

ONEIDA COUNTY PERSONNEL RULES



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ONEIDA COUNTY EXECUTIVE**

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THIS PERSONNEL HANDBOOK IS NOT, AND IS NOT INTENDED TO BE, A CONTRACT FOR EMPLOYMENT GUARANTEEING ANY EMPLOYEE EMPLOYMENT FOR A CERTAIN PERIOD OF TIME.

**ONEIDA COUNTY DEPARTMENT OF PERSONNEL
PER BOARD OF COUNTY LEGISLATORS**

COUNTY OF ONEIDA PERSONNEL RULES
RESOLUTION # 164 EFFECTIVE MAY 24, 1995

SECTION A - PROCEDURE AND ADMINISTRATION

1. SALARY

The payment of salaries and the granting of annual salary increments shall be pursuant to the plan of class titles and salary ranges and increment rules as established by contractual agreements with negotiating units and approved and adopted by the Board of Legislators. All other salary actions for non-bargaining unit personnel will be approved by the Board of Legislators based on recommendations from the County Executive.

- a. Employees hired prior to September 30 of any calendar year will be paid at Step 1 for the calendar year of hire.
- b. Employees hired subsequent to September 30 of any calendar year shall remain at Step 1 of the second calendar year following the calendar year of hire.

2. CIVIL SERVICE PROCEDURES

Appointment, probation, transfer, reinstatement, disciplinary action, leaves of absence, retirement and other Civil Service Procedures shall be pursuant to the Civil Service Laws and Rules for the classified Civil Service of Oneida County, as issued by the Commissioner of Personnel and approved by the State Civil Service Commission.

3. ADMINISTRATION

The administration and interpretation of provisions in these rules shall be the responsibility of the Commissioner of Personnel.

4. APPLICATION

These rules and regulations shall apply to all personnel appointed to budgeted positions. Those budgeted to less than full-time shall have vacation, sick time and personal time prorated.

Per Diem employees and elected officials are excluded.

It shall be the duty of the Commissioner of Personnel and the County Executive to make further regulations deemed necessary to carry out the intent of the formal rules found in the following sections.

SECTION B - ATTENDANCE

1. BASIC WORK WEEK

The basic work week for employees in county office forces, other than employees on an hourly or per diem basis, shall be as per contractual agreement.

Employees subject to assignment on shifts or work schedules other than the normal day work-hours for their department will be notified by lists posted in the proper place at least two weeks in advance. Such schedules may be modified by the Administrative Unit Head in cases of emergency, personal absences and other reasonable needs of the departments.

A 40-hour work week will be in effect for the following departments:

Department of Public Works, all divisions, all locations, except clerical. Oneida County Airport, except clerical.
Mohawk Valley Community College, Maintenance and Security, except clerical. A 40-hour work week will be in effect for all employees at Broadacres Skilled Nursing Facility.

2. LUNCH PERIOD

Unless otherwise specified, employees shall be granted a lunch period each full working day, as per contractual agreement, said lunch period to be taken according to a schedule determined by the Administrative Unit Head.

3. TARDINESS

Tardiness will not be tolerated and may result in a penalty deduction from annual credit or loss of pay if employee does not have any leave available and may result in disciplinary action and possible dismissal. Such action may be taken upon review by and with the concurrence Commissioner of Personnel and/or the County Executive. Factors determining objectionable tardiness are:

1. Frequency of occurrence
2. Aggregate time
3. Pattern of occurrence

Those employees unable to report for work promptly on any given day must notify their immediate supervisor by 9:00 A.M. giving the reason for tardiness.

Daily time records showing hours worked by each employee shall be maintained by each department and forwarded to the Commissioner of Personnel.

4. UNAUTHORIZED ABSENCE FROM DUTY

Unauthorized absence includes time for which leave has not been requested, absence for which required substantiating data has not been submitted. Absence for which leave has been disapproved or withdrawn and absence begun and continued for a purpose during a period other than specified in the rules pertaining to authorized requests for leave.

Those employees unable to report to work promptly on any given day must notify their immediate supervisor by 9:00 A.M. giving the reason for absence.

Unauthorized absence will render an employee subject to disciplinary action and/or loss of pay for the period of absence at the discretion of the Administration Unit Head with the concurrence of the Commissioner of Personnel and/or the County Executive.

5. LETTER OF REPRIMAND

An employee who receives a letter of reprimand must be given the opportunity to initial said letter before it is placed in his/her personnel file.

The employee may appeal said letter by a written, signed response. This response shall be placed in the employee's official personnel file along with the original letter of reprimand and shall be part of that file for two years from the date of the original letter of reprimand whereupon both the letter of reprimand and the response shall be removed from the file.

6. DISCIPLINARY ACTION FOR INCOMPETENCY OR MISCONDUCT

Disciplinary action for incompetence or misconduct shall be taken in accordance with the Civil Service Law where applicable.

SECTION C - LEAVES OF ABSENCE (Also see Section J –FMLA Policy)

1. LEAVES OF ABSENCE WITH PAY

a. DEATH IN THE FAMILY

Leaves of absence with pay may be granted by the Administrative Unit Head for a period not to exceed three working days, unless otherwise specified in the applicable contract, because of death in the employee's immediate family.

Immediate family is defined as including spouse, parent, grandparent, spouse's parent and/or grandparent, child, brother, sister, legal guardian or foster parent, or a close relative who is an actual member of the employee's household. Board Resolution #303, July 12, 2000 adds grandchildren.

b. CIVIL SERVICE EXAMINATION

Employee's shall be allowed time off with pay to take promotional and open competitive county Civil Service examinations. Provisional employees shall be permitted time off with pay to take examinations in connection with the position in which they are serving.

c. LEAVE FOR COURT AND JURY ATTENDANCE

Any regular day shift county officer or employee who is required to serve as a juror or to appear in court as a witness or to attend court pursuant to subpoena or other order of the court, shall be granted a leave of absence with pay, provided that any fees excluding mileage allowance, received by him as a juror, shall be paid to the county in a daily amount not to exceed the daily rate of compensation paid as salary. Any regular daytime county officer or employee who is excused from juror or witness duties prior to 1:00 P.M. must return to work for the remainder of the work day. Second shift employees must report to work immediately upon being excused if after 4:00 P.M.

d. ABSENCE FOR ATTENDING COUNTY ADVISORY COMMITTEE MEETINGS

(Resolution #75 – April 1977)

Personnel of the county may, upon proper notice to their supervisor or administrative head, attend committee meetings of a County Advisory Committee to which they have been duly appointed, without loss or deduction of pay for the time spent attending such committee meeting.

e. EMERGENCY CIRCUMSTANCE: PERSONAL/FAMILY CRISIS

In the event of a personal/family crisis with which there is a documented hardship, and the employee has exhausted all his/her appropriate accrued paid leave, he/she may use *time that has been donated from fellow employees.

Request should be made to the Department Head and should include approximate dates and duration of leave, if possible. Recommendation and documentation shall be submitted to the Commissioner of Personnel and the County Executive and the granting of such leave shall be subject to their approval. This leave may or may not be in conjunction with the Oneida County Family Leave Policy.

*Time donated may be either earned vacation or compensatory time. Donations are to be in writing and are strictly voluntary. First offered, first used.

2. LEAVES OF ABSENCE WITHOUT PAY

a. MATERNITY LEAVE

A permanent employee anticipating a maternity leave shall notify the Administration Unit Head in advance of her intentions to request leave for maternity purposes. The request should include the type of leave, approximate dates and anticipated duration of leave to allow the agency time to prepare for any staffing adjustment which may be necessary.

General leave policies and regulations shall be applied to requests for leave for maternity purposes. Up to one year may be granted.

Leave requested can appropriately be a combination of sick leave, annual or vacation leave and leave without pay.

The employee shall have the option of Leave of Absence without Pay, Sick Leave with Pay on an accrued basis, annual or vacation leave as accrued or any combination of the above. If paid time is used it must run consecutively until opted amount is used.

b. LEAVES FOR EDUCATIONAL PURPOSES

Upon the approval of the Administrative Unit Head, the Commissioner of Personnel and the County Executive, permanent employees may be granted leave of absence without pay for a period of one year for the purpose of acquiring additional required education and training that will increase the usefulness and efficiency of the employee in his or her position.

c. MILITARY DUTY

Any County Officer or employee who is required to render military duty shall be entitled to the benefits of the military law of the State of New York and Federal Regulations. Up to 30 days military leave per year or 22 working days will be paid. Official military orders must accompany each leave request.

d. LEAVES FOR OTHER REASONS

Leave of absences without pay to permanent employees for reasons other than those found in this rule shall be granted by the Administrative Unit Head only under unusual, satisfactorily documented circumstances which, in the judgment of the Administrative Unit Head justifies the granting of such leave. Requests for such leave and the recommendation of the Administrative shall be submitted to the Commissioner of Personnel and the County Executive and the granting of such leave shall be subject to their approval.

e. SERVICE CREDIT AND CONTINUITY OF SERVICE

Civil Service regulations respecting service credit and continuity of service for employees in the competitive class shall apply to all employees of Oneida County.

SECTION D - VACATION

1. Vacation shall be earned as per contractual agreement.

A week shall be defined as five (5) working days. Employees who work more than 50% of the month shall be credited with the whole month for vacation purposes. The 15th of the month shall be the determining factor.

An employee must be employed for at least one (1) year before any vacation time can be authorized.

After one (1) year service, employees may be authorized vacation in advance of accruals and subsequent accruals will be deducted to equalize earnings of vacation. Authorization in advance of accruals is limited to the amount to be earned during that employment year plus any carryover from the previous year.

Employees using vacation time before it is earned shall have it deducted from terminal pay in the event of their separation from County service.

H, M, and P scales

New hires on the H, M and P scales accrue vacation at the rate of 5.8 hours per month and can begin using it ~~after 6 months of employment immediately upon employment.~~ New Hires on the H, M and P scales with less than one (1) year of service may be authorized vacation in advance of accruals and subsequent accruals will be deducted to equalize earnings of vacation. Authorization in advance of accruals is limited to the amount to be earned during that employment year. Employees using vacation time before it is earned shall have it deducted from terminal pay in the event of their separation from County service. After completion of the one (1) year of employment, employees on the H, M and P scales may be authorized vacation in advance of accruals in accordance with the provisions above. After the second year of employment vacation time will accrue in accordance with the vacation schedules approved by the Board of Legislators.

~~Employees using vacation time before it is earned shall have it deducted from terminal pay in the event of their separation from County service.~~

2. TIME OF VACATION

Vacation schedule for each department shall be arranged by the Administrative Unit Head. In the preparation of this schedule, preference will be given to employees based upon their length of continuous active service with the County.

3. HOLIDAYS

Holidays are not included in calculating the time allowed for vacation. Intervening holidays will not be counted as vacation days.

4. ACCUMULATION OF VACATION

Vacation time shall be taken within the calendar year in which it was earned. However, upon approval of the Administrative Unit Head, an employee may carry no more than fifteen (15) days vacation time from one year into the next year.

5. COMPENSATION FOR VACATION UPON TERMINATION OF EMPLOYMENT

At the termination of County employment, employees will receive compensation for any accrued unused vacation.

INTERPRETATION: May 25, 1995

- No vacation time is factually earned until the employee has been employed for one (1) year as indicated in Section-D-1, paragraph #4.
 - Termination of employment prior to the completion of one (1) year of service will not result in the payment of vacation benefits.
 - After completion of one (1) year of service, termination will result in payment of all unused earned vacation time.
 - Upon termination, compensation shall also be paid for any accrued unused compensatory time.
6. Credit for vacation under this section shall be allowed when the employee has been on full pay status at least 50% of the month.
- a. The 15th of the month is the deciding factor.

SECTION E - SICK LEAVE

1. REASONS FOR GRANTING SICK LEAVE

Paid sick leave with up to the amount accrued shall be granted by an Administrative Unit Head to an employee when incapacitated or unable to perform the duties of his position by reason of sickness or injury.

Sick leave credit is earned by employees in budgeted items on the following basis:

The employee will accumulate sick leave as per contractual agreement, such accumulation not to exceed the working days specified in the contract covering the employee or by resolution of the Board of Legislators.

No credit for sick leave under this rule shall be allowed unless the employee has been on full pay status at least 50% of the calendar month. The 15th of the month shall be the deciding factor. Sick leave cannot be used before it is accrued.

Employees will be credited with sick time accumulated prior to the adoption of this policy. Under no circumstances, however, can an employee accumulate more than 180 days

2. NOTICE OF ABSENCE ON SICK LEAVE

When absence is required under this rule, the employee shall report same to the Administrative Unit Head within one hour after start of the scheduled shift. In institutions and in positions requiring replacements in cases of absence, the time for reporting absence shall be left to the discretion of the Administrative Unit Head and the department rule governing the time of reporting shall be filed with the Commissioner of Personnel.

In cases of failure to report within the stated time limit, unless for reasons satisfactory to the Administrative Unit Head, the absence shall not be deducted from sick leave and shall be considered as (B-4 unauthorized) time off without pay.

3. VERIFICATION AND PROOF OF ILLNESS

A certificate or affidavit showing incapacity and inability of the employee to perform his duties issued by the attending physician shall be filed with the Administrative Unit Head and Commissioner of Personnel in case of absence more than three consecutive work days. The Commissioner of Personnel and/or Department Head may check further on any illness regardless of certificate or affidavit.

However, in questionable circumstances, such as repetitive taking of sick leave before or after holidays, vacations, personal leave days or pay days, an employee may be required to justify the sick leave of any length of time by providing a medical certificate.

If an employee fails to submit proof of illness when required to do so, the absence shall not be deducted from sick leave and shall be considered as (B-4 unauthorized) time off without pay. If the proof does not justify the employee's absence, such absence shall not be deducted from sick leave and shall be considered (B-4 unauthorized) time off without pay.

4. SICK LEAVE RECORDS AND REPORTS

Each department shall maintain a written record of the attendance and sick leave status of each county employee. A record of the sick leave status of all county employees shall be maintained in the office of the Commissioner of Personnel and/or Director of Central Services. Every leave of absence granted by the Administrative Unit Head shall be promptly reported to the Commissioner of Personnel.

