

# Oneida Tribe of Indians of Wisconsin

**Legislative Reference Office**

P.O. Box 365  
Oneida, WI 54155  
(920) 869-4376  
(800) 236-2214  
<http://oneida-nsn.gov/LOC>

**Committee Members**

Brandon Stevens, Chairperson  
Tehassi Hill, Vice Chairperson  
Fawn Billie, Councilmember  
Jennifer Webster, Councilmember

## **LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA**

Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
February 18, 2015 9:00 a.m.

- I. Call To Order and Approval of the Agenda**
- II. Minutes to be approved**
  - 1. February 4, 2015 LOC Meeting Minutes
- III. Current Business**
  - 1. Investigative Leave Policy Amendments
  - 2. Removal Law Amendments
  - 3. Environmental, Health and Safety Law
- IV. New Submissions**
  - 1. Administrative Procedures Act Emergency Amendments
  - 2. Appeals Commission References Removal
- V. Additions**
- VI. Administrative Updates**
  - 1. LOC Sponsor List
- VII. Executive Session**
- VIII. Recess/Adjourn**

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Tehassi Hill, Vice Chairperson  
Fawn Billie, Councilmember  
Jennifer Webster, Councilmember

## LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
February 4, 2015 9:00 a.m.

### I. Call To Order and Approval of the Agenda

Brandon Stevens called the February 4, 2015 Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Tehassi Hill to approve the agenda; seconded by Fawn Billie. Motion carried unanimously.

### II. Minutes to be approved

#### 1. January 21, 2015 LOC Meeting Minutes

Motion by Tehassi Hill to approve the January 21, 2015 LOC Meeting Minutes; seconded by Fawn Billie. Motion carried unanimously.

### III. Current Business

#### 1. Leasing Law (1:13 – 1:24:22)

Motion by Tehassi Hill to send the Leasing Law back to the Legislative Reference Office to make the noted changes, update the analysis and bring back to the March 4, 2015 Legislative Operating Committee meeting; seconded by Fawn Billie. Motion carried unanimously.

#### 2. Petition: Budget Cuts, Swimming Lessons, GTC Directives & Home Repairs for Elders (1:24:23 – 1:25:56)

Motion by Tehassi Hill to forward the four Statements of Effect to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried unanimously.

### IV. New Submissions

### V. Additions

### VI. Administrative Updates

#### 1. LOC Priority List (1:25:57 – 1:29:04)

Motion by Fawn Billie to forward the LOC Priority List to the Oneida Business Committee with a memo from the LOC Chair; seconded by Tehassi Hill. Motion carried unanimously.

### VII. Executive Session

**VIII. Recess/Adjourn**

Motion by Tehassi Hill to adjourn the February 4, 2015 Legislative Operating Committee Meeting at 10:29 a.m.; seconded by Fawn Billie. Motion carried unanimously.



# Legislative Operating Committee

## February 18, 2015

# Investigative Leave Policy Amendments

**Submission Date:** December 17, 2014

|   |
|---|
| <input type="checkbox"/> Public Meeting:<br><input type="checkbox"/> Emergency Enacted: |
|---|

**LOC Sponsor:** Jennifer Webster

**Summary:** *Amendments to the Investigative Leave Policy were requested to delete a section of the Policy which prohibits the use of investigative leave when a complaint is filed. While the original intent of the section was to prohibit the use of investigative leave when one employee files a complaint against another, as defined under the Personnel Policies and Procedures, a decision by the Oneida Appeals Commission has interpreted the Policy to apply anytime the term “complaint” is used in an investigation. This could prohibit a supervisor from taking action to protect the Tribe in cases of misappropriation if inappropriate activities are identified based on a complaint arising out of a disciplinary or complaint process. The amendments would also reduce the time period of the investigation from 30 days to 15 days.*

**12/17/14 LOC:** Motion by Jennifer Webster to add the Investigative Leave Policy Amendments to the active files list with herself as the sponsor; seconded by Tehassi Hill. Motion carried unanimously.

**Next Steps:**

- Review the draft and, if ready, defer for analysis.

## Investigative Leave Policy

Article I. Purpose and Policy  
Article II. Adoption, Amendment, Repeal  
Article III. Definitions  
Article IV. Scope  
Article V. Authorization  
Article VI. Employee Notice

Article VII. Investigator(s) and Reports  
Article VIII. Duration  
Article IX. Employee Responsibilities  
Article X. Pay and Benefits  
Article XI. Appeal  
Article XII. Confidentiality

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### Article I. Purpose and Policy

1-1. The purpose of this Policy is to addresses investigative leave for employees undergoing work-related investigations.

1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin to maintain confidentiality and avoid undue influence when conducting an investigation into an employee's alleged wrong doings.

### Article II. Adoption, Amendment, Repeal

2-1. This Policy was adopted by the Oneida Business Committee by resolution BC-04-07-99-A, and amended by resolution BC-08-13-14-D- and.

2-2. This Policy may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

2-3. Should a provision of this Policy or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Policy which are considered to have legal force without the invalid portions.

2-4. In the event of a conflict between a provision of this Policy and a provision of another policy, the provisions of this Policy shall control.

2-5. This Policy is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

### Article III. Definitions

3-1. This section shall govern the definitions of words and phrases used within this Policy. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Disciplinary action" shall mean the process as set forth in the Tribe's personnel policies for dealing with job-related behavior that does not meet expected and communicated performance standards.

(b) "Employee" shall mean any individual who is employed by the Tribe and is subject to the direction and control of the Tribe with respect to the material details of the work performed, or who has the status of an employee under the usual common law rules applicable to determining the employer-employee relationship. "Employee" includes, but is not limited to; an individual employed by any program or enterprise of the Tribe, but does not include elected or appointed officials or individuals employed by a Tribally Chartered Corporation, and political appointees. For purposes of this Policy, individuals employed under an employment contract as a limited term employee are employees of the Tribe, not consultants.

(c) "Investigative leave" shall mean a temporary absence without regular job duties and without pay for the purpose of determining whether or not disciplinary action needs to be taken.

(d) "Tribal" or "Tribe" shall mean the Oneida Tribe of Indians of Wisconsin.

**Article IV. Scope**

- 4-1. An employee shall be placed on investigative leave when one (1) of the following occurs:
- (a) An investigation needs to be conducted and an employee's presence would influence the outcome.
  - (b) An employee allegedly commits an act which would preclude them from meeting employment eligibility including required Licenses, the Tribal Fidelity Bond, or Background Investigation requirements.
- 4-2. This Policy shall not be used as a form of discipline.
- ~~4-3. Investigative leave shall not apply to investigations regarding appeals of disciplinary actions or employee complaint investigations.~~

**Article V. Authorization**

- 5-1. This leave, or an extension of this leave, shall only be used when an employee's supervisor receives prior approval from the Human Resources Department Manager and:
- (a) their Division Director; or
  - (b) if there is no Division Director, the person at the highest level of the chain of command.
- 5-2. If the Human Resources Department Manager and the Division Director or his or her equivalent do not agree with placing the employee on investigative leave, then the final decision shall rest with the Human Resources Department Manager.
- 5-3. The prior approval requested in 5-1 shall be granted or denied within forty-eight (48) hours of receiving the request.
- 5-4. During the investigative leave, the employee's supervisor shall authorize an alternative work assignment if the alleged action does not preclude the employee from working elsewhere in the organization. An alternative work assignment authorized under this section shall be considered a part of the investigative leave and the employee shall continue to receive their same rate of pay.

**Article VI. Employee Notice**

- 6-1. When the employee is placed on investigative leave, the employee shall immediately receive a written notice from the employee's supervisor; the notice shall contain the following:
- (a) The specific allegation(s) being investigated;
  - (b) The employee shall be on unpaid status, unless he or she is placed in an alternative work assignment;
  - (c) The alternative work assignment, if appropriate;
  - (d) The expected length of the investigation;
  - (e) Whether or not the investigation is being forwarded to an outside agency;
  - (f) The telephone number and name of person to contact in case of questions;
  - (g) The procedures to return to work upon completion of the investigation; and
  - (h) That the employee still remains as an employee with the Tribe.
- 6-2. If the employee's investigative leave is extended past the original ~~thirty (30)~~fifteen (15) calendar days pursuant to section 8-1, the supervisor shall immediately notice the employee in writing of this extension and the reason for the extension.

