Nation. [8 O.C. 803.1-1]. The Oneida Judiciary Rules of Civil Procedure provides a consistent set of rules governing the process for civil claims, in order to ensure equal and fair treatment to all persons who come before the Trial Court to have their disputes resolved. [8 O.C. 803.1-2].
    - Complaints against an official shall be filed with the Nation's Trial Court in accordance with the Oneida Judiciary Rules of Civil Procedure. [1 O.C. 120.5-4].
  - **Rules of Appellate Procedure.** The Rules of Appellate Procedure govern the procedure in all actions and proceedings in the divisions that make up the Court of Appeals within the Judiciary that fall under the jurisdiction of the Nation. [8 O.C. 805.1-1]. The Rules of Appellate Procedure are to be liberally construed to ensure a speedy, fair, and inexpensive determination of every appeal. [8 O.C. 805.1-2].
    - Appeals of the Trial Court's decision shall be filed pursuant to the Nation's Rules of Appellate Procedure. [1 O.C. 120.6-6].
  - **Garnishment Law.** The Garnishment law exercises the authority of the Nation to provide an effective mechanism for creditors to access an employee's income for reduction of personal debt. [2 O.C. 2010.1-1]. It is the policy of the Garnishment law to afford all individuals due process. [2 O.C. 2010.1-2].
    - If an official is ordered to pay a fine in accordance with this law and does not pay according to the deadline, the Trial Court may seek to collect that fine through the Nation's garnishment process [120.7-2(f)(3)].
  - **Per Capita Law.** The purpose of the Per Capita law is to specify the procedure to be followed in the event that per capita payments are distributed by the Nation; and to clearly state the



responsibilities of the various Oneida entities in the distribution or maintenance of any such per capita payment. [1 O.C. 123.1-1].

- If an official is ordered to pay a fine in accordance with this law and does not pay according to the deadline, the Trial Court may seek to collect that fine through the Nation's per capita attachment process [1 O.C. 120.7-2(f)(3)].
- *Removal Law.* The purpose of the Removal law is to govern the removal of persons elected to serve on boards, committees and commissions of the Nation. [1 O.C. 104.1-1]. It is the policy of the Removal law to provide an orderly and fair process for the removal of persons elected to serve on boards, committees and commissions. [1 O.C. 104.1-2].
  - The Trial Court may recommend that the process for removing an elected official as contained in the Nation's laws and/or policies governing removal be initiated as a sanction for misconduct. [1 O.C. 120.7-2(i)].
  - The imposition of sanctions and/or penalties in accordance with this law does not exempt an official from individual liability for the underlying misconduct, and does not limit any penalties that may be imposed in accordance with other applicable laws, such as removal in accordance with the Nation's laws and/or policies governing removal. [1 O.C. 120.7-5].

## SECTION 7. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR OBLIGATIONS

**A. *Due Process.*** Officials accused of misconduct have the right to be represented by an attorney or advocate. [1 O.C. 120.6-2]. Officials also have the right to submit a written response to the complaint, and an opportunity to appear at the investigatory hearing to answer the allegations, provide witness testimony, documents and evidence on their behalf. [8 O.C. 803]. Complaints against officials must be proven by clear and convincing evidence. [1 O.C. 120.6-3].