Medical certificates supporting requests for sick leave shall be filed in the office of the Commissioner of Personnel. At the close of the calendar year, the Administrative Unit Head shall give to any employee, upon request, a record of accumulated sick leave credits.

5. TRANSFER OF SICK LEAVE CREDITS

In case of transfer within the county service, accumulated sick leave, vacation, personal and compensatory time shall be transferred with the employee and s/he shall receive credit in the department to which s/he is transferred.

6. REINSTATEMENT OF SICK LEAVE

Employees who are granted a leave of absence or placed on a preferred civil service list do not lose accumulated sick leave due to their termination of county employment and are eligible to use these sick leave credits upon resumption of their county positions.

Employees who sever employment and do not break continuous active service by re-employment shall have sick leave credits reinstated.

7. EMERGENCY CIRCUMSTANCES: PERSONAL ILLNESS

In the event of an extended personal illness, and prior to requesting Extended Paid Sick Leave through the Board of Legislators, where the employee has exhausted all accrued sick, personal, vacation and compensatory time, employees may use *time that has been donated by fellow employees. Requests should be made to the Department Head and should include approximate dates and duration of leave, if possible. Recommendation and documentation shall be submitted to the Commissioner of Personnel and the County Executive and the granting of such leave shall be subject to their approval. This leave may or may not be in conjunction with the Oneida County Family & Medical Leave Policy.

*Time donated may be either earned vacation or compensatory time. Donations are to be in writing and are strictly voluntary. First offered, first used.

8. EXTENDED SICK LEAVE

Employees with five or more years of continuous active service may, in the case of verified, serious and prolonged illness, receive additional sick leave with full pay. Such additional sick leave may be granted at the discretion of the Administrative Unit Head and with the approval of the Commissioner of Personnel, the County Executive and the Board of County Legislators. Those employees with five (5) to ten (10) years of continuous service may be granted up to twenty (20) working days. Employees with eleven (11) to fifteen (15) years of continuous service may be granted up to forty (40) working days. Employees with sixteen (16) or more years of continuous service may be granted up to sixty (60) working days.

For each month of service, upon return to work from an authorized sick leave, the one day sick leave credit now earned shall be applied against any extended sick leave used.

No accumulation of sick leave to an employee shall begin until all extended sick leave is repaid. If an employee is granted extended sick leave and does not use the amount authorized, only the number of days used shall be repaid.

9. RETIREMENT

The County agrees that the one-fiftieth (1/50th) non-contributory retirement plan, retroactive to 1938, shall be in effect for eligible employees (Tier I and Tier II) effective April 1, 1985. This plan is known as 75I.

Those employees in the competitive and non-competitive classes of the Civil Service must apply. Elected officials and part-time or temporary employees have the option to join.

The County will continue application of Option 41-J which will credit up to a maximum of one hundred sixty-five (165) days of unused accrued sick leave toward retirement.

Any specific questions regarding membership in the New York State Employees Retirement System shall be directed to the headquarters of the System. NYS and Local Employees' Retirement System, 110 State Street, Albany, New York 12244-0001; www.osc.state.ny.us; 1-866-805-0990.

10. CONTINUATION OF HEALTH INSURANCE FOR EMPLOYEES ON AUTHORIZED LEAVE OR SUSPENSION

Employees on Authorized Leave without Pay or on Suspension may have Health Insurance coverage continued for them and any qualified dependents if they pay the entire cost of the insurance for each complete month off the payroll.

An employee who has a spouse working for the County may not switch their individual coverage to the spouse's coverage for the purpose of not paying the entire premium.

11. WORKER'S COMPENSATION: SICK LEAVE APPLICATIONS

An employee, injured in the performance of his duties (on the job) may file for Worker's Compensation Benefits. Upon approval of the claim by the Worker's Compensation Board, the employee will be eligible for applicable benefits. In the event that any employee abuses the Worker's Compensation system, that employee shall be subject to appropriate disciplinary action. Health Insurance premiums will be paid in full by Oneida County during the authorized disability period.

If the employee has earned and accumulated sick leave, such leave may be used to cover legitimate absence from work. After the employee has used all or any portion of his accumulated sick leave he has elected to use, he shall then receive Worker's Compensation Benefits for the remainder of the authorized disability period.

The department head of any employee who uses sick leave benefits in place of Worker's Compensation Benefits, shall submit a written request in duplicate to the Oneida County Worker's Compensation department requesting the County of Oneida be reimbursed at the appropriate compensation rate for the period of sick leave used by the employee. This would represent such sick leave as the employee used in lieu of any benefits to which he was entitled under the Worker's Compensation Law.

Upon receipt by the County of Oneida of the reimbursement for sick leave paid to the employee, the amount of employee's sick leave will be reinstated equivalent to the wages reimbursed to the County of Oneida based on the employee's salary or wages.

SECTION F - HOLIDAYS

1. Holidays shall be as per contractual agreement. Those offices falling under Section 206.2 County Law must comply with and maintain offices as specified:

County Clerk
Surrogate
Treasurer
Civil Office of Sheriff
The Clerk of the Board of Legislators

2. WHEN WORK IS REQUIRED ON A NORMAL HOLIDAY

As per contractual agreement.

3. PERSONAL LEAVE

Each employee shall be allowed up to the negotiated number of personal leave days per year, non-cumulative, without any restrictions, upon prior approval of the Administrative Unit Head, and that approval shall not be unreasonably withheld.

Personal Leave may be taken on an hourly basis. For purposes of this section, an employee shall apply for personal leave at least one (1) working day in advance whenever practical. Any unused personal leave as of December 31st each year will be added to the employee's accrued sick leave which will not exceed the maximum working days specified in the respective contracts.

Personal leave is leave with pay for personal business and is intended to be available for use for religious observances, attendance at funerals (other than immediate family), necessary absences due to extra-ordinary weather conditions, attendance at conventions other than on County business, personal or family business appointments and similar reasons, including medical and dental appointments and examinations.

SECTION G - INTERPRETATIONS: MARCH 15, 1982

1. PERSONAL LEAVE FOR NEW EMPLOYEES

If an employee commences full-time employment in a budgeted item between January 1st through March 31st of the calendar year, he may be authorized the full four (4) days personal leave.

An employee who commences full-time employment in a budgeted item April 1st through June 30th of the calendar year may be authorized three (3) days personal leave.

An employee, who commences full-time employment in a budgeted item July 1st through September 30th of the calendar year, may be authorized two (2) days personal leave.

An employee, who commences full-time employment in a budgeted item October 1st through December 31st of the calendar year, may be authorized only one (1) day personal leave.

2. LONGEVITY

(As per contract) with negotiated Unit.

3. MILEAGE

Employee will receive mileage allowances as per contractual agreement for the use of his/her own motor vehicle for county business upon submission of appropriate vouchers.

The mileage allowance for County employees is intended to cover any authorized travel for county business and as such the following guidelines are intended to provide for a consistent interpretation of "Travel for County Business" as well as reasonable interpretation of travel authorizations.

Any duties employees are required to perform, which are away from the regular place of work assignment (office) and which obligates the employee to use his/her own motor vehicle are covered by the mileage allowance established in the applicable contract.

Each employee on authorized assignments necessitating travel will be eligible for mileage allowance to and from the assigned work station (office) when travel has started from such assigned work station (office) and such action is considered by the supervisor to be most practical considering the distance and time of day.

When the supervisor has granted authorization to proceed directly home from the last field call, mileage will be authorized only from the employee's work assignment stations (office) to the last field call.

It is incumbent upon the supervisor to verify and validate all claims for travel and/or lunch allowances as being necessary and reasonable.

4. SHIFT DIFFERENTIAL

Each employee who is regularly assigned to the 2nd and 3rd shift or who is scheduled to work on the 2nd or 3rd shift will be compensated by receiving shift differential per contractual agreement.

Employees who are regularly assigned to the second or third shift will receive the shift differential pay for any vacation, holidays, sick leave and personal leave used.

Any employee who is not regularly assigned to a shift other than normal, usual days work shift, but who is required to work such a shift, shall receive the aforementioned shift differential pay only for the days he/she actually works such shift. Overtime in the normal, usual day shift does not qualify for shift differential pay.

5. CALL-OUT PAY

Call-out pay shall be a minimum of three (3) hours pay or equivalent time off be taken at a time mutually agreeable between employer and employee.

6. MASTERS DEGREE OR EQUIVALENT

Each employee shall be entitled to an additional \$400 upon attainment of a Master's Degree or the equivalent 30 graduate credit hours in a job related field. Employees achieving a 60 hours job-related Master's Degree shall be awarded \$500 additional compensation. Payment under this section shall not be effective until the beginning of the first payroll period following approval by the Commissioner of Personnel.

It shall be the employee's responsibility to submit evidence required, namely, official advisement of the attainment of a Master's Degree and successful completion of the equivalent 30 hours or 60 hours on a graduate level over and above the baccalaureate degree.

No payment shall be authorized under this section for those persons whose employment requires a degree at or beyond this level: such as doctors or attorneys holding positions as doctors or attorneys; or if the Master's Degree is used to meet the minimum qualifications of the position.

7. LUNCH ALLOWANCE

Employees of Social Services and Probation will be eligible for lunch allowance up to the contractually agreed limit when their work assignment requires absence from their permanent work station during the hours of 10:30 a.m. through 1:30p.m., and the assignment being covered is outside the city limits. Unit supervisors and department heads are responsible for validating the assignment and claim.

8. EDUCATION

Employee must have the approval of his/her department head concurrence as to the job related status of the course. BEFORE BEGINNING THE COURSE, with final approval or disapproval by the County Executive, as defined by each contractual agreement.

9. OVERTIME PAY

Overtime will be paid in accordance with the relevant Collective Bargaining Agreement for those employees in a bargaining unit. For those employees not in a bargaining unit, overtime will be paid in accordance with the Fair Labor Standards Act (FLSA). It will be the responsibility of the Heads of the Administrative Units authorizing overtime to maintain justification for such authorization and report on this matter as required or requested.

SECTION H – HEALTH INSURANCE COVERAGE

1. Health Insurance Coverage available to employees will be determined by applicable Collective Bargaining Agreement. For those not covered under Collective Bargaining Agreement, it will be determined by extension of benefits by the Board of Legislators to those employees. Final interpretation of benefits provided under Health Insurance Coverage will be determined by the Health Insurance Unit of the Personnel Department.

The County shall pay the entire health insurance premium, dental excluded, for employees and their dependents if hired prior to January 1, 1984.

For all employees hired on or after January 1, 1984 the County will pay the amount agreed upon in the applicable Collective Bargaining Agreement.

Effective January 1, 2012 members of the Oneida County Board of Legislators must pay 100% of any applicable health insurance premiums.

Employees on Leave of Absence without Pay must pay 100% of their monthly premium to continue coverage. For payment of premiums under FMLA, see FMLA Policy.

Employees who opt not to take advantage of the Oneida County Health Insurance Plan will be eligible to receive a lump sum as per Collective Bargaining Agreement.

When an employee and spouse are both County employees and have no dependents, they will each only be eligible for individual coverage. Upon retirement, each will have the option of retaining their individual coverage only.

2. For purposes of this section, "retiree" shall be defined as an individual who leaves County employment, for reason other than gross misconduct, and meets both of the following criteria:

1. You are an active employee who is currently enrolled in the Oneida County Health Insurance Plan and have completed five (5) continuous years of service with the County at the time you leave County employment.
2. You are qualified for retirement as a member of a retirement system administered by the State of New York or one of its civil divisions, OR

You are not qualified for retirement as a member of a retirement system administered by the State of New York or one of its civil divisions, but you are at least 55 years of age.

Effective January 1, 1994, a retiree is eligible to retain coverage under the Oneida County Health Insurance Plan, and the County will pay 50% of the premium for the retiree only. Health Insurance Coverage may be retained for dependents, but retiree will assume 100% of the cost of this coverage. If a retiree drops their dependents from coverage, they may not add them again at a later date. Retirees from the Board of Legislators must pay 100% of any applicable Health Insurance premiums.

Upon the death of an employee or retiree who is enrolled in the Oneida County Health Insurance Plan, coverage for his/her dependents shall continue for three months following the month in which death occurred at no cost to the survivors. Coverage may continue after the three months at full cost to the survivors if the deceased had completed 10 or more years of continuous service.

Retirees who are not Medicare eligible and their dependents will remain on their current plan until the retirees become Medicare eligible. Upon the retirees becoming Medicare eligible, they and their spouses, if and when also Medicare eligible, will be placed on the Medicare Advantage Plan or similar plan offered by the County.

There shall be no dental plan provided to retirees.

SECTION I - DEFINITION OF TERMS

1. CONTINUOUS ACTIVE SERVICE

Service shall be deemed continuous unless interrupted by one year's absence from county employment. A leave of absence without pay shall not be considered "active service". A leave of absence without pay for more than one year shall break the employee's continuity of service.

2. TEMPORARY EMPLOYEES

An employee who is appointed to a budgeted position on a short term basis when a position has been temporarily vacated. The employee vacating such position is considered to be away from the job without pay.

3. PART-TIME HELP

An employee who is appointed to a non-budgeted position and is paid from part-time help funds. Such an employee is not entitled to fringe benefits.

4. ADMINISTRATIVE UNIT HEAD

The Head of any Department, Division, Agency, or other unit of the County Government.

SECTION J - FAMILY LEAVE POLICY

FAMILY & MEDICAL LEAVE ACT OF 1993

Oneida County Policy and Procedure

GENERAL

Who is Eligible? ** Full time employees who have worked for Oneida County at least 12 months and worked 1250 hours during the previous 12 months. Both the 12 month/1250 hour requirements must be met as of the date leave commences.

What is FMLA? Entitlement to a total of 12 weeks of qualifying leave during any 12 month period. The 12 month period measurement is forward from the date an employee's first FMLA begins.

