

RESOLUTION NO. _____

**RESOLUTION OF ONEIDA CITY SCHOOLS
ADOPTING THE LOOK BACK MEASUREMENT SAFE HARBOR
UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT**

WHEREAS, the Patient Protection and Affordable Care Act (“ACA”) was enacted on March 23, 2010;

WHEREAS, ACA added Section 4980H Shared Responsibility for Employers Regarding Health Care Coverage to Title 26 of the United States Code, the Internal Revenue Code (Section 4980H);

WHEREAS, Section 4980H imposes an assessable payment on an applicable large employer when either it fails (1) to offer “substantially all” of its full-time employees (and their dependent children) the opportunity to enroll in minimum essential coverage or (2) offers full-time employees (and their dependents) coverage that is either not affordable or not minimum coverage and a full-time employee is certified to the employer as having received a subsidy for coverage through the exchange (“Assessable Payment”);

WHEREAS, Oneida City Schools is considered an applicable large employer because it employed an average of at least 50 full-time equivalent employees on business days during the preceding calendar year;

WHEREAS, the Department of Treasury issued final regulations regarding Section 4980H, that permit Oneida City Schools to adopt a look-back measurement method safe harbor in order to determine the status of an employee as full-time for purposes of determining and calculating the Assessable Payment 26 CFR Parts 1, 54, and 301, 79 Fed. Reg. 8543 (Feb. 12, 2014);

WHEREAS, to determine look-back measurement period method for 2014, Oneida City Schools will use any transitional rules contained in these final regulations; and

WHEREAS, Oneida City Schools intends to adopt the provisions of the look-back measurement method safe harbor in order to determine the full-time status of variable hour employees for purposes of the Assessable Payment;

NOW THEREFORE, be it resolved by the Superintendent of Oneida City Schools as follows:

- 1) That all of the recitals set forth above are true and correct, and the Superintendent so finds and determines.
- 2) Oneida City Schools establishes the look-back measurement method with regard to all ongoing variable hour employees as follows:
 - a) Oneida City Schools establishes a 6 month transitional standard measurement period for ongoing variable employees for 2014.

- b) Starting with April 5, 2014, a transitional standard measurement period will begin on April 5th and end on October 4th.
 - c) For any standard measurement period starting after 2014, it shall be a 12 month period for ongoing variable hour employees.
 - d) Starting with October 5, 2014 a standard measurement period will begin on October 5th and end on October 4th of the following year.
 - e) The standard measurement period will be the period during which an ongoing variable hour employees hours are measured.
 - f) Oneida City Schools will establish an administrative period of 88 days.
 - g) For 2014, the administrative period associated with the transitional standard measurement period will begin on October 5th and end on December 31st.
 - h) For any administrative period starting after 2014, it shall begin each year on October 5th and end on December 31st.
 - i) Oneida City Schools will establish a 12 month standard stability period for ongoing variable hour employees.
 - j) Starting in 2015, the 12 month standard stability period for ongoing variable hour employees will begin each year on January 1st and end on December 31st.
 - k) If an ongoing variable hour employee's employment status changes before the end of a stability period, the change in status will be effective the earlier of the end of the stability period or 4 months after the change in status.
- 3) On the start date of a new employee, Oneida City Schools will make a determination as to whether that new employee is reasonably expected to be a full-time employee. If the new employee is reasonably expected to be a full-time employee and is not a variable hour employee, Oneida City Schools will offer minimum essential coverage to that employment after the completion of a waiting period.
- 4) If, based on the facts and circumstances at the start date of a new employee, Oneida City Schools is unable to determine that the employee is reasonably expected to be employed an average of at least thirty (30) hours per week over the initial measurement period, then the employee is considered a variable hour employee.
- 5) Oneida City Schools establishes the look-back measurement method with regard to new variable hour employees as follows:
- a. Oneida City Schools establishes a 12 month initial measurement period for each new employee.
 - b. The initial measurement period will start the 1st of the month following date of hire/start date after the new employee's hire date, unless the hire date is the first

of a calendar month in which case the initial measurement period will start on that date.

- c. The administrative period shall include all periods from hire date to the beginning of the initial measurement period and the day following the last day of the initial measurement period and shall end on the last day of the first calendar month beginning on or after the first anniversary of the employee's hire date.
 - d. Oneida City Schools establishes a 12 month stability period associated with the initial measurement period.
 - e. If the new variable hour employee does not complete the hours to be considered as a full-time employee during the initial measurement period, the stability period associated with the initial measurement period shall not exceed the remainder of the standard measurement period and associated administrative period.
- 6) A new variable hour employee will be measured during the first complete standard measurement period for which he/she is employed. This means that a new variable employee may be tested under an initial measurement period and at the same time be measured under the overlapping standard measurement period.
- a) If a variable hour employee measures as full-time during the initial measurement period, he/she will retain full-time status for the entire associated stability period (even if the variable hour employee does not qualify as full-time during the standard measurement period).
 - b) If a variable hour employee does not complete the hours to be considered as a full-time employee during the initial measurement period, but qualifies as a full-time employee during the standard measurement period, the variable hour employee must be treated as full-time during the stability period associated with the standard measurement period (even if that means coverage must be offered before the end of the stability period associated with the initial measurement period).
- 7) When a variable hour employee is rehired after termination, upon return the employee will retain the status the employee had previously with respect to any stability period, except that an employee will be treated as a new employee:
- a) if the employee resumes employment after a period of at least 26 consecutive weeks with less than an hour of service; or
 - b) if the period (measured in weeks) during which no services are performed is at least four consecutive weeks long and exceeds the number of weeks of that employee's period of employment immediately preceding the period during which the employee was not credited with any hours of service.
- 8) When a variable hour employee takes special unpaid leave (i.e. unpaid leave under the Family and Medical Leave Act of 1993, unpaid leave under the Uniformed Services Employment and Reemployment Rights Act of 1994, or unpaid leave on account of jury duty), to determine hours of service Oneida City Schools will exclude any periods of

special unpaid leave during the measurement period and apply that average for the entire measurement period.

- 9) If an ongoing or new variable hour employee is determined to be full-time during the measurement period, coverage will continue during the stability period no matter how many hours the employee competes during the stability period and the employee portion of the premium will be due monthly with a thirty (30) day grace period for payment.
- 10) If during any stability period, a variable hour employee fails to pay a premium during the 30 day period, any coverage will be terminated at the beginning of the month in which premiums were not received.

I, _____, _____ of Oneida City Schools, State of Tennessee, hereby certify the above and foregoing to be a full, true and correct copy of a resolution adopted by said Superintendent on the _____ day of _____, 2014.

DATED: This _____ day of _____, 2014.