## SECTION 8. OTHER CONSIDERATIONS

- A. *Complaints against Judiciary.*** The Judiciary law already contains a process for the reprimand, suspension, and removal of judges for willful misconduct in office, including a hearing and complaint procedure. [8 O.C. 801.12]. Therefore, this law does not apply to members of the Judiciary. [1 O.C. 120.1-1(a)].
- B. *Judiciary Conflicts of Interest.*** The Oneida Tribal Judiciary Canons of Judicial Conduct requires a Judge to withdraw from any matter where the Judge has or could be perceived to have a conflict of interest. [8 O.C. 802.2-2]. Violating the Oneida Tribal Judiciary Canons of Judicial Conduct would be grounds for reprimand under the Nation's Judiciary law
- C. *Complaints Against Appointed Officials.*** This law applies to elected officials only. Appointed officials are appointed by the Oneida Business Committee in accordance with the Boards, Committees and Commissions law and serve at the Oneida Business Committee's discretion. [1 O.C. 105.7]. If an appointed official commits misconduct in office, termination of appointment may be recommended by a member of the Oneida Business Committee, or by the entity the official serves on. [1 O.C. 105.7-4]. An appointed official may have their appointment terminated by a two-thirds (2/3) majority vote of the Oneida Business Committee [1 O.C. 105.7-4(a)].
- D. *Code of Ethics.*** Most other tribal, municipal, and state governments place sanctions and penalties within their Code of Ethics law. This makes sense, as the Code of Ethics and Sanctions and Penalties

are closely related. The Code of Ethics is currently on the LOC's Active Files List for potential amendments. Updating the Code of Ethics would provide additional guidance to elected officials, individuals filing complaints, and the Judiciary when they begin hearing complaints under this law.

- E. **Comparison to Other Nations.** Research of other tribal nations indicate that there are many different processes for sanctions and penalties of public officials. There is no uniform standard used by all tribal governments. Examples of other sanctions and penalties processes are provided for information:

**Chart 4. Sanctions and Penalties Process of other Tribal Nations**

Tribe	Where Complaints Are Filed	Who Investigates or Hears the Complaint	Who Decides the Sanction or Penalty
<b>Oneida Nation (proposed)</b>	Judiciary	Judiciary	Judiciary
<b>Siletz</b>	Tribal Council*	Ad Hoc Committee or Special Advisor appointed by Tribal Council*	Tribal Council*
<b>Ho Chunk</b>	Judiciary	Judiciary	President
<b>Rosebud Sioux</b>	Ethics Commission, appointed by Tribal Council*	Ethics Commission, appointed by Tribal Council*	Tribal Council*
<b>Skokomish</b>	Ethics Officer, appointed by Tribal Council*	Ethics Officer, appointed by Tribal Council*	Chairman

\*Note that "Tribal Council" refers to an elected body similar to the Oneida Business Committee.

- F. **Number of Potential Complaints.** Since the Nation currently has no formal sanctions and penalties process, it is not possible to predict the number of complaints that may be filed against elected officials.

- **Conclusion:** Given the uncertainty regarding the number of potential complaints, the Judiciary should be prepared to possibly process a large number of complaints upon passage of this law.

- G. **Impact of Suspension on Full-Time Officials.** Members of the Oneida Business Committee and Oneida Gaming Commission are full-time elected officials. Therefore, suspension of these officials would impact salaries, benefits such as health insurance, and access to workplaces. The Human Resources Department reports that they have a suspension procedure in place for employees of the Nation, and that this procedure could be applied or modified for suspension of full-time officials.

- **Conclusion:** Since notifications of suspension go to the Human Resources Department, it is suggested that the Human Resources Department develop a process should suspensions of full-time Oneida Business Committee members or Oneida Gaming Commissioners occur.

- H. **Fiscal Impact.** Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [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 who the Legislative Operating Committee may direct complete a fiscal impact statement at various stages of the legislative process, as well as timeframes for completing the fiscal impact statement.

- **Conclusion.** A fiscal impact statement for an earlier draft of this law was prepared by the Finance Department on December 27, 2018. An updated fiscal analysis was prepared on January 20, 2020.

656 Please see the fiscal impact statements for further information.  
657

**Title 1. Government and Finances - Chapter 120****Kalihwahníla'tú Okhale? Atatlihwá'thlewáhtu Kayanlása***Giving strength to the issues and Forgiving oneself for the issue at hand Laws***SANCTIONS AND PENALTIES**

120.1. Purpose and Policy

120.2. Adoption, Amendment, Repeal

120.3. Definitions

120.4. Misconduct

120.5. Filing of a Complaint

120.6. Complaint Procedure

120.7. Sanctions and Penalties

120.8. Effect of Resignation by an Official

120.9. Record of Conduct

**120.1. Purpose and Policy**

120.1-1. *Purpose.* The purpose of this law is to establish a consistent set of sanctions and penalties that may be imposed upon elected officials of the Nation for misconduct in office in order to provide an opportunity for the official to take corrective action to address the misconduct and promote accountability and improved performance of the official.