LIMIT: If both husband and wife work for Oneida County, they may take only a combined total of 12 weeks of leave during any 12 month period if the leave is for birth or placement of a child or to care for a sick family member. This limitation does not apply to other reasons for leave, i.e., employees own illness, or care for a seriously ill parent (but not a parent-in-law).

What qualifies a FMLA: One or more of the following reasons?

- Birth of a child of the employee and to care for that child.
- Placement of a child with the employee for adoption or foster care.
- To care for the employee's spouse, child, or parent with a serious health condition.

**** PROVISIONAL EMPLOYEES PLEASE TAKE NOTE** – If the civil service eligible list is established for your title while you are on FMLA approved leave and you are not reachable on said list, you will be terminated as per Civil Service Law and the FMLA will be voided.

*Entitlement to unpaid leave for birth or adoption/foster care of a child expires 12 months after the birth/adoption/foster care occurs.

Intermittent FMLA leave: Leave for childbirth or adoption cannot be taken intermittently. If an employee requests leave based on planned medical treatments that are medically necessary, it may be taken in no less than one (1) hour increments and proof of necessity required.

How FMLA leave works: When FMLA is foreseeable, employees are expected to give their supervisors 30 days notice of intention to take leave, or as much notice as possible under the circumstances. Employees planning medical leave must also make reasonable effort to schedule any planned medical treatment so as not to disrupt the employer's business.

As per Oneida County Personnel Rules, except for maternity leave - family or medical leave will consist of appropriate accrued paid leave and unpaid leave.

If leave is requested for employee's own serious health condition, the employee must use all of his/her accrued paid vacation, compensatory time, personal leave and sick leave before going on unpaid leave. If leave is requested for any other reason listed above, an employee must use all of his/her accrued vacation, compensatory time, and personal leave before going on unpaid leave, use of sick time for this type of leave is not permitted.

MEDICAL CERTIFICATION: The certification of a physician or health care provider is required for documentation/justification for taking FMLA leave and for the return to work of an employee who took leave for his/her own serious illness. A certification form is attached.

IMPORTANT NOTE: It is always the employer's responsibility to designate leave as FMLA-qualifying, based on information provided by the employee. Sufficient information regarding the reason for FMLA must be presented at the time of the leave request.

MEDICAL INSURANCE COVERAGE: FMLA requires the county to maintain your medical coverage, for up to 12 weeks of FMLA approved leave, under the same conditions coverage is otherwise provided. Therefore, employees on FMLA leave must continue to pay any share of health care

Premiums they had been paying before FMLA leave. If premiums are raised or lowered, the employee is required to pay the new rate. If FMLA is paid leave, the employee's share of premiums must be paid by payroll deduction. When an employee is on unpaid leave, payments are due under the same condition as under COBRA, i.e., monthly/quarterly. If unpaid leave goes beyond 12 weeks, the normal policy of the employee paying 100% of their health care premiums will be in effect on the same monthly/quarterly basis as above. If you fail to return from FMLA leave, the county can recover any premiums paid by the county for health insurance during such FMLA leave. An employee who returns to work for less than 30 days is not considered to have returned to work following unpaid FMLA leave.

JOB AND BENEFITS PROTECTION: The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave. However, vacation, sick leave, personal time and service credit under the New York State Employees Retirement System does not accrue during unpaid leave.

Upon return to work from FMLA leave, employees will be returned to their original permanent, non-competitive or labor title. Every attempt will be made to restore an employee returning from leave to his or her original position. If the employee's original position is unavailable, the employee will be placed in an equivalent position with equivalent pay and benefits.

A COPY OF THE FMLA LAW AS WELL AS DEFINITIONS IS AVAILABLE FOR REVIEW IN THE ONEIDA COUNTY PERSONNEL OFFICE, 6th FLOOR, and 800 PARK AVENUE, UTICA, NEW YORK 13501

SECTION K – SMOKING BAN ON COUNTY PROPERTIES

RESOLUTION NO. 301

LOCAL LAW INTRODUCTORY “D” OF 2016 LOCAL LAW NO. 3 OF 2016

A LOCAL LAW PROHIBITING THE USE OF TOBACCO AND E-CIGARETTES UPON REAL PROPERTY OWNED OR LEASED BY THE COUNTY OF ONEIDA, WITHIN COUNTY OF ONEIDA OWNED VEHICLES OR PRIVATELY OWNED VEHICLES USED FOR A COUNTY OF ONEIDA PURPOSE.

SECTION I. TITLE

This law shall be known as the “Local Law Prohibiting Use of Tobacco and E-Cigarettes upon Real Property Owned or Leased by the County of Oneida, within County of Oneida Owned Vehicles or Privately Owned Vehicles Used for a County of Oneida Purpose.”

SECTION II. LEGISLATIVE INTENT

This Board of County Legislators of the County of Oneida finds that tobacco and E-cigarette use on real property owned or leased by the County of Oneida, and within County of Oneida owned vehicles and privately owned vehicles used for a County of Oneida purpose, should be prohibited in an effort to provide a healthy, clean, and safe environment for all employees, clients, residents, and visitors.

SECTION III. DEFINITIONS

As used in this Local Law:

- A. "Use of tobacco" or "tobacco use" shall mean the burning of a lighted cigar, cigarette, pipe, or any other matter or substance which contains tobacco, and shall also include chewing, holding in the mouth and/or expectorating of chewing tobacco, or any other matter or substance which contains tobacco.
- B. “Tobacco products” means one or more cigarettes or cigars, chewing tobacco, powdered tobacco or any other tobacco products.
- C. “Electronic cigarette” or “e-cigarette” means an electronic device composed of a mouthpiece, heating element, battery, and electronic circuit that delivers vapor of liquid nicotine and/or other substances mixed with propylene glycol which is inhaled by an individual user as he or she simulates smoking. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes, or any other product name, and shall include any refill, cartridge and any other component of such a device.

D. "Smoking" shall mean to inhale or exhale the smoke or vapor of burning tobacco or tobacco substitute and also to carry burning tobacco or tobacco substitute in the form of a cigarette, cigar, or any other smoke producing product or devices, including pipes and e-cigarettes.

E. "Enforcement Officer" shall mean any "police officer" as the term is defined by section 1.20(34) of the Criminal Procedure Law when said officer is acting pursuant to his or her official duties.

F. "Real Property" shall mean any property owned or leased by the County of Oneida and shall include real estate, lands and any structures, buildings or facilities located upon said real estate or lands.

SECTION IV. PROHIBITION

The use of tobacco, tobacco products and electronic cigarettes use shall be prohibited:

A. Upon all real property owned or leased by the County of Oneida; and

B. Within all County of Oneida owned vehicles or within private vehicles when being used for a County of Oneida purpose except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida purpose if the driver is the sole occupant of the vehicle.

SECTION V. EXCEPTIONS

The provisions of this Local Law shall not apply to:

A. A privately owned moving motor vehicle which is not engaged in County of Oneida service and which is in the process of exiting or entering real property owned or leased by the County of Oneida, and only when said vehicle's doors and windows are completely closed.

B. Roadways and rights-of-way located within the County of Oneida road system established under Section 115 of the New York State Highway Law.

C. County of Oneida Forest Lands.

D. Real property occupied by and for Mohawk Valley Community College and subject to the State University of New York Board of Trustees Resolution 2007-21 and the Mohawk Valley Community College Tobacco-Free Campus Policy, as the same may from time to time be amended.

SECTION VI. SIGNAGE

Signs indicating the following or substantially similar language: "THESE GROUNDS WILL BE 100% TOBACCO-FREE," "TOBACCO AND E-CIGARETTE USE IS PROHIBITED," or "NO TOBACCO OR E-CIGARETTES;" and/or signs using the international "no smoking" symbol where applicable, shall be clearly, prominently and conspicuously posted at each entrance to every building, structure, facility or other real property where tobacco and nicotine use is prohibited by this Local Law. Said signs shall be at least 10 inches by 14 inches in size.

SECTION VII. VIOLATIONS AND PENALTIES

A. It shall be unlawful for any person to use tobacco, tobacco products or electronic cigarettes in any area where such use is prohibited by the provisions of this Local Law.

B. Any person who violates any provision of this Local Law shall be guilty of a violation punishable by a civil penalty as follows:

1. Not to exceed \$200.00 for the first offense;
2. Not to exceed \$1,000.00 for a second offense and each and every subsequent offense.

C. Each violation of this Local Law shall constitute a separate and distinct offense.

SECTION VIII. NOTICE AND ENFORCEMENT

- A. Any citizen may register a complaint under this Local Law to the County of Oneida Department of Public Health, Environmental Health Division or with an Enforcement Officer.
- B. If an Enforcement Officer determines that a violation of this chapter occurred, such Enforcement Officer may prepare, file and serve an appearance ticket in conformance with the New York State Criminal Procedure Law. Said appearance ticket shall be returnable in the local City Court or Justice Court in and for the municipality in which the violation is alleged to have occurred.
- C. The District Attorney for the County of Oneida shall be responsible for prosecution of alleged violations of this Local Law.
- D. If the local City Court or Justice Court determines after a hearing that a violation of this Local Law has occurred, a penalty shall be imposed by the local City Court or Justice Court pursuant to Section VII of this Local Law.
- E. The decision of the local City Court or Justice Court shall be reviewable pursuant to applicable law.
- F. A defendant charged with a violation of any provision of this Local Law may plead guilty to the charge in open court. He or she may also submit to the Judge or Magistrate having jurisdiction, in person, by duly authorized agent, or by registered mail, a statement (1) that he or she waives arraignment in open court and the aid of counsel, (2) that he or she pleads guilty to the offense charged, (3) that he or she elects or requests that the charge be disposed of and the fine or penalty fixed by the Court, (4) of any explanation that he or she desires to make concerning the offense charged, and (5) that he or she makes all statements under penalty of perjury. Thereupon the Judge or Magistrate may proceed as though the defendant had been convicted upon a plea of guilty in open court. If upon receipt of the aforesaid statement the Judge or Magistrate shall deny the same, he or she shall thereupon notify the defendant of this fact, and that he or she is required to appear before the said Judge or Magistrate at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.

SECTION IX. EFFECT ON OTHER LAWS

This Local Law shall not be interpreted nor construed to permit tobacco or e-cigarette use where it is otherwise restricted by other applicable laws, including but not limited to the New York State Clean Indoor Air Act.

SECTION X. SEVERABILITY

If any section, subsection, sentence, clause, phrase or other portion of this Local Law is for any reason declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidation shall not affect the validity of the remaining portions of this law which can be given effect without the invalid provision or application, which shall remain in full force and effect.

SECTION XI. REVERSE PREEMPTION

This Local Law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this Local Law, or in the event that a pertinent State or Federal Administrative Agency issues or promulgates regulations preempting such action by the County of Oneida. The Board of County Legislators for the County of Oneida may determine via Resolution whether or not identical or substantially similar Federal or State legislation has been enacted for the purposes of triggering the provisions of this section.

SECTION L - HIV POLICY STATEMENT

Employment Rights of Employees Infected With Human Immune-Deficiency Virus (HIV)

I. PHILOSOPHY

Oneida County is committed to maintaining a healthy work environment by protecting the physical and emotional health and well being of all employees in the workplace. This AIDS Policy is a direct outgrowth of that commitment. It provides guidelines to manage employees or situations when a question of an AIDS virus related condition arises.

1. The term “AIDS virus related conditions” refers to the following conditions:
 - Presence of the HIV antibody without symptoms of AIDS
 - Presence of the HIV related infection
 - AIDS
2. An HIV infected individual presents a health problem, not a health risk to other employees in the workplace under normal Working conditions
3. An HIV infection results in a collapse of the body’s natural immunity against disease resulting in increased susceptibility to Infectious disease and cancers.
4. HIV is most usually transmitted through exchange of blood or semen. Employees with AIDS are subject to the same working conditions and performance requirements as any other employee. Medical experts on HIV related conditions state there is NO KNOWN RISK of AIDS transmission between an infected employee and other employees through either casual or close contact that occurs during normal working activities. An HIV related condition is not transmitted b breathing the same air, using the same lavatories, touching a common piece of paper, or using the same telephone. The virus is very fragile and has been found to be transmitted only through intimate exchange of bodily fluids (for example blood, or blood contaminated tissue fluids such as semen or vaginal fluids.)
5. An HIV infected person deserves and requires compassion and understanding. While this person is attempting to cope with his or her own vulnerability and fears, the support and understanding of friends and colleagues can be of particular value.
6. The surgeon General and the State of New York have encouraged all employers to develop an AIDS policy.

Therefore, the County of Oneida establishes the following policy in regard to its employees:

II. POLICY

It is the policy of the County of Oneida that any employee of the County who has an HIV related illness or AIDS, will not, for this reason solely, be prevented from remaining in his/her assigned work station.

III. AMPLIFYING INSTRUCTION AND GUIDELINE

1. The Policy statement and guideline are based on the most current medical information on the subject available. If any significant developments occur, the County of Oneida will revise the Policy and these guidelines accordingly.
2. There shall be an Oneida County Aids Policy Committee. The purpose of the Committee is to review issues concerning HIV as it affects public employees. Such committee shall be composed of:
 - The Medical Consultant for the Oneida County Health Department.
 - Director of the Oneida County Health Department (or his/her designee)
 - Commissioner of the Oneida County Mental Health Department (or his/her designee)
 - Director of Labor Relations
 - Union Representative, CSEA – OCDSBA – Nurse’s

This committee shall be chaired by the Medical Consultant.

3. The Oneida County Personnel Department shall maintain all files that include listing of names and other confidential information of those HIV infected persons under strict security.

All those persons involved in the maintenance of said files will receive HIV confidentiality in-service as outlined in the New York State HIV Confidentiality Law of February 1, 1989 and shall keep information regarding HIV infected persons shall be subject to the appropriate disciplinary action.

IV. DELEGATION OF AUTHORITY

The Oneida County Personnel Department will arrange for in-service education on an individual or departmental basis. Such in-service shall include but not be limited to educating both infected and non-infected persons in the proper procedures of Universal precautions for the health and well being of all those individuals involved together in the work place.

