

Drug and Alcohol Free Work Place Policy
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Drug and Alcohol Free Work Place Policy

Article I. Purpose and Policy

1-1. The Oneida Tribe is concerned with the well-being of its employees, their families, and the community. The abuse of alcohol and 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 Tribe recognizes that the abuse of alcohol and drugs breaks down the individual, family, community and places future generations in jeopardy. The abuse of alcohol and drugs by the Oneida Tribe's employees can also pose an immediate health and safety threat to customers and other employees.

1-2. The Oneida Tribe's goal is to establish and maintain a work environment that is free from the effects of alcohol and drugs. The Oneida Tribe recognizes that a proactive approach to the problems attendant to alcohol or drug abuse 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 Tribe 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 Tribe 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 effective ten 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 Tribe 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 Tribe's facilities, and all customer facilities and job sites, and any locations where an employee represents the Oneida Tribe, including over-the-road travel in the Oneida Tribe's owned or rented vehicles and circumstances where the employee is being reimbursed for expenses.

3-2. "Oneida Tribe Property" is considered to be all land or buildings owned or leased by the Oneida Tribe of Indians of Wisconsin, all equipment owned or operated by the Oneida Tribe, 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.

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 moment’s 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.

3-8. “Positive results” means that level identified by the Federal government for persons holding a Commercial Driver’s License as a positive test result, regardless of employment position within the Oneida Tribe.

3-9. “Oneida Occupational Health Nursing Supervisor” means the employee and the office or department supervised by the Occupational Health Nursing Supervisor.

Article IV. General

4-1. The Oneida Tribe 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 Tribe also expects employees to remain free from the influence of alcohol and drugs while they are on the job and prohibits the use, possession or sale of alcohol or drugs on Oneida Tribe property.

4-3. The use of alcohol or drugs during Oneida Tribe 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 Tribe 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 with in five days of attending the New Employee Orientation Program. Provided that, all employees hired or transferred into supervisory positions must receive training regarding this policy within prior to the completion of their probationary period.

Article V. Employee Assistance Program

5-1. The Oneida Tribe 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 Tribe policy or standards regarding job performance, and safe and sober behavior on the job.

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 Tribe will make an evaluation whether the employee's job assignments are affected.

a. The Oneida Tribe reserves the right to temporarily reassign employees during the evaluation process 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 supervisors and directors involved.

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. No prescription drug shall be brought upon the Oneida Tribe premises by any 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.

6-6. Any employee whose abuse of prescription drugs results in poor work performance will be referred to the Oneida Employee Assistance Program for assessment and treatment. If the employee's poor work performance continues appropriate disciplinary action may be taken.

Article VII. Supervisor Responsibility

7-1. The personal safety and health of each employee, customer, and client of the Oneida Tribe is of primary importance. It is the responsibility of the Oneida Tribe 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 Tribe 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

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. This written disciplinary action taken after refusal to take a Medical Examination shall be placed in the employee's file.
- b. An employee placed on suspension for failure to participate in a Medical Exam will remain on suspension for up to five days and may return to work only after reasonable documentation that such behavior will not occur on the job in the future, and that the employee has begun participation in the Oneida Employee Assistance Program.
- c. Any subsequent suspected problems may result in either

8-2. An employee has five days from the date of the request to bring documentation to the supervisor. An employee failing to take such action shall be automatically terminated from employment and ineligible for reemployment within the Tribe for one year.

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; and
 - c. The employee shall be sent directly 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. Supervisors are required to make transportation arrangements for employees choosing to undergo drug or alcohol testing. Any transportation arrangements shall be limited to transporting the employee to the drug or alcohol testing site and returning to the employment site
- 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 Occupational 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. 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. Employees are automatically suspended without pay after the test is completed, until such results are returned.
- a. The test facility shall forward positive or negative results to the Oneida Occupational Health Nursing Supervisor,
 - b. The Oneida Occupational Health Nursing Supervisor shall contact the employee to inform him or her of the results of the test and the steps to be taken for:
 - 1. A positive result as set out in section 9-8; or
 - 2. A negative result. The Oneida Occupational Health Nursing Supervisor will notify the supervisor of the employee's ability to return to work.
- 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 Employee Assistance Program Counselor. The Employee Assistance Program Counselor shall develop a return to work agreement to be signed by the employee, supervisor and Employee Assistance Program 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. 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 Employee Assistance Program Counselor and signed by the employee, Employee Assistance Program 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 Oneida 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 days after date of referral. 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 requested under this policy to be used by the Tribe 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.

End.

Adopted - BC-10-20-99-A, Amendments

Adopted - BC-10-25-95-A

Adopted - BC-4-20-95-C, Emergency Amendments

Adopted - 8-17-94, motion

See also

GTC-4-31-94-B