

Oneida Tribe of Indians of Wisconsin

Post Office Box 365

Phone: 869-2214

Oneida, WI 54155



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



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

AMENDED RESOLUTION 11-24-93-A

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

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

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1 of the Oneida Tribal Constitution by the Oneida General Tribal Council, and

WHEREAS, the Oneida Business Committee finds it necessary to institute procedures to implement the Pardon Ordinance for efficiency, standardization, and in the interest of promoting continuity in the Pardon Process,

NOW THEREFORE BE IT RESOLVED: That the Oneida Business Committee hereby adopts the attached Pardon Procedures Policy for implementation one week after the certification of the vote, and

NOW THEREFORE BE IT FURTHER RESOLVED: That the period after adoption and prior to implementation of the procedures shall be used to place in public areas notice that Pardon procedures have been adopted and information may be obtained from the Tribal Secretary's office, and to print the necessary forms, and

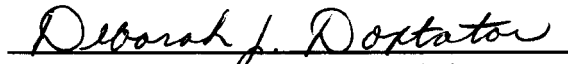
NOW THEREFORE BE IT FURTHER RESOLVED: That upon adoption of these procedures, the Oneida Business Committee shall direct that the Oneida Police Department and Oneida Family Services to assign a delegate to this Screening Committee within the week and present that name to the Tribal Secretary. The Oneida Business Committee shall appoint a delegate to sit on this Committee.

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CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum. 9 members were present at a meeting duly called, noticed and held on the 24th day of November, 1993; that the foregoing resolution was duly adopted at such meeting by a vote of 8 members for; 0 members against, and 0 members not voting; and that said resolution has not been rescinded or amended in any way.


Deborah J. Doxtator, Tribal Chairwoman
Oneida Business Committee

ONEIDA PARDON PROCEDURES POLICY

Article I. Purpose

§1-1. Purpose. To forgive, by formal pardon, an Oneida Tribal member who has been convicted of a crime in another jurisdiction which conviction would render such person ineligible for employment or other tribal opportunities and benefits.

Article II. Policy

§2-1. It is the policy of the Oneida Tribe to grant limited pardons to Oneida Tribal Members who have been convicted of crimes, both felony and misdemeanor, when such persons have demonstrated full rehabilitation, trustworthiness and commitment to lawful behavior.

§2-2. It is the further policy to provide a fair and efficient process for persons who may seek pardons of the Oneida Tribe.

Article III. Definitions

§3-1. Petitioner. Petitioner shall mean an enrolled member of the Oneida Tribe who, due to criminal record is ineligible to participate in Tribal Programs, including, but not limited to, employment, desires to initiate the Tribal Pardon Process.

§3-2. Convictions. Convictions shall mean conviction of any crime in any court of competent jurisdiction.

§3-3. Crimes. Crimes shall include those defined by other jurisdictions, including tribal, federal, state or municipal.

§3-4. Oneida Business Committee. Oneida Business Committee shall mean the duly elected representatives of the Oneida General Tribal Council.

§3-5. Pardon. Pardon shall mean the formal and public act of forgiveness of the Oneida Tribe of a Tribal member who has been convicted of a crime.

§3-6. Tribal Member. Tribal member shall mean any person whose name appears on the official rolls of the Oneida Tribe.

Article IV. Procedure

§4-1. The petitioner shall obtain from the Tribal Secretary a petition to filled out and returned to the Tribal Secretary.

Petitioners on parole, probation or deferred prosecution shall not be eligible.

How Initiated. Each person seeking a pardon from the Oneida Tribe must:

- (a) Prove enrollment in the Oneida Tribe
- (b) Agree to cooperate and provide necessary releases and permissions for investigations.
- (c) Submit a Petition as described in Section 4-4.
- (d) Submit, with the petition, a filing fee of \$100.
 - (1) The petition may contain a waiver because of indigency. Provided that a petitioner subsequently hired by the Oneida Nation shall pay the filing fee as soon as reasonable after becoming employed.
- (d) Applicants are responsible for submitting all requirements of the petition.

Petitions. Petitions must disclose the following information:

- (a) Nature of crime or crimes
- (b) Conviction dates, place, sentence for each crime
- (c) Length of time since conviction
- (d) Character investigation, including victim statement, if available
- (e) Certified document showing completion of sentence.
- (f) And any other information as required in any form approved by the Oneida Screening Committee.

Process.

- (a) The Oneida Business Committee shall create an Oneida Screening Committee composed of one (1) delegate from the Oneida Police Department, one (1) delegate from Family Services, and one (1) person appointed by the Oneida Business Committee who shall assist in developing all information necessary upon which a recommendation shall be made. The Oneida Screening Committee members shall sit on the Oneida Screening Committee for the same terms as the Oneida Business Committee.
- (b) The Petitioner must submit his/her Petition to the Tribal Secretary. The Tribal Secretary shall then submit the petition to the Oneida Screening Committee.
- (c) The Oneida Screening Committee shall then request the Police Department to conduct a security check on the Petitioner, the results of which shall be forwarded to the Oneida Screening Committee.
- (d) Upon completion of the investigation, the Oneida Screening Committee shall hold a Public Hearing to obtain oral testimony from the Petitioner and any witnesses for or against the granting of a pardon. Notice of the Public Hearing shall be placed in places of prominence one week prior to the Public Hearing. The Public Hearing shall take place during a time convenient to the schedules of the Oneida Screening Committee.
- (e) After the Public Hearing, the Oneida Screening Committee shall review the petition and investigation for forwarding to the Oneida Business Committee with a recommendation to grant or deny a pardon.
- (e) The petition forwarded to the Sponsor shall contain the following items:
 - (1) Original petition from petitioner;
 - (2) Investigation report from the Oneida Police Department,
 - (3) Transcript or summary of testimony given in the Public Hearing,
 - (4) Summary memo created by Oneida Screening Commission stating reasons for granting or denying pardon.
 - (5) Resolution

(f) The information gathered in this process will be conducted in the strictest confidence until a final decision is made. Information regarding review process may only be obtained by the Oneida Police, the Screening Committee, and the Petitioner with a signed request.