V. EXPIRATION

This policy is to be reviewed yearly or as additional, significant medical or legal information becomes available.

SECTION M – POLICY STATEMENT – DRUG FREE WORKPLACE

I. SUBJECT: DRUG-FREE WORKPLACE

II. EFFECTIVE DATE: IMMEDIATELY

III. PURPOSE: The purpose of this policy is to secure for Oneida County employees a safe, drug-free working environment and to insure compliance with the Federal Drug-Free Workplace Act of 1988, P.L. 100-690.

IV. POLICY:

1. The County of Oneida prohibits the unlawful use, possession, manufacture, dispensing or distribution of controlled substances in all County workplaces. A County workplace is defined as any place where a county employee is performing his or her employment duties.
2. Employees are required to notify their department head and the County Personnel Commissioner of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) calendar days after such conviction.
3. As required by the Federal Drug-Free Workplace Act of 1988, the County of Oneida will, within ten calendar days of knowing of an employee's criminal drug statute conviction for a violation occurring in the workplace, notify granting agencies as required by the Act.
4. Within thirty calendar days of knowing an employee's criminal statute conviction for a violation occurring in the workplace, the County of Oneida will take appropriate personnel action against the employee, up to and including termination, and/or require the employee to participate satisfactorily in a drug abuse rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency. Each case shall be considered and evaluated on individual merits in relation to the specific facts of the situation.
5. The Department of Personnel/Civil Service will establish a drug-free awareness program to provide training for supervisory staff and periodically inform all County employees about:
 - a. The danger of drug abuse in the workplace.
 - b. The County's policy for maintaining a drug-free workplace.
 - c. The availability of any County Employee Assistance Program and such other drug counseling or rehabilitation program as may be available.
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
6. Employees are required to abide by this policy as a condition of employment.
7. Drug testing will be performed, and positive results will be reviewed by a Medical Review Officer when such testing and/or review are required by applicable law or regulations.
8. Employees shall be provided a copy of this policy by their department head and will acknowledge receipt by placing an initialized, dated copy of same in their department personnel record.

SECTION N - ONEIDA COUNTY CDL DRUG-FREE WORKPLACE

PURPOSE AND BASIS FOR POLICY

The purpose of this policy is to adhere to the commitment of Oneida County Government to employees to establish a safe, drug-free working environment, its responsibility to the public to conduct operations in such a manner to maintain the public trust and

compliance with the Federal Drug-Free Workplace Act of 1988, the Omnibus Transportation Employee Testing Act of 1991, and subsequent applicable laws.

POLICY STATEMENT

I. POSSESSION AND USE OF CONTROLLED SUBSTANCES AND ALCOHOL

A. In all County workplaces all employees of Oneida County who possess a Commercial Driver's License (CDL) and operate a Commercial Motor Vehicle (CMV) during duty hours are prohibited from the unlawful:

- use of controlled substances,**
- possession of controlled substances;
- manufacture of controlled substances;
- dispensing of controlled substances;
- distribution of controlled substances;

B. All employees are required to notify their immediate supervisor or Department Head of any criminal drug statute conviction for a violation occurring in the workplace not later than five (5) calendar days after such conviction. Oneida County will, within ten (10) calendar days of knowing of an employee's criminal drug statute conviction for a violation occurring in the workplace, notify granting agencies as required by the Federal Drug-Free Workplace Act of 1988.

Within thirty (30) calendar days of knowing an employee's criminal statute conviction for a violation occurring in the workplace, the County of Oneida will take the appropriate personnel action against the employee, up to and including termination, and/or require the employee to participate satisfactorily in a drug abuse rehabilitation program approved for such purposes by a Federal, State or Local health, law enforcement, or other appropriate agency. Each case shall be considered and evaluated on individual merits in relation to the specific facts of the situation.

C. All employees while driving a CMV are prohibited from:

- possessing un-manifested alcohol products and controlled substances;
- possessing any product containing alcohol, regardless of its alcohol content;

D. No drivers shall report to duty to perform safety-sensitive function while under the influence or impaired by the misuse of alcohol.

E. Oneida County shall not permit an employee to perform a safety-sensitive function while under the influence or impaired by the misuse of alcohol;

F. Employees in safety-sensitive positions must refrain from consuming alcohol for the 4 hours preceding performing safety-sensitive functions;

G. Employees must notify their immediate supervisor or Department Head that they are taking prescription controlled substances prior to performing a safety-sensitive function, including driving.

**Controlled substances refer to marijuana (THC), cocaine, opiates, phencyclidine, and amphetamines (including methamphetamines), barbiturates, methaqualone, and benzodiazepines.

II. ALCOHOL AND CONTROLLED SUBSTANCES TESTING

Per Federal regulations Oneida County will institute alcohol and controlled substances testing for those employees who are, during their on duty time, assigned to safety-sensitive duties, including operating commercial vehicles (CMV).

Such tests will be given for alcohol and controlled substances under the following circumstances:

- pre-employment;
- reasonable suspicion;
- random selection;
- post-accident that resulted in a fatality, bodily injury, significant property damage, tow-away or medical assistance;
- return to duty;
- Follow-up on employees determined in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances as part of this testing requirement.

A. Employee Notification

Before performing an alcohol or controlled substances test under these rules, the employer must notify the employee being tested that the alcohol or controlled substance test being administered is required by Federal rule. The notice can be oral or written.

B. Specimen Collection Requirements

1. Employee Cooperation

Upon notification by Oneida County that employee is required under this policy to submit to alcohol, controlled substance testing, the employee must proceed or cooperate in being taken to the collection site immediately. No driver shall refuse to submit to post-accident, a random, a reasonable suspicion or follow-up alcohol or controlled substances test.

If the employee refuses to cooperate with the collection process, the Oneida County Alcoholism and Substance Abuse Services (OCASAS) shall inform the Department Head or his/her designee of the referring department and document the non-cooperation on the drug testing custody and control form.

If the designated employee fails to arrive at the assigned time for specimen collection, the OCASAS shall contact the appropriate authority to obtain guidance on the action to be taken.

If an employee refuses to submit to a required post-accident test after a fatal accident the FHWA will disqualify drivers for one year, under the procedures in 49CFR part 386. An applicant or driver's refusal to submit to a pre-employment test or a return-to-duty test will not trigger the need for evaluation by a substance abuse professional. In those cases, the applicant or driver simply would not be hired or returned to duty.

If the sample is being taken from an employee in need of medical attention (e.g., as part of a post-accident test given in an emergency medical facility) necessary medical attention shall not be delayed in order to collect the specimen.

At the collection site, the person responsible for chain of custody for the specimen shall ensure that the individual is positively identified as the employee selected for testing (e.g., through presentation of photo identification or identification by the employer's representative). If the individual's identity cannot be established, the collection site person shall not proceed with the collection.

2. Site

Oneida County Alcoholism and Substance Abuse Services (OCASAS) shall serve as the collection site. Specimens shall be collected at the main office of OCASAS, 500 Whitesboro Street, Utica, New York 13502 in room 109. While specimen collection is occurring, the room shall remain locked.

3. Chain of Custody

Cautions will be taken to ensure urine specimen is not adulterated or diluted during the collection procedure, handling and transportation of the specimen. The collection person will advise the employee of procedures that must be followed in the collection and shall ensure that the precautions required under Federal law are followed and, if they are not, to take appropriate action as delineated under Federal law.

4. Split Sample

A "split sample" method of collection shall be utilized as authorized under federal law. The first bottle shall be used for DOT mandated test which shall contain 60 ml. of urine. Up to 60 ml. shall be poured into a second bottle which the employee may request the MRO direct to be tested in a DHHS-certified laboratory for presence of the drug(s) for which a positive test result based on the first bottle specimen. This request shall only be honored when it is made within 72 hours of the employee's having actual notice that he/she has tested positive.

Results for tests conducted on this second bottle shall be communicated to the MRO without regard to the cutoff values specified in Section III C.1.2. of this policy.

5. Testing Laboratory

The testing laboratory shall meet the qualifications, training and procedural requirements specified under applicable Federal laws.

C. Positive Test Results

1. Alcohol test: 0.04 BAC or greater
2. Controlled Substance

Controlled Substance	Initial Test Cutoff Levels ng/ml	Control Substance	Confirmation Test Cutoff Levels
Marijuana metabolites	50	Marijuana metabolite *1	10
Cocaine metabolites	300	Cocaine metabolite *2	150
Opiate metabolites	*300	Opiates:	
		Morphine	200
		Codeine	200
Phencyclidine	25	Phencyclidine	20
Amphetamines	1,000	Amphetamines:	
		Amphetamine	500
		Methamphetamine	500
Barbiturates	200	Barbiturates	200
Methaqualone	1,000	Methaqualone	200
Benzodiazepines	200	Benzodiazepines	300

*25 ng/ml if immunoassay specific for free morphine *1 Delta -9-tetrahydrocannabinol-9-carboxylic acid

*2 Benzocgonine

D. Types of Tests

1. Pre-employment Testing

Pre-employment testing shall cover all employees who, during their on-duty time, will perform safety-sensitive functions, including operating CMV's. This requirement shall cover new Oneida County employees, current Oneida County employees transferring from another Department and current Oneida County employees who are moving from a position in which he/she was not responsible for the operation of a CMV to a position in which operation of such vehicles may occur.

Oneida County shall not permit a driver to perform safety-sensitive functions unless the employee has been administered an alcohol test with a result indicating an alcohol concentration less than 0.04 and has received a controlled substances test result from the medical review officer indicating a verified negative test result.

Oneida County will request, as part of the procedure for hiring an employee who will be driving a CMV in the workplace, written consent(s) to contact an employer for whom the applicant has worked in the past two years.

The purpose of this contact is to obtain information on the employee's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested which have been maintained by the employee's previous employers under requirements of Federal law. If it is discovered that any applicant/employee has had a positive test result or refused a test, that individual will not be permitted to perform safety-sensitive functions until information is obtained on the substance abuse professional evaluation and/or determination of the need for assistance, compliance with recommendations and return-to-duty testing results that were negative.

2. Reasonable Suspicion Testing

Oneida County shall require an employee to submit to an alcohol or controlled substances test when it has reasonable suspicion to believe that the employee, covered by this policy, has violated applicable alcohol and controlled substances policies. Reasonable suspicion shall be based on specific, contemporaneous, articulable observation concerning the appearance, behavior, speech, or body odors of the employee, made by a supervisor. The observations may include indications of the chronic and withdrawal effects of controlled substances.

A written record shall be made of the observations leading to a controlled substance reasonable suspicion test within 24 hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier, and signed by the supervisor or Oneida County official who made the observations.

Reasonable suspicion testing situations can only be determined by supervisor(s) and officials. These supervisors/officials are required to have at least 60 minutes of training on alcohol misuse and 60 minutes of training on the indicators of drug use that cover the following areas: physical, behavioral, speech and performance indicators.

Alcohol testing will be required under reasonable suspicion only if observations are made during, just preceding or just after the period that the employee, covered by this policy, is performing a safety-sensitive function.

When an employee is tested under reasonable suspicion, The employee shall be transported to the collection site by the immediate supervisor or someone designated by the Department Head. No employee who is suspected of violating the alcohol or drug policy shall be permitted to transport himself/herself to the collection site. No covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the employee is under the influence of or impaired by alcohol as shown by the indicators of alcohol misuse.

Oneida County shall not permit the employee to perform or continue safety-sensitive functions until:

- an alcohol test is done and the employee's alcohol concentration measures less than 0.02; **OR**
- Twenty-four hours have elapsed following the determination that there was reasonable suspicion to believe that the employee has violated the prohibitions concerning the use of alcohol.

3. Post-Accident Testing

Drug and alcohol tests will be conducted following any workplace accident which occurred at a time when the employee was performing a safety-sensitive function and the accident resulted in any of the following: a fatality, a driver received a citation for a moving traffic violation, bodily injury occurred, there was significant property damage, tow-away, or medical assistance was needed. Testing for controlled substances must be initiated prior to the 32nd hour after the accident. Alcohol tests must be administered within 8 hours following the accident.

An employee who is subject to post-testing shall remain readily available for such testing or may be deemed by Oneida County to have refused to submit to testing.

This policy does not preclude an employee from obtaining necessary attention in a timely manner from leaving the scene of an accident for the period necessary to obtain assistance responding to the accident or to obtain needed emergency medical care.

Whenever an alcohol test is not administered within 2 hours or a drug test is not administered within 32 hours following the accident, Oneida

County shall prepare and maintain on file a record stating the reasons the test was not promptly administered. No tests shall be administered when the number of hours from the accident exceeds these guidelines.

In lieu of administering a post-accident test, Oneida County may substitute a breath or blood test for the use of alcohol and a urine test for the use of drugs, administered by the on-site police or public safety officials under separate authority, performed under the procedures required by their jurisdictions, if Oneida County obtains these results from the local jurisdiction or the employee.

4. Random Testing

The minimum annual percentage rate for random alcohol testing shall be 25% of the average number of safety-sensitive positions, including driving and 50% of the number of safety-sensitive, including driver positions for controlled substances testing. The selection of employees to be randomly tested for alcohol and controlled substances shall be made by a scientifically valid method. Such tests will be announced and will be conducted throughout the calendar year.

In cases where the Medical Review Officer has been unable to contact the employee who submitted a specimen under this testing policy, a designated Oneida County management official shall make reasonable efforts to contact each such employee, regardless of the employee's employment status.

The purpose of this contact will be to request each such tested individual to contact and discuss the results of the controlled substances test with a Medical Review Officer. The designated management official shall immediately notify the Medical Review Officer that the employee has been notified to contact the Medical Review Officer within 24 hours.

III. **CONSEQUENCES FOR EMPLOYEES ENGAGING IN SUBSTANCE USE-RELATED CONDUCT**

No employee shall perform safety-sensitive functions, including driving a commercial motor vehicle, if the employee has engaged in conduct prohibited by this policy and Federal laws/regulations. Oneida County shall not permit any employee to perform safety-

sensitive functions if they have determined that the employee has violated this policy and/or applicable Federal laws/regulations until conditions for return-to-duty have been satisfied.