**Article VII. Investigator(s) and Reports**

7-1. The employee's supervisor and/or area manager shall be responsible for completing the investigation. If the employee is one who directly reports to the Oneida Business Committee, the Tribal Equal Employment Opportunity Officer shall conduct the investigation.

7-2. If the allegations against the employee include criminal actions, or actions that may affect licensing, the investigations may be completed by an appropriate agency, including but not limited to: Police Departments, District Attorneys, Oneida Security, the Oneida Gaming Commission, and Social Services.

7-3. The person(s) conducting an investigation shall prepare a written report that shall include the findings of the investigation, and provide a copy of the written report to the employee and, if necessary the employee's supervisor.

7-4. Within forty-eight (48) hours of creating or receiving the written reports, the supervisor shall be responsible for informing the employee in writing when to return to work, and/or deciding the discipline which may be appropriate.

**Article VIII. Duration**

8-1. An investigative leave shall be no longer than ~~thirty (30)~~fifteen (15) calendar days, with the ability to extend one (1) time for an additional ~~thirty (30)~~fifteen (15) calendar days with a valid explanation of the reason for the extension. The extension shall be determined by the same individuals who placed the employee on investigative leave in section 5-1. However, if the investigation is forwarded to an outside agency, these timelines shall not apply.

8-2. Investigative leave shall end upon any of the following occurrences:

- (a) the expiration of the ~~thirty (30)~~fifteen (15) calendar day time limit;
- (b) the expiration of the ~~thirty (30)~~fifteen (15) calendar day extension if granted;
- (c) termination of employment based on the investigation;
- (d) the return to work when the investigation is completed prior to the expiration of the time limits given in (a) and/or (b) as officially documented by whomever is designated as the official investigative body; or
- (e) the employee chooses to resign or retire.

**Article IX. Employee Responsibilities**

9-1. An employee placed on investigative leave shall:

- (a) Not report to work or the worksite without prior supervisory approval;
- (b) Abide by all Tribal laws and policies, including prohibited gaming activities; and
- (c) Fully cooperate with the investigation as requested by those conducting the investigation.

**Article X. Pay and Benefits**

10-1. Paid leave shall not be authorized in accordance with the Tribe's personnel policies and procedures and the Oneida Nation Gaming Ordinance.

10-2. An employee placed on investigative leave shall not receive any wages or benefits unless placed in an alternative work assignment. If the employee refuses the alternative work assignment and is returned to work, the employee shall not receive any back pay or benefits.

10-3. If an alternative work assignment is not available, the employee may use his or her accrued vacation and/or personal time while on investigative leave.

10-4. An employee shall receive back pay and benefits for the time the employee was on

investigative leave, including prorated credit for vacation/personal time pursuant to Section 4-4 of the Back Pay Policy if all of the following occur:

- (a) The employee was not offered an alternative work assignment when placed on investigative leave; and
- (b) The employee is returned to his or her position; and
- (c) The employee is not disciplined or terminated based on the investigation.

#### **Article XI. Appeal**

11-1. In accordance with the personnel policies and procedures of the Tribe, an employee can appeal the findings in the written report and/or the decision arising out of the investigation within ten (10) business days of receiving the written report required in 7-3.

#### **Article XII. Confidentiality**

12-1. Information related to an investigation is confidential. Access or sharing of this information shall be limited to those who have a legitimate “need to know” in compliance with relevant laws and personnel policies and procedures.

12-2. All investigation materials shall be maintained in the employees personnel file with Human Resources Department.

*End.*

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Adopted BC-04-07-99-A  
Amended BC-08-13-14-D





# Legislative Operating Committee

## February 18, 2015

# Removal Law Amendments

**Submission Date:** December 17, 2014

☐ Public Meeting:  
☐ Emergency Enacted:

**LOC Sponsor:** Fawn Billie

**Summary:** *These amendments will give the OBC the ability to remove elected members of boards, committees and commissions upon petition or request by the board, committee or commission. The OBC removal process will not be amended.*

**12/17/14 LOC:** Motion by Fawn Billie to add the Removal Law Amendments to the active files list with herself as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

**Next Steps:**

- Review the draft and, if ready, defer for analysis.

## Chapter 4 REMOVAL LAW

Kwah On^ <luwalihut@kwas Kayanl^hsla  
Just when they will remove him our kind of laws

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|--|--|
| 4.1. Purpose and Policy                                    | 4.8. General Tribal Council Meeting – <u>Oneida Business Committee</u> |
| 4.2. Adoption, Amendment, Repeal                           | 4.9. <u>Petition – Elected Official</u>                                |
| 4.3. Definitions   | 4.10. <u>Preliminary Review – Elected Official</u>                     |
| 4.4. Grounds for Removal                                   | 4.11. <u>Hearing – Elected Officials</u>                               |
| 4.5. <u>Petition – Oneida Business Committee</u>           | 4.12. <u>Oneida Business Committee Meeting – Elected Officials</u>     |
| 4.6. <u>Preliminary Review – Oneida Business Committee</u> |  |
| 4.7. <u>Hearing – Oneida Business Committee</u>            |  |

### 4.1. Purpose and Policy

4.1-1. The purpose of this Law is to govern the removal of persons elected to serve on the Oneida Business Committee and on boards, committees and commissions of the Oneida Tribe of Indians of Wisconsin.

4.1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin to provide an orderly and fair process for the removal of persons elected to serve on the Oneida Business Committee and on boards, committees and commissions.

### 4.2. Adoption, Amendment, Repeal

4.2-1. This Law is adopted by the General Tribal Council by ~~GTC~~ Resolution ~~#1~~GTC-01-09-06-A and amended by Resolution BC-05-28-14-B- and by GTC Resolution.

4.2-2. This Law may be amended or repealed by the General Tribal Council only pursuant to the procedures set out in the Legislative Procedures Act.

4.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

4.2-4. ~~All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with this law are hereby repealed unless specifically re-enacted after adoption of this law. Specifically, the following resolutions are repealed by this law~~In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law shall control. Provided that, this Law repeals the following:

- (a) GTC-6-13-79 (Adoption of Ordinance for the Removal of Oneida Tribal Business Committee Members)
- (b) BC-3-8-85-A (Adoption of Legislatively Appointed Committee Removal Ordinance)
- (c) BC-1-03-96-B (BC Adoption of Removal Law)
- (d) GTC-1-17-98-A (GTC Adoption of Removal Law)

4.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

### 4.3. Definitions

4.3-1. This section shall govern the definitions of words or phrases ~~as used herein~~within this Law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Counsel” means an attorney or advocate.

~~(b)~~(b) “Elected official” means any person elected to a position on a board, committee or commission of the Oneida Tribe of Indians of Wisconsin and does not include the Oneida Business Committee.

(c) “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-~~#1-01~~-07-13-B to administer the judicial authorities and responsibilities of the Tribe.

(ed) “Tribe” means the Oneida Tribe of Indians of Wisconsin.

#### 4.4. Grounds for Removal

4.4-1. Oneida Business Committee. A member of the Oneida Business Committee may be removed from office for any of the following reasons:

- (a) failure to attend four (4) regularly scheduled meetings without a written explanation;
- (b) intentional mis-use of Tribal funds;
- (c) alcohol use while performing official responsibilities or use of illegal drugs at any time;
- (d) if he or she no longer meets the qualifications for office;
- (e) violating a Tribal law which specifies removal as a penalty; or
- (f) felony conviction while in office.

