

Oneida Tribe of Indians of Wisconsin

Post Office Box 365



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

Phone: (414) 869-2214



Oneida, WI 54155



UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

RESOLUTION #4-20-95-C

WHEREAS, the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States, and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Tribe of Indians of Wisconsin, and

WHEREAS, the Oneida Business Committee adopted the Oneida Drug and Alcohol Free Work Place Policy for implementation in January of 1995, and

WHEREAS, this policy sets out the ideology of the Tribe regarding the use of alcohol or drugs in the work place, where ever that may be, and

WHEREAS, during the training sessions to implement this policy there were found to be procedural issues that should be clarified to protect both the employee and the Tribe resulting in the development of a Task Force that met to review and create the necessary procedural protections needed to allow the program to be implemented as soon as possible, and

WHEREAS, the Drug and Alcohol Free Work Place Policy was temporarily suspended from implementation pending the creation of the necessary procedures,

NOW THEREFORE BE IT RESOLVED: that the Oneida Business Committee hereby acknowledges the emergency nature of implementing the revisions prior to a Public Hearing recognizing the necessity of implementing this policy as soon as possible and thereby uses the Emergency Adoption powers set out in the Oneida Administrative Procedures Act, and

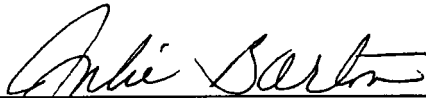
NOW THEREFORE BE IT FURTHER RESOLVED: that the attached Drug and Alcohol Free Work Place Policy, as amended, does not differentiate from the original policy in any significant manner and is adopted on an emergency basis for six months from the date of the adoption of this resolution, and implemented within fifteen days after date of adoption, and

NOW THEREFORE BE IT FURTHER RESOLVED: that the Human Resources Department Manager is directed to implement training sessions regarding this policy within 30 days of adoption, and that the policy is to be forwarded to all employees within fifteen days after adoption

NOW THEREFORE BE IT FINALLY RESOLVED: that a Public Hearing is set for May 22, 1995, at which Public Hearing the Division Directors are directed to submit written testimony, whether positive or negative regarding the policy.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum. 5 members were present at a meeting duly called, noticed and held on the 20th day of April, 1995; that the foregoing resolution was duly adopted at such meeting by a vote of 5 members for; 0 members against, and 0 members not voting; and that said resolution has not been rescinded or amended in any way.



Julie Barton, Tribal Secretary
Oneida Business Committee

ONEIDA TRIBAL LAW OFFICE

P.O. BOX 209 • ONEIDA, WISCONSIN 54155
(414) 869-2345 OR (414) 869-2214
FAX (414) 869-1534

STATEMENT OF EFFECT Resolution Regarding Emergency Adoption of Revisions To Drug and Alcohol Free Work Place Policy Summary

This resolution adopts the revisions made to the Drug and Alcohol Free Work Place Policy originally implemented in January of 1995. These revisions add necessary procedural direction to the policy.

Analysis

The revisions to the policy add necessary procedural direction to the Drug and Alcohol Free Work Place Policy. The resolution indicates that the emergency amendments are adopted for six months and that a Public Hearing should take place within the six month period. The policy is to be implemented within 15 days of adoption, and the Human Resources Department is directed to forward this policy to all employees within 15 days of adoption. Further, the resolution directs that the Division Directors and the Human Resources Department Manager are to submit written testimony at the scheduled Public Hearing.

The revisions to the policy are mainly indicated in Article IX. Other amendments through out the document mainly clarify ideas or correct grammatical errors.

The three major changes to the policy are the generic terms used to identify the parties involved, the use of the Oneida Employee Health Nursing Supervisor for a contact person, and the use of a 'return to work' agreement. The policy uses 'employee' to indicate the suspected party, 'supervisor' to indicate the person with direct supervision of the employee, and 'director' to indicate the party from the supervisor obtains approval to obtain a test.

The policy also directs that all results from testing are to be directed to the Oneida Employee Health Nursing Supervisor who has the responsibility to contact the director to set up a post-test meeting. Finally, the policy requires that a return to work agreement be signed by the employee, supervisor and the Employee Assistance Program Counselor prior to returning to work.

There are no legal issues that would prohibit implementation of these revisions. However, it should be noted that the revisions are effective only for six months from adoption.