No employee who has engaged in conduct prohibited by this policy shall perform safety-sensitive functions and shall be suspended until the requirements of referral, evaluation and treatment have been met by the employee.

While suspended from duty for violations of this policy, employees shall be given the option of using vacation, personal or compensatory time they have available.

If the employee does not have such time available, the employee will be placed on leave without pay.

Each employee who engages in conduct prohibited by this policy shall be advised by Oneida County of the resources available to the employee in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

Oneida County shall utilize Oneida County Alcoholism and Substance Abuse Services as the substance abuse professional for the purposes of this policy.

Each employee who violates this policy shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and use of controlled substances. Oneida County shall utilize Oneida County Alcoholism and Substance Abuse Services as the substance abuse professional for the purposes of this policy.

In addition, each employee identified as needing assistance in resolving these problems shall:

- be evaluated by a substance abuse professional to determine that the driver has properly followed any rehabilitation program described; **AND**
- be subject to at least six unannounced follow-up alcohol and controlled substances tests by Oneida County in the first 12 months following the employee's return to duty. Positive tests will result in termination. Follow-up testing shall not exceed 60 months.

Failure to submit to a pre-employment test will result in the applicant not being hired for a safety-sensitive position.

Failure to submit to a return to duty test will result in the employee not being returned to duty and other appropriate actions up to and including termination.

A. Alcohol Violations

Employees shall be prohibited from performing safety-sensitive functions, including driving for Oneida County until the start of the employees next regularly scheduled duty period, but not less than 24 hours following the administration of a test which results in a finding that the employee has an alcohol concentration of 0.02 or greater, but less than 0.04.

Employees with a test result of 0.04 or greater shall:

1. Be referred to an Oneida County Alcoholism and Substance Abuse Service;
2. Undergo recommended treatment before returning to perform safety-sensitive functions;
3. Complete a return to duty test with a result below 0.02.

B. Positive Test for Controlled Substances

The employee will be removed from safety-sensitive functions, at a minimum until:

1. The employee undergoes evaluation at Oneida County Alcoholism and Substance Abuse Services, and where necessary completes a rehabilitation program provided by a licensed agency;
2. The licensed agency determines that the employee has successfully complied with the program requirements and individual treatment requirements recommended by the program;
3. The employee takes a return-to-duty test with a verified negative test result.

IV. EMPLOYEE EDUCATION AND INFORMATION

A. Supervisors

Supervisors are required to have 60 minutes of training on physical, behavioral, speech and performance indicators of drug use and 60 minutes of training on alcohol misuse.

B. All Employees

Oneida County will provide all employees, covered under this policy, with a copy of the Drug Free Workplace Policy and information on misuse of alcohol and controlled substance abuse professionals. This will include anyone applying for a position covered under this policy. Employees will be expected to make them familiar with this policy and abide by it.

V. EMPLOYEE NOTICE OF PRESCRIPTION CONTROLLED SUBSTANCES

Employees who will be performing safety-sensitive functions, including driving, are required to advise their immediate supervisor or Department Head when they are taking prescription drugs that fall into the category of controlled substances as described under this policy. This notice must be in writing. The immediate supervisor or Department Head shall provide the employee with the appropriate form for this purpose. Employees who do not perform safety-sensitive functions each day at the workplace need only to advise their supervisor or Department Head of such controlled substance when they are assigned to perform a safety-sensitive function.

VI. MEDICAL REVIEW OFFICER

The Medical Review Officer shall review confirmed positive results prior to the transmission of the results to employer administrative officials. The MRO shall review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication.

The MRO, or a staff person under the MRO's supervision, shall contact the individual directly, on a confidential basis, to determine whether the employee wishes to discuss the test result prior to making the final decision on a verified position test. The MRO shall talk directly with the employee before verifying a test as positive unless, after making all reasonable efforts and documenting them, the MRO is unable to reach the individual directly. In such cases the MRO shall contact a designated official who shall direct the individual to contact the MRO as soon as possible.

If after the employer representative has made all reasonable efforts and is unable to contact the employee, the employer may place the employee on temporary medically unqualified status or leave.

The MRO may verify a test as positive without having communicated directly with the employee about the test under the following circumstances:

- the employee expressly declines the opportunity to discuss the test;
- the designated employer representative has successfully made and documented a contact with the employee and instructed the employee to contact the MRO and more than five days have passed since the date the employee was successfully contacted by the designated employer representative.

Should any question arise as to the accuracy or validity of a positive test result, only the MRO is authorized to order a reanalysis of the original sample if requested to do so by the employee within 72 hours of the employee's having received actual notice of the positive test.

VII. CONFIDENTIALITY

The confidentiality of the employee is acknowledged. In selecting a collection site and substance abuse professional for this policy, the issue of confidentiality was considered. OCASAS is licensed by New York State Office of Alcoholism and Substance Abuse Services and must adhere to 42 CFR parts 2 in protecting the confidentiality of alcohol and drug patients.

Except as required by law or expressly authorized or required in subsection 382.409 of 49 CFR, Oneida County shall not release information that is contained in records required to be maintained.

Oneida County will maintain, in a secure location with limited access, records of its alcohol and controlled substance prevention program according to the time frame specified under the "RECORDKEEPING" section of this policy.

VIII. RECORDKEEPING

Oneida County shall prepare and maintain an annual calendar year summary of the results of its alcohol and controlled substances testing programs performed under this policy. This summary shall be completed by March 15 of each year.

Oneida County shall maintain records of its alcohol and controlled substances use prevention programs in a secure location with controlled access. The records shall be maintained in accordance with the following schedule:

A. Period of Retention

1. Five Years
 - a. Records of covered employees alcohol test results with results indicating an alcohol concentration of 0.02 or greater;
 - b. Records of driver verified positive controlled substances test results;
 - c. Documentation of refusals to take required alcohol and/or controlled substances tests;
 - d. Calibration documentation;
 - e. Driver evaluation and referrals, and;
 - f. A copy of each annual calendar year summary.
2. Two Years
 - a. Records related to the alcohol and controlled substances collection process and training.
3. One Year
 - a. Records of negative and canceled controlled substances test results and alcohol results with a concentration of less than 0.02.

B. Types of Records

1. Testing selection process and documentation relating to decisions leading to testing;
2. Education and training;
3. Technical documentation of testing instruments and procedures and monthly, non-identifying laboratory statistical summaries of urinalysis of Oneida County employees;
4. Employee records concerning test refusals, test dispute documents, evaluation, determination by a substance abuse professional, compliance with substance abuse recommendations, compliance with recommendations, medical explanation of inability of employee to provide adequate breath or urine specimen and test records;
5. Agreements with collection site facilities, laboratories, medical review officers;
6. Names and positions of officials and their roles in the employer's alcohol and controlled substances testing program.

SECTION O – ONEIDA COUNTY HARASSMENT AND DISCRIMINATION PREVENTION POLICY

A. Objective

1. Oneida County strives to create and maintain a work environment in which people are treated with dignity, decency and respect. The environment of Oneida County should be characterized by mutual trust and the absence of intimidation, oppression and exploitation. Oneida County will not tolerate unlawful discrimination or harassment of any kind. Through enforcement of this Policy and by education of employees, Oneida County will seek to prevent, correct and discipline behavior that violates this policy.
2. Oneida County is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of Oneida County's commitment to a discrimination-free work environment.
3. Harassment and discrimination are against the law. All employees have a legal right to a workplace free from harassment and discrimination, and employees can enforce this right by filing a complaint internally with Oneida County, with a government agency, or in court under federal, state or local antidiscrimination laws.

4. All employees, regardless of their positions, are covered by and are expected to comply with this Policy and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this Policy. Based on the seriousness of the offense, disciplinary action may include verbal or written reprimand, suspension, or termination of employment.

5. Managers and supervisors who knowingly allow or tolerate discrimination, harassment or retaliation, including the failure to immediately report such misconduct to the Commissioner of Personnel, are in violation of this Policy and subject to discipline.

B. Policy

1. This Policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors, subcontractors, vendors, consultants, anyone providing services in the workplace, and persons conducting business with Oneida County. In the remainder of this Policy, the term “Employees” refers to this collective group.

2. Harassment

a. Oneida County prohibits harassment of any kind, and will take appropriate and immediate action in response to complaints or knowledge of violations of this Policy. For purposes of this Policy, harassment is any unwelcome or unwanted verbal or physical conduct designed to threaten, intimidate or coerce an Employee.

b. The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this Policy:

i. Verbal harassment includes comments that are offensive or unwelcome regarding a person's national origin, race, color, religion, gender, sexual orientation, age, body, disability or appearance, including epithets, slurs and negative stereotyping.

ii. Nonverbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance, disability, sexual identity, marital status or other protected status.

c. Sexual harassment will not be tolerated. Any Employee covered by this Policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action, up to and including termination.

i. What Is “Sexual Harassment?”

1. Sexual harassment is a form of sex discrimination and is unlawful under federal, state and, where applicable, local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

2. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

a. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;

b. Such conduct is made either explicitly or implicitly a term or condition of employment; or

c. Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.

3. A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual’s sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient’s job performance.

4. Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called “quid pro quo” harassment.

5. Any Employee who feels harassed should file a complaint so that any violation of this Policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this Policy.

ii. Examples of Sexual Harassment

1. The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

a. Physical assaults of a sexual nature, such as:

i. Touching, pinching, patting, kissing, hugging, grabbing, brushing against another Employee's body or poking another Employee's body;

ii. Rape, sexual battery, molestation or attempts to commit these assaults.

b. Unwanted sexual advances or propositions, such as:

i. Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;

ii. Subtle or obvious pressure for unwelcome sexual activities.

c. Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience, which create a hostile work environment.

d. Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's idea or perceptions about how individuals of a particular sex should act or look.

e. Sexual or discriminatory displays or publications anywhere in the workplace, such as:

i. Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.

f. Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:

i. Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;

ii. Sabotaging an individual's work;

iii. Bullying, yelling, name-calling.

iii. Who can be a Target of Sexual Harassment?

1. Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects Employees. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including a Employee, client, customer or visitor.

iv. Where can Sexual Harassment Occur?

1. Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while Employees are traveling for business or at employer sponsored events or parties.

2. Calls, texts, emails, and social media usage by Employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

3. Discrimination

a. It is a violation of this Policy to discriminate in the provision of employment opportunities, benefits or privileges; to create discriminatory work conditions; or to use discriminatory evaluative standards in employment if the basis of that discriminatory

treatment is, in whole or in part, the person's actual or perceived race, color, national origin, age, religion, disability status, gender, sexual orientation, gender identity, genetic information or marital status.

b. Discrimination of this kind may also be strictly prohibited by a variety of federal, state and local laws, including Title VII of the Civil Rights Act 1964, the Age Discrimination Act of 1975 and the Americans with Disabilities Act of 1990. This Policy is intended to comply with the prohibitions stated in these anti-discrimination laws.

c. Any Employee who engages in discrimination in violation of this Policy will be subject to disciplinary measures up to and including termination.

4. Hostile Work Environment. A hostile work environment results from harassing conduct that has the purpose or effect of unreasonably interfering with an Employee's work performance, or creates an intimidating, hostile, offensive or objectionable working environment.

5. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse employment action because the Employee reports an incident of harassment or discrimination, provides information, or otherwise assists in any investigation of a harassment or discrimination complaint. Oneida County will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected harassment or discrimination. However, filing groundless or malicious complaints is an abuse of this Policy and will be treated as a violation. Any Employee of Oneida County who retaliates against anyone involved in a harassment or discrimination investigation will be subjected to disciplinary action, up to and including termination. All Employees who believe they have been subject to such retaliation should inform a department head, supervisor, manager, or the Commissioner of Personnel. All Employees who believe they have been a target of such retaliation may also seek compensation in other available forums, as explained below in section K, "Legal Protections and External Remedies."

6. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject Oneida County to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including department heads, managers and supervisors who engage in sexual harassment or who knowingly allow such behavior to continue, will be subject to discipline up to and including termination of employment.

7. Oneida County will conduct a prompt and thorough investigation that ensures due process for all parties, whenever the Commissioner of Personnel, a department head, manager or supervisor receives a complaint about harassment or discrimination, or otherwise knows of possible harassment or discrimination occurring. Oneida County will keep the investigation confidential to the extent possible, and information is disclosed strictly on a need-to-know basis. The identity of the complainant is usually revealed to the parties involved during the investigation, and the Commissioner of Personnel and/or his/her designee will take adequate steps to ensure that the complainant is protected from retaliation during and after the investigation. All information pertaining to a complaint or investigation under this Policy will be maintained in secure files within the Personnel Department. Effective corrective action will be taken whenever harassment or discrimination is found to have occurred. Such corrective action may include discipline, up to and including termination. All Employees, including department heads, managers and supervisors are required to cooperate with any internal investigation of harassment or discrimination.

8. All Employees are encouraged to report any harassment, discrimination or behaviors that violate this Policy. Oneida County will provide all Employees a Complaint Form for Employees to report harassment and discrimination. A copy of said Complaint Form is attached hereto as Exhibit A.

9. Department heads, managers and supervisors are required to report any complaint that they receive, or any harassment or discrimination that they observe or become aware of to the Commissioner of Personnel.

10. This Policy applies to all Employees and Non-Employees and all must follow and uphold this Policy. This Policy must be provided to all Employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to all Employees upon hiring.

C. Retaliation

1. Unlawful retaliation can be any action that could discourage an Employee from coming forward to make or support a harassment or discrimination claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

2. Such retaliation is unlawful under federal, state and, where applicable, local law. The New York State Human Rights Law ("HRL") protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- a. made a complaint of harassment or discrimination, either internally or with any anti-discrimination agency;
 - b. testified or assisted in a proceeding involving harassment or discrimination under the HRL or other anti-discrimination law;
 - c. opposed harassment or discrimination by making a verbal or informal complaint to management, or by simply informing a department head, supervisor or manager of harassment or discrimination;
 - d. reported that another Employee has been harassed or discriminated against; or
 - e. encouraged a fellow Employee to report harassment or discrimination.
3. Even if the alleged harassment or discrimination does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, this retaliation provision is not intended to protect persons making intentionally false charges of harassment.

