ONEIDA NATION PUBLIC MEETING NOTICE

WEDNESDAY, OCTOBER 15, 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

Send Public Comments to
LOC@oneidanation.org

Ask Questions here
LOC@oneidanation.org
920-869-4417

WORKPLACE VIOLENCE LAW AMENDMENTS

The purpose of the Workplace Violence law is to provide all Oneida Nation employees and visitors an environment that is free of violence and the threat of violence.

The Workplace Violence law amendments will:

- Clarify this law applies to all employees, during or outside of any employee's normal work hours and as long as the alleged incident of workplace violence occurs in a setting reasonable connected to the workplace.
- Clarify what constitutes "prohibited behaviors" and the exceptions to prohibited behaviors.
- Require that all complaints and investigations of alleged workplace violence be directed to and handled by the Equal Employment Opportunity Department ("EEO Department") within the Oneida Nation Human Resources Department ("HRD").
- Clarify the responsibilities of the EEO Department. The EEO Department will be responsible for assigning an EEO Officer who will investigate the complaint and be responsible for determining the final decision along with the Nation's Human Resources Executive Director and the employee's supervisor.
- Clarify that even though the EEO Officer will be primarily responsible for investigating the allegation, the EEO Officer is required to inform the employee's supervisor of any complaint and any pending investigation and notify the employee's supervisor they are able, at anytime, to participate in the investigation.
- Clarify that there will be a "final decision" which is the ultimate decision issued from the EEO Department, the Nation's Human Resources Executive Director, and the employee's supervisor regarding the allegation and investigation of the incident of workplace violence.
- Clarify that verbal complaints are acceptable but whichever department, EEO or HRD, receives a verbal complaint should direct that employee to submit a written complaint to the EEO Department.
- Clarify the reporting of restraining orders and injunctions – when reporting is mandatory and when it is discretionary.
- Clarify employment eligibility for employees who resign during a workplace violence investigation or are terminated as a result of a workplace violence investigation.

Individuals may attend the public meeting for the proposed Workplace Violence 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 CLOSES WEDNESDAY, OCTOBER 22, 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 Workplace Violence law amendments please review the public meeting packet at oneida-nsn.gov/government/register/public meetings.

WORKPLACE VIOLENCE LAW AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

Analysis by the Legislative Reference Office	
Intent of the Legislation or Amendments	▪ Clarify that this law applies to all employees, during or outside of any employee's normal work hours and as long as the alleged incident of workplace violence occurs in a setting reasonable connected to the workplace. ▪ Clarify what constitutes "prohibited behaviors." ▪ Clarify exceptions to "prohibited behaviors." ▪ Require that all complaints and investigations of alleged workplace violence be directed to and handled by the Equal Employment Opportunity Department ("EEO") within the Oneida Nation Human Resources Department ("HRD"). ▪ Clarify that there will be a "final decision" which is the ultimate decision issued from the EEO Department, the Nation's Human Resources Executive Director, and the employee's supervisor regarding the allegation and investigation of the incident of workplace violence. ▪ Clarify the responsibilities of the EEO Department. The EEO Department will be responsible for assigning an EEO Officer who will investigate the complaint and be responsible for determining the final decision along with the Nation's Human Resources Executive Director and the employee's supervisor. ▪ Clarify that the EEO Department and the Nation's Human Resources Department are responsible for communicating and sharing information with each other to ensure all complaints and investigations are properly and timely handled. ▪ Clarify that verbal complaints are acceptable but whichever department receives the verbal complaint should direct that employee to submit a written complaint to the EEO Department. ▪ Clarify the reporting of restraining orders and injunctions – when reporting is mandatory and when it is discretionary. ▪ Clarify employment eligibility for employees who resign during a workplace violence investigation or are terminated as a result of a workplace violence investigation. ▪ Various grammatical changes and other minor changes throughout the law.
Purpose	The purpose of this law is to provide all Oneida Nation employees and visitors an environment that is free of violence and the threat of violence. [*2 O.C. 223.1-1*].

Affected Entities	The Nation's Human Resources Department, the Nation's Equal Employment Opportunity Office, the Oneida Law Office, and all Oneida Nation employees and visitors.
Related Legislation	Investigative Leave law, Code of Ethics, Anonymous Letters Policy, Pardon and Forgiveness law, and Public Peace law
Enforcement	The Workplace Violence law directs the EEO department, specifically the designated EEO Officer, to investigate all allegations of workplace violence. [*2 O.C. 223.6-1*]. The EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor are responsible for determining the final decision, which is the ultimate conclusion of the investigation and the decision to take disciplinary actions, if any. [*2 O.C.223.9-8*]. The EEO Officer may place an employee alleged to be involved in an incident of workplace violence on investigative leave pursuant to the Nation's law and policies governing investigative leave. [*2 O.C. 223.9-7*]. Any employee who violates the Workplace Violence law may be subject to disciplinary action under the Nation's laws, policies, and rules governing employment, up to and including termination. [*2 O.C 223.13*].
Due Process	The Workplace Violence law directs the EEO Officer to promptly conduct a thorough investigation into allegations of workplace violence. [*2 O.C. 223.9-3*]. The law requires that when the EEO Department receives an allegation of workplace violence and assigns an EEO Officer to investigate, the assigned EEO Officer is required to notify the employee's immediate supervisor, so the immediate supervisor is aware that: ▪ the EEO Officer will be investigating the employee; ▪ the EEO Officer may place the employee on investigative leave; and ▪ they will be responsible, along with the EEO Officer and the Nation's Human Resources Executive Director for determining and implementing the final decision. [*2 O.C. 223.9-2*]. The law requires the EEO Officer to conclude the investigation when they obtain enough verifiable facts and information regarding the incident under investigation to make a safe and equitable final decision. [*2 O.C. 223.9-5*]. The EEO Officer may to share the investigative file with the employee's supervisor and the Nation's Human Resources Executive Director, three days before they meet to determine the final decision. [*2 O.C. 223.9-8(c)*]. The EEO Officer is required to meet with the Nation's Human Resources Executive Director and the employee's supervisor to mutually determine a final decision. [*2 O.C. 223.9-8*]. The employee may be eligible for rehiring consideration with the Nation if they receive a pardon from the Nation's Pardon and Forgiveness Committee. [*2 O.C. 223.10*]. Any employee who resigns while an investigation of workplace violence

	is pending or who is terminated as a result of the findings of a workplace violence investigation is eligible to re-apply for employment with the Nation, but only after a certain amount of time has passed and only if that employee receives a pardon from the Nation's Pardon and Forgiveness Committee. [*2 O.C. 223.10-1; 2 O.C. 223.10-2*]. If an employee resigned while an investigation of workplace violence was pending and the results of the investigation determine that no incident of workplace violence occurred, the employee shall be immediately eligible for re-hiring. [*2 O.C. 223.10-3*].
Public Meeting	A public meeting has not yet been held.
Fiscal Impact	A fiscal impact statement prepared in accordance with the Legislative Procedures Act has not been requested.

SECTION 2. LEGISLATIVE DEVELOPMENT

A. ***Background.*** The Workplace Violence law was originally adopted by the Oneida Business Committee on June 28, 2017, through resolution BC-06-28-17-E. The Workplace Violence law provides mechanisms for ensuring the safety of all employees and visitors to the Nation's workplaces by ensuring all allegations and subsequent investigations of alleged workplace violence are handled by the Equal Employment Opportunity Department of the Nation but that the Equal Employment Opportunity Department and the Nation's Human Resources Department are responsible for sharing information with each other to ensure all complaints and investigations are properly and timely handled. [*2 O.C. 223.6-5*].

B. ***Request for Amendments.*** This item was originally added to the Active Files List on February 6, 2019, at the request of the Nation's Human Resources Department to address investigative enforcement and employee ineligibility. This item was readded to the Active Files list on October 7, 2020. This item was added to the Active Files list for a third time on October 4, 2023. The sponsor of the Workplace Violence law amendments is Councilwoman Jennifer Webster.

