

ONEIDA INDIAN NATION

REGULATIONS GOVERNING EMPLOYER POLICIES FOR PREVENTION OF SEXUAL HARASSMENT

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*The regulations below were promulgated by the Oneida Indian Nation and are effective April 3, 2019.  
(Revised October 8, 2019)*

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**PART 1: PURPOSE AND DEFINITIONS**

Section 1.1 **Purpose.** It is the policy of the Oneida Indian Nation (the “Nation”) to prohibit discriminatory employment practices and policies on Nation lands. In furtherance of this policy, the Nation establishes these regulations to require all employers to adopt a policy for the prevention of sexual harassment that meets or exceeds the minimum standards set forth herein. These Regulations are promulgated under the authority of the Tribal Employment Rights Ordinance (Ordinance No. O-18-02), and shall be subject to remedy for violation as provided for therein.

Section 1.2 **Definitions.** For purposes of these Regulations, all terms defined in Article II of the Tribal Employment Rights Ordinance (as such may be amended from time to time) have the same meaning set forth therein.

**PART 2: EMPLOYER REQUIREMENT TO ESTABLISH A POLICY AND PROVIDE EMPLOYEE TRAINING FOR THE PREVENTION OF SEXUAL HARASSMENT**

Section 2.1. **Requirement to Adopt Policy.** Every Employer shall adopt a sexual harassment prevention policy that meets or exceeds the minimum standards set forth in these Regulations.

Section 2.2. **Minimum Standards.** An Employer’s sexual harassment prevention policy must include, at a minimum:

- a) an explanation of sexual harassment, and examples of conduct that would constitute unlawful sexual harassment;
- b) information concerning applicable law concerning sexual harassment and remedies available to victims of sexual harassment;
- c) a clear statement that sexual harassment is considered by the Employer to be serious and prohibited form of Employee misconduct, and that sanctions, up to and including termination, will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue;
- d) a complaint form for reporting complaints related to sexual harassment, and information on where to submit the complaint form and where an Employee can obtain additional copies of the complaint form;

- e) a procedure for the timely and confidential investigation of complaints that ensures a procedurally fair and unbiased process for all parties, including procedures that the Employer will take to ensure that complaints and investigations remain confidential to the extent possible;
- f) a clear statement that retaliation against individuals who complain in good faith of suspected sexual harassment or who testify or assist in any investigation or proceeding involving suspected sexual harassment is unlawful, and that any Employee who retaliates against another Employee for involvement in a sexual harassment investigation will be subject to disciplinary action, up to and including termination. The policy must provide examples of conduct that would constitute prohibited retaliation.

Section 2.3. **Distribution of Policy.** An Employer must make a written copy of its sexual harassment prevention policy available to each Employee, and must provide Employees with a printed copy of the policy upon request.

Section 2.4. **Annual Training.** An Employer must provide a training designed to prevent sexual harassment to all Employees on at least an annual basis. Such training must be interactive, whether provided in live or electronic format, and must include, at a minimum:

- a) an explanation of sexual harassment, and provide examples of conduct that would constitute unlawful sexual harassment;
- b) information concerning applicable law concerning sexual harassment and remedies available to victims of sexual harassment;
- c) a description of the Employer's process for responding to and investigating complaints of suspected sexual harassment, including a summary of the Employer's confidentiality practices in such investigations; and
- d) information specifically discussing conduct by supervisors and any additional responsibilities for such supervisors, including, the Employer's policy prohibiting retaliation.

### **PART 3: COMPLIANCE DATE**

Section 3.1. **Compliance Date.** An Employer must be in compliance with these Regulations, with the exception of Section 2.4, no later than ninety (90) days after the effective date set forth above. An Employer must be in compliance with Section 2.4 of these Regulations no later than one (1) calendar year after the effective date.

### **PART 4: MISCELLANEOUS**

Section 4.1. The Nation does not, by enacting these Regulations, waive in any respect its sovereign immunity, or that of its agents or officers, in any manner, under any law, for any purpose, or in any place.

Section 4.2. These Regulations are not subject to review or modification in any state or federal court or by any authority outside the Nation and are not subject to review or modification in any Nation court.

Section 4.3. These Regulations do not create any right, cause of action or benefit enforceable at law or in equity by any person against the Nation, its agents, its officers or Employees, or any other person.