4.4-2. Elected Official. An elected official may be removed from office for any of the following reasons:

- (a) failure to attend four (4) regularly scheduled meetings without a written explanation;
- (b) failure to attend fifty percent (50%) of an entity’s regular scheduled meetings within a twelve (12) month period for any reason ~~provided that this subsection shall not apply to the Oneida Business Committee;~~
- (c) violation of the by-laws, operating agreements, laws, regulations or Standard Operating Procedures of the board, committee or commission;
- (d) intentional mis-use of Tribal funds;
- (de) alcohol use while performing official responsibilities or use of illegal drugs at any time;
- (ef) if he or she no longer meets the qualifications for office;
- (fg) violating a Tribal law which specifies removal as a penalty; or
- (gh) felony conviction while in office.

#### 4.5. Petition – Oneida Business Committee

4.5-1. Any eligible voter may file a petition with the Tribal Secretary seeking the removal of an ~~elected official.~~Oneida Business Committee member. No petition shall request the removal of more than one (1) ~~elected official.~~Oneida Business Committee member. The petition shall state with particularity the facts upon which it is based and the specific grounds for removal, in not more than two hundred (200) words, and must be signed by fifty (50) or more eligible voters or a number equal to at least thirty (30) percent of the votes cast in the previous general election, whichever is greater. A petition may not be amended after it is filed with the Tribal Secretary.

4.5-2. The petition shall be filed within thirty (30) days after the date the first signature is obtained on the petition.

4.5-3. The petition shall contain, in ink:

(a) The appropriate lines for the eligible voter’s:

- (1) Printed name;
- (2) Signature;
- (3) Street address; and
- (4) Enrollment number.

(b) An oath verifying the fact that:

- (1) The circulator witnessed each person sign the petition;

(2) Each signature appearing thereon is the genuine signature of the person it purports to be; and

(3) The petition was signed in the presence of the witness on the date indicated.

4.5-4. Upon receipt of a petition, the Tribal Secretary shall promptly:

(a) Submit such petition to the Oneida Tribal Enrollment Department which shall, within five (5) business days, determine whether the petition contains the requisite number of signatures of eligible voters; and

(b) Notify the ~~elected official~~ Oneida Business Committee member sought to be removed that a petition has been filed seeking his or her removal by providing a copy of the uncertified petition.

4.5-5. If the Enrollment Department determines that the petition does not contain the requisite number of signatures, the Tribal Secretary shall so certify to the Oneida Business Committee and file the petition without taking further action, and the matter shall be at an end. No additional names may be added to the petition, and the petition shall not be used in any other proceeding.

4.5-6. If the Enrollment Department determines that the petition contains the requisite number of signatures, then the Tribal Secretary shall promptly cause a certified copy of the petition to be served upon the elected official sought to be removed and forward a copy of the same to the Judiciary.

4.5-7. In the event the removal of the Tribal Secretary is sought, the Tribal Vice Chairperson shall perform the duties assigned to the Secretary under this Law.

#### **4.6. Preliminary Review – Oneida Business Committee**

4.6-1. The Judiciary, upon receipt of the petition shall schedule a preliminary review, to take place within twenty (20) calendar days, to determine whether the allegations set forth in the petition would constitute sufficient grounds for removal. The Judiciary may request that the parties submit arguments in writing, and the parties may be represented by counsel.

4.6-2. If the Judiciary determines that a petition does not allege sufficient grounds for removal, the petition shall be dismissed. If the Judiciary determines that the petition alleges sufficient grounds for removal, the Judiciary shall conduct a hearing under 4.7.

4.6-3. The Tribal Secretary's certification of the sufficiency of the number of signatures on the petition may be reviewed by the Judiciary upon motion of the elected official whose removal is sought. The motion shall be filed within twenty (20) calendar days of service of the certified copy of the petition upon the elected official sought to be removed. The motion shall be in writing and the grounds limited to:

(a) the authenticity of the signatures; and

(b) whether the signature is that of an eligible voter.

4.6-4. The Judiciary review shall be conducted in the presence of the parties, who may be represented by counsel during the inspection review. Opportunity to present evidence and testimony shall be provided. If the Judiciary determines that a petition contains less than the required number of valid signatures, the petition shall be dismissed.

~~4.6-5. In the event the removal of a member of the Judiciary is sought, the Clerk of Courts shall convene a panel of three (3) judges who are members of the Wisconsin Tribal Judges Association to carry out the Judiciary's responsibilities under this law.~~

#### **4.7. Hearing – Oneida Business Committee**

4.7-1. Rights of ~~Elected Official~~ Oneida Business Committee Member at Hearing. An ~~elected official~~ Oneida Business Committee member whose removal is sought shall have the right to

present witnesses on his or her behalf; to cross-examine adverse witnesses; ~~and~~ to, at his or her expense, be represented by counsel of his or her choice.

4.7-2. *Burden of Proof.* A person seeking the removal of an ~~elected official~~ Oneida Business Committee member shall have the burden of proving by clear and convincing evidence that ground(s) for removal exist.

4.7-3. *Findings.* The Judiciary shall, within twenty (20) calendar days after the preliminary review has been completed, determine whether each allegation of the petition has been proven by clear and convincing evidence, and whether such allegations constitute sufficient grounds for removal under 4.4-1. If the Judiciary determines that sufficient grounds have not been proven the Judiciary shall dismiss the petition. If the Judiciary determines that the sufficient grounds have been proven, the Judiciary shall forward the written findings to the Tribal Chair.

#### **4.8. General Tribal Council Meeting – Oneida Business Committee**

4.8-1. *Special Meeting.* Upon receipt of the findings from the Judiciary, the Tribal Chair shall call a special General Tribal Council meeting to consider the findings to be held within forty-five (45) calendar days after receipt of the Judiciary findings.

4.8-2. *Right to address the Council.* ~~An elected official~~ An Oneida Business Committee member whose removal is sought shall have the right to address the General Tribal Council personally.

4.8-3. *Determination.* ~~An elected official~~ An Oneida Business Committee member may only be removed from office upon the affirmative vote of a two-thirds (2/3) majority of the General Tribal Council at a meeting called for the purpose of considering the removal.

4.8-4. *Quorum.* If the meeting of the General Tribal Council fails to obtain a quorum, the removal petition shall be dismissed.

#### **4.9. Petition – Elected Official**

4.9-1. An elected official may be subject to removal either by petition or by request of the board, committee or commission.

(a) Any eligible voter may file a petition with the Tribal Secretary seeking the removal of an elected official. No petition shall request the removal of more than one (1) elected official. The petition shall state with particularity the facts upon which it is based and the specific grounds for removal, in not more than two hundred (200) words, and must be signed by fifty (50) or more eligible voters or a number equal to at least thirty (30) percent of the vote cast in the previous general election, whichever is greater. A petition may not be amended after it is filed with the Tribal Secretary.

(b) A board, committee, or commission may file a removal request with the Tribal Secretary for one of its members after adoption of a majority vote of the board, committee or commission regarding the removal request. No removal request shall request the removal of more than one (1) elected official. The removal request shall state with particularity the facts upon which it is based and the specific grounds for removal, in not more than two hundred (200) words. A removal request may not be amended after it is filed with the Tribal Secretary.

4.9-2. The petition or removal request shall be filed within thirty (30) days after the date the first signature is obtained on the petition or adoption by the board, committee or commission.

4.9-3. The petition shall contain, in ink:

(a) The appropriate lines for the eligible voter's:

(1) Printed name;

(2) Signature;

(3) Street address; and

(4) Enrollment number.

(b) An oath verifying the fact that:

(1) The circulator witnessed each person sign the petition;

(2) Each signature appearing thereon is the genuine signature of the person it purports to be; and

(3) The petition was signed in the presence of the witness on the date indicated.

4.9-4. Upon receipt of a petition or removal request, the Tribal Secretary shall promptly:

(a) Submit such petition to the Oneida Tribal Enrollment Department which shall, within five (5) business days, determine whether the petition contains the requisite number of signatures of eligible voters; and

(b) Notify the elected official sought to be removed that a petition or removal request has been filed seeking his or her removal by providing a copy of the uncertified petition.