SECTION 3. CONSULTATION AND OUTREACH

- Representatives from the following departments or entities participated in the development of the amendments to this Law and legislative analysis:
  - the Equal Employment Opportunity Department, ("EEO");
  - the Nation's Human Resources Department ("HRD"); and
  - Oneida Law Office;
- The following laws and policies of the Nation were reviewed in the drafting of this analysis:
  - Investigative Leave law [*2 O.C. 208*];
  - Whistleblower Protection law [*2 O.C. 211*];
  - Public Peace law [*3 O.C. 309*];
  - Anonymous Letter Policy [*3 O.C. 307*];
  - Pardon and Forgiveness law [*1 O.C. 126*]; and

- Oneida Personnel Policies and Procedures.

SECTION 4. PROCESS

A. The amendments to this Law comply with the process set forth in the Legislative Procedures Act.
- On October 4, 2023, the Legislative Operating Committee added this Law to its Active Files List for amendments this legislative term.
- On September 4, 2024, the Legislative Operating Committee accepted HRD's request to amend the Workplace Violence law as information since the law was already on the Active Files List for amendments to be made.
- On May 7, 2025, the Legislative Operating Committee approved the draft of the Workplace Violence law amendments and directed that a legislative analysis be developed.
- On May 21, 2025, the Legislative Operating Committee accepted an updated draft and legislative analysis and deferred the draft to another work meeting to address the conflicts between the proposed amendments and the Oneida Personnel Policies and Procedures.

B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of the amendments to this law:
- August 29, 2021: LOC work meeting with EEO and HRD.
- September 7, 2022: LOC work session.
- September 21, 2022: LOC work session.
- January 6, 2023: LOC work meeting with EEO and HRD.
- January 31, 2023: LOC work meeting with EEO and HRD.
- July 29, 2024: LOC meeting with EEO and HRD.
- October 18, 2024: LOC work meeting with EEO, HRD, and the law office.
- January 13, 2025: LOC work meeting with HRD and the law office.
- February 14, 2025: LOC work meeting with EEO, HRD, and the law office.
- February 19, 2025: LOC work session.
- March 5, 2025: LOC work session.
- May 2, 2025: LOC work meeting with EEO and HRD where the LOC informally approved the final draft.
- July 25, 2025: LOC work meeting with EEO and HRD to discuss and resolve the discrepancies between the proposed amendments and the Oneida Personnel Policies and Procedures.
- August 6, 2025: LOC work session to discuss the proposed changes to the draft to align the proposed amendments with the Oneida Personnel Policies and Procedures. LOC approved the changes.

SECTION 5. CONTENTS OF THE LEGISLATION

A. ***Application of the Law.*** The proposed amendments to the Law expand its application to cover all incidents of workplace violence that occur in any of the Nation's workplaces whether the employee commits workplace violence during or outside of the employee's normal work hours and as long as the incident of workplace violence is reasonably connected to the workplace. [*2 O.C. 223.4-1*].
- *Effect.* The proposed amendments clarify that this Law covers all employees of the Nation, even if an incident occurs outside of normal work hours. The proposed amendments further clarify that a prohibited behavior can be considered workplace violence as long as the incident

is reasonably connected to the workplace. This proposed amendment clarifies and expands the scope of this Law and extends the Nation's jurisdiction and the Nation's ability to protect its employees.

B. ***Defining the "final decision."*** The proposed amendments require the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor to mutually determine a final decision. [*2 O.C. 223.9-8*].

- *Effect.* The proposed amendments make clear that there will be one (1), final decision regarding the alleged incident of workplace violence. That one (1), final decision will be mutually decided by the EEO Officer, Nation's Human Resources Executive Director, and the employee's supervisor. This ensures greater accountability for the Nation and ensures the process for deciding disciplinary measures is standardized.

C. ***Expanding the definitions of "workplace" and "workplace violence."*** The proposed amendments clarify and expand the definitions of "workplace" and "workplace violence" to include any setting or circumstance, including traveling to or from a work-related event, and any setting or circumstance that is reasonably related to that employee's employment with the Nation. [*2 O.C. 223.3(n); 2 O.C. 223.3(o)*].

- *Effect.* The proposed amendments to the definitions expand and clarify the application of this law, which expands the Nation's ability to protect its employees.

D. ***Redefining prohibited behaviors.*** The proposed amendments clarify specific examples of behaviors that can constitute workplace violence. [*2 O.C. 223.5*]. Currently, prohibited behaviors do not include social media platforms and the proposed amendments also clarify what it can mean to "intentionally caus[e] physical injury" and redefining "horseplay" to mean "fighting or roughhousing that may be dangerous to others" and require "an established pattern of loud, disruptive, angry, or abusive language or behavior." [*2 O.C. 223.5-1*].

- *Effect.* These proposed amendments clarify the types of behaviors the Nation will not tolerate from its employees and will make it easier for the Nation to identify and enforce.

E. ***Redefining the exceptions to prohibited behaviors.*** The law prohibits possessing, carrying, or using a weapon. [*2 O.C. 223.5-1*]. However, the law has identified three exceptions to the prohibition of possessing, carrying, or using a weapon. [*2 O.C. 223.5-2*]. The proposed amendments clarify the exception applies to any employee of the Nation who is required to possess, carry, or use a weapon as part of their official duties. [*2 O.C. 223.5-2(a)*]. The proposed amendments make an exception for any employee actively engaged in cultural activities or ceremonies. [*2 O.C. 223.5-2(b)*]. The proposed amendments also make an exception for any employee actively hunting, fishing, or trapping. [*2 O.C. 223.5-2(c)*]. The proposed amendments allow these three exceptions as long as the employee is required to possess, use, or carry a weapon as part of their employment with the Nation, as part of cultural activities or ceremonies in which they are actively participating, or if the employee is actively hunting, fishing, or trapping according to the Nation's laws and rules on hunting, fishing, or trapping and the employee possess, uses, or carries the weapon within the normal scope of those activities. [*2 O.C. 223.5-2*].

- *Effect.* This proposed amendment allows the Nation to continue to prohibit an employee from possessing, carrying, or using a weapon but it allows the Nation to make an exception for specific jobs and job-related duties, cultural activities, and hunting, fishing, and trapping.

F. ***Redefining the reporting, investigation, and disciplinary procedures.*** The proposed amendments clarify the duties of the EEO Department in conducting the investigation into allegations of workplace

violence. *[2 O.C. 223.9]*. The proposed amendments clarify that when the EEO Department receives a complaint of workplace violence, the EEO Department will delegate the responsibility to investigate to one employee from within the EEO Department who will be known as the EEO Officer. *[2 O.C. 223.9-1]*. The proposed amendments clarify that all reports of workplace violence must be given to the EEO Department rather than the employee's supervisor. *[2 O.C. 223.6-4]*. The proposed amendments allow the EEO Officer, instead of the employee's supervisor, to place the employee on investigative leave pursuant to the Nation's Investigative Leave law, policies, and rules if the EEO Officer determines it will be necessary. *[2 O.C. 223.9-7]*. The proposed amendments clarify that the EEO Department and the Nation's Human Resources Department will communicate and share information with each other to ensure all complaints and investigations are properly and timely handled. *[2 O.C. 223.6-5]*. The proposed amendments clarify that the EEO Officer will conclude the investigation when they have obtained enough verifiable facts and information to make a safe and equitable decision. *[2 O.C. 223.9-5]*. The proposed amendments clarify the EEO Officer is responsible for meeting with the Nation's Human Resources Executive Director and the employee's supervisor to mutually determine a final decision. *[2 O.C. 223.9-8]*. The final decision shall be in writing, contain justification, and be signed by the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor. *[2 O.C. 223.9-8(a)]*. The EEO Department is responsible for keeping record of all supporting documentation included in the investigative file. *[2 O.C. 223.9-8(b)]*. The EEO Officer should share the investigative file with the Nation's Human Resources Executive Director and the employee's supervisor three business days before they meet to determine the final decision. *[2 O.C. 223.9-8(c)]*.