Conclusion

The revisions to the Drug and Alcohol Free Work Place Policy are limited to inclusion of procedural issues to protect both the employee and the Tribe. However, these are emergency amendments and must be processed through a Public Hearing prior to final adoption.

Chief Counsel
Gerald L. Hill

Tribal Attorney
Michael J. Lokensgard

Tribal Attorney
Diane Danforth

Tribal Attorney
Aurene Martin

Tribal Attorney
Jo Anne House

Office Manager
Donna M. Richmond

Paralegal Researcher
Tami J. Hill

NOW THEREFORE BE IT FINALLY RESOLVED: that a Public Hearing is set for _____, at which Public Hearing the Division Directors are directed to submit written testimony, whether positive or negative regarding the policy.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum. ___ members were present at a meeting duly called, noticed and held on the ___ day of _____, 1995; that the foregoing resolution was duly adopted at such meeting by a vote of ___ members for; ___ members against, and ___ members not voting; and that said resolution has not been rescinded or amended in any way.

Julie Barton, Tribal Secretary
Oneida Business Committee

- 3-5. *“Director” as used in this policy means the person to whom the supervisor reports.*
- 3-6. *“On-call” employees are subject to the provisions of this policy during that time that they are compensated for being expected to report to work at a moments notice.*
- 3-7. *“Return to work agreement” means an agreement signed by the employee, supervisor, and Employee Assistance Counselor which sets out the actions the employee needs to take to return to work and to remain employed.*

Article IV. General

- 4-1. The Oneida Nation expects employees to arrive at work as scheduled in a sober and reliable state free of the influence of alcohol or drugs.
- 4-2. The Oneida Nation also expects employees to remain free from the influence of alcohol and drugs while they are on the job and to refrain from their use, possession or sale on Oneida Nation property.
- 4-3. The use of alcohol or drugs during Oneida Nation sponsored or approved events is prohibited.
- 4-4. No one returning to duty or starting a shift should be under the influence of any amount of alcohol or drugs.
- 4-5. Failure to comply with any section of this policy may result in a written warning or up to immediate termination.
- 4-6. Oneida Nation employees may be asked to undergo a medical examination which may include a drug and alcohol test when the employee's on the job behavior or medical condition suggests that they may be under the influence of alcohol or drugs.
- 4-7. All persons who are employed, currently employed, or new employees prior to beginning work, must sign acknowledgment of receipt of this policy in the following manner:
- a. as a supplement to an Employee Handbook for current employees, or
 - b. as part of an Employee Handbook for new employees.
- All employees must have this acknowledgment in their files within twenty-eight (28) working days of enactment of this law, or within five working days of new employees.

Article V. Employee Assistance Program

- 5-1. The Oneida Nation provides an Employee Assistance Program for employees with alcohol or drug related problems.
- 5-2. The Employee Assistance program offers confidential professional assistance to employees and their family members. This service provides a constructive way for employees and their family members to deal with alcohol or drug related problems before it interferes with job performance and continued employment.
- 5-3. Employee involvement with this or any other assistance program does not excuse or limit their obligation to meet Oneida Nation policy or standards regarding job performance, and safe and sober behavior on the job.

- b. impaired gait
- c. slurred or abnormal speech
- d. disruptive behavior
- e. sleeping on the job
- f. frequent and unexplained absences from the work station
- g. erratic work performance
- h. involvement in a serious work site accident or pattern of accidents
- i. irresponsibility in completing tasks
- j. wasted materials or damaged equipment
- k. mood swings
- l. outbursts of inappropriate anger, fears, or laughter
- m. inappropriate remarks
- n. complaints from co-workers, associates or public

7-4. When a supervisor observes or becomes aware of on the job employee behavior that would give reason to believe the employee may be under the influence, it is the supervisors responsibility to direct the employee to stop work and explain their behavior. If the employee's explanation is unacceptable or not forthcoming, then the supervisor may ask the employee to undergo a medical examination as defined in Section 3-3 and directed in Article IX.

Article VIII. Employee Cooperation

8-1. The request to participate in a Medical Examination shall be considered an instruction to perform a work assignment. A refusal to participate in any Medical Examination may result in any of the following actions:

- a. If it is the first time a suspected problem is noted, suspension without pay of the employee for the remainder of the shift, and a written disciplinary action which describes the specific behavior observed, the explanation of the employee, the date/time the incident occurred and any other information deemed pertinent by the supervisor. The employee may submit their own incident report at any time after the written disciplinary action is completed.
- b. Any subsequent suspected problems may result in either
 - 1. immediate suspension without pay for up to one week, or
 - 2. immediate termination.