D. Reporting Harassment and Discrimination

1. Preventing harassment and discrimination is everyone's responsibility. Oneida County cannot prevent or remedy harassment or discrimination unless it knows about it. Any Employee who has been subjected to behavior that may constitute harassment or discrimination is encouraged to report such behavior to a department head, supervisor, manager or the Commissioner of Personnel. Anyone who witnesses or becomes aware of potential instances of harassment or discrimination should report such behavior to a department head, supervisor, manager or the Commissioner of Personnel.
2. Reports of harassment or discrimination may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all Employees are encouraged to use this Complaint Form. Employees who are reporting harassment or discrimination on behalf of other Employees should use the Complaint Form and note that it is on another Employee's behalf.
3. Employees who believe they have been a target of harassment or discrimination may also seek assistance in other available forums, as explained below in section K, "Legal Protections and External Remedies."

E. Supervisory Responsibilities

1. All department heads, supervisors and managers who receive a complaint or information about suspected harassment or discrimination, observe what may be harassing or discriminatory behavior or for any reason suspect that harassment or discrimination is occurring, are required to report such suspected harassment or discrimination to the Commissioner of Personnel.
2. In addition to being subject to discipline if they engaged in harassing or discriminatory conduct themselves, department heads, supervisors and managers will be subject to discipline, up to and including termination, for failing to report suspected harassment or discrimination, or otherwise knowingly allowing harassment or discrimination to continue.
3. Department heads, supervisors and managers will also be subject to discipline, up to and including termination, for engaging in any retaliation.

F. Complaint and Investigation of Sexual Harassment

1. All complaints or information about suspected harassment or discrimination will be investigated, whether that information was reported in verbal or written form, by the Commissioner of Personnel, or his/her designee.
2. In the event that the complaint of suspected harassment or discrimination is against the Commissioner of Personnel, such complaints shall be made to the County Attorney and will be investigated by the County Attorney, or his/her designee.
3. An investigation of any complaint, information or knowledge of suspected harassment or discrimination will be prompt and thorough, commenced immediately and completed as soon as possible.
4. The investigation will be kept confidential to the extent possible.
5. All persons involved, including complainants, witnesses and alleged harassers will be afforded due process, as outlined below, to protect their rights to a fair and impartial investigation.

6. Any Employee may be required to cooperate as needed in an investigation of suspected harassment or discrimination. Oneida County will not tolerate retaliation against Employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this Policy.

7. While the process may vary from case to case, investigations should be done in accordance with the following steps:

- a. Upon receipt of complaint, the Commissioner of Personnel or his/her designee will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If the complaint is oral, the individual will be encouraged to complete the Complaint Form in writing. If he or she refuses, the Commissioner of Personnel or his/her designee shall prepare a Complaint Form based on the oral reporting.
- b. If documents, emails or phone records are relevant to the allegations, take steps to obtain and preserve them.
- c. Request and review all relevant documents, including all electronic communications.
- d. Interview all parties involved, including any relevant witnesses.
- e. Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - i. A list of all documents reviewed, along with a detailed summary of relevant documents;
 - ii. A list of names of those interviewed, along with a detailed summary of their statements;
 - iii. A timeline of events;
 - iv. A summary of prior relevant incidents, reported or unreported; and
 - v. The basis for the decision and final resolution of the complaint, together with any corrective actions action(s).
- f. Keep the written documentation and associated documents in a secure and confidential location.
- g. Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective action(s) identified in the written document.
- h. Inform the individual who reported of their right to file a complaint or charge externally as outlined in section H, "Legal Protections and External Remedies."

G. Responsive Action

1. The Commissioner of Personnel and the appropriate department head(s) will review the results of the investigation, including other management staff as appropriate, and decide what action, if any, will be taken.
2. Once a final decision is made, the appropriate department head(s) will meet with the complainant and the respondent separately and notify them of the findings of the investigation. If disciplinary action is to be taken, the respondent will be informed of the nature of the discipline and how it will be executed.
3. If the investigation is inconclusive or if it is determined that there has been no violation of this Policy but potentially problematic conduct may have occurred, the Commissioner of Personnel or his/her designee may recommend appropriate preventive action.

H. Legal Protections and External Remedies

1. Harassment and discrimination are not only prohibited by Oneida County, but are also prohibited by federal, state and, where applicable, local law. Aside from the internal process at Oneida County, Employees may also choose to pursue legal remedies with the following governmental agencies. While a private attorney is not required to file a complaint with a governmental agency, an individual may seek the legal advice of an attorney of his/her choosing. In addition to those outlined below, Employees in certain industries may have additional legal protections.

a. HRL

- i. The HRL, codified as N.Y. Executive Law, art. 15, § 290 et seq.

- ii. A complaint alleging violation of the HRL may be filed either with New York State Division of Human Rights (“DHR”) or in New York State Supreme Court.
- iii. Complaints with DHR may be filed any time within one (1) year of the harassment or discrimination. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three (3) years of the alleged harassment or discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court.
- iv. Complaining internally to Oneida County does not extend the time to file with DHR or in court. The one (1) year or three (3) years is counted from date of the most recent incident of harassment or discrimination.
- v. An individual does not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.
- vi. DHR will investigate the complaint and determine whether there is probable cause to believe that harassment or discrimination has occurred. Cases where probable cause is found are forwarded to a public hearing before an administrative law judge. If harassment or discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring the employer to take action to stop the harassment or discrimination, or redress the damage caused, including paying monetary damages, attorney’s fees and civil fines.
- vii. DHR’s main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400 or visit www.dhr.ny.gov
- viii. Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR’s regional offices across New York State.

b. Civil Rights Act of 1964

- i. The United States Equal Employment Opportunity Commission (“EEOC”) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment or discrimination. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that harassment or discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.
- ii. The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if harassment or discrimination is found to have occurred. In general, private employers must have at least 15 Employees to come within the jurisdiction of the EEOC.
- iii. An Employee alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov
- iv. If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

c. Local Protections

- i. Many localities enforce laws protecting individuals from harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

d. Contact the Local Police Department

- i. If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

SECTION P - CODE OF ETHICS

The Board of Legislators of Oneida County, pursuant to provisions of section 806 (2) of the General Municipal Law, has enacted and duly adopted a code of ethics for public officers and employees of the County of Oneida. The appropriate sections of said law are attached hereto. A complete copy of said law is available through the Personnel Office.

The rules as defined in the code serve as a guide for the ethical and official conduct of all officials and employees of Oneida County and shall not conflict with, but shall be in addition to other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

COUNTY OF ONEIDA

Local Law No. 2 of the year 2017

LOCAL LAW INTRODUCTORY “A” OF 2017 REPEALING LOCAL LAW NO. 1 OF 1991 AND CREATING THE ETHICS LAW OF THE COUNTY OF ONEIDA IN COMPLIANCE WITH ARTICLE 18 OF THE NEW YORK STATE GENERAL MUNICIPAL LAW.

WHEREAS, article 18 of the General Municipal Law prohibits the officers and employees of a municipality from having certain conflicts of interest; and

WHEREAS section 806 of the General Municipal Law requires the Board of County Legislators of the County of Oneida adopt a code of ethics that sets forth for the guidance of its officers and employees standards of conduct reasonably expected of them; and

WHEREAS, section 806 of the General Municipal Law requires the code of ethics to be adopted by Board of County Legislators of the County of Oneida must set forth standards of conduct for the guidance of the officers and employees of the County with respect to disclosure of interests in legislation before the Board of County Legislators of the County of Oneida, holding of investments in conflict with official duties, private employment in conflict with official duties, future employment, and such other standards as may be deemed advisable.

NOW, THEREFORE, BE IT ENACTED BY THE BOARD OF COUNTY LEGISLATORS OF THE COUNTY OF ONEIDA AS FOLLOWS:

Ethics Law of the County of Oneida

Section 1. Title. This local law shall be known and may be cited as the “Ethics Law of the County of Oneida.”

Section 2. Purpose.

A. The purposes of this local law are:

- I. To establish high standards of ethical conduct for officers, elected officials and employees of the County of Oneida;
- II. To afford officers, elected officials and employees of the County of Oneida clear guidance on such standards;
- III. To promote public confidence in the integrity of the governance and administration of the County of Oneida and its agencies and administrative offices;
- IV. By requiring public disclosure of financial interests that may influence or be perceived to influence the actions of County of Oneida officers, elected officials and employees, to facilitate

consideration of potential ethical problems before they arise, minimize unwarranted suspicion, and enhance accountability of government to the people; and

V. To provide for the fair and effective administration of this local law.

B. This local law is enacted pursuant to Section 806 of the General Municipal Law of the State of New York and section 10 of the Municipal Home Rule Law and is not intended to authorize any conduct prohibited by Article 18 of the General Municipal Law. This local law also supplements other provisions of law regulating ethics in local government, such as section 107 of the Civil Service Law of the State of New York.

Section 3. Supersession of General Municipal Law § 808; Repeal of existing County of Oneida Ethics Laws.

A. To this extent that this local law is inconsistent with the provisions of Section 808 of the General Municipal Law, this local law shall supersede those provisions.

B. Upon enactment of this Local Law, Local Law 1 of 1991 is repealed in its entirety.

C. Upon enactment of this Local Law, the Ethics Board constituted pursuant to Local Law 1 of 1991 is hereby dissolved in its entirety.

Section 4. Ethics Law: Substantive Provisions.

A. **Definitions.** Unless otherwise stated or unless the context otherwise requires, when used herein:

I. “Appear” and “appear before” mean communicating in any form, including, without limitation, personally, through another person, by letter, or by telephone.

II. “Confidential Information” means any nonpublic information pertaining to County of Oneida business.

III. “County of Oneida officer, elected official or employee” means any officer or employee of the County of Oneida, whether paid or unpaid, and includes, without limitation, all members of any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, or committee of the County of Oneida. “County of Oneida officer, elected official or employee” shall not include:

a. A judge, justice, officer, or employee of the New York State Unified Court System; or

b. A volunteer fire fighter or civil defense volunteer, except a fire chief or assistant fire chief.

IV. “Customer or Client” means:

a. Any person to whom a County of Oneida officer, elected official or employee has supplied goods or services during the previous twenty-four months having, in the aggregate, a value greater than \$1,000.00; or

b. Any person to whom a County of Oneida officer’s, elected official’s or employee’s outside employer or business has supplied goods or services during the previous twenty-four months having, in the aggregate, a value greater than \$1,000.00, but only if the officer or employee knows or has reason to know the outside employer or business supplied the goods or

services.

- V. “Ethics Board” means the Ethics Board of the County of Oneida established pursuant to Section 5, Part C herein.
- VI. “Gift” and “financial benefit” shall include any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, or any promise thereof, or any other gratuity or promise thereof or anything of value. A financial transaction may be a financial benefit but shall not be a gift unless it is on terms not available to the general public. “Gift” and “financial benefit” do not include campaign contributions authorized by law.
- VII. “Interest” means a direct or indirect pecuniary or material benefit accruing to a County of Oneida officer, elected official or employee as the result of a contract with the County of Oneida which such County of Oneida officer, elected official or employee serves. For the purposes of this article a County of Oneida officer, elected official or employee shall be deemed to have an interest in the contract of (a) his spouse, minor children and dependents, except a contract of employment with the County of Oneida which such County of Oneida officer, elected official or employee serves, (b) a firm, partnership or association of which such County of Oneida officer, elected official or employee is a member or employee, (c) a corporation of which such County of Oneida officer, elected official or employee is an officer, director or employee and (d) a corporation any stock of which is owned or controlled directly or indirectly by such County of Oneida officer, elected official or employee.
- VIII. “Ministerial act” means an action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.
- IX. “Outside employer or business” means:
- a. Any activity other than service to the County of Oneida, from which the County of Oneida officer, elected official or employee receives compensation for services rendered or goods sold or produced;
 - b. Any entity other than the County of Oneida, of which the County of Oneida officer, elected official or employee is a member, officer, director, or employee and from which he or she receives compensation for services rendered or goods sold or produced; or
 - c. Any entity in which the County of Oneida officer, elected official or employee has an ownership interest, except a corporation which the County of Oneida officer, elected official or employee owns less than five percent of outstanding stock.
- For purposes of this definition “compensation” shall not include reimbursement for necessary expenses, including travel expenses.
- X. “Person” shall include both individuals and entities.
- XI. “Relative” means a spouse, minor child, minor step-child, of the County of Oneida officer, elected official or employee, or a person claimed as a dependent on the County of Oneida officer’s, elected official’s or employee’s latest individual state income tax return.
- XII. “Subordinate” of a County of Oneida officer, elected official or employee shall mean another County of Oneida officer, elected official or employee over whose activities he or she has direction, supervision, control, except those who serve in positions that are in the exempt classification under section 41 of the Civil Service Law of the State of New York or in the unclassified service under subdivisions (a) through (f) of section 35 of that law.