- *Effect*. The proposed amendments simplify the process for the Nation and its employees to report an incident of workplace violence and then to have that incident be investigated and managed by standardizing the requirement that all complaints and investigations are handled by the EEO Department, specifically the EEO Officer. The proposed amendments also make determining any disciplinary procedures, if any, more equitable by requiring the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor to meet and mutually determine disciplinary procedures, if any, and requiring the EEO Officer to share the investigative file with the Nation's Human Resources Executive Director and the employee's supervisor before they meet to determine the final decision.

G. ***Redefining employment eligibility.*** The proposed amendments clarify that if an employee resigns during a workplace violence investigation that employee is not eligible for rehiring consideration with the Nation. *[2 O.C. 223.10-1]*. That employee may be eligible for rehiring consideration, in a different position, three (3) years from the date of resigning, if that employee receives a pardon from the Nation's Pardon and Forgiveness Committee. *[2 O.C. 223.10-1]*. The proposed amendments clarify that if an employee is terminated as the result of a workplace violence investigation, that employee is not eligible for rehiring consideration with the Nation but may be eligible for rehiring consideration, in a different position, five (5) years after the date of termination if that employee receives a pardon from the Nation's Pardon and Forgiveness Committee *[2 O.C. 223.10-2]*. The proposed amendments clarify that if an employee resigns during a workplace violence investigation but upon concluding the investigation, the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor mutually determine that no incident of workplace violence occurred, that employee will be immediately eligible for rehiring consideration. *[2 O.C. 223.10-3]*.

- ***Effect.*** The proposed amendments allow the Nation to further ensure the safety of its employees by making certain employees ineligible for employment with the Nation and requiring any

employee subject to this law to receive a pardon from the Nation's Pardon and Forgiveness Committee before that employee may work for the Nation, even in a different position.

H. ***Other amendments***. Overall, a variety of other amendments and revisions were made to the law to address formatting, drafting style, and organization that did not affect the substance of the law.

SECTION 6. EXISTING LEGISLATION

A. ***Related legislation.*** The following laws and policy of the Nation are related to the proposed amendments to this law:

- *Investigative Leave Law*. The purpose of the Investigative Leave law is to set forth a process to address investigative leave for employees undergoing work-related investigations. *[2 O.C. 208.1-1]*. The law's underlying policy is to conduct objective, confidential investigations into alleged employee misconduct. *[2 O.C. 208.1-2]*.
    - According to the Investigative Leave law, the Nation may place an employee on investigative leave when a situation requires an investigation and one of the following occurs:
        - The nature and severity of the alleged violation or alleged illegal activity is significant and can include workplace violence, sexual harassment, theft, arson, bribery, or perjury, or obstruction or interference with an investigation authorized by the Nation. *[2 O.C. 208.4-1(a)]*.
        - The employee's presence in the workplace may result in the destruction of evidence relevant to the investigation, loss or damage to property of the Nation, or otherwise damage a legitimate interest of the Nation. *[2 O.C. 208.4-1(b)]*.
        - The employee's presence in the workplace may pose an unacceptable risk to the life, safety, health, or personal property of other employees, contractors, vendors or visitors. *[2 O.C. 208.4-1(c)]*.
        - The employee allegedly commits an act which would preclude the employee from meeting employment eligibility. *[2 O.C. 208.4-1(d)]*.
    - The law defines workplace to mean 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 vehicles owned or rented by the Nation and any circumstances where an employee is being reimbursed for expenses. *[2 O.C. 208.3]*.
    - The law does not define workplace violence but does identify workplace violence as one reason to place an employee on investigative leave. *[2 O.C. 208.4-1(a)]*.
    - The proposed amendments align with the Investigative Leave law by requiring the EEO Officer to defer to the procedures of investigative leave if the EEO Officer determines investigative leave is necessary. *[2 O.C. 223.9-7]*. The EEO Officer is responsible for investigating allegations of workplace violence pursuant to the procedures required in the Workplace Violence law; however, the EEO Officer may place an employee on investigative leave pursuant to the Nation's Investigative Leave law.

- *Code of Ethics.* The purpose of this law is to promote the highest ethical conduct in all of its elected and appointed officials and employees. *[1 O.C. 103.1].*
    - This law expects an employee to report any violation of the Code of Ethics, as well as any other dishonest or illegal acts of which they become aware in the workplace. *[1 O.C. 103.5-3(c)(1)].*
    - This law also protects any employees who, in good faith, makes reports of any dishonest or illegal act in the workplace. *[1 O.C. 103.5-3(c)(1)].*
    - This law also prohibits fighting on the job or premises and possession of unauthorized firearms. *[1 O.C. 103.5-3(c)(4)].*
    - The proposed amendments align with the Code of Ethics law which expects an employee to report any violation of the Code of Ethics, as well as any other dishonest or illegal acts of which they become aware in the workplace, which would include instances of workplace violence. *[1 O.C. 103.5-3(c)(1)]*.
- *Anonymous Letters Policy*. The purpose of this law is to set in place a system where anonymous information is forwarded to a location best able to verify its reliability and to act on the source or the accusation. *[3 O.C. 307.1-1].*
    - This law requires that any employee who receives anonymous information will forward a summary of that information in a confidential manner to the Chief of the Oneida Police Department. *[3 O.C. 307.4-1]*. This law also requires that all information forwarded will contain information identifying who received it, the day, date, and time received. *[3 O.C. 307.4-2]*. This law makes the Chief of the Oneida Police Department responsible to maintain the files on anonymous information and to take appropriate action consistent with police investigatory procedures. *[3 O.C. 307.4-3]*.
    - The proposed amendments align with the Anonymous Letters Policy by requiring that if an employee learns of an anonymous threat, the employee shall immediately forward that information to the Chief of the Oneida Police Department in accordance with the Nation's laws, policies, and rules governing anonymous letters; meaning if an employee learns of an anonymous threat they are required to report under the Anonymous Letters Policy and under the proposed amendments to the Workplace Violence law. *[2 O.C. 223.8-2]*.
- *Pardon and Forgiveness Law*. The purpose of the Law is to provide a fair, efficient and formal process by which a member of the Nation may receive a pardon for the conviction of a crime; a member of the Nation may receive forgiveness for acts that render him or her ineligible for housing or other benefits through the Nation; and a member or non-member of the Nation may receive forgiveness for acts that render him or her ineligible to be employed with the Nation; receive a Nation-issued occupational license, certification or permit; and/or obtain housing or other benefits through the Nation *[1 O.C. 126.1-1(a)].*
    - This law allows a tribal member to apply for a pardon one (1) year after an act is committed. *[1 O.C. 126-1(b)].*
    - This law allows a tribal member to apply for a pardon or a forgiveness for an act that rendered the Tribal member ineligible for Tribal employment, or an occupational license, certification, or permit issued by the Tribe. *[1 O.C. 126-1].*

- The proposed amendments align with the Pardon and Forgiveness law by requiring the any employee that resigns or is terminated during, or as the result of, a workplace violence investigation must receive a pardon from the Pardon and Forgiveness Committee before the employee is eligible for re-hiring consideration. *[1 O.C. 126-1]*.