Provided that the appropriate documentation is submitted as described in section 8-1(a) and any further directions in the Personnel Policies and Procedures Manual.

8-2. An employee placed on suspension for failure to participate in a Medical Examination may return to work only after reasonable documentation that such behavior will not occur on the job in the future, that a suitable medical examination was later completed, that the employee has begun participation in the Employee Assistance Program, or other like action deemed reasonable by the supervisor of that employee that the action will not occur again. This written explanation of action taken after refusal to take a Medical Examination shall be placed in the employee's file.

8-3. An employee has five working days from the date of the request to bring documentation to the supervisor. An employee failing to take such action is automatically terminated from employment and ineligible for reemployment within the Tribe for one year.

9-7. *Employees suspected of drug or alcohol abuse while at work, and who have a supervisor's request to perform testing approved by the director, are automatically suspended without pay from the time the test is requested until such results are returned.*

a. The test facility shall forward positive or negative results to the Oneida Employee Health Nursing Supervisor;

b. The Oneida Employee Health Nursing Supervisor shall contact the director over the supervisor as soon as possible with the results of the test.

c. The director shall meet with the supervisor and the employee as soon as possible to review the test results and take further action as required by this policy.

9-8. *Test Results. Actions taken as a result of positive test results must follow the guidelines set out herein:*

a. First occurrence - referral to the Oneida Employee Assistance Program and completion of any actions requested by the EAP Counselor. The EAP Counselor shall develop a return to work agreement to be signed by the employee, supervisor and E.A.P. Counselor. Further, the return to work agreement shall communicate to the supervisor when the employee has completed such activities that the employee may return to work.

b. Second occurrence - the employee is automatically suspended without pay for five days, beginning from date of notification of director-supervisor-employee meeting set out in section 9-6(c). Referral to the Oneida Employee Assistance Program and completion of all recommended activities required prior to returning to work. Further, the employee shall sign a return to work agreement developed by the E.A.P. Counselor and signed by the employee, E.A.P. Counselor and supervisor. The return to work agreement shall communicate when the employee has completed such activities that the employee may return to work.

c. Third occurrence - employee is terminated from employment with the Tribe and ineligible for re-employment with the Tribe for one-year.

9-9. *The Oneida Tribe accepts referrals only to the Tribal Employee Assistance Program. Employees wishing to take advantage of other programs at their expense must do so through the Tribal Employee Assistance Program.*

9-10. *Return to work agreements must be received by the supervisor within 10 working days. Failure to provide the supervisor with a return to work agreement within the appropriate time results in termination of the employee who shall be ineligible for re-employment with the Tribe for one year.*

9-11. *In no case is a Medical Examination to be used to prosecute in a criminal venue an employee. Provided however, that results of said test may be placed in the personnel file of that employee, and used in any grievance matter.*

CONSENT TO RELEASE OF INFORMATION

I, _____, hereby consent to the release of the information listed below for the purposes of verifying use of prescription drugs. This consent is limited to a one time use by my supervisor or Human Resources Personnel.

Dr. _____, is hereby requested to provide information related to _____, a prescription given by said doctor.

Signed this _____ day of _____, 19____ by

Print Name:
Employee Number:

Supervisor:
Employee Number

Drug and Alcohol Free Work Place Policy

Article I. Purpose and Policy

1-1. The Oneida Nation is concerned with the well-being of its employees, their families, and the community. The abuse of alcohol and the use of illegal drugs is inconsistent with and contrary to the traditions of the Oneida culture, including the dimensions of physical, mental, emotional and spiritual health. The Oneida Nation recognizes that the abuse of alcohol and use of illegal drugs breaks down the individual, family, community and places future generations in jeopardy. The abuse of alcohol and use of illegal drugs by the Oneida Nation's employees can also pose an immediate health and safety threat to customers and other employees.