(a) *Exclusion.* This law does not apply to judges of the Oneida Nation Judiciary or members of corporate entities of the Nation.

120.1-2. *Policy.* It is the policy of the Nation to ensure that elected officials who commit misconduct while in office be subject to appropriate sanctions and penalties; and to ensure that there is a fair process in place that enables officials to fairly respond to allegations of misconduct.

120.1-3. It is the intent of the Nation that all elected officials strive to exhibit and uphold the Nation's core values of The Good Mind as expressed by Onayote'a'ka, which includes:

(a) Kahletsyalása. The heart felt encouragement of the best in each of us.

(b) Kanolukhwása. Compassion, caring, identity, and joy of being.

(c) Ka'nikuhli'yó. The openness of the good spirit and mind.

(d) Ka'tshatstása. The strength of belief and vision as a People.

(e) Kalihwi'yó. The use of the good words about ourselves, our Nation, and our future.

(f) Twahwahtsíláyá. All of us are family.

(g) Yukwatsístáyá. Our fire, our spirit within each one of us.

**120.2. Adoption, Amendment, Repeal**

120.2-1. This law was adopted by the General Tribal Council by resolution GTC-\_\_-\_\_-\_\_.

120.2-2. This law may be amended or repealed by the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

120.2-3. 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.

120.2-4. 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.

120.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**120.3. Definitions**

120.3-1. 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) “Business day” means Monday through Friday 8:00 a.m. – 4:30 p.m., excluding holidays recognized by the Nation.
- (b) “Clear and convincing evidence” means evidence that demonstrates it is substantially more likely than not that the facts presented are true.
- (c) “Complainant” means an individual who has made a complaint.
- (d) “Constitution” means the Constitution and By-Laws of the Oneida Nation.
- (e) “Court of Appeals” means the Court of Appeals of the Oneida Nation Judiciary.
- (f) “Entity” means a board, committee, commission, office, or other group of the Nation an individual may be elected to serve a position on, including the Oneida Business Committee.
- (g) “Government Administrative Office” means the office that provides administrative support for the Oneida Business Committee and various other governmental operations.
- (h) “Misconduct” means wrongful, improper, or unlawful conduct or behavior.
- (i) “Nation” means the Oneida Nation.
- (j) “Official” means any person who is elected to serve a position for the Nation, including, but not limited to, a position on a board, committee, commission, or office of the Nation, including the Oneida Business Committee.
- (k) “Restitution” means compensation to an individual or entity for an injury, damage, or loss.
- (l) “Stipend” means the amount paid by the Oneida Nation to elected individuals serving on boards, committees and commissions of the Nation to offset the expenses of being a member on the board, committee or commission.
- (m) “Substantiate” means to find that the complaint or allegation in the complaint is valid because there is clear and convincing evidence.
- (n) “Trial Court” means the Trial Court of the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later authorized to administer the judicial authorities and responsibilities of the Nation by Oneida General Tribal Council resolution GTC-03-19-17-A.

#### **120.4. Misconduct**

120.4-1. It shall be the obligation of every official to behave in a manner that promotes high standards of conduct. High standards of conduct amongst officials of the Nation are essential to the conduct of government.

120.4-2. An official may be subject to sanctions and penalties for behaving in a manner which constitutes misconduct. Misconduct includes:

- (a) a violation of the Constitution or any of the Nation’s laws, policies, or rules;
- (b) a violation of the bylaws, standard operating procedures, or other internal operating documents that govern the entity upon which the official serves; and
- (c) a conviction of a felony, or any crime in any jurisdiction that would be classified as a felony under federal law or Wisconsin law.