- *Public Peace Law.* The purpose of this law is to set forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation. *[3 O.C. 309.1-1]*. It is further the policy of the Nation to promote peace and order within the boundaries of the Reservation while also providing an orderly process for addressing civil infractions. *[3 O.C. 309.1-2]*.
  - This law makes certain actions civil infractions subject to a citation, which can include fines or other penalties, by the Oneida Police Department. *[3 O.C 309.11]*.
  - This law provides protections within the Reservation boundaries. *[3 O.C. 309.1]*. It would not apply to all instances of workplace violence, unless the workplace violence occurred within the Reservation boundaries.
  - This law applies when "[a] person commits" a civil infraction identified in the law; it does not define or require that a "person" be a tribal member. *[3 O.C. 309]*.
  - This law gives the Oneida Trial Court and the Oneida Police Department the jurisdiction and authority to hear, investigate, and issues citations for any action under this law. *[3 O.C. 309.4]*.
  - The proposed amendments align with the Public Peace law by setting standards and protections for all persons within the Reservation boundaries. [*3 O.C. 309.1-1*]. The Public Peace law makes certain actions civil infractions subject to a citation, which can include fines or other penalties, by the Oneida Police Department similar to how the proposed amendments make certain actions and behaviors punishable as workplace violence. [*3 O.C 309.11*]. This law's enforcement mechanisms do not conflict with the Workplace Violence law and both laws set similar standards and protections for persons located within the Reservation and all employees and visitors of the Nation.
- *Oneida Personnel Policies and Procedures.* The purpose of this policy is to provide for the Nation's employee related policies and procedures including recruitment, selection, compensation and benefits, employee relations, safety and health, program and enterprise rules and regulations, and record keeping.
  - This policy has procedures for handling an employee who has a disagreement or complaint with another employee.
  - For employee disagreements with another employee, the employee's supervisor will investigate and resolve.
  - Any disciplinary actions will be initiated by an immediate supervisor.
  - The actions of threatening, attempting, or doing bodily harm to another person is subject to termination.
  - The actions of intimidating, interfering with or using abusive language towards customers, clients, co-workers, or others is subject to suspension or termination.

- A variety of other behaviors are subject to disciplinary procedures ranging from a written warning, suspension, or termination, including any violation of an adopted Oneida Nation ordinance.
- The proposed amendments do not conflict with the Oneida Personnel Policies and Procedures. Even though the proposed amendments require all complaints and investigations be made to and handled by the EEO Officer, the proposed amendments make clear the supervisor may still be involved in any portion of the investigation and will be responsible, along with the EEO Officer and the Nation's Human Resources Executive Director, for implementing the final decision. [*2 O.C. 223.9-2(b); 223.9-2(d)*].

SECTION 7. ENFORCEMENT AND ACCOUNTABILITY

A. The Workplace Violence law gives authority to the EEO Department, specifically the EEO Officer, to investigate all complaints of alleged workplace violence. *[2 O.C. 223.9-1]*.

B. The Workplace Violence law requires that when the EEO Department receives a complaint of workplace violence, the EEO Department will delegate the investigative responsibilities to the EEO Officer who shall promptly inform the immediate supervisor of the employee being complained about so the immediate supervisor is aware:

- the EEO Officer will be investigating the employee;
- knows the EEO Officer may place the employee on investigative leave; and
- knows they will be responsible, along with the EEO Officer and the Nation's Human Resources Director for deciding and implementing the final decision. [2 O.C. 223.9-1; *2 O.C. 223.9-2]*.

C. The Workplace Violence law requires that the EEO Officer, the Nation's Human Resources Executive Director and the employee's supervisor mutually determine an appropriate final decision. *[2 O.C. 223.9-8]*.

D. The Workplace Violence law requires that the final decision be in writing, contain justification, and be signed by the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor. *[2 O.C. 223.9-8(a)]*.

E. The Workplace Violence law requires that the final decision and all supporting documentation included in the investigative file be filed with the EEO Department for reporting purposes. *[2 O.C. 223.9-8(b)]*.

F. The Workplace Violence law requires that three (3) business days prior to meeting to mutually determine the final decision, the EEO Officer should share the investigative file with the Nation's Human Resources Executive Director and the employee's supervisor. *[2 O.C 223.9-8(c)]*.

G. If the EEO Department is made aware that an employee made a report of workplace violence other than in good faith, that employee may be disciplined according to the Nation's laws, policies, and rules governing employment, up to and including termination. *[2 O.C. 223.11]*.

H. To the greatest extent possible, the Nation shall maintain the confidentiality of employees and the investigation. *[2 O.C. 223.12-1]*.

I. Any employee who violates the Workplace Violence law may be subject to disciplinary action under the Nation's laws, policies, and rules governing employment, up to and including termination. *[2 O.C. 223.13-1]*.

I. Any employee who violates the Workplace Violence law may be subject to removal from a workplace of the Nation. *[2 O.C. 223.13-2]*.

SECTION 8. OTHER CONSIDERATIONS

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*. The Legislative Operating Committee has not yet directed that a fiscal impact be completed.

Title 2. Employment – Chapter 223
WORKPLACE VIOLENCE

~~ONEIDA~~

223.1. Purpose and Policy

223.1-1. ~~-~~*Purpose*.~~-~~ The purpose of this law is to provide all Oneida Nation employees and visitors an environment that is free of violence and the threat of violence.

223.1-2. ~~–~~*Policy*.~~–~~ It is the policy of the Nation to provide a safe and secure environment for employees to work and ~~for conducting~~conduct business by establishing the procedures by which incidents of workplace violence shall be addressed. ~~-~~

223.2. Adoption, Amendment, Repeal

223.2-1.~~-~~ This law was adopted by the Oneida Business Committee by resolution BC-06-28-17-E.

223.2-2. ~~–~~This law may be amended or repealed by the Oneida Business Committee ~~and/~~or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

223.2-3. ~~-~~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.

223.2-4. ~~-~~In the event of a conflict between a provision of this law and a provision of another law, rule, or policy the provisions of this law shall control.

223.2-5. ~~-~~This law is adopted under authority of the Constitution of the Oneida Nation.

223.3. Definitions

223.3-1. ~~-~~This section shall govern the definitions of words and phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) ~~"Area Manager" means the person two (2) levels of supervision in the chain of command above an employee, or an individual designated to be the Area Manager by the Division Director.~~

"EEO ~~Department~~" means the Equal Employment Opportunity Department within the Nation's Human ~~Resource~~Resources Department.

(b) "EEO Officer" means the employee from within the EEO Department~~.~~, or the employee the EEO Department assigns as designee, responsible for completing the requirements of section 223.9 of this law.

(c) "Employee" means ~~anyone~~any person employed by the ~~ONEIDA~~ Nation in one of the following ~~employed~~ capacities: full-time, part-time, emergency temporary, limited term, or on a contractual basis.~~–~~

(d) "Final decision" means the ultimate decision issued from the EEO Department, the Nation's Human Resources Executive Director, and the employee's supervisor regarding the allegation and investigation of the incident of workplace violence.

(e) "Harassing" means a pattern of conduct composed of a series of acts over a period of time evidencing a continuity of purpose; the purpose being intimidation, or creating a threat, and which serves no legitimate purpose.

~~(d)~~ (f) "Intimidation" means making others feel afraid or fearful through threatening behavior.

~~(e)~~ ~~-~~(g) "Nation" means the Oneida Nation.

(h) "Official duties" mean the duties of any employee of the Nation when that employee is actively performing their job requirements.

(i) "Roughhousing" means wildly playful, rough, noisy, or mischievous behavior.

~~(f)~~ (j) "Stalking" means unwanted or obsessive attention by an individual or group toward ~~another person. Stalking includes a course of conduct directed at a~~ a specific person ~~that~~or more than one person. Stalking involves repeated visual or physical proximity, nonconsensual communication, or verbal, written, or implied threats, or a combination thereof, that would cause a reasonable person ~~fear~~to feel unsafe.

~~(g)~~ (k) "Supervisor" means the person or entity responsible for ~~directly~~ overseeing the employee.

~~(h)~~ (l) "Threat" means the implication or expression of intent to inflict serious physical or emotional harm or actions that a reasonable person would interpret as a threat to ~~physical~~their safety ~~or~~, the safety of a member of their family, or their property.