4.9-5. If the Enrollment Department determines that the petition does not contain the requisite number of signatures, the Tribal Secretary shall so certify to the Oneida Business Committee and file the petition without taking further action, and the matter shall be at an end. No additional names may be added to the petition, and the petition shall not be used in any other proceeding.

4.9-6. In the case of a petition, if the Enrollment Department determines that the petition contains the requisite number of signatures, then the Tribal Secretary shall promptly cause a certified copy of the petition to be served upon the elected official sought to be removed and forward a copy of the same to the Judiciary.

4.9-7. In the case of a removal request, upon verification of the action of the board, committee or commission, the Tribal Secretary shall promptly cause a certified copy of the removal request to be served upon the elected official sought to be removed and forward a copy of the same to the Judiciary.

#### **4.10. Preliminary Review – Elected Official**

4.10-1. The Judiciary, upon receipt of the petition or removal request shall schedule a preliminary review, to take place within twenty (20) calendar days, to determine whether the allegations set forth in the petition or removal request would constitute sufficient grounds for removal. The Judiciary may request that the parties submit arguments in writing, and the parties may be represented by counsel.

4.10-2. If the Judiciary determines that a petition or removal request does not allege sufficient grounds for removal, the petition or removal request shall be dismissed. If the Judiciary determines that the petition or removal request alleges sufficient grounds for removal, the Judiciary shall conduct a hearing under 4.11.

4.10-3. The Tribal Secretary's certification of the sufficiency of the number of signatures on the petition or the validity of the action of the board, committee or commission adopting a removal request may be reviewed by the Judiciary upon motion of the elected official whose removal is sought. The motion shall be filed within twenty (20) calendar days of service of the certified copy of the petition or removal request upon the elected official sought to be removed. The motion shall be in writing and the grounds limited to:

(a) the authenticity of the signatures on a petition;

(b) whether the signature on the petition is that of an eligible voter; or

(c) the validity of the action taken by a board, committee or commission in approving a removal request.

4.10-4. The Judiciary review shall be conducted in the presence of the parties, who may be represented by counsel during the review. Opportunity to present evidence and testimony shall be provided. If the Judiciary determines that a petition contains less than the required number of

valid signatures, the petition shall be dismissed. If the Judiciary determines that a removal request does not contain valid action by the board, committee or commission the removal request shall be dismissed.

#### **4.11. Hearing – Elected Officials**

4.11-1. Rights of Elected Official at Hearing. An elected official whose removal is sought shall have the right to present witnesses on his or her behalf; to cross-examine adverse witnesses; and to, at his or her expense, be represented by counsel of his or her choice.

4.11-2. Burden of Proof. A person seeking the removal of an elected official shall have the burden of proving by clear and convincing evidence that ground(s) for removal exist.

4.11-3. Findings. The Judiciary shall, within twenty (20) calendar days after the preliminary review has been completed, determine whether each allegation of the petition or removal request has been proven by clear and convincing evidence, and whether such allegations constitute sufficient grounds for removal under 4.4-2. If the Judiciary determines that sufficient grounds have not been proven the Judiciary shall dismiss the petition or removal request. If the Judiciary determines that the sufficient grounds have been proven, the Judiciary shall forward the written findings to the Tribal Chair.

#### **4.12. Oneida Business Committee Meeting – Elected Officials**

4.12-1. Special Meeting. Upon receipt of the findings from the Judiciary, the Tribal Chair shall call a special Oneida Business Committee meeting to consider the findings to be held within forty-five (45) calendar days after receipt of the Judiciary findings.

4.12-2. Right to address the Oneida Business Committee. An elected official whose removal is sought shall have the right to address the Oneida Business Committee personally.

4.12-3. Determination. An elected official may only be removed from office upon the affirmative vote of six (6) members of the Oneida Business Committee at a meeting called for the purpose of considering the removal.

End.

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Adopted GTC-01-09-06-A  
Amended – BC-05-28-14-B





# Legislative Operating Committee

## February 18, 2015

# Environmental, Health and Safety Law

**Submission Date:** December 17, 2014

☐ Public Meeting:  
☐ Emergency Enacted:

**LOC Sponsor:** Tehassi Hill

**Summary:** *This is a new Law that will enable the Environmental, Health and Safety Department (EHSD) to protect land, water, air people and safety on the Reservation. The Law will also authorize EHSD to protect the Reservation, promote public health & safety and do business on the Reservation. In addition, the Law authorizes EHSD to perform duties such as creating rules in implementing this Law.*

**12/17/14 LOC:** Motion by Tehassi Hill to add the Environmental, Health and Safety Law to the active files list with himself as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

**Next Steps:**

- Review the update memo and defer this item back to the sponsor for further review.



# Oneida Tribe of Indians of Wisconsin

**Legislative Reference Office**

P.O. Box 365

Oneida, WI 54155

(920) 869-4376

(800) 236-2214

<http://oneida-nsn.gov/LOC>

**Committee Members**

Brandon Stevens, Chairperson

Tehassi Hill, Vice Chairperson

Fawn Billie, Councilmember

Jennifer Webster, Councilmember

**Memorandum**

**TO:** Legislative Operating Committee  
**FROM:** Tehassi Hill, LOC Vice-Chairperson  
**DATE:** February 12, 2015  
**RE:** Environmental, Health and Safety Law Update

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At the December 21, 2014, Legislative Operating Committee (LOC) meeting, a draft Environmental, Health and Safety Law (Law) was presented to the LOC for consideration. The LOC added this item to the active files list with myself as the sponsor. At this time, my office is continuing to review the Law and I am requesting that this item be deferred to allow us additional time to conduct that review.

If you have any questions, please feel free to contact me at (920) 869-4420 or [rhill7@oneidanation.org](mailto:rhill7@oneidanation.org).

# Legislative Operating Committee



## Agenda Request Form

- 1) Request Date: 02/12/15
- 2) Contact Person(s): \_\_\_\_\_ Dept: LRO  
Phone Number: x4376 Email: \_\_\_\_\_
- 3) Agenda Title: Administrative Procedures Act Emergency Amendments
- 4) Detailed description of the item and the reason/justification it is being brought before the Committee  
This is a request to adopt emergency amendments to the Administrative Procedures Act  
to coincide with the repeal of that portion of the APA that contains hearing procedures.  
Although the Judiciary Law was adopted, there are still other hearing bodies in place and some  
of those hearing bodies are required to follow the APA when conducting hearings.

List any supporting materials included and submitted with the Agenda Request Form

- 1) Memo
- 2) Resolution and SOE
- 3) Drafts of Law
- 4) \_\_\_\_\_
- 5) Please List any laws, ordinances or resolution that might be affected:  
\_\_\_\_\_
- 6) Please List all other departments or person(s) you have brought your concern to:  
\_\_\_\_\_
- 7) Do you consider this request urgent? ☒ Yes ☐ No  
If yes, please indicate why: The APA hearing provisions will be repealed effective March 1, 2015

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee

Signature of Requester: \_\_\_\_\_

*Please send this form and all supporting materials to:*

**LOC@oneidation.org**  
or  
**Legislative Operating Committee (LOC)**  
P.O. Box 365  
Oneida, WI 54155  
Phone 920-869-4376

# Oneida Tribe of Indians of Wisconsin

## Legislative Reference Office

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Oneida, WI 54155  
(920) 869-4376  
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## Committee Members

Brandon Stevens, Chairperson  
Tehassi Hill, Vice Chairperson  
Fawn Billie, Councilmember  
Jennifer Webster, Councilmember

## Memorandum

**To:** Oneida Business Committee  
**From:** Brandon Stevens, LOC Chairperson  
**Date:** February 18, 2015  
**Re:** Administrative Procedures Act Amendments Emergency Adoption

---

Please find attached the following for your consideration:

1. Resolution: Administrative Procedures Act Amendments Emergency Adoption
2. Statement of Effect: Administrative Procedures Act Amendments Emergency Adoption
3. Administrative Procedures Act (redline)
4. Administrative Procedures Act (clean)

### *Overview*

On January 7, 2013, General Tribal Council (GTC) adopted resolution GTC-01-07-13-A, Adoption of the Administrative Procedures Act Amendments and the Legislative Procedures Act. In addition, GTC repealed the hearing procedures found in the Administrative Procedures Act (APA), effective March 1, 2015, with the adoption of the Judiciary Law, resolution GTC-01-07-13-B. After the adoption of these two resolutions, a portion of the Administrative Procedures Act was inadvertently left intact. On September 24, 2014, the Oneida Business Committee agreed to forward a resolution to GTC for consideration that would repeal the outstanding sections of the APA. However, that resolution has not yet been considered by GTC.