1-2. The Oneida Nation's goal is to establish and maintain a work environment that is free from the effects of alcohol and illegal drugs or abused prescription drugs. The Oneida Nation recognizes that a proactive approach to the problems attendant to alcohol abuse or illegal drug use requires an interaction of education, assistance, deterrents and discipline. Problem free employees are prone to be more productive, reliable, have better work attendance, and more balanced in body, mind, and spirit.

1-3. The Oneida Nation will respect the employee's personal dignity, privacy, and Native American religious freedom in reaching its drug free work place goal, consistent with the legal, safety, and security considerations. While the Oneida Nation has no intention of intruding into the private lives of its employees, it does expect employees to report for work in a condition fully able to perform their duties and to refrain from the use of alcohol and illegal drugs while on duty.

Article II. Adoption, Amendment, Repeal

2-1. This policy is adopted by the Oneida Business Committee and effected ten (10) business days after adoption.

2-2. This policy may be amended by the Oneida Business Committee, or the Oneida General Tribal Council, at any time pursuant to the Oneida Administrative Procedures Act.

2-3. Any portion of this policy found to be unconstitutional or otherwise against the laws of the Oneida Nation may be severed and the remainder of this policy continue to be in effect.

Article III. Definitions

3-1. "Work environment" is considered to be all the Oneida Nation's facilities, and all customer facilities and job sites, and any locations where an employee represents the Oneida Nation, including over-the-road travel in the Oneida Nation's owned or rented vehicles and circumstances where the employee is being reimbursed for expenses.

3-2. "Oneida Nation Property" is considered to be all land or buildings owned or leased by the Oneida Nation of Wisconsin, all equipment owned or operated by the Oneida Nation, and all property and equipment of the Oneida Nations in the Thames and New York or held elsewhere throughout the United States and the world.

3-3. "Medical Examination" is a Urine Drug Screen or a Preliminary Breath Test or Alco-Sensor Intoxometer Test.

3-4. "Supervisor" as used in this policy means a person with direct responsibility over the job duties of employees.

Article VI. Prescription Drugs

- 6-1. Employees undergoing prescribed medical treatment with a controlled substance which may alter their physical or mental ability must report this fact in writing to their immediate supervisor a reasonable amount of time prior to their reporting to work. Reasonable in this section means a sufficient amount of time after a medication is prescribed with known side effects and the beginning of an assigned shift in order to allow the supervisor to obtain a replacement if necessary.
- 6-2. The use of controlled substances as part of a prescribed treatment program is naturally not grounds for disciplinary action, provided that sufficient steps were taken as described in section 6-1.
- 6-3. The Oneida Nation will make an evaluation whether the employee's job assignments are affected.
- a. The Oneida Nation reserves the right to temporarily reassign employees during the evaluation process and/or if it is found that the drugs will temporarily affect their job assignments.
 - b. The evaluation process is limited to the shortest possible time, as determined by the circumstances, in the judgement of the management.
 - c. Temporary reassignment shall not result in a loss or reduction of pay.
- 6-4. Final determination of an employee's job assignment in the case of permanent impairment, will depend on the special circumstances involved in the employee's condition, the requirements of the job assignment, and the availability of other jobs. Permanent reassignment may result in a change in grade/step status.
- 6-5. The employee may be requested to fill out a consent to release information form where the security of any job assignment requires verification of prescription drug treatment.
- 6-6. No prescription drug shall be brought upon the Oneida Nation premises by any other person other than the person for whom the drug is prescribed by a licensed medical practitioner, and shall be used only in a manner, combination, and quantity prescribed.
- 6-7. Any employee whose abuse of prescription drugs results in poor work performance will be referred to the Employee Assistance Program for assessment and treatment. If the employee refuses or fails treatment, appropriate disciplinary action will be taken.

Article VII. Supervisor Responsibility

- 7-1. The personal safety and health of each employee, customer, and client of the Oneida Nation is of primary importance. It is the responsibility of the Oneida Nation to ensure that employees do not endanger themselves or others for any reason. It is important that supervisors do not ignore potentially dangerous or unacceptable on the job behavior. It is the expectation of the Oneida Nation that supervisors will faithfully and fairly take appropriate action as prescribed by this Drug and Alcohol Free Work Place Policy.
- 7-2. Supervisors that fail to reasonably monitor employees in the manner described in section 7-1 will be subject to disciplinary actions. Reasonably as used in this section means proper monitoring of supervised employees, and other employees in the area not under their supervision, in regards to the behavior examples given in section 7-3, *with* prompt action taken in regards to any action noted.
- 7-3. Examples of behavior that could give a supervisor reason to question whether the employee is under the influence of drugs or alcohol, but are not limited to:
- a. the smell of alcohol on the breath
 - b. impaired gait

Article IX. Fitness for Duty Medical Examination

9-1. When a determination that a Medical Examination is necessary, the supervisor shall use, in all cases, the least intrusive most specific test.