~~(i)~~ (m) "Weapon" means a firearm, knife, electric weapon, club, or any other object intended to cause harm to oneself or others. ~~-~~

~~(j)~~ (n) "Workplace" means any location owned and operated by the Nation, ~~and~~ any location or event where an employee represents the Nation, including over-the-road travel in the Nation's owned or rented vehicles ~~and~~, circumstances where the employee is being reimbursed for expenses~~.~~ for attending, participating, or the time and manner the employee spends traveling to and from the event.

~~(k)~~ (o) "Workplace ~~V~~violence" means any intentional act committed by an employee in a workplace ~~that:~~or in a setting or circumstance otherwise reasonably related to employment with the Nation that:

(1) inflicts, attempts to inflict, or threatens to inflict emotional or ~~bodily~~physical harm on another person; or

(2) inflicts, attempts to inflict, or threatens to inflict~~,~~ damage to property~~.~~ of the Nation or property of another.

223.4. ~~Applicability~~Application

223.4-1. ~~–~~This law applies to all employees in any of the Nation's workplaces~~,~~ and covers workplace violence whether ~~or not~~ the employee ~~is operating within the course of his or her~~

~~employment at the time~~commits workplace violence during or outside the employee's normal work hours as long as the incident of workplace violence ~~occurs.~~is reasonably connected to the workplace.

223.5. Prohibited Behavior

223.5-1. ~~*Prohibited Behaviors*.~~ Examples of workplace violence include, but are not limited to, the following prohibited behaviors:

(a) intentionally causing physical injury to another person; which can include;

~~(b)~~ (1) hitting or shoving~~,~~; or

(2) throwing an object at an individual;

~~(c)~~(b) fighting or ~~"horseplay"~~roughhousing that may be dangerous to others;

~~(d)~~(c) direct threats or ~~physical~~ intimidation;

~~(e)~~(d) implications or suggestions of violence;

~~(f)~~(e) stalking;

~~(g)~~(f) ~~possession~~possessing, carrying, or ~~use of weapons~~using a weapon of any kind, whether in the open or concealed, on property of the Nation, including parking lots, in fleet vehicles, on other exterior premises, or while engaged in activities for the Nation;

~~(h)~~(g) physical restraint~~,~~ or confinement;~~.~~

~~(i)~~(h) an established pattern of loud, disruptive, angry, or abusive language or behavior;

~~(j)~~(i) sending ~~of~~a threatening, harassing, or abusive message by e-~~mails, letters, faxes~~mail, letter, fax, phone ~~calls~~call, text ~~messages~~message or any other form of electronic media~~;~~, including all social media platforms;

~~(k)~~(j) using the workplace to violate ~~protective~~restraining orders;

~~(l)~~(k) intentionally damaging property of the Nation or property of another; and

~~(m) throwing an object at an individual; and~~

~~(n)~~(l) any other act that a reasonable person would perceive as constituting a threat of violence~~.~~ or actual violence.

223.5-2. *Exceptions to Prohibited Behavior*. ~~The following~~An employee shall ~~be exempt from this law:~~

~~(a) Law enforcement officials and security staff are~~ not be considered to ~~be in violation of this law when acting in their official capacity;~~have committed the prohibited behavior of possessing, carrying, or using a weapon under section 223.5-1(f) if the employee is actively:

(a) performing official duties which require a weapon to be possessed, carried, or used and the weapon is possessed, carried, or used within the normal scope of those official duties;

(b) ~~Employees required to use knives or other tools owned by~~ participating in cultural activities or ceremonies on property of the Nation ~~that could potentially be used as weapons are not considered~~which require a weapon to be ~~in violation of this law as long as the tools are~~possessed, carried, or used and the weapon is possessed, carried, or used within the normal scope of ~~employment and not used~~ the cultural activities or ceremonies;

(c) hunting, fishing, or trapping on property of the Nation in ~~a way to intimidate, threaten or otherwise harm another person within the workplace;~~ accordance with the Nation's laws and rules governing hunting, fishing, and trapping and the weapon is possessed, carried, or used within the normal scope of hunting, fishing, or trapping; or

(~~c)~~ d) Any other action that is consistent with laws of the Nation.

223.6. Reporting Workplace Violence

223.6-1. EEO is responsible for investigating complaints, issuing the final decision, and all other duties and responsibilities detailed in section 223.9.

223.6-2. *Reporting by a ~~Non-Employee.~~ non-employee.* Any non-employee is encouraged to report threats ~~of~~ or observed workplace violence that occurs in the Nation's facilities and workplaces. ~~-~~A report of workplace violence given to an employee from a non-employee shall be promptly reported ~~in writing~~by the employee to ~~the employee's supervisor. The supervisor shall perform the initial assessment of the information pursuant to section~~ EEO **~~223.8.~~**

223.6-~~2.~~ 3. *Permissive Reporting by an Employee.* ~~An~~Any employee may report workplace violence to ~~his or her supervisor~~EEO where the employee:

(a) is the victim of workplace violence; or

(b) ~~believes he or she~~ has been threatened with workplace violence.

223.6-~~3.~~ 4. *Mandatory Reporting by an Employee.* ~~An~~Any employee shall promptly report workplace violence to EEO where the employee witnesses ~~an act or~~a threat or an incident of workplace violence ~~towards anyone else.~~or is informed by a non-employee of a threat or an incident of workplace violence.

(a) *Emergency Situation.* ~~-~~ If an emergency exists or the situation is one of immediate danger to the life and safety of a person, the employee shall, if possible, without causing themselves to be in danger, contact the Oneida Police Department or local law enforcement, and facility security, if ~~determined~~ appropriate, and take whatever emergency steps are available and appropriate to protect ~~himself or herself~~themselves from immediate harm. The employee shall report the incident ~~in writing~~ to ~~the appropriate supervisor~~EEO as soon as possible.

(b) *Non-Emergency Situation.* ~~-~~If a non-emergency ~~situation~~ exists or the situation is not one of immediate danger to the life and safety of a person, the employee shall report the incident ~~in writing to the appropriate supervisor~~ to EEO as soon as possible ~~if the situation is not one of immediate danger to life and safety~~.

223.6-5. ~~223.6-4. *Reporting the Behavior of a Supervisor*. If the~~ EEO and the Nation's Human Resources Department are responsible for communicating and sharing information with each other to ensure that all complaints and investigations are properly and timely handled.

223.6-6. Any employee can be in compliance with this law if the employee contacts or communicates, either verbally or in writing, with either EEO or the Nation's Human Resources Department to report an alleged incident of ~~alleged~~ workplace violence ~~involves the supervisor, the~~.

(a) If an employee ~~shall report the~~verbally reports an incident ~~to the supervisor's supervisor, or if none exists, to the area manager.~~of workplace violence to either EEO or the Nation's Human Resources Department, whichever department receives the report should instruct that employee to submit a written report to EEO.

~~223.6-5.~~

223.7. Reporting Restraining Orders~~. An~~ and Injunctions.

223.7-1. *Voluntary reporting.* Any employee who ~~possesses~~obtains a ~~current~~ restraining order or injunction against another employee may provide EEO a copy of the signed order.

223.7-2. *Mandatory reporting.* Any employee who is issued a restraining order or injunction regarding another employee, shall immediately ~~supply~~, upon receipt of the signed order against them, give a copy of the signed order to ~~his or her supervisor.~~ EEO.

~~(a) The supervisor shall provide~~ (a) Any employee who does not immediately, upon receipt of a restraining order or injunction against them, provide a copy of the restraining order or injunction to EEO may be subject to disciplinary action under the Nation's laws, policies, and rules governing employment, up to and including termination.

223.7-3. EEO shall immediately provide copies of the restraining order or injunction to the ~~area manager~~employee's supervisor and the ~~EEO Department~~Nation's Human Resources Executive Director ~~or designee.~~

223.8.