#### **120.5. Filing of a Complaint**

120.5-1. *Who May File.* Any individual at least eighteen (18) years of age or older who is an enrolled member of the Nation or an employee of the Nation, or an entity, who in good faith, has knowledge or reason to believe that an official has committed misconduct, may file a written complaint.

120.5-2. *When to File.* A complaint may be filed as long as the alleged misconduct has occurred, or was discovered to have occurred, within the previous sixty (60) days.

120.5-3. *Contents of the Complaint.* The complaint alleging misconduct by an official shall include the following information:

- (a) The name(s) of the official alleged to have committed the misconduct;
- (b) The entity or entities upon which the official serves;
- (c) The specific date(s), time(s), and location(s) of the alleged misconduct;
- (d) The specific details of the official's misconduct;
- (e) The specific provision of law, policy, rule, or bylaw of the Nation allegedly violated by the official;
- (f) Names of any witnesses of the alleged misconduct, or individuals who may have knowledge pertinent to the alleged misconduct;
- (g) The contact information for the person filing the complaint, which at minimum shall include the person's name, address, and telephone number;
- (h) A notarized sworn statement attesting that the information provided in and with the complaint is true, accurate, and complete to the best of the complainant's knowledge;
- (i) Any supporting documentation; and
- (j) Any other information required by the Nation's Rules of Civil Procedure.

120.5-4. *Where to File.* Complaints against an official shall be filed with the Nation's Trial Court pursuant to the Nation's Rules of Civil Procedure.

120.5-5. *Retaliation Prohibited.* Retaliation against any individual who makes a complaint or party or witness to a complaint is prohibited. This protection shall also be afforded to any person offering testimony or evidence or complying with directives authorized under this law. Retaliation shall include any form of adverse or punitive action by, or caused by, any official.

- (a) If an individual alleges that retaliatory action has been threatened or taken based on the individual's complaint, or cooperation with directives authorized under this law, the individual may file a complaint for the retaliatory action in accordance with section 120.5 of this law.

## **120.6. Complaint Procedure**

120.6-1. *Jurisdiction of the Trial Court.* The Trial Court shall have jurisdiction to hear complaints of alleged misconduct of officials.

120.6-2. Any official who is the subject of a complaint has the right to be represented by an attorney or advocate, at their own expense, for any actions or proceedings related to the complaint.

120.6-3. *Burden of Proof.* In a civil action against an official for misconduct, the complainant has the burden of proving by clear and convincing evidence that the official engaged in misconduct.

120.6-4. *Confidentiality.* All complaints alleged against an official of the Nation shall be handled in a confidential manner.

- (a) All hearings and/or proceedings related to a complaint shall be closed to the general public.
- (b) All records of hearings and/or proceedings shall not be subject to public review or inspection except that a decision of the Judiciary regarding a complaint alleged against an official, and any sanctions and/or penalties that are imposed against an official, shall be public information.

120.6-5. *Determination of the Trial Court.* In making a final determination, the Trial Court shall determine if there is enough evidence to substantiate the allegations of misconduct by the official by clear and convincing evidence.

(a) If the Trial Court finds that there is clear and convincing evidence that the official engaged in misconduct, the Trial Court shall determine and impose any sanctions and/or penalties deemed appropriate in accordance with this law.

(b) If the Trial Court does not find that there is clear and convincing evidence to support the allegations that the official engaged in misconduct, the complaint shall be dismissed.

120.6-6. *Appeal.* The complainant and the official who is the subject of the complaint shall both have the right to appeal the Trial Court's decision to the Court of Appeals pursuant to the Nation's Rules of Appellate Procedure. The appeal shall be limited to review of the record, and the Trial Court's decision may only be overturned if the Court of Appeals determines that:

(a) The findings or penalties imposed were clearly erroneous, unsupported by the record, or made on unreasonable grounds or without any proper consideration of circumstances;

or  
(b) Procedural irregularities occurred which prevented a fair and impartial hearing.