In addition, although the Judiciary Law was adopted, certain boards, committees and commissions of the Tribe continue to have hearing body authority through various Tribal laws. Some of these hearing bodies, including the Gaming Commission, Environmental Resource Board and Land Commission are required to hold their hearings in accordance with the Administrative Procedures Act under Tribal law. These requirements are found in the Hunting, Fishing and Trapping Law; All-Terrain Vehicle Law; Water Resources Ordinance; Well Abandonment Law; Oneida Nation Gaming Ordinance; and Real Property Law.

These emergency amendments would repeal the outstanding sections of the APA and put a hearing process in place for those hearing bodies that are required to hold hearings and do not have other hearing rules in place. Under the attached Resolution, the emergency amendments would not be effective until March 1, 2015, which coincides with the date that the current APA hearing procedures are repealed under GTC-01-07-13-B.

### **Requested Action**

Approve the Resolution: Administrative Procedures Act Amendments Emergency Adoption.

**BC Resolution \_\_\_\_\_***Administrative Procedures Act Amendments Emergency Adoption*

**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,** GTC Resolution 01-07-13-A adopted amendments to the Administrative Procedures Act (APA) and adopted the Legislative Procedures Act (LPA); and

**WHEREAS,** GTC Resolution 01-17-13-B adopted the Judiciary Law and repealed the hearing procedures found in the APA, effective March 1, 2015; and

**WHEREAS,** although the Judiciary Law was adopted, certain boards, committees and commissions of the Tribe continue to have hearing body authority through various Tribal laws; and

**WHEREAS,** some of these hearing bodies, including the Gaming Commission, Environmental Resource Board and Land Commission are required to hold their hearings in accordance with the APA; and

**WHEREAS,** after March 1, 2015, the APA will no longer contain hearing body procedures; and

**WHEREAS,** the attached emergency amendments would repeal the outstanding sections of the APA and put a hearing process in place for those hearing bodies that are required to hold hearings but do not have other hearing rules in place; and

**WHEREAS,** the LPA 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,** emergency adoption of the amendments is necessary for the immediate preservation of the public health, safety, or general welfare of the reservation population, and amendment of the Law is required sooner than would be possible under the LPA.

**NOW THEREFORE BE IT RESOLVED,** that effective March 1, 2015, the attached amendments to the Administrative Procedures Act are adopted on an emergency basis.

## Oneida Tribe of Indians of Wisconsin Legislative Reference Office

Lynn A. Franzmeier, Staff Attorney  
Taniquelle J. Thurner, Legislative Analyst  
Candice E. Skenandore, Legislative Analyst



P.O. Box 365  
Oneida, WI 54155  
(920) 869-4376  
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<https://oneida-nsn.gov/Laws>

### Statement of Effect

*Administrative Procedures Act Amendments Emergency Adoption*

### Summary

This Resolution adopts emergency amendments to the Administrative Procedures Act, effective March 1, 2015, to implement hearing procedures for those bodies required to hold hearings in accordance with the Administrative Procedures Act.

*Submitted by: Lynn A. Franzmeier, Staff Attorney, Legislative Reference Office*

### *Analysis by the Legislative Reference Office*

On January 7, 2013 the Oneida General Tribal Council (GTC) adopted resolution GTC-01-07-13-A, Adoption of the Administrative Procedures Act Amendments and the Legislative Procedures Act. In addition, GTC repealed the Administrative Procedures Act (APA) hearing procedures, effective March 1, 2015, with the adoption of the Judiciary Law, resolution GTC-01-07-13-B. Although the Judiciary Law was adopted, certain boards, committees and commissions of the Tribe continue to have hearing body authority through various Tribal laws. Some of these hearing bodies, including the Gaming Commission, Environmental Resource Board and Land Commission are required to hold their hearings in accordance with the Administrative Procedures Act under Tribal law.

These emergency amendments would repeal the outstanding sections of the APA and put a hearing process in place for those hearing bodies that are required to hold hearings in accordance with the APA and do not have other hearing rules in place. Under the attached Resolution, the emergency amendments would not be effective until March 1, 2015, which coincides with the date that the current APA hearing procedures will be repealed under GTC-01-07-13-B. The emergency amendments would remain in effect for six months, unless extended or replaced before that time has expired.

### Conclusion

Adoption of the amendments to these Laws will not conflict with any Tribal law or policy.

## Chapter 1 Administrative Procedures Act

1.1. Purpose and Policy  
1.2. Adoption, Amendment, Repeal  
1.3. Definitions

1.4. Complaints and Notice  
1.5. Procedures  
1.6. Judgments and Appeals

| <i>Analysis by the Legislative Reference Office</i> |   |                |                       |
|---|---|----------------|-----------------------|
| <b>Title</b>  | Administrative Procedures Act (APA)   |                |                       |
| <b>Drafter</b>                                      | Lynn A. Franzmeier  | <b>Analyst</b> | Candice E. Skenandore |
| <b>Reason for Request</b>                           | Ensure that Tribal boards, committees and commissions have hearing procedures that are noticed so a person is presented with a fair opportunity to file a claim that arises under Tribal law [See 1.1-2].   |                |                       |
| <b>Purpose</b>                                      | The APA will provide procedures for boards, committees and commissions that do not have procedures in place under other Tribal law, to conduct hearings for disputes arising under Tribal law [See 1.1-1].  |                |                       |
| <b>Authorized/ Affected Entities</b>                | Tribal boards, committees and commission (hearing body(ies) that are authorized, by Tribal law, to conduct hearings; anyone that has a dispute arising under Tribal law and files a complaint with the hearing body; anyone identified as a respondent; witness; and the Court of Appeals [See 1.4-1, 1.1-1, 1.4-2, 1.4-3 (a), 1.5-5 (b) & 1.6-2]   |                |                       |
| <b>Due Process</b>                                  | A party can appeal a hearing body's decision to the Tribe's Court of Appeals [See 1.6-2]  |                |                       |
| <b>Related Legislation</b>                          | The following laws and policies reference the APA describing how a hearing is conducted: All-Terrain Vehicle Law [49.6-2]; Building Code [66.24-1]; Condominium Ordinance [68.26-2]; Oneida Nation Gaming Ordinance [21.12-8 (g)]; Hunting, Fishing and Trapping Law [45.15-3]; On-Site Waste Disposal Ordinance [46.5-1 (a), (b)(2) & (c)(2)]; Protection and Management of Archeological & Historical Resources [12.5-3]; Real Property Law [67.16-3 (a) (3)]; Oneida Vendor Licensing [56.7-1]; Well-Abandonment Law [43.7-3] and Employee Protection Policy [4-7] |                |                       |
| <b>Policy Mechanism</b>                             | The hearing body can issue fines, orders and/or penalties so long as they comply with the Indian Civil Rights Act [See 1.6-1].  |                |                       |

### Overview

The Tribe has various boards, committees and commission that have the authority, in accordance with Tribal law, to conduct hearings. The current APA, among other things, sets the procedures on how these boards, committees and commissions (hearing bodies) conduct hearings. The hearing procedures found within the current APA are set to expire on March 1, 2015 pursuant to GTC Resolution 01-07-13-B. Because hearing bodies will continue to have the authority to conduct hearings after these portions of the APA expire, proposed emergency amendments were made to the APA so that hearing bodies will have a consistent process for conducting hearings. If these amendments are approved, they will go into effect on March 1, 2015 and will remain in effect until September 1, 2015, unless they are permanently adopted or are extended for an additional six months [See *Legislative Procedures Act* 16.9-5].