~~223.7.~~ Future Workplace Violence

223.~~7~~8-1. ~~-~~ Where an employee has reason to believe that ~~he, she or others,~~another employee may be victimized sometime in the future, either at the workplace or as a direct result of their employment with the Nation, ~~he or she~~the employee is encouraged to provide this information ~~in writing to his or her supervisor~~to EEO as soon as possible for an initial assessment pursuant to section 223.~~8-1~~9. EEO shall inform the Oneida Police Department, local law enforcement, or facility security if appropriate.

~~(a) If an employee reports a possibility of future workplace violence to his or her supervisor the supervisor shall inform the EEO Department Director or designee.~~

~~(b) The EEO Department Director or designee shall inform the Oneida Police Department or local law enforcement and/or facility security if determined appropriate.~~

223.~~7~~8-2. ~~*Anonymous threats or letters.* In the event that~~ . If an employee learns of an ~~employee receives~~ anonymous ~~threats or letters~~threat, the employee shall immediately forward ~~a summary of such~~the information in a confidential manner to the Chief of the Oneida Police Department in accordance with the Nation's laws, policies, and rules governing anonymous letters. The employee shall ~~then~~also immediately notify ~~his or her supervisor. The supervisor shall notify the target of the threat, take measures to ensure safety, and ensure that the Oneida Police Department as notified, and notify local law enforcement and/or facility security if determined appropriate.~~EEO

~~223.8. Supervisor~~223.9. EEO ("Equal Employment Opportunity Department") Responsibilities

223.~~8~~9-1. ~~Upon receiving a report~~EEO is responsible for investigating complaints of workplace violence and will delegate such responsibilities to one employee from within EEO, who shall be known as the EEO Officer.

223.9-2. ~~or otherwise becoming aware of a threat~~When EEO receives a complaint of workplace violence ~~or a workplace violence episode, a~~ , whether verbal or in writing, the EEO Officer shall promptly notify in writing the supervisor ~~shall immediately conduct an assessment~~ of the ~~situation and determine if an emergency exists or if~~employee being complained about so the ~~situation is one of immediate danger.~~ supervisor:

~~223.8-2. *Emergency Situation.* If an emergency situation exists and if possible without causing themselves to be in danger, a supervisor shall immediately contact the Oneida Police Department or local law enforcement, and facility security if appropriate, and take whatever emergency steps are available and appropriate to protect himself or herself, employees and others from immediate harm.~~

~~223.8-3. *Non-Emergency Situation*. If the situation is not creating immediate danger to life and safety, the supervisor shall speak to the person reporting the incident and assess the situation.~~

~~(a) If the supervisor deems the episode is not a workplace violence problem then the investigation as a workplace violence matter ends.~~

(a) is aware that the EEO Officer will be investigating the employee;

(b) knows they may assist the EEO Officer in any portion of the investigation; ~~Where the supervisor deems the episode as a workplace violence matter, he or she shall prepare a written Workplace Violence Incident Report detailing the complaint. The supervisor shall then forward this report to the EEO Department Director or designee.~~

~~223.8-4.~~ (c) knows the EEO Officer~~*Investigative Leave.* A supervisor~~ may place ~~an employee alleged to be involved in a workplace violence incident~~the employee on investigative leave~~,~~ if ~~the supervisor deems the~~they determine investigative leave to be necessary~~ and appropriate, in accordance with the Nation's laws, policies and rules governing investigative leave except for the EEO Department Director or designee, not the employee's supervisor, shall conduct the investigation of the alleged workplace violence incident.~~; and

~~223.8-5. A supervisor shall consider the recommendation for disciplinary action provided by the EEO Department Director or designee pursuant to section 223.9-4(b) when carrying out a disciplinary action of an employee. The supervisor shall carry out any disciplinary action of an employee within five (5) days of receiving the recommendation. If the supervisor does not follow the disciplinary action recommendation provided by the EEO Department Director or designee, the supervisor shall provide justification for the deviation from the recommendation to the EEO Department Director and the supervisor's Area Manager.~~

~~**223.9. Equal Employment Opportunity Department Responsibilities**~~

~~223.9-1. The EEO Department Director, or an individual assigned as designee by the EEO Department Director, shall be responsible for investigating alleged workplace violence.~~

(d) knows they will be responsible, along with the EEO Officer and the Nation's Human Resources Executive Director, for implementing the final decision.

223.9-3. The EEO Officer shall promptly conduct a thorough~~.~~

~~223.9-2. Upon receipt of a completed Workplace Violence Incident Report, or other acceptable written notice of an allegation of workplace violence, the EEO Department Director or designee shall coordinate with all involved agencies or departments and immediately conduct an~~ investigation which may include the following duties:

(a) ~~Personally~~coordinate with all involved agencies or departments; (b) meet with the employee filing the complaint;

(b) visit the scene of ~~an~~the incident as soon as possible;

~~(b) Interview~~(c) interview employees and other witnesses;

~~(c) Examine the workplace for security risk factors associated with the incident, including examination of any reports of inappropriate behavior by the perpetrator;~~

(d) ~~Determine the cause of the incident;~~

~~(e) Determine what mitigating action could prevent the incident from recurring;~~

~~(f) Record the findings and recommended mitigating actions; and~~

~~(g) Contact~~contact the Oneida Police Department ~~and/~~or any other appropriate law enforcement agency when necessary;

~~(h) Review~~(e) send weekly updates to the employee's supervisor;

(f) review relevant video surveillance footage if available, in accordance with standard operating procedures on the subject; and

(~~i) Any~~g) conduct any other investigative methods necessary for a thorough investigation.

223.9-~~3.~~ 4. In performing these investigative duties, the EEO ~~Department Director or designee~~Officer shall not interfere in the investigation of any law enforcement agencies. ~~-~~If, at any time, criminal charges are brought against an employee as a result of an incident of workplace violence, ~~then~~ the employee shall be placed on investigative leave in accordance with the Nation's laws, policies, and rules governing investigative leave~~, except for the EEO Department Director or designee, not the employee's supervisor, shall conduct the investigation of the alleged workplace violence incident~~.

~~223.9-4. Upon completion of~~ 223.9-5. The EEO Officer shall conclude the investigation when the EEO Officer obtains enough verifiable facts and information regarding the incident under investigation in order to make a safe and equitable final decision.

223.9-6. *Mitigation.* During the investigation, the EEO Officer and the Nation's Human Resources Executive Director are encouraged to examine the workplace for security risk factors and record any mitigating actions that could be implemented to prevent a similar occurrence of workplace violence.

223.9-7. *Investigative Leave.* The EEO Officer may place an employee alleged to be involved in an incident of workplace violence on investigative leave in accordance with the Nation's laws, policies, and rules governing investigative leave.

223.9-8. *Final decision.* The EEO Officer shall meet with the Nation's Human Resources Executive Director and the employee's supervisor to mutually determine an appropriate final decision.

(a) *Format*. The final decision shall be in writing, contain justification, and be signed by the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor.

(b) *Application*. If appropriate, the employee's supervisor will be responsible for initiating the final decision.

(c) *Record keeping*. The final decision and all supporting documentation, included in the Investigative file, shall be filed with EEO for reporting purposes.

(d) *Investigative file.* Three business days before the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor meet to determine the final decision, the EEO Officer should share the investigative file with the employee's supervisor.

223.10. ~~the investigation, the EEO Department Director or designee shall:~~

~~(a) implement any preventive factors within the Nation's Human Resources Department's authority;~~

~~(b) provide a written report of the investigation and recommendation for disciplinary action, if any, to the supervisor of the employee;~~

~~(c) notify the Oneida Police Department or local law enforcement when a potential criminal act has occurred; and~~

~~(d) refer employees to post-event trauma counseling for those employees desiring such assistance.~~

Employment Eligibility

223.10-1. ~~223.9-5.~~ *Employee Resignation*. An employee who resigns from their position when there is an ongoing workplace violence investigation or in lieu of ~~a~~ termination shall not be eligible for hiring consideration in any position with the Nation. The employee may be eligible for employment in a different position ~~within~~with the Nation ~~for~~ three (3) years from the date of ~~the~~ resignation. ~~The EEO Department Director or designee~~ if the employee receives a pardon from the Nation's Pardon and Forgiveness Committee. The EEO Officer shall remain responsible for completing the investigation in the event an employee resigns during an investigation.