## **120.7. Sanctions and Penalties**

120.7-1. A sanction or penalty, or any combination of sanctions and/or penalties, may be imposed upon the Nation's officials for misconduct in office, in accordance with this law.

120.7-2. Sanctions and penalties may include:

(a) *Verbal Reprimand.* A verbal reprimand may be imposed on the official.

(1) The Trial Court shall submit written notices to both the official and to the Government Administrative Office of the specific date, time, and location of the verbal reprimand. The verbal reprimand shall occur at an Oneida Business Committee meeting and/or a General Tribal Council meeting.

(2) To impose the verbal reprimand, the presiding Oneida Business Committee Chairperson, or another Oneida Business Committee member if the verbal reprimand is imposed against the presiding Oneida Business Committee Chairperson, shall read the following statement:

(A) *[Insert name of official] who serves on [Insert name of entity] is receiving this reprimand because they have been found by the Nation's Judiciary to have engaged in misconduct. High standards of conduct amongst officials of the Nation are essential to the conduct of government. [Insert name of official's] behavior did not rise to the high standards of conduct that is expected of the Nation's elected officials. The following are the findings from the Trial Court regarding [Insert name of official's] misconduct: [identify the judicial findings regarding the misconduct.] Any future misconduct may result in the imposition of additional sanctions or penalties.*

(b) *Public Apology.* The official may be ordered to make a public apology.

(1) The Trial Court shall submit written notices to both the official and to the Government Administrative Office of the specific date, time, and location of the public apology. The public apology shall occur at an Oneida Business Committee meeting and/or a General Tribal Council meeting.

- 175 (2) The public apology made by the official shall identify the judicial findings  
176 regarding the official’s misconduct and include a clear and unambiguous apology  
177 from the official for the misconduct.
- 178 (c) *Written Reprimand.* A written reprimand may be imposed on the official by  
179 publication on the Nation’s official media outlets, as determined by the Oneida Business  
180 Committee.
- 181 (1) The Trial Court may publish a written reprimand which includes the same  
182 statement as required for the verbal reprimand as stated in section 120.7-  
183 2(a)(2)(A).
- 184 (d) *Suspension.* An official may be suspended from performing their duties as an official  
185 for a period of time not to exceed two (2) regular meetings, or fifteen (15) business days  
186 if the official serves in a full-time capacity.
- 187 (1) During a suspension, the official shall not:
- 188 (A) attend meetings, trainings or any other event as part of the entity;  
189 (B) attend conferences or other events on behalf of, or as a representative  
190 of, the entity;  
191 (C) vote or participate in any activities of the entity;  
192 (D) perform work on behalf of the entity; or  
193 (E) be eligible for any compensation, including regular pay, stipends, or  
194 mileage reimbursement.
- 195 (2) When an official is suspended, the Trial Court shall submit written notices to  
196 the official, the Government Administrative Office, Finance Administration, and  
197 the Human Resources Department, when applicable, of the specific start and end  
198 date of the suspension.
- 199 (3) If a suspension is imposed on multiple officials of the same entity at one time,  
200 the Trial Court may impose the suspensions of the officials on a staggered basis to  
201 avoid an interruption of the official business and function of the entity.
- 202 (e) *Restitution.* An official may be ordered to pay restitution, which may include the  
203 repayment of any improperly received benefit, or any other payment which is intended to  
204 make another individual or entity whole after suffering losses as a result of the official’s  
205 misconduct.
- 206 (f) *Fines.* An official may be ordered to pay a fine not to exceed two thousand and five  
207 hundred dollars (\$2,500).
- 208 (1) Fines shall be paid to the Trial Court.
- 209 (2) Community service may be substituted for part or all of any fine at the  
210 minimum wage rate of the Nation for each hour of community service. The use of  
211 community service as a substitution for a fine shall be approved and monitored by  
212 the Trial Court.
- 213 (3) Fines shall be paid within ninety (90) days after the order is issued or upheld  
214 on final appeal, whichever is later. If the fine is not paid by this deadline, the Trial  
215 Court may seek to collect the money owed through garnishment either through the  
216 procedures provided in the Nation’s Garnishment law or through garnishment  
217 procedures of other jurisdictions, and/or per capita attachment in accordance with  
218 the Per Capita law.
- 219 (g) *Loss of Stipend.* An official may be ordered to forfeit a stipend for their service on an  
220 entity not to exceed two (2) meetings.