The amendments set out the procedures for hearing bodies that do not have procedures in place under other Tribal law. These amendments will:

- Require hearing bodies to follow the APA when conducting hearings unless another Tribal law establishes hearing procedures for a specific hearing body [See 1.4-1]. For example, the APA will not pertain to the Oneida Personnel Commission, Oneida Police Commission or Oneida Election Board because these entities already have other

5 legislation that dictates how their hearings are conducted [*See Oneida Judiciary Rules of*  
6 *Civil Procedure 153.4-6, Oneida Nation Law Enforcement Ordinance 37.9-1 and Oneida*  
7 *Election Law 2.5-6*]. The amendments specifically exclude the Tribe's Judiciary and  
8 Family Court from the "hearing body" definition [*See 1.1-1 & 1.3-1 (f)*].

- 9 ■ Allow hearing bodies to develop additional hearing body procedures so long as those  
10 procedures do not conflict with the APA and are noticed to the public [*See 1.4-1*].
- 11 ■ Specify what information must be included in the complaint as well as identify how a  
12 complaint and summons can be served and that service must be made within 30 days of  
13 filing the complaint [*See 1.4-2 & 1.4-3*].
- 14 ■ Set out the procedures on how hearings are conducted including:
  - 15 ■ Authorizing hearing bodies to establish a regular time to hold pre-hearings and  
16 hearings as well as designate officer and alternates to serve on the hearing body  
17 [*See 1.5-1*].
  - 18 ■ Restricting hearing officers and parties from engaging in ex parte communications  
19 [*See 1.5-2*].
  - 20 ■ Specifying when evidence is used and how it can be obtained and presented. The  
21 APA also allows the opposing party to object to evidence and authorize the  
22 hearing body to determine whether or not to accept the evidence [*See 1.5-3*].
  - 23 ■ Require a pre-hearing be conducted within 45 days after notice has been served  
24 [*See 1.5-4*]. The pre-hearing allows the hearing body or hearing officer to  
25 determine dispositive motions; identify the need for witnesses and/or evidence;  
26 implement a scheduling order and address matters that will clarify, simplify or  
27 settle the case or facilitate a just, speedy and inexpensive disposition [*See 1.5-4*].
  - 28 ■ Require a hearing, if necessary, to be conducted within 60 days after the pre-  
29 hearing or within 60 days after it is decided to not hold a pre-hearing. If a hearing  
30 is conducted it should substantially comply with the procedures set out in the  
31 APA [*See 1.5-6*].
- 32 ■ Authorize the hearing bodies to issue fines, orders and/or penalties that comply with the  
33 Indian Civil Rights Act [*See 1.6-1*].
- 34 ■ Allow a party to appeal the hearing body's decision by filing an appeal with the Tribe's  
35 Court of Appeals in accordance with the Judiciary law and any applicable rules of  
36 procedure [*See 1.6-2*].

### 37 38 **Considerations**

39 The LOC may want to consider the following:

- 40 ■ The Oneida Business Committee will have the authority to adopt, amend and repeal the  
41 proposed APA [*See 1.2-1 & 1.2-2*]. The current APA identifies the General Tribal  
42 Council as the entity that must adopt and amend the law [*See current APA 1.3-1 (a) &*  
43 *(b)*].
- 44 ■ Amendments require a pre-hearing to be conducted within 45 days after the notice is  
45 served as well as require a hearing be held, if necessary, within 60 days after the pre-  
46 hearing was conducted or the decision that a pre-hearing is not needed [*See 1.5-1 and*  
47 *1.5-5*]. The amendments do not address allowing hearing bodies to extend these  
48 timelines. The LOC may want to consider whether or not to allow hearing bodies to  
49 extend the 45 day pre-hearing and/or 60 day hearing timelines if all parties agree.
- 50 ■ Amendments will allow the hearing body to issue fines, orders or penalties for those who  
51 violate the APA but there are no enforcement provisions for hearing bodies that violate

this Law. For example, these amendments require the hearing body to issue a written decision within ten business days after a pre-hearing or hearing [See 1.5-6]. These amendments do not address what happens if a hearing body fails to meet this deadline. In addition, these amendments do not state whether or not a hearing body has the authority to extend the timeline on making a decision.

- The APA does not state whether or not the hearing body can issue subpoenas.

### Miscellaneous

A public meeting or fiscal impact statement are not required for emergency legislation [See Legislative Procedures Act 16.9-5 (a)].

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~~**1.1-1. Authority.** The Oneida Tribe of Indians of Wisconsin has the authority and jurisdiction to enforce this act as well as the responsibility as a government to protect the health, safety, welfare, and economy of the Oneida Reservation lands and all persons who either reside on the reservation or who are visitors and/or are conducting business within the exterior boundaries of the reservation. The Oneida Tribe shall ensure due process of law for the designated citizens through adoption of this act, pursuant to Article VI of the Oneida Tribal Constitution, as amended.~~

~~**1.2-1. Purpose.** The Oneida Business Committee, various committees, entities and administrative bodies of the Oneida Tribe shall act in a responsible and consistent manner when enacting, approving, revising, reviewing, interpreting, implementing, and administering the laws, directions, rules, programs, and policies of the Oneida Tribe as adopted. The following principles shall be the framework of this Act:~~

- ~~(a) Fundamental fairness, justice, and common sense.~~
- ~~(b) Record keeping that is responsible, organized, accessible, and understandable.~~
- ~~(c) Deliberative bodies and decision makers which are familiar with the evidence and facts of the cases presented to them as well as issuing clear and concise written opinions; and~~
- ~~(d) Provisions for appeals of administrative errors and contested issues.~~

### ~~**1.3-1. Adoption, Amendment, Repeal**~~

~~(a) This law was adopted by the Oneida General Tribal Council by resolution GTC 8-19-91-A and amended by GTC 1-07-13-A.~~

~~(b) This law may be amended by the Oneida General Tribal Council.~~

~~(c) Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.~~

~~(d) Any law, policy, regulation, rule, resolution or motion, or portion thereof, which directly conflicts with the provisions of this law is hereby repealed to the extent that it is inconsistent with or is contrary to this law. Specifically, the following are repealed:~~

~~(a) BC #7-5-95-K (Amendment to the Administrative Procedures Act to address public hearing process)~~

~~(b) BC# 2-2-88-A (Public hearing process for laws and policies)~~

~~(e) This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.~~



**1.4.1. Definitions.** (a) "AGENCY": Any tribal entity, board, commission, committee, department, or officer authorized by the Oneida Tribe to propose ordinance/rules for adoption by the Oneida Business Committee or a decision-maker for the contested cases. The term "Agency" shall not include the Oneida Business Committee or a tribal appeals body.

(b) "CONFIDENTIALITY": State or quality of being confidential; treated as private and not for publication.

(c) "CONTESTED CASES": A proceeding before an "Agency" in which an opportunity for a hearing before said "Agency" is required by law prior or subsequent to the determination of the "Agency" of the legal rights, duties, or privileges or specific parties unless otherwise provided for by tribal law. This shall include the revocation, suspension, or modification of a license or permit when a grant of such application is contested by a person directly affected by said licensing or permitting.

(d) "DECLARATORY RULING": A written ruling made by a tribal decision-making body which removes doubts or puts an end to conflicting decisions in regard to what law is in relation to a particular matter.

(e) "DELIBERATIVE BODY": A body that weighs, examines, and consults the reasons for and against a contemplated act or course of conduct or a choice of acts or means in order to form an opinion.

(f) "EMERGENCY": An unexpected or unforeseen occurrence or condition; a sudden or unexpected occasion for action; pressing necessity.

(g) "LICENSE" or "PERMIT": The approval, permission, or allowance of an individual or group to engage in an activity that is lawfully adopted by the Oneida Tribe.

(h) "LICENSING" or "PERMITTING": The process that refers to the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or modification of a license or permit.

(i) "ONEIDA BUSINESS COMMITTEE" (OBC): The representative body of the Oneida Tribe elected by the Oneida General Tribal Council pursuant to Article III of the Oneida Tribal Constitution.