B. Code of Ethics for County of Oneida Officers, Elected Officials and Employees.

- I. **General Prohibition.** A County of Oneida officer, elected official or employee shall not use his or her official position or office in a manner in which he or she knows or has reason to know may result in a personal financial benefit for any of the following persons, nor shall a County of Oneida officer, elected official or employee take or fail to take any action, in a manner in which he or she knows or has reason to know may result in a personal financial benefit for any of the following persons:
 - a. Himself/herself;
 - b. His/her outside employer or business;
 - c. A member of his/her household;
 - d. A Customer or Client; or
 - e. A Relative.
- II. **Recusal.** A County of Oneida officer, elected official or employee shall promptly recuse himself or herself from acting on a matter before the County of Oneida when acting on the matter, or failing to act on the matter, may financially benefit any of the persons listed in Section 4(B)(I).
- III. **Gifts.** A County of Oneida officer, elected official or employee shall not solicit anything of value from any person who has received or sought a financial benefit from the County of Oneida, nor accept anything of value from any person who the County of Oneida officer, elected official or employee knows or has reason to know has received or sought a financial benefit from the County of Oneida within the previous twenty-four months.
- IV. **Representation.** A County of Oneida officer, elected official or employee shall not represent any other person in any matter that person has pending before the County of Oneida nor represent any other person in any matter against the interests of the County of Oneida.
- V. **Appearances.** A County of Oneida officer, elected official or employee shall not appear before any agency of the County of Oneida except on his or her own behalf or on behalf of the County of Oneida.
- VI. **Confidential Information.** County of Oneida officers, elected officials and employees and former County of Oneida officers, elected officials and employees shall not disclose any confidential information or use it to further his/her personal interests.
- VII. **Political Solicitation.** A County of Oneida officer, elected official or employee shall not knowingly request or knowingly authorize anyone else to request any subordinate of the officer, elected official or employee to participate in an election campaign or contribute to a political committee.
- IX. **Avoidance of Conflicts.** County of Oneida officers, elected officials and employees shall not knowingly acquire, solicit, negotiate for, or accept any interest, employment, or other thing of value which would put them in violation of this Code of Ethics.

- X. **Inducement of Others.** A County of Oneida officer, elected official or employee shall not induce or aid another officer or employee of the County of Oneida to violate any of the provisions of this Code of Ethics.

C. Transactional Disclosure.

- I. Whenever a County of Oneida officer, elected official or employee is required to recuse himself or herself under the Code of Ethics set forth in Section 4(B) herein, he or she:
- a. Shall immediately refrain from participating further in the matter;
 - b. Shall promptly inform his or her superior, if any; and
 - c. Shall promptly file with the County Clerk a signed statement disclosing the nature and extent of the prohibited action or, if a member of a board, shall file said statement with the Clerk of the Board and state that information upon the public record of the board.
- II. A County of Oneida officer, elected official or employee shall not be required to file a disclosure statement pursuant to Section 4(C) herein if he or she, with respect to the same matter, has filed with the Oneida County Board of Legislators a disclosure statement complying with the requirements of Section 4(F) herein.

D. Exclusions from the Code of Ethics and from Transactional Disclosure. The provisions of Sections 4(B) and 4(C) herein shall not prohibit, or require recusal or Transactional Disclosure as a result of:

- I. An action specifically authorized by statute, rule or regulation of the State of New York or of the United States.
- II. A ministerial act.
- III. Gifts
- a. Received by the County of Oneida officer, elected official or employee from his or her parent, sibling, spouse or child; or
 - b. Having an aggregate value of \$75.00 or less during any twelve month period; or
 - c. Accepted on behalf of the County of Oneida and transferred to the County of Oneida.
- IV. Gifts or benefits having a value of \$75.00 or less that are received by a County of Oneida officer, elected official or employee listed in section 11 of the Domestic Relations Law of the State of New York for the solemnization of a marriage by that officer or employee at a place other than his or her normal public place of business or at a time other than his or her normal hours of business.
- V. Awards and plaques which are publicly presented in recognition of service as a County of Oneida officer, elected official or employee, or other service to the community.
- VI. Receipt of County of Oneida services or benefits, or use of County of Oneida facilities that are generally available on the same terms and conditions to residents or a class or residents in the County of Oneida.

- VII. Representation of constituents by elected officials without compensation in matters of public advocacy.
- IX. Meals and refreshments provided when a County of Oneida officer, elected official or employee is a speaker or participant at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

E. Inducement of Violations of the Code of Ethics. No person, whether or not a County of Oneida officer, elected official or employee, shall induce or attempt to induce a County of Oneida officer, elected official or employee to violate any of the provisions of Sections 4(B) or 4(C) herein.

F. Interests in Contracts with the County of Oneida.

- I. **Prohibited Interests.** No County of Oneida officer, elected official or employee shall have an interest in a contract with the County of Oneida, or an interest in a bank or trust company, that is prohibited by Section 801 of the General Municipal Law of the State of New York. Any contract willfully entered into by or with the County of Oneida in which there is an interest prohibited by that section shall be null, void, and wholly unenforceable, to the extent provided by section 804 of that law.
- II. **Disclosable Interests.** Any County of Oneida officer, elected official or employee who has, will have, or later acquires an interest in any actual or proposed contract with the County of Oneida shall publically disclose the nature and extent of that interest in accordance with Section 803 of the General Municipal Law. The Clerk of the Board of Legislators shall cause a copy of that disclosure to be filed promptly with the Ethics Board.
- III. **Violations.** Any County of Oneida officer, elected official or employee who willfully and knowingly violates the provisions of Section 4(F) herein shall be guilty of a misdemeanor, to the extent provided by section 805 of the General Municipal Law.

G. Annual Financial Disclosure.

- I. **Officers and Employees Required to File.** Officers, elected officials and employees holding the job titles or positions listed in Appendix A shall be required to file a signed Annual Financial Disclosure Statement. In addition to those listed in Appendix A, any person, title or position designated by the County Executive pursuant to Section 5(A) herein, or designated by the Ethics Board pursuant to Section 5(H) herein, shall be required to file a signed Annual Financial Disclosure Statement. This requirement shall be accomplished by the completion of the Annual Financial Disclosure Statement attached to this law as “Appendix B” which is fully incorporated into this law by reference.
- II. **Time and Place for Filing.** Annual Financial Disclosure Statements shall be filed with the Ethics Board:
 - a. Within 120 days after the effective date of this law;
 - b. Within 30 days after becoming subject to the requirements of Section 4(H)(I); and
 - c. No later than May 15 of each year thereafter.
- III. **Changes in Disclosed Information.** Within thirty (30) days after a change in the information contained in his or her most recently filed annual financial disclosure statement, an officer or employee shall file a signed amendment to the statement indicating the change.

- IV. **Extension of Time to File Annual Financial Disclosure Statement.** Any person who is required to file an Annual Financial Disclosure Statement may request, prior to May 1, an extension of time to file the Statement for that year, for additional specified period of time. Such request shall be made in writing to the Ethics Board. Approval of such a request may be granted upon good cause shown or an undue hardship. The Ethics Board may grant or deny the request by a majority vote of the Board. Extensions of the time to file shall be for no longer than the specific time period of additional time requested, and may be for a shorter period of time.
- V. **Good Faith Efforts.** Failure to disclose the information required by Appendix B - the Annual Financial Disclosure Statement, with respect to a County of Oneida officer's, elected official's or employee's spouse or other relative shall not constitute a violation of that subdivision if the officer, elected official or employee has made a good faith effort to obtain the information and he or she also sets forth those efforts in his or her disclosure statement.

H. Applicant Disclosure: Generally.

- I. Where a person requests the County of Oneida or a County of Oneida officer, elected official or employee to take or refrain from taking any action (other than a ministerial act) that may result in a financial benefit both to the requestor and to either any County of Oneida officer, elected official or employee or one of the other persons listed in Section 4(B)(I) herein, the requestor shall disclose the names of any such persons, to the extent known to the requestor at the time of the request.
- II. If the request is made in writing, the disclosure shall accompany the request. If the request is oral and made at a meeting of a public body, the disclosure shall be set forth in the public record of the body. If the request is oral and not made at a meeting of a public body, the disclosure shall be set forth in writing filed with the County Clerk.

I. Void Contracts. Any contract or agreement entered into by or with the County of Oneida which results in or from a violation of any provision of Sections 4(B) or 4(C) herein shall be void unless ratified by the Oneida County Board of Legislators. Such ratification shall not affect the imposition of any criminal or civil penalties pursuant to Section 4 herein, or any other provision of law.

J. Penalties.

- I. **Disciplinary Action.** Any County of Oneida officer, elected official or employee who engages in any action that violates any provision of Section 4 herein may be warned or reprimanded or suspended or removed from office or employment, or be subject to any other sanction authorized by law or collective bargaining agreement, by the appointing authority or person or body authorized by law to impose such sanctions. A warning, reprimand, suspension, removal, or other authorized sanction may be imposed in addition to any other penalty contained in Section 4(J) herein, or in any other provision of law.
- II. **Civil Fine.** Any County of Oneida officer, elected official or employee who violates any provision of Section 4 herein may be assessed a civil fine of up to \$1,500.00 for each violation. A civil fine may be imposed in addition to any other penalty contained in any other provision of law or in Section 4(J) herein, other than a civil forfeiture pursuant to Section 4(J)(IV) herein. A civil fine may not be imposed for violation of Section 4(F) herein.
- III. **Damages.** Any person, whether or not a County of Oneida officer, elected official or employee, who violates any provision of Section 4 herein shall be liable in damages to the County of Oneida for any losses or increased costs incurred by the County of Oneida as a result of the violation. Such damages may be imposed in addition to any other penalty contained in any other provision of law or Section 4(J) herein, other than a civil forfeiture pursuant to Section

4(J)(IV) herein.

IV. **Civil Forfeiture.** Any person, whether or not a County of Oneida officer, elected official or employee, who intentionally or knowingly violates any provision of Section 4 herein may be subject to a civil forfeiture to the County of Oneida of a sum equal to three times the value of any financial benefit he or she received as a result of the conduct that constituted the violation. A civil forfeiture may be imposed in addition to any other penalty contained in any other provision of law or Section 4(J) herein, other than a civil fine pursuant to Section 4(J)(II) herein or damages pursuant to Section 4(J)(III) herein. Civil forfeiture shall not be available for a violation of Section 4(F) herein.

V. **Misdemeanor.** Any person, whether or not a County of Oneida officer, elected official or employee, who intentionally or knowingly violates any provision of Section 4 herein shall be guilty of a class A misdemeanor and, upon conviction thereof, if a County of Oneida officer, elected official or employee, shall forfeit his or her County of Oneida office or employment. This subdivision shall not apply to a violation of Section 4(F) herein.

K. Debarment.

I. Any person, whether or not a County of Oneida officer, elected official or employee, who intentionally or knowingly violates any provision of Section 4 herein shall be prohibited from entering into any contract with the County of Oneida for a period not to exceed three (3) years, as provided in Section 5(J)(V) herein. Debarment may not be imposed for a violation of Section 4(F) herein.

II. No person, whether or not a County of Oneida officer, elected official or employee, shall enter into a contract in violation of a bar imposed pursuant to Section 4(K)(I) herein.

III. Nothing in Section 4(K) shall be construed to prohibit any person from receiving a service or benefit, or from using a facility, which is generally available to the public.

IV. Under Section 4(K), a corporation, partnership, or other entity shall not be held vicariously liable for the actions of an employee. A corporation, partnership, or other entity shall not be debarred because of the actions of an employee unless the employee acted at the direction of the entity or in the execution of company policy or custom. A store, region, division or unit of an entity shall not be debarred because of the actions of an employee of that unit unless the employee acted at the direction, or with the actual knowledge or approval, of the manager of the unit.

L. Injunctive Relief.

I. Any County of Oneida resident, officer, elected official or employee may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for injunctive relief to enjoin a County of Oneida officer, elected official or employee from violating Section 4 herein, or to compel a County of Oneida officer, elected official or employee to comply with the provisions of Section 4 herein. In lieu of, or in addition to, injunctive relief, the action or special proceeding, as appropriate, may seek a declaratory judgment.

II. No action or special proceeding shall be prosecuted or maintained pursuant to Section 4(L)(I), unless:

a. The plaintiff or petitioner shall have filed with the Ethics Board a sworn complaint alleging the violation by the County of Oneida officer, elected official or employee; and

b. It shall appear by and as an allegation in the complaint or petition filed with the court that at least six

months have elapsed since the filing of the complaint with the Ethics Board and that the Ethics Board has failed to file a determination in the matter; and

- c. The action or special proceeding shall be commenced within ten months after the alleged violation occurred.

Section 5. Administrative Provisions.

A. Designation of Officers and Employees Required to File Annual Disclosure Statements. Within 90 days after the effective date of this local law, and during the month of March each year thereafter, the County Executive of the County of Oneida, or his/her designee, shall:

- I. Cause to be filed with the Ethics Board a list of the names and offices or positions of all County of Oneida officers, elected officials or employees required to file annual financial disclosure statements pursuant to Section 4(G) herein; and
- II. Notify all such officers, elected officials and employees of their obligation to file an annual financial disclosure statement.

B. Maintenance of Disclosure Statements.

- I. The Clerk of the Board of County Legislators and the County Clerk shall transmit promptly to the Ethics Board each Transactional and Applicant disclosure Statement filed pursuant to Sections 4(C), 4(F), and 4(H) herein.
- II. The Ethics Board shall index and maintain on file for at least seven (7) years all disclosure statements filed with the Ethics Board pursuant to Sections 4(C), 4(F), 4(G), and 4(H) herein.

C. Ethics Board. Establishment; Qualifications of Members; Appointment of Members; Term of Office; Operation.

- I. There is hereby established an Ethics Board consisting of five members, two (2) of whom shall be nominated by the County Executive, one (1) of whom shall be nominated by the Chairman of the Board of County Legislators, one (1) of whom shall be nominated by the Majority Leader of the Board of County Legislators, and one (1) of whom shall be nominated by the Minority Leader of the Board of County Legislators. All shall be approved by majority vote of the entire Board of County Legislators. In the event of a failure to gain approval of a nomination, such succeeding member shall be appointed in the same manner as the original appointment by the original appointing authority.
- II. Of the total membership of the Ethics Board, no more than two shall be registered in the same political party.
- III. No Ethics Board members shall hold office in a political party, be employed or act as a lobbyist, or be employed by or hold elective office in the County of Oneida. An Ethics Board member may make campaign contributions but may not participate in any election campaign.
- IV. Within sixty (60) days after the effective date of this local law, and no later than December 31 of each year a term expires, the members of the Ethics Board shall be appointed.
- V. The term of office of Ethics Board members shall be three years and shall run from January 1 through December 31, except that, in order to establish staggered terms, of the members first appointed one member appointed by the County Executive shall serve until December 31 of the year in which the Ethics Board is established, the members appointed by the Majority and Minority Leaders of the Board of County Legislators shall serve until December 31 of the

year following the establishment of the Ethics Board, and one member appointed by the County Executive and the member appointed by the Chairman of the Board of County Legislators shall serve until December 31 of the second year following the establishment of the Ethics Board.