~~223.9-6. In appropriate circumstances, the EEO Department Director or designee shall inform the reporting individual of the results of the investigation which would not compromise the legally-protected confidentiality of any other person.~~ 223.10-2. *Employee Termination*. If, as a result of the completed workplace violence investigation, the employee is terminated, the employee shall not be eligible for hiring consideration in any position with the Nation. The employee may be eligible for employment in a different position with the Nation five (5) years from the date of termination if the employee receives a pardon from the Nation's Pardon and Forgiveness Committee.

223.10-3. *Immediate eligibility.* If, as the result of a completed investigation, the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor mutually determine in the final decision that no incident of workplace violence occurred, a copy of the final decision shall be included in the employee's file and, if the employee resigned as a direct result of the workplace violence investigation, the employee shall be immediately eligible for re-hiring consideration with the Nation.

~~**223.10.**~~

223.11. Fraudulent Report

223.~~10~~11-1. If at any time ~~the~~ EEO ~~Department Director or designee, or supervisor~~ is made aware that an employee ~~or supervisor has~~ made a report of workplace violence other than in good faith, the employee ~~or supervisor~~ may be disciplined according to the Nation's laws, policies, and rules governing employment, up to and including termination.

223.12.

~~**223.11.**~~ **Confidentiality**

223.~~11~~12-1. ~~–~~To the greatest extent possible, the Nation shall maintain the confidentiality of employees and the investigation. However, the Nation may need to disclose results in appropriate circumstances; for example, in order to protect individual safety.

223.~~11~~12-2. Information related to the application of this law is strictly confidential. Information shall not be disclosed to third parties unless:

(a) the prior written consent of the alleged victim is obtained;

(b) the release of information ~~is in compliance~~complies with a court order; ~~and/~~or

(c) the release of information is pursuant to applicable laws ~~and/~~or policies.

223.~~12~~13. Enforcement

223.~~12~~13-1. ~~An~~Any employee ~~or supervisor~~ who violates this law may be subject to disciplinary action under the Nation's laws, policies, and rules governing employment, up to and including termination.

~~223.12-2. An employee who violates this law may be subject to removal from a workplace of the Nation.~~

End

Adopted – BC-06-28-17-E

Title 2. Employment – Chapter 223
WORKPLACE VIOLENCE

223.1. Purpose and Policy

223.1-1. *Purpose.* The purpose of this law is to provide all Oneida Nation employees and visitors an environment that is free of violence and the threat of violence.

223.1-2. *Policy.* It is the policy of the Nation to provide a safe and secure environment for employees to work and conduct business by establishing the procedures by which incidents of workplace violence shall be addressed.

223.2. Adoption, Amendment, Repeal

223.2-1. This law was adopted by the Oneida Business Committee by resolution BC-06-28-17-E.

223.2-2. 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.

223.2-3. 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.

223.2-4. In the event of a conflict between a provision of this law and a provision of another law, rule, or policy the provisions of this law shall control.

223.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

223.3. Definitions

223.3-1. This section shall govern the definitions of words and phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "EEO" means the Equal Employment Opportunity Department within the Nation's Human Resources Department.

(b) "EEO Officer" means the employee from within the EEO Department, or the employee the EEO Department assigns as designee, responsible for completing the requirements of section 223.9 of this law.

(c) "Employee" means any person employed by the Nation in one of the following capacities: full-time, part-time, emergency temporary, limited term, or on a contractual basis.

(d) "Final decision" means the ultimate decision issued from the EEO Department, the Nation's Human Resources Executive Director, and the employee's supervisor regarding the allegation and investigation of the incident of workplace violence.

(e) "Harassing" means a pattern of conduct composed of a series of acts over a period of time evidencing a continuity of purpose; the purpose being intimidation, or creating a threat, and which serves no legitimate purpose.

(f) "Intimidation" means making others feel afraid or fearful through threatening behavior.
(g) "Nation" means the Oneida Nation.
(h) "Official duties" mean the duties of any employee of the Nation when that employee is actively performing their job requirements.
(i) "Roughhousing" means wildly playful, rough, noisy, or mischievous behavior.
(j) "Stalking" means unwanted or obsessive attention by an individual or group toward a specific person or more than one person. Stalking involves repeated visual or physical proximity, nonconsensual communication, or verbal, written, or implied threats, or a combination thereof, that would cause a reasonable person to feel unsafe.
(k) "Supervisor" means the person or entity responsible for overseeing the employee.
(l) "Threat" means the implication or expression of intent to inflict serious physical or emotional harm or actions that a reasonable person would interpret as a threat to their safety, the safety of a member of their family, or their property.
(m) "Weapon" means a firearm, knife, electric weapon, club, or any other object intended to cause harm to oneself or others.
(n) "Workplace" means any location owned and operated by the Nation, any location or event where an employee represents the Nation, including over-the-road travel in the Nation's owned or rented vehicles, circumstances where the employee is being reimbursed for expenses for attending, participating, or the time and manner the employee spends traveling to and from the event.
(o) "Workplace violence" means any intentional act committed by an employee in a workplace or in a setting or circumstance otherwise reasonably related to employment with the Nation that:
(1) inflicts, attempts to inflict, or threatens to inflict emotional or physical harm on another person; or
(2) inflicts, attempts to inflict, or threatens to inflict damage to property of the Nation or property of another.

223.4. Application

223.4-1. This law applies to all employees in any of the Nation's workplaces and covers workplace violence whether the employee commits workplace violence during or outside the employee's normal work hours as long as the incident of workplace violence is reasonably connected to the workplace.

223.5. Prohibited Behavior

223.5-1. *Prohibited Behaviors*. Examples of workplace violence include, but are not limited to, the following prohibited behaviors:
(a) intentionally causing physical injury to another person; which can include;
(1) hitting or shoving, or
(2) throwing an object at an individual;
(b) fighting or roughhousing that may be dangerous to others;
(c) direct threats or intimidation;
(d) implications or suggestions of violence;
(e) stalking;

(f) possessing, carrying, or using a weapon of any kind, whether in the open or concealed, on property of the Nation, including parking lots, in fleet vehicles, on other exterior premises, or while engaged in activities for the Nation;
(g) physical restraint or confinement;
(h) an established pattern of loud, disruptive, angry, or abusive language or behavior;
(i) sending a threatening, harassing, or abusive message by e-mail, letter, fax, phone call, text message or any other form of electronic media, including all social media platforms;
(j) using the workplace to violate restraining orders;
(k) intentionally damaging property of the Nation or property of another; and
(l) any other act that a reasonable person would perceive as constituting a threat of violence or actual violence.

223.5-2. *Exceptions to Prohibited Behavior*. An employee shall not be considered to have committed the prohibited behavior of possessing, carrying, or using a weapon under section 223.5-1(f) if the employee is actively:
(a) performing official duties which require a weapon to be possessed, carried, or used and the weapon is possessed, carried, or used within the normal scope of those official duties;
(b) participating in cultural activities or ceremonies on property of the Nation which require a weapon to be possessed, carried, or used and the weapon is possessed, carried, or used within the normal scope of the cultural activities or ceremonies;
(c) hunting, fishing, or trapping on property of the Nation in accordance with the Nation's laws and rules governing hunting, fishing, and trapping and the weapon is possessed, carried, or used within the normal scope of hunting, fishing, or trapping; or
(d) any other action that is consistent with laws of the Nation.

223.6. Reporting Workplace Violence

223.6-1. EEO is responsible for investigating complaints, issuing the final decision, and all other duties and responsibilities detailed in section 223.9.