(j) "ONEIDA GENERAL TRIBAL COUNCIL": The ultimate governing body of the Oneida Tribe composed of enrolled tribal members as described in Article III of the Oneida Tribal Constitution.

(k) "ORDINANCE": A tribal law that applies to and governs persons, activities, and properties subject to tribal jurisdiction.

(l) "RESERVATION": All land within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

(m) "RESERVATION ENVIRONMENT" or "RESERVATION RESOURCES": Land, surface water, ground water, fish, animals, flora, fauna, air, wildlife, and capital improvements on or near the reservation.

(n) "RULE/REGULATION": Any order or directive, or regulation of general applicability enacted into law and approved by the Oneida Business Committee that exhibits the following:

- (1) The violation of which may result in a fine, penalty, or other civil administrative sanction;
- (2) May establish, change, or revoke a procedure, practice, or requirement of administration hearing;
- (3) May establish, change, or revoke requirements relating to benefits or privileges conferred by law;

(4) ~~May establish, change, or revoke standards for assistance, suspension, or revocation of licenses;~~

(5) ~~The amendment or repeal of a prior ordinance/rule;~~

(6) ~~Does not include the following:~~

(A) ~~statements concerning internal management of an area, nor:~~

(B) ~~Declaratory rulings issued pursuant to this Act as now or hereafter amended.~~

~~(e) "SECRETARY": Secretary of the Oneida Business Committee.~~

~~(p) "SPONSORING AGENCIES": Any tribal agency that prepares an ordinance/rule or other matter under this Act for action by the Oneida Business Committee.~~

~~**1.5-1. Inspection of Agency Orders, Decisions, and Opinions** Each agency shall keep on file for public inspection all final orders, decisions, and opinions in contested cases as well as an index to said cases, decisions, orders, or opinions except that said public inspection shall be limited by applicable federal law or tribal laws of confidentiality. In addition, said agencies shall forward all agency orders, decisions, or opinions to the "Secretary" who shall keep said records in one centralized area.~~

### **1.1. Purpose and Policy**

1.1-1. Purpose. The purpose of this Law is to provide procedures for boards, committees and commissions that conduct hearings for disputes arising under Tribal law and have no procedures in place under other Tribal law. This Law shall not apply to hearings held before the Family Court or any court of the Tribe's Judiciary. This Law shall not be construed to create hearing rights where no hearing rights exist under Tribal law

1.1-2. Policy. It is the policy of the Tribe that the hearing procedures of boards, committees and commissions shall be noticed to ensure all individuals are presented with a fair opportunity to file any claim that may arise under Tribal law.

### **1.2. Adoption, Amendment, Repeal**

1.2-1. This Law was adopted by the Oneida Business Committee by resolution BC \_\_\_\_\_.

1.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

1.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Law which are considered to have legal force without the invalid portions.

1.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law shall control.

1.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

### **1.3. Definitions**

1.3-1. This section shall govern the definitions of words and phrases used within this Law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Decision" shall mean the written conclusion of the hearing body concerning the facts, alleged violations of Tribal law and penalties.

(b) "Deliberations" shall mean the confidential process during which the hearing officers discuss the issues presented before the hearing body.

(c) "Dispositive motion" shall mean a request to the hearing body to entirely dispose of one (1) or more claims in favor of the party making the request without need for a further

hearing.

(d) "Evidence" shall mean documentation or testimony presented to the hearing body which supports a party's claim.

(e) "Ex parte communication" shall mean oral or written, off-the-record communication made to or by the hearing officers without notice to the parties that is directed to the merits or outcome of the hearing.

(f) "Hearing body" shall mean the member or members of a board, committee or commission that hear and decide the case or motions presented as part of a case. "Hearing body" shall not include the Family Court or any court of the Tribe's Judiciary.

(g) "Scheduling order" shall mean the hearing body's order establishing the dates of the hearing and the deadlines for discovery and submitting witness lists.

(h) "Summons" shall mean an order to appear before a hearing body because a petitioner has filed a complaint.

#### **1.4. Complaints and Notice**

1.4-1. Whenever a claim arises under Tribal law, a hearing body shall hear the complaint in accordance with the procedures established under this Law, unless another Tribal law has established hearing procedures for that specific hearing body. Nothing in this Law shall be construed to prevent a hearing body from establishing additional hearing body procedures, as long as those procedures do not conflict with this Law and are noticed to the public by the hearing body.

1.4-2. A petitioner(s) may file a complaint with the hearing body, the complaint shall include:

(a) The name and contact information of each petitioner;

(b) The name and contact information, if known, of the respondent(s)

(c) The alleged violation that resulted in the complaint and the Tribal law that has been violated;

(d) The date, time, place and description of the alleged violation;

(e) The nature of the relief requested.

1.4-3. *Notice.* The complaint, along with a summons, shall be served upon the respondent(s) within thirty (30) days after the complaint is filed with the hearing body.

(a) The summons shall contain the date, time and place the respondent(s) is required to appear, along with a notice that failure to appear may result in a default judgment against him or her.

(b) Anyone who is not a party to the action and is at least eighteen (18) years of age may serve the notice. Notice shall be served in the following order of progression, unless personal service is more practical than by mail:

(1) Mail with delivery confirmation, using U.S. mail or a private carrier.

(2) Personal service, by hand delivering a copy of the complaint and summons to the party named in the complaint.

(3) Publication, in the Kalihwisaks and another paper located in an area where the subject was last known to have resided. The publication shall be designated as a legal notice, stating the name and last-known address of the subject being located.

#### **1.5. Procedures**

1.5-1. *Designated Hearing Dates.* The hearing body may establish a regular time to hold pre-hearings and hearings. The hearing body shall designate officers and may designate alternates to serve on a hearing body.

242 1.5-2. Ex Parte Communications. Hearing officers and parties shall not engage in ex parte  
243 communications.

244 1.5-3. Evidence. A party shall include evidence as part of his/her original filings or obtain the  
245 evidence through discovery. A party may attempt to present the hearing body with evidence  
246 later in the proceedings if the opposing party does not object.

247 (a) Copies. If a party submits documentation as evidence, the party shall present an  
248 original for the record and copies to each of the hearing officers and the opposing party.

249 (b) Objections. The opposing party may object to any evidence submitted.

250 (c) Acceptance into the record. The hearing body makes the final determination whether  
251 to accept evidence into the record. The hearing body may admit and consider evidence  
252 that is commonly accepted and has a direct connection to the case.

253 1.5-4. Pre-Hearings. Pre-hearings shall be conducted within forty-five (45) days after notice  
254 has been served. The purpose of a pre-hearing is for the hearing body or a hearing officer to:

255 (a) Hear and determine dispositive motions. The parties may present any dispositive  
256 motions and raise any issues that may affect the conduct of the hearing, including, but not  
257 limited to excluding evidence. If either party makes a dispositive motion:

258 (1) The party making the motion shall reference the applicable law and state with  
259 clarity why the hearing body should grant the motion. The party making the  
260 motion may present a proposed written decision for the hearing body to consider.

261 (2) The opposing party shall respond and state with clarity why the hearing body  
262 should not grant the motion. The opposing party may request an adjournment to  
263 prepare a written response to oral dispositive motions.

264 (3) The hearing body may ask any questions of the parties in order to clarify the  
265 issues.

266 (b) Identify the need for any witnesses and/or evidence.

267 (c) Implement a scheduling order.

268 (d) Address any matters which will assist in the clarification, simplification or settlement  
269 of the case or that may facilitate the just, speedy and inexpensive disposition of the  
270 matter.

271 1.5-5. Hearing Procedures. Within sixty (60) days after a pre-hearing is conducted, or within  
272 sixty (60) days after it has been determined that a pre-hearing will not be conducted, the hearing  
273 body shall conduct a hearing, if necessary. If a hearing is conducted, it shall substantially  
274 comply with the following:

275 (a) Opening Statements. Each party shall state with clarity why the hearing body should  
276 decide in his/her favor based on the facts and the laws presented.

