

Oneida Tribe of Indians of Wisconsin



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



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.

BC Resolution 02-23-11-E

Emergency Amendments to Address Guardians Ad Litem Appointments and Conflicts of Interest

- 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 of America; 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 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Tribe enacted the Child Custody, Placement and Visitation law to provide a Tribal venue for legal custody, physical placement, and visitation orders based on the facts surrounding each case and the best interest of the child; and
- WHEREAS,** a guardian ad litem is a person appointed by the Oneida Appeals Commission to appear at any peacemaking, mediation, or hearing on behalf of a child; and
- WHEREAS,** the Oneida Tribe is made of strong family relationships; and
- WHEREAS,** such strong family relationships often include not only blood relatives, but also include those who have strong in-law and social connections to particular families; and
- WHEREAS,** it is in the best interest of the Oneida children that in custody, placement and visitation proceedings the Commissioners and guardians ad litem be free from family and social relationships with interested parties in such proceedings; and
- WHEREAS,** the Administrative Procedures Act (APA) authorizes the Oneida Business Committee to enact legislation on an emergency basis, to be in effect for a period of six (6) months, renewable for an additional six (6) months; and
- WHEREAS,** the emergency adoption of amendments to the guardian ad litem provisions in Tribal laws is necessary for the preservation of the public health, safety, or general welfare of the reservation population, and that observance of the regular APA adoption requirements for passage of laws would be contrary to public interest.

NOW THEREFORE BE IT RESOLVED, that the following amendments are hereby adopted on an emergency basis:

Chapter 79

Child Custody, Placement, and Visitation

79.8. Guardian Ad Litem

79.8-1. The Commission shall be responsible for establishing and administering a program for guardians ad litem.

79.8-2. *Appointment.* Except as provided for in 79.8-3, the Commission shall appoint a guardian ad litem for a child if the Commission has reason for special concern for the welfare of the child or the legal custody or physical placement of the child is contested. Preference shall be given to enrolled Tribal members.

79.8-3. The Commission is not required to appoint a guardian ad litem if:

- (a) Legal custody or physical placement is contested in an action to modify legal custody or physical placement under 79.12; and
- (b) The modification sought would not substantially alter the amount of time that a parent may spend with his or her child; and
- (c) The Commission determines either of the following:
 - (1) That the appointment of a guardian ad litem will not assist the Commission in the determination regarding legal custody or physical placement because the facts or circumstances of the case make the likely determination clear; or
 - (2) That a party seeks the appointment of a guardian ad litem solely for a tactical purpose, or for the sole purpose of delay, and not for a purpose that is in the best interest of the child.

79.8-4. *Qualifications.*

(a) A guardian ad litem shall be an adult who:

- (1) is currently certified as a guardian ad litem, ~~is and~~ in good standing;
- (2) has never been convicted of a felony; and
- (3) has never been convicted of any crime against a child. ~~Preference shall be given to enrolled Tribal members.~~

(b) No person ~~may be appointed guardian ad litem in that proceeding~~ who is:

- (1) an interested party ~~in a proceeding;~~
- (2) appears as counsel in the proceeding on behalf of any party; ~~or is a relative or representative of an interested party may be appointed guardian ad litem in that proceeding.~~
- (3) ~~is related to an interested party, an actual party, a Commissioner for the proceeding, or to an appointing Commissioner. For the purposes of this section, "related to" shall include a spouse, parent, parent-in-law, stepparent, child, son- or daughter-in-law, stepchild, sibling, stepsibling, half-sibling, sibling-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, first cousin, or any similar relationship by blood, adoption, marriage, or social tie that could be reasonably interpreted as a conflict of interest.~~

(c) A guardian ad litem may be recognized as certified by the Commission if he or she:

- (a)-1) has completed guardian ad litem training provided by the Commission, another Indian tribe, or a state; or

(b2) is recognized as a certified guardian ad litem by another jurisdiction.

Chapter 77

Paternity

77.6-1. A child, a child's legal guardian, a child's natural mother, the Agency when required by federal law, or a child's alleged father may file a petition requesting the Commission to establish paternity. The Agency may assist a party who is filing a petition to establish the paternity of a child. The natural mother and an alleged father may file jointly.

(a) If a party to the action is a minor or is a legally incompetent adult, the Commission may appoint a guardian ad litem to represent such party in the action, in accordance with section 79.8 of the Child Custody, Placement and Visitation law. A guardian ad litem may also file a petition requesting the Commission to establish paternity.

Chapter 78

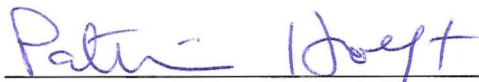
Child Support

78.5-1. Every parent has a duty to support each and every child of that parent. A child support order may be obtained from the Commission by either submitting a voluntary agreement to the Commission for approval or by filing a petition for child support with the Commission.

(a) If a party to the action is a minor or is a legally incompetent adult, the Commission may appoint a guardian ad litem to represent such party in the action, in accordance with section 79.8 of the Child Custody, Placement and Visitation law.

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. 8 members were present at a meeting duly called, noticed and held on the 23rd day of February 2011; that the foregoing resolution was duly adopted at such meeting by a vote of 7 members for; 0 members against, and 0 members not voting; and that said resolution has not been rescinded or amended in any way.



Patricia Hoeft, Tribal Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."