223.6-2. *Reporting by a non-employee.* Any non-employee is encouraged to report threats or observed workplace violence that occurs in the Nation's facilities and workplaces. A report of workplace violence given to an employee from a non-employee shall be promptly reported by the employee to EEO.

223.6-3. *Permissive Reporting by an Employee.* Any employee may report workplace violence to EEO where the employee:
(a) is the victim of workplace violence; or
(b) has been threatened with workplace violence.

223.6-4. *Mandatory Reporting by an Employee.* Any employee shall promptly report workplace violence to EEO where the employee witnesses a threat or an incident of workplace violence or is informed by a non-employee of a threat or an incident of workplace violence.
(a) *Emergency Situation.* If an emergency exists or the situation is one of immediate danger to the life and safety of a person, the employee shall, if possible, without causing themselves to be in danger, contact the Oneida Police Department or local law enforcement, and facility security, if appropriate, and take whatever emergency steps are available and appropriate to protect themselves from immediate harm. The employee shall report the incident to EEO as soon as possible.

(b) *Non-Emergency Situation.* If a non-emergency exists or the situation is not one of immediate danger to the life and safety of a person, the employee shall report the incident to EEO as soon as possible.

223.6-5. EEO and the Nation's Human Resources Department are responsible for communicating and sharing information with each other to ensure that all complaints and investigations are properly and timely handled.

223.6-6. Any employee can be in compliance with this law if the employee contacts or communicates, either verbally or in writing, with either EEO or the Nation's Human Resources Department to report an alleged incident of workplace violence.

(a) If an employee verbally reports an incident of workplace violence to either EEO or the Nation's Human Resources Department, whichever department receives the report should instruct that employee to submit a written report to EEO.

223.7. Reporting Restraining Orders and Injunctions.

223.7-1. *Voluntary reporting.* Any employee who obtains a restraining order or injunction against another employee may provide EEO a copy of the signed order.

223.7-2. *Mandatory reporting.* Any employee who is issued a restraining order or injunction regarding another employee, shall immediately, upon receipt of the signed order against them, give a copy of the signed order to EEO.

(a) Any employee who does not immediately, upon receipt of a restraining order or injunction against them, provide a copy of the restraining order or injunction to EEO may be subject to disciplinary action under the Nation's laws, policies, and rules governing employment, up to and including termination.

223.7-3. EEO shall immediately provide copies of the restraining order or injunction to the employee's supervisor and the Nation's Human Resources Executive Director.

223.8. Future Workplace Violence

223.8-1. Where an employee has reason to believe that another employee may be victimized sometime in the future, either at the workplace or as a direct result of their employment with the Nation, the employee is encouraged to provide this information to EEO as soon as possible for an initial assessment pursuant to section 223.9. EEO shall inform the Oneida Police Department, local law enforcement, or facility security if appropriate.

223.8-2. *Anonymous threats.* If an employee learns of an anonymous threat, the employee shall immediately forward the information in a confidential manner to the Chief of the Oneida Police Department in accordance with the Nation's laws, policies, and rules governing anonymous letters. The employee shall also immediately notify EEO

223.9. EEO ("Equal Employment Opportunity Department") Responsibilities

223.9-1. EEO is responsible for investigating complaints of workplace violence and will delegate such responsibilities to one employee from within EEO, who shall be known as the EEO Officer.

223.9-2. When EEO receives a complaint of workplace violence, whether verbal or in writing, the EEO Officer shall promptly notify in writing the supervisor of the employee being complained about so the supervisor:

(a) is aware that the EEO Officer will be investigating the employee;

(b) knows they may assist the EEO Officer in any portion of the investigation;
(c) knows the EEO Officer may place the employee on investigative leave if they determine investigative leave to be necessary; and
(d) knows they will be responsible, along with the EEO Officer and the Nation's Human Resources Executive Director, for implementing the final decision.

223.9-3. The EEO Officer shall promptly conduct a thorough investigation which may include the following duties:
(a) coordinate with all involved agencies or departments;
(b) meet with the employee filing the complaint;
(c) visit the scene of the incident as soon as possible;
(d) interview employees and other witnesses;
(e) contact the Oneida Police Department or any other appropriate law enforcement agency when necessary;
(f) send weekly updates to the employee's supervisor;
(g) review relevant video surveillance footage if available, in accordance with standard operating procedures on the subject; and
(h) conduct any other investigative methods necessary for a thorough investigation.

223.9-4. In performing these investigative duties, the EEO Officer shall not interfere in the investigation of any law enforcement agencies. If, at any time, criminal charges are brought against an employee as a result of an incident of workplace violence, the employee shall be placed on investigative leave in accordance with the Nation's laws, policies, and rules governing investigative leave.

223.9-5. The EEO Officer shall conclude the investigation when the EEO Officer obtains enough verifiable facts and information regarding the incident under investigation in order to make a safe and equitable final decision.

223.9-6. *Mitigation.* During the investigation, the EEO Officer and the Nation's Human Resources Executive Director are encouraged to examine the workplace for security risk factors and record any mitigating actions that could be implemented to prevent a similar occurrence of workplace violence.

223.9-7. *Investigative Leave.* The EEO Officer may place an employee alleged to be involved in an incident of workplace violence on investigative leave in accordance with the Nation's laws, policies, and rules governing investigative leave.

223.9-8. *Final decision.* The EEO Officer shall meet with the Nation's Human Resources Executive Director and the employee's supervisor to mutually determine an appropriate final decision.
(a) *Format*. The final decision shall be in writing, contain justification, and be signed by the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor.
(b) *Application*. If appropriate, the employee's supervisor will be responsible for initiating the final decision.
(c) *Record keeping*. The final decision and all supporting documentation, included in the Investigative file, shall be filed with EEO for reporting purposes.
(d) *Investigative file.* Three business days before the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor meet to determine the final

decision, the EEO Officer should share the investigative file with the employee's supervisor.

223.10. Employment Eligibility

223.10-1. *Employee Resignation*. An employee who resigns from their position when there is an ongoing workplace violence investigation or in lieu of termination shall not be eligible for hiring consideration in any position with the Nation. The employee may be eligible for employment in a different position with the Nation three (3) years from the date of resignation if the employee receives a pardon from the Nation's Pardon and Forgiveness Committee. The EEO Officer shall remain responsible for completing the investigation in the event an employee resigns during an investigation.

223.10-2. *Employee Termination*. If, as a result of the completed workplace violence investigation, the employee is terminated, the employee shall not be eligible for hiring consideration in any position with the Nation. The employee may be eligible for employment in a different position with the Nation five (5) years from the date of termination if the employee receives a pardon from the Nation's Pardon and Forgiveness Committee.

223.10-3. *Immediate eligibility*. If, as the result of a completed investigation, the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor mutually determine in the final decision that no incident of workplace violence occurred, a copy of the final decision shall be included in the employee's file and, if the employee resigned as a direct result of the workplace violence investigation, the employee shall be immediately eligible for re-hiring consideration with the Nation.

223.11. Fraudulent Report

223.11-1. If at any time EEO is made aware that an employee made a report of workplace violence other than in good faith, the employee may be disciplined according to the Nation's laws, policies, and rules governing employment, up to and including termination.

223.12. Confidentiality

223.12-1. To the greatest extent possible, the Nation shall maintain the confidentiality of employees and the investigation. However, the Nation may need to disclose results in appropriate circumstances; for example, in order to protect individual safety.

223.12-2. Information related to the application of this law is strictly confidential. Information shall not be disclosed to third parties unless:

(a) the prior written consent of the alleged victim is obtained;

(b) the release of information complies with a court order; or

(c) the release of information is pursuant to applicable laws or policies.

223.13. Enforcement

223.13-1. Any employee who violates this law may be subject to disciplinary action under the Nation's laws, policies, and rules governing employment, up to and including termination.

End