9-2. The following are approved Medical Examinations:

- a. Urine Drug Testing administered by a facility approved by the Human Resources Department. A Urine Drug Test shall be used only in cases where drug use is suspected.
- b. Preliminary Breath Test or Alco-Sensor Intoxometer administered by a facility approved by the Human Resources Department. These tests shall be administered only in cases where alcohol use is suspected.

9-3. In all cases where a Medical Examination is to be administered, the following shall take place:

- a. the supervisor shall receive approval from their director prior to requesting a test. The director may deny authority to request such testing only where reasonable grounds for suspecting drug or alcohol use has not been met by the supervisor.
- b. a consent form, approved by the Oneida Law Office, has been signed by the employee who is being tested.
- c. The employee shall report to the testing site within two hours of a request for a medical exam. An employee failing to report to a test site within two hours shall be considered to have refused to take the medical exam.

9-4. A Medical Examination is not required to discipline an employee for suspected drug or alcohol use.

9-5. a. Employees suspected of drug or alcohol abuse who are requested to take a medical exam are placed on immediate suspension without pay until

1. negative test results are received from the Oneida Employee Health Nursing Supervisor, or
2. if positive test results are received, until the Employee Assistance Program Counselor forwards confirmation of completion of sufficient counseling as to be able to return to work.

b. In the event the employee refuses a referral, the employee is automatically suspended for five days without pay. If the employee does not obtain a referral within five days, the employee is automatically terminated.

c. An employee receiving a negative test result shall have a notation of such results placed on the documentation within the employee file. The supervisor should take appropriate action to verify that the behavior leading to an alcohol or drug test does not reoccur.

9-6. Nothing in the policy prohibits a supervisor from making any safe transportation arrangements for any employee. Provided that any arrangements to transport an employee does not waive any sovereign immunity of the Oneida Tribe of Indians of Wisconsin regarding injuries that may result from transporting the employee.

9-7. Employees suspected of drug or alcohol abuse while at work, and who have a supervisor's request to perform testing approved by the director, are automatically suspended without pay from the time the test is requested until such results are returned.

- a. The test facility shall forward positive or negative results to the Oneida Employee Health Nursing Supervisor,

**ACKNOWLEDGMENT OF RECEIPT OF INFORMATION REGARDING THE
ONEIDA DRUG AND ALCOHOL FREE WORK PLACE POLICY**

I, _____, acknowledge by my signature below that I have received the Drug and Alcohol Free Work Place Policy in the following manner:

as a current employee, the policy was given to me to supplement my Employee Handbook

as a new employee, the policy was included within the Employee Handbook given to me at orientation.

I, _____, acknowledge that I understand that the Oneida Nation, as stated in the Oneida Drug and Alcohol Free Work Place Policy, prohibits the use of alcohol and drugs on any land owned or leased by the Oneida Nation, in any building owned or leased by the Oneida Nation, or any events sponsored by the Oneida Nation. I also understand that if my supervisor believes that I am under the influence of drugs or alcohol while on the job, that I may be requested to leave or the submit to a Fitness for Duty Medical Exam consisting of either a breathalyser or urine screening.

Signed this _____ day of _____, 19____ by

Print Name:

CONSENT TO RELEASE FROM LIABILITY AND TO USE INFORMATION

I, _____, hereby release the Oneida Nation from any liability resulting from this test in relation to any injury that may be caused.

Further, I authorize the placement of the results of the tests checked and initialed by me, in my file for use by the Human Resources Department in employment and evaluations, and in relation to any employee grievance I may file.

I consent to the following test(s) as checked and requested by my supervisor in relation to my on the job actions or performance:

- Urine Drug Screen
- Preliminary Breath Test or Alco-Sensor Intoxometer

Signed this _____ day of _____, 19_____

at _____ am/pm, by

Print Name:
Employee Number:

Supervisor:
Employee Number: