

# 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.

## GTC Resolution 01-07-13-B Adoption of the Judiciary Law

- 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,** Oneida Business Committee Resolution 5-02-90 established the Administrative Procedures Act, Oneida Tribal Judicial System and the authority to establish regulations to enhance the Oneida judicial decision making process, and
- WHEREAS,** on August 19, 1991, the Oneida General Tribal Council adopted Resolution 8-19-91-A and an addendum to the Resolution, which reauthorized the adoption of the Administrative Procedures Act and the creation of the Oneida Tribal Judicial System, and
- WHEREAS,** the Oneida Tribal Judicial System has, through Tribal law, been given additional authority to hear and adjudicate additional civil and regulatory matters, and
- WHEREAS,** a restructure of the Oneida Tribal Judicial System, with an Oneida Judiciary comprised of a Trial Court and a Court of Appeals would better serve the needs of the Oneida people and expand the exercise of the Tribe's sovereign authority, and
- WHEREAS,** the proposed Judiciary would grant the Trial Court and Court of Appeals expanded subject matter jurisdiction and create a greater role for the use of mediation and/or peacemaking when appropriate, and
- WHEREAS,** public hearings were held for the proposed Judiciary on May 12, 2009 and July 29, 2010 in accordance with the Administrative Procedures Act, and
- WHEREAS,** informational materials on the proposed Judiciary were posted on the Tribal website, mailed to Oneida households and printed in the Kalihwisaks; and nine (9) community meetings were held on the proposed Judiciary in 2010 and 2011, and
- WHEREAS,** a work group established by the Oneida General Tribal Council created additional amendments to the proposed Judiciary, and
- WHEREAS,** on January 2, 2012, the Oneida General Tribal Council deferred the proposed Judiciary for revision to include law school training as a qualification for all Judges.

**NOW THEREFORE BE IT RESOLVED,** that the attached Judiciary law is hereby adopted and shall be effective January 2, 2014.

**BE IT FURTHER RESOLVED,** that there shall be no further elections for Judicial Officers of the Oneida Tribal Judicial System.

**BE IT FURTHER RESOLVED,** that the Oneida Business Committee is hereby directed to implement a Transition Plan to include the following:

- (1) *Elections.* The elections for Judges shall be held during the 2014 general election. The election



process shall follow the Oneida Election Law and the Judges shall be elected to the Judiciary as follows:

- (a) The candidate for Chief Judge of the Trial Court with the highest number of votes shall be elected to a term of six (6) years.
  - (b) The one (1) candidate for Trial Court Judge with the highest number of votes shall be elected to a term of six (6) years.
  - (c) The two (2) candidates for Trial Court Judge with the next highest number of votes shall each be elected to terms of three (3) years.
  - (d) The candidate for Chief Judge of the Court of Appeals with the highest number of votes shall be elected to a term of six (6) years.
  - (e) The two (2) candidates for Court of Appeals Judge with the highest number of votes shall each be elected to terms of six (6) years.
  - (f) The two (2) candidates for Court of Appeals Judge with the next highest number of votes shall each be elected to terms of three (3) years.
  - (g) In the event of any tie vote, the provisions of the Oneida Election Law for resolving a tie vote shall determine the outcome.
- (2) *Swearing in.* Judges shall be sworn into office during the 2014 Oneida Business Committee inauguration and in accordance with the Oneida Election Law.
- (3) *Training and Education.* Judges shall complete sixty (60) hours of judicial training and education by November 1, 2014. Prior judicial training and education shall count toward this requirement.
- (4) *Court Opening.* The Judiciary shall accept cases that are filed with the Trial Court and the Court of Appeals beginning on November 1, 2014.
- (a) Beginning November 1, 2014, the Oneida Tribal Judicial System shall no longer accept new filings and shall notify all parties to any case on its docket that the Oneida Tribal Judicial System will be dissolved on March 1, 2015. The Oneida Tribal Judicial System shall also notify the parties that:
    - (i) They have the option of having their case transferred to the Judiciary;
    - (ii) If they do not request a transfer to the Judiciary, their case will remain with the Oneida Tribal Judicial System until it is concluded or until March 1, 2015, whichever occurs first; and
    - (iii) If their case is not concluded as of March 1, 2015, the case will be dismissed without prejudice and the parties may re-file in the Trial Court or Court of Appeals, as is appropriate and if the Court is authorized to hear the case.
  - (b) *Transfer of Cases.*
    - (i) If the parties disagree as to whether their case should be transferred, the Oneida Tribal Judicial System shall determine where the case will be heard.
    - (ii) All cases transferred to the Judiciary shall be heard in accordance with the Judiciary's applicable rules of procedure.
    - (iii) Cases transferred in accordance with this Resolution shall not be subject to any transfer or filing fees.
- (5) *No Dual Office Holding.* It is impermissible for an individual to hold simultaneously the offices of Judicial Officer of the Oneida Tribal Judicial System and Judge or Chief Judge. An Oneida Tribal Judicial Officer who runs for and is elected to the office of Judge or Chief Judge, shall, prior to swearing in to such new office, resign from the Oneida Tribal Judicial System. Pending case assignments of the resigning Judicial Officer(s) shall be re-assigned to another Judicial Officer of the Oneida Tribal Judicial System.
- (a) The Oneida Tribal Judicial System may appoint pro tem judges to the Oneida Tribal Judicial System during the Transition Period, as necessary to conduct business.
  - (b) Prior to the 2014 general election, the Oneida Tribal Judicial System shall select and identify one (1) remaining Judicial Officer to take over the duties of the Chief Judicial Officer as necessary, as of the date that Judges are sworn in to office and lasting until the Oneida Tribal Judicial System is finally dissolved.
    - (i) If no Judicial Officer is able or willing to remain and to take on such responsibilities, then the Oneida Tribal Judicial System shall identify one (1) pro tem judge to serve in such capacity.
- (6) *Dissolution of the Oneida Tribal Judicial System.* The Oneida Tribal Judicial System shall be dissolved March 1, 2015.



(a) The Oneida Tribal Judicial System shall make a good faith effort to conclude the cases that remain on its docket prior to its dissolution.

(b) Any cases not concluded by the Oneida Tribal Judicial System on or before March 1, 2015 shall be dismissed without prejudice and may be re-filed in the Trial Court or Court of Appeals, as is appropriate and if the Court is authorized to hear the case. Individuals who re-file a case in accordance with this Resolution shall not be subject to any filing fees.

(7) *Oneida Tribal Judicial System Personnel.* Oneida Tribal Judicial System personnel who are not Judicial Officers shall carry over into the Judiciary and shall simultaneously work for both entities during the Transition Period and then for the Judiciary after the Transition Period has concluded.

**BE IT FURTHER RESOLVED**, that the following canons, procedures, codes and amendments shall be adopted in accordance with the time lines set out below:

(1) By July 2013, adoption of Judicial Canons of Ethics by the Oneida Business Committee.

(2) By January 2014, adoption by the Oneida Business Committee or the General Tribal Council of the following:

(a) Rules of Civil Procedure;

(b) Rules of Appellate Procedure;

(c) Small Claims Procedure;

(d) Evidence Code; and

(e) Administrative procedures for the Judiciary. After the initial adoption of these administrative procedures, the Judiciary shall be responsible for maintaining and amending them.

(3) By January 2014, adoption by the Oneida Business Committee of amendments to Tribal laws, except for the Removal Law and Oneida Election Law, to substitute references to the Oneida Appeals Commission or Oneida Tribal Judicial System with terms consistent with the Judiciary. This may be accomplished in one resolution which identifies all the necessary amendments.

(4) By July 2014, adoption by the General Tribal Council of amendments to the following laws to substitute references to the Oneida Appeals Commission or Oneida Tribal Judicial System with terms consistent with the Judiciary:

(a) Removal Law; and

(b) Oneida Election Law.

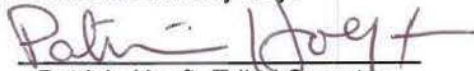
**BE IT FURTHER RESOLVED**, that sections 1.9-1 through 1.1-17 of the Administrative Procedures Act and the addendum to the Administrative Procedures Act adopted August 19, 1991 are hereby repealed, effective March 1, 2015.

**BE IT FURTHER RESOLVED**, that beginning with the Fiscal Year 2014 budget, the expenses associated with the implementation and maintenance of the Judiciary shall be included in the Tribe's annual budget.

**BE IT FINALLY RESOLVED**, that the Oneida Business Committee is authorized to make such modifications and additions to the above Transition Plan as it deems necessary to implement the Judiciary in accordance with the proposed timelines, and shall subsequently file a report at the annual or semi-annual meeting of the General Tribal Council that occurs after the modifications or additions are made.

#### CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida General Tribal Council, in session with a quorum of 2,032 members present, at a meeting duly called, noticed and held on the 7<sup>th</sup> day of January, 2013; that the forgoing resolution was duly adopted at such meeting by a two-thirds vote of those present and that said resolution has not been rescinded or amended in any way.

  
Patricia Hoeft, Tribal Secretary  
Oneida Business Committee