VI. An Ethics Board member shall serve until his or her successor has been appointed. Consecutive service on the Ethics Board shall not exceed two (2) full three-year terms.

VII. The members of the Ethics Board shall not receive compensation but shall be reimbursed for reasonable expenses incurred in the performance of their official duties.

VIII. The Oneida County Attorney shall be counsel to the Ethics Board. In the event of a conflict involving the office of the Oneida County Attorney, the Ethics Board shall so advise the County Executive, who shall then designate an attorney admitted to practice law in the State of New York to serve as Counsel to the Ethics Board for the particular matter in which there is a conflict.

IX. The Ethics Board shall be empowered to request support staff assistance from the Board of Legislators or the County Executive in furtherance of its duties and responsibilities.

X. The Confidential Secretary to the County Attorney shall be the Secretary to the Ethics Board for the purpose of:

- a. Receiving and filing all disclosure forms, correspondence and documentation on behalf of the Ethics Board;
- b. Directing and disseminating correspondence, documents, notices, etc., to the Ethics Board members; and
- c. Such other clerical duties as the Ethics Board may direct, to the extent that other clerical staff have not been provided by the Board of Legislators or County Executive.

D. Ethics Board: Vacancies. When a vacancy occurs in the membership of the Ethics Board, the vacancy shall, within sixty (60) days, be filled for the unexpired portion of the term in the same manner as the original appointment by the original appointing authority. Any person appointed to fill a vacancy on the Ethics Board shall meet the qualifications set forth in Section 5(C) herein.

E. Ethics Board: Removal of Members. An Ethics Board member may be removed from office upon recommendation of the County Executive, the Chairman of the Board of County Legislators, the Majority Leader of the Board of County Legislators or the Minority Leader of the Board of County Legislators, with two-thirds (2/3) vote of the total membership of the Board of County Legislators, after written notice and opportunity for reply. Grounds for removal shall be:

- I. Failure to meet the qualifications set forth in Section 5(C) herein;
- II. Substantial neglect of duty;
- III. Gross misconduct in office;
- IV. Inability to discharge the powers or duties of office; or
- V. Violation of Section 4 herein.

F. Ethics Board: Meetings.

- I. The Ethics Board shall meet annually, in the month of January at a time and date set by the Ethics Board Members. At this meeting, the Ethics Board shall elect a chair from among its members.
- II. The Ethics Board shall meet at other times as necessary to fulfill its duties.
- III. A majority of the Ethics Board shall be required for the Ethics Board to take any action.
- IV. The chair or majority of the Ethics Board may call a meeting of the Ethics Board.

G. Ethics Board: Jurisdiction, Powers, Duties.

- I. The Ethics Board may only act with respect to:
 - a. County of Oneida officers, elected officials, or employees; or
 - b. Officers, elected officials, or employees of a municipality within Oneida County that does not have its own Ethics Law and Ethics Board.
- II. The termination of a municipal officer's, elected official's, or employee's term of office or employment with the County of Oneida shall not affect the jurisdiction of the Ethics Board over such individual with respect to the requirements imposed on him or her by Section 4 herein.
- III. The Ethics Board shall have the following powers and duties:
 - a. To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this law;
 - b. To appoint hearing officers to preside over hearings of the Ethics Board;
 - c. To appoint a Chairman and such other staff as are necessary to carry out its duties under Section 5 herein;
 - d. To delegate authority to the Chairman to act in the name of the Ethics Board between meetings of the Ethics Board, provided that the delegation is in writing and the specific powers to be delegated are enumerated; and further provided that the Ethics Board shall not delegate the power to determine violations, recommend disciplinary action, impose any civil fine, refer any matter to a prosecutor, or render any advisory opinion;
 - e. To review, index, and maintain on file lists of officers and employees, and all disclosure statements filed with the Ethics Board pursuant to Sections
4(C), 4(F), 4(G), 4(H), 5(A), 5(B) and herein;
 - f. To review, index, maintain on file, and dispose of sworn complaints and to make notifications and conduct investigations pursuant to Sections 5(H) and 5(I) herein;
 - g. To conduct hearings, recommend disciplinary action, assess penalties, make referrals, and initiate appropriate actions and proceedings pursuant to Section 5(J) herein;

- h. To grant waivers pursuant to Section 5(K) herein;
- i. To render, index, and maintain on file advisory opinions pursuant to Section 5(L) herein;
- j. To provide training and education to County of Oneida officers, elected officials or employees pursuant to Section 5(N) herein;
- k. To prepare an annual report and recommend changes to this local law pursuant to Section 5(O) herein;
- L. To provide for public inspection of certain records pursuant to Section 5(P) herein; and
- m. To select provisions of this law for reproduction and distribution pursuant to Section 5(R) herein.

H. Review of Lists and Disclosure Statements.

I. The Ethics Board shall review:

- a. The lists of officers and employees, prepared pursuant to Section 5(A) to determine whether the lists are complete and accurate. The Ethics Board shall add the name of any other officer or employee who the Ethics Board determines should appear on the list pursuant to Section 4(G) herein;
- b. All Annual Financial Disclosure Statements to determine whether any person required to file such a statement has failed to file it, has filed a deficient statement, or has filed a statement that reveals a possible or potential violation of Section 4 herein;
- c. All Transactional Disclosure statements.

II. If the Board determines that an Annual Financial Disclosure Statement or a Transactional Disclosure Statement is deficient or reveals a possible or potential violation of Section 4 herein, the Ethics Board shall notify the person in writing of the deficiency or possible violation and of the penalties for failure to comply with Section 4.

I. Investigations.

I. Upon receipt of a sworn complaint by any person alleging a violation of Section 4 herein, or upon determining on its own initiative that a violation of Section 4 may exist, the Ethics Board shall have the power and duty to conduct any investigation necessary to carry out the provisions of this law. In conducting any such investigation, the Ethics Board may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records which it may deem relevant and material.

II. The Ethics Board shall state in writing the disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition.

- a. All such statements and sworn complaints shall be indexed and maintained on file by the Ethics Board.

III. Any person filing a sworn complaint with the Ethics Board shall be notified in writing of the disposition of the complaint.

IV. Nothing in Section 5(I) herein shall be construed to permit the Ethics Board to conduct an investigation of itself or of any of its members or staff. If the Ethics Board receives a complaint alleging that the Ethics Board or any of its members or staff has violated any provision of Section 4 herein, or any other law, the Ethics Board shall promptly

transmit a copy of the complaint to the Oneida County Board of Legislators.

J. Hearings; Assessment of Penalties; Injunctive Relief.

I. **Disciplinary Action.** In its discretion, after a hearing providing for due process procedural mechanisms and subject to any applicable provisions of law and collective bargaining agreements, the Ethics Board may recommend appropriate disciplinary action pursuant to Section 4(K)(I) herein.

a. The recommendation of the Ethics Board shall be made to the appointing authority or person or body authorized by law to impose such sanctions.

b. The Ethics Board shall conduct and complete its hearings with reasonable promptness, unless in its discretion the Ethics Board refers the matter to the authority, person or body authorized by law to impose disciplinary action, or unless the Ethics Board refers the matter to the appropriate prosecutor.

1. If such a referral is made, the Ethics Board may adjourn the matter pending determination by the authority, person, body or prosecutor.

2. Upon determination by the authority, person, body or prosecutor, the Ethics Board may thereafter adopt such determination and consider the matter before it resolved, or resume its proceedings herein.

II. **Civil Fine.** In its discretion, and after a hearing providing for due process procedural mechanisms, the Ethics Board, pursuant to Section 4(K)(II) herein, may assess a civil fine, not to exceed \$1,500.00 for each violation, upon any municipal officer or employee found by the Board to have violated Section 4 herein.

a. The Board shall conduct and complete the hearing with reasonable promptness.

b. The civil fine shall be payable to the County of Oneida.

III. **Damages.** The Oneida County Board of Legislators may initiate an action in the court of appropriate jurisdiction to obtain damages, as provided in Section 4(J)(III) herein.

IV. **Civil Forfeiture.** The Oneida County Board of Legislators, or the Ethics Board on behalf of the County of Oneida, may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction to obtain civil forfeiture, as provided in Section 4(J)(IV) herein.

V. **Debarment.** The Oneida County Board of Legislators, or the Ethics Board on behalf of the County of Oneida, may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for an order of debarment, as provided in Section 4(K) herein.

VI. **Injunctive Relief.** The Oneida County Board of Legislators, or the Ethics Board on behalf of the County of Oneida, may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for injunctive relief to enjoin a violation of this law or to compel compliance with this law, as provided in Section 4(L) herein.

VII. **Prosecutions.** The Ethics Board may refer any complaint to the appropriate prosecutor for possible criminal violations of this law. Nothing contained in Section 5 herein shall be construed to restrict the authority of any prosecutor to prosecute any violation of this law or of any other law.

VIII. **Limit on Ethics Board.** Nothing in Section 5(J) herein shall be construed to permit the Ethics Board to take any action with respect to any alleged violation of Section 4, or of any other law, by the Ethics Board or by any member or staff member thereof.

K. Waivers.

I. Upon written application and upon a showing of compelling need by the applicant, the Ethics Board may, in exceptional circumstances, grant the applicant a waiver of any of the provisions of subdivisions I through IX of Section 4(B) herein Section 4(C)(I)(a), Section 4(G), or Section 4(H) herein; provided, however, that no such waiver shall permit conduct otherwise prohibited by Article 18 of the General Municipal Law of the State of New York.

II. Waivers shall be in writing and shall state the grounds upon which they are granted. Within ten (10) days after granting a waiver, the Ethics Board shall publish a notice setting forth the name of the person requesting the waiver and a general description of the nature of the waiver in the official newspaper designated by the County of Oneida for the publication of local laws, notices, and other matters required by law to be published. All applications, decisions, and other records and proceedings relating to waivers shall be indexed and maintained on file by the Ethics Board.

L. Advisory Opinions.

I. Upon written request of any County of Oneida officer, elected official or employee, the Ethics Board may render a written advisory opinion with respect to the interpretation or application of this law or of Article 18 of the General Municipal Law of the State of New York.

a. Such requests may only be made regarding the County of Oneida officer's, elected official's or employee's own action or inaction.

b. Any other person may similarly request an advisory opinion but only with respect to whether his or her own action might violate a provision of this law or Article 18 of the General Municipal Law of the State of New York.

II. Advisory opinions and requests for advisory opinions shall be indexed and maintained on file by the Ethics Board.

III. Any person aggrieved by an advisory opinion of the Ethics Board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

IV. Any person who has submitted to the Ethics Board a written request for an advisory opinion may bring a special proceeding pursuant to Article 78 of the Civil Practice Law and Rules for an order compelling the Ethics Board to issue the advisory opinion. In addition to, or in lieu of, such injunctive relief, the person may seek a judgment in accordance with section 3001 of the Civil Practice Law and Rules determining the question posed in the request for the advisory opinion.

a. No action or special proceeding shall be prosecuted or maintained pursuant to this subdivision unless:

1. It shall appear by and as an allegation in the petition or complaint that at least six (6) months have elapsed since the filing of the request; and

2. That the Ethics Board has failed to file any determination in the matter.

- b. The action or special proceeding shall be commenced within ten (10) months after the submission of the request for the advisory opinion.

M. Judicial Review. Any person aggrieved by a decision of the Ethics Board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

N. Training and Education. The Ethics Board, or its designee:

- I. Shall make information concerning this Law and Article 18 of the General Municipal Law available to the County of Oneida officers, elected officials and employees, to the public, and to persons interested in doing business with the County of Oneida.
- II. Shall develop educational materials and an educational program for the County of Oneida officers, elected officials and employees on the provisions of this law and on Article 18 of the General Municipal Law.

O. Annual Reports; Review of Ethics Law.

- I. The Ethics Board shall prepare and submit an annual report to the County Executive and the Board of County Legislators of the County of Oneida summarizing the activities of the Board by March 1, of each year. The report may also recommend changes to the text or administration of this law.
- II. The Ethics Board shall periodically review this law and the Board's rules, regulations and administrative procedures to determine whether they promote integrity, public confidence, and participation in County of Oneida government and whether they set forth clear and enforceable, common sense standards of conduct.

P. Public Inspection of Records; Public Access to Meetings.

- I. The only records of the Ethics Board which shall be available for public inspection are those whose disclosure is required by Article 6 of the Public Officers Law of the State of New York or by some other State or Federal law or regulation.
- II. No meeting or proceeding of the Ethics Board concerning misconduct, non-feasance, or neglect in office by a County of Oneida officer, elected official or employee shall be open to the public, except upon the request of the County of Oneida officer, elected official or employee involved, or as required by the provisions of Article 7 of the Public Officers Law of the State of New York or by some other State or Federal law or regulation.

Q. Miscellaneous Provisions.

- I. No existing right or remedy shall be lost, impaired, or affected by reason of this law.
- II. If any provision of this law is held by a court of competent jurisdiction to be invalid, that decision shall not affect the validity and effectiveness of the remaining provisions of his law.

R. Distribution and Posting.

- I. Within ninety (90) days after the effective date of this law, the County Executive shall cause copies of the law to be posted conspicuously in every public building under the jurisdiction of the County of Oneida.

II. Within ninety (90) days after the effective date of this law, the County Executive shall cause copies of the law to be distributed to every County of Oneida officer, elected official and employee, and made readily available to the public. Every County of Oneida officer, elected official and employee thereafter shall be furnished a copy of those provisions within twenty (20) days after entering upon the duties of his or her position.

a. Electronic distribution shall meet the requirements of this Section.

III. Failure of the County of Oneida to comply with the provisions of Section 5(R) herein, or failure of any County of Oneida officer, elected official or employee to receive a copy of the provisions of this law shall have no effect on the duty of compliance with this law or on the enforcement of its provisions.

Section 6. Effective Date. This local law shall take effect immediately upon filing in the office of the Secretary of State and in compliance with all applicable provisions of law.