§4-6. Recommendation.

(a) The Oneida Business Committee shall by formal Resolution, if deemed meritorious, grant the Pardon which shall be published in the next issue of the Kalihwisaks.

(1) Members of the Oneida Business Committee who are related to the petitioner may not participate in the decision making process.

(2) If granted, all members of the Oneida Business Committee, shall sign the resolution granting the pardon.

(3) If denied, then the Tribal Secretary shall sign the resolution checking the appropriate box, noting the vote for denying the pardon.

(4) To grant a pardon, a two thirds vote of the Oneida Business Committee not excluded under §4-6(a)(1) must vote in favor of the Resolution. There shall be no abstentions other than that allowed under §4-6(a)(1).

(b) The decision of the Oneida Business Committee shall be final for a period of one (1) year in the event the application is denied.

(c) The discussion of whether to grant or deny a petition shall take place in a Special Executive Session called for the Pardon Hearing.

(1) The Petitioner may request to be present to give testimony or answer questions prior to any decision making of the Oneida Business Committee.

(2) The Oneida Business Committee may request that the Petitioner present himself for giving testimony or answering questions prior to decision making.

STATEMENT OF EFFECT - PARDON PROCEDURES POLICY

This policy is to allow the Pardon Ordinance to be implemented by setting out the procedures necessary for obtaining a pardon. The basic procedure is as follows:

The petitioner (person requesting the pardon) obtains a form from the Tribal Secretary. This form is completely filled out and a fee of \$100 is filed. If a fee waiver is needed, an additional form will be filled out for this.

The Tribal Secretary accepts the forms, places them in a file and assigns a file number. The Tribal Secretary will then forward the petition to the Oneida Screening Committee for action. The petitioner may request a copy of the form with the received file stamp.

The Oneida Screening Committee will ask the Oneida Police Department to complete a background investigation.

Once the background investigation is completed, the Oneida Screening Committee will set up a Public Hearing, with a week's notice, for taking of testimony from the petitioner and any witnesses.

Following the Public Hearing, the Oneida Screening Committee will meet and decide whether to recommend granting or denying the petition.

Once the decision is made, the Screening Committee will summarize their reasons for the decision, and present this summary along with the contents of the file to the Tribal Secretary.

The Tribal Secretary will request a Special Pardon Hearing Executive Session, with notice to the petitioner for presenting testimony. The petitioner may present testimony to the extent it is requested by him or her or any member of the Business Committee. (Only those members who are not related as set out in the Personnel Policies and Procedures Manual may hear the case, all others must vote yes or no.)

Once testimony is taken, and the Business Committee has made its decision, then the regular session is called to order, and a motion is taken regarding the Resolution to grant or deny. If granted then all members sign the Pardon Certificate. If denied, then the petitioner is notified that he or she may reenter another pardon request only after one year.

The Tribal Secretary is responsible for maintenance of the file after a grant or denial, or after a petitioner removes himself from the process.

The Legislative Operating Committee held a public hearing at the Oneida Gaming Commission Retreat on November 17th and 18th. In a meeting called on November 19th at 1:30, the decision was made to present this to the Oneida Business Committee for comment or adoption.

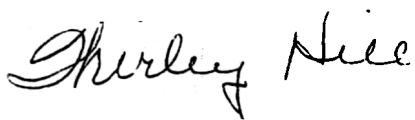
The Legislative Operating Committee attempted to strike a balance between the requirements of *strictest confidence* and the need to get the fullest amount of information. This also balanced a petitioner's need to have some type of privacy and the need to obtain testimony from parties that have knowledge of the petitioner's character. Further, there was a balance between allowing the Business Committee to make a decision without the pressures of viewers, and the need for the Oneida Nation membership to understand that a pardon is being given to an individual not simply by a majority of the Business Committee. To that end, the decision is made in a closed session, and Business Committee members are excused from the whole process if they are family members. However, there is no ability to abstain from the decision for any other reason. And, there must be a two-thirds majority in favor of granting a pardon. Finally, all Business Committee members must sign the Pardon Certificate as notice that the Oneida Government as a whole is extending this pardon, without naming specifically who voted yes or no.

The idea behind these procedures was to make a request for a Pardon sufficiently difficult that a petitioner must believe in his or her own rehabilitation, but not so politically difficult that the Business Committee would never grant a pardon.

The Resolution adopting these procedures has the following effects:

1. To formally adopt these as the procedures for obtaining a pardon.
2. To require appointment of a Business Committee delegate, and have the Oneida Police Department and Family Services to delegate an officer to the Oneida Screening Committee within five working days after adoption.
3. It also allows five working days for the Tribal Secretary to obtain the attached forms for use by the petitioners.
4. Finally, it requires that notice of enactment of these procedures be placed in "places of prominence" for notification of interested parties.

Submitted by,



Shirley Hill
Legislative Operating Committee Chairperson.