- (1) When an official is ordered to forfeit a stipend, the Trial Court shall submit written notices to the official and the Government Administrative Office.
- (h) *Mandatory Participation in Training.* An official may be ordered to participate in and complete a training class or program at their own expense that will assist the official in addressing and improving their behaviors and/or actions.
- (1) The mandated training class or program may address a variety of topics including, but not limited to, anger management, sexual harassment, or other sensitivity training.
- (i) *Removal.* The Trial Court may recommend that the process for removing an elected official as contained in the Nation's laws and/or policies governing removal be initiated.
- 120.7-3. *Factors in Determining an Appropriate Sanction and/or Penalty.* When determining the appropriate sanction or sanctions to impose, the Trial Court may consider all factors it deems relevant, including but not limited to:
- (a) the seriousness or severity of the misconduct;
  - (b) whether the conduct was intentional or not;
  - (c) the likelihood of repetition;
  - (d) the extent of probable damage to the finances or reputation of the Nation, the complainant, the entity, or to any other person or organization;
  - (e) whether the official or their family personally profited, financially or otherwise, from the prohibited conduct;
  - (f) the official's remorse, or
  - (g) the official's willingness and ability to take steps to mitigate the harm caused by the violation, and
  - (h) the record of conduct of an official.
- 120.7-4. The Trial Court may impose a sanction and/or penalty on a conditional basis, whereas compliance with a specific sanction and/or penalty shall prevent the imposition of a more stringent or burdensome sanction and/or penalty.
- 120.7-5. The imposition of sanctions and/or penalties in accordance with this law does not exempt an official from individual liability for the underlying misconduct, and does not limit any penalties that may be imposed in accordance with other applicable laws. In addition to any sanctions and penalties that may be imposed in accordance with this law, officials who commit misconduct in office may be subject to other consequences; including but not limited to:
- (a) removal in accordance with the Nation's laws and/or policies governing removal;
  - (b) criminal prosecution, for misconduct that also violates applicable criminal law;
  - (c) civil liability, in accordance with the applicable law of any jurisdiction; and/or
  - (d) penalties for specific misconduct as authorized by any other law of the Nation.
- 120.7-6. An official who does not comply with a sanction and/or penalty that has been imposed against him or her by the Trial Court may be subject to the following:
- (a) additional sanctions and/or penalties that result from a complaint of misconduct filed in accordance with this Law based on the non-compliance;
  - (b) removal in accordance with the Nation's laws and policies governing removal.
- 120.8. Effect of Resignation by an Official**
- 120.8-1. The resignation of an official after a complaint has been filed against the official shall not affect the status of the hearing and determination by the Trial Court.
- 120.8-2. An official who resigns may still be subject to sanctions and/or penalties at the discretion of the Trial Court.

**120.9. Record of Conduct**

120.9-1. The Judiciary shall maintain a record of conduct for each official. An official's record of conduct shall only be made available for review by the Judiciary.

120.9-2. The record of conduct maintained for each official shall include, at a minimum:

- (a) a copy of each complaint filed against the official;
- (b) recording and/or transcript from any hearings and/or proceedings;
- (c) the outcome of the complaint, and
- (d) any sanctions or penalties imposed upon an official.

120.9-3. The record of conduct for each official shall be maintained for a period of no less than seven (7) years.

*End.*

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Adopted – GTC- \_\_ - \_\_ - \_\_ - \_\_