277 (b) Witnesses. Each party may call any witness to testify.

278 (1) Each party shall be responsible for ensuring his or her witness(es) appears at  
279 the hearing.

280 (2) A witness(es) may rely only on evidence on record.

281 (3) A witness(es) is subject to cross examination by the opposing party.

282 (4) The hearing body may ask questions of any witness or request clarification of  
283 any documents during the proceeding.

284 (c) Rebuttal. Parties may present a witness(es) or introduce evidence that has not been  
285 previously presented in order to refute or rebut the opposing party's evidence or a witness  
286 statement.

287 (d) Closing Statements. Each party summarizes the evidence and the testimony he or she  
288 presented in order to rebut evidence or witness testimony presented by the opposing  
289 party.

(e) Deliberations. After the hearing, the hearing body shall schedule a time for deliberations. Deliberations are confidential and shall not be subject to reproduction and shall not be part of the case record. During deliberations, the hearing body shall place an emphasis on logic and reasoning in order to make sound decisions. The hearing body may adopt a proposed written decision and issue the decision during the hearing.

1.5-6. Decisions. The hearing body may issue an oral decision on a matter, but the decision shall not be final until the hearing body issues a written decision. The hearing body shall issue a written decision within ten (10) business days after a pre-hearing or hearing. Should any party fail to appear at any scheduled pre-hearing or hearing or contest a complaint, the hearing body may issue a default judgment in favor of the opposing party.

(a) The decision shall include:

(1) Findings of fact and conclusions of law;

(2) Reference to specific provision of Tribal law violated;

(3) Disposition of any dispositive motions;

(4) In the case of a decision issued after a pre-hearing, a scheduling order if the hearing body does not grant a dispositive motion; and

(5) Reference to the parties' appeal rights.

(b) If the hearing body does not reach a unanimous decision, hearing officers may draft concurring and/or dissenting opinions.

(c) Notification to Parties. The hearing body shall ensure the final decision is sent to the parties via mail with delivery confirmation, using U.S. mail or a private carrier, within one (1) business day following the issuance of the decision. Time lines for an appeal are calculated based on receipt of the written decision.

## **1.6. Judgments and Appeals**

1.6-1. Judgments A hearing body, subsequent to a hearing, may issue fines, orders and/or penalties that comply with the Indian Civil Rights Act and may include, but not be limited to, the following:

(a) An order directing a violator or person in non-compliance of/with a Tribal law or regulation to pay a monetary fine for the violation, and/or actual damages and/or punitive damages.

(b) In the case of damages caused by minors, an order requiring the parent, custodian, or guardian to pay for damages and/or plan designed for restitution in lieu of monetary compensation to be fulfilled by the minor.

(c) An order directing the violator or non-complying person to cease and desist from further violation or non-compliance and to cure said violation within a specified period.

(d) An order requiring appropriate exclusion and/or mandated community service and/or denial of specific Tribal benefits.

(e) Unless precluded by law, informal disposition, signed by both parties, may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

(f) An order placing a lien upon property owned by a person within jurisdiction of the Tribe.

1.6-2. Appeals A party may appeal a decision of a hearing body to the Court of Appeals in accordance with the Judiciary law and any applicable rules of procedure.

End.

## Chapter 1 Administrative Procedures Act

1.1. Purpose and Policy  
1.2. Adoption, Amendment, Repeal  
1.3. Definitions

1.4. Complaints and Notice  
1.5. Procedures  
1.6. Judgments and Appeals

---

### 1.1. Purpose and Policy

1.1-1. *Purpose.* The purpose of this Law is to provide procedures for boards, committees and commissions that conduct hearings for disputes arising under Tribal law and have no procedures in place under other Tribal law. This Law shall not apply to hearings held before the Family Court or any court of the Tribe's Judiciary. This Law shall not be construed to create hearing rights where no hearing rights exist under Tribal law

1.1-2. *Policy.* It is the policy of the Tribe that the hearing procedures of boards, committees and commissions shall be noticed to ensure all individuals are presented with a fair opportunity to file any claim that may arise under Tribal law.

### 1.2. Adoption, Amendment, Repeal

1.2-1. This Law was adopted by the Oneida Business Committee by resolution BC \_\_\_\_\_.

1.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

1.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Law which are considered to have legal force without the invalid portions.

1.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law shall control.

1.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

### 1.3. Definitions

1.3-1. This section shall govern the definitions of words and phrases used within this Law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Decision" shall mean the written conclusion of the hearing body concerning the facts, alleged violations of Tribal law and penalties.

(b) "Deliberations" shall mean the confidential process during which the hearing officers discuss the issues presented before the hearing body.

(c) "Dispositive motion" shall mean a request to the hearing body to entirely dispose of one (1) or more claims in favor of the party making the request without need for a further hearing.

(d) "Evidence" shall mean documentation or testimony presented to the hearing body which supports a party's claim.

(e) "Ex parte communication" shall mean oral or written, off-the-record communication made to or by the hearing officers without notice to the parties that is directed to the merits or outcome of the hearing.

(f) "Hearing body" shall mean the member or members of a board, committee or commission that hear and decide the case or motions presented as part of a case. "Hearing body" shall not include the Family Court or any court of the Tribe's Judiciary.

(g) "Scheduling order" shall mean the hearing body's order establishing the dates of the hearing and the deadlines for discovery and submitting witness lists.

(h) "Summons" shall mean an order to appear before a hearing body because a petitioner has filed a complaint.

#### 1.4. Complaints and Notice

1.4-1. Whenever a claim arises under Tribal law, a hearing body shall hear the complaint in accordance with the procedures established under this Law, unless another Tribal law has established hearing procedures for that specific hearing body. Nothing in this Law shall be construed to prevent a hearing body from establishing additional hearing body procedures, as long as those procedures do not conflict with this Law and are noticed to the public by the hearing body.

1.4-2. A petitioner(s) may file a complaint with the hearing body, the complaint shall include:

- (a) The name and contact information of each petitioner;
- (b) The name and contact information, if known, of the respondent(s)
- (c) The alleged violation that resulted in the complaint and the Tribal law that has been violated;
- (d) The date, time, place and description of the alleged violation;
- (e) The nature of the relief requested.

1.4-3. *Notice.* The complaint, along with a summons, shall be served upon the respondent(s) within thirty (30) days after the complaint is filed with the hearing body.

(a) The summons shall contain the date, time and place the respondent(s) is required to appear, along with a notice that failure to appear may result in a default judgment against him or her.

(b) Anyone who is not a party to the action and is at least eighteen (18) years of age may serve the notice. Notice shall be served in the following order of progression, unless personal service is more practical than by mail:

- (1) Mail with delivery confirmation, using U.S. mail or a private carrier.
- (2) Personal service, by hand delivering a copy of the complaint and summons to the party named in the complaint.
- (3) Publication, in the *Kalihwisaks* and another paper located in an area where the subject was last known to have resided. The publication shall be designated as a legal notice, stating the name and last-known address of the subject being located.

#### 1.5. Procedures

1.5-1. *Designated Hearing Dates.* The hearing body may establish a regular time to hold pre-hearings and hearings. The hearing body shall designate officers and may designate alternates to serve on a hearing body.

1.5-2. *Ex Parte Communications.* Hearing officers and parties shall not engage in ex parte communications.

1.5-3. *Evidence.* A party shall include evidence as part of his/her original filings or obtain the evidence through discovery. A party may attempt to present the hearing body with evidence later in the proceedings if the opposing party does not object.

(a) Copies. If a party submits documentation as evidence, the party shall present an original for the record and copies to each of the hearing officers and the opposing party.

(b) Objections. The opposing party may object to any evidence submitted.

(c) Acceptance into the record. The hearing body makes the final determination whether to accept evidence into the record. The hearing body may admit and consider evidence that is commonly accepted and has a direct connection to the case.



1.5-4. *Pre-Hearings*. Pre-hearings shall be conducted within forty-five (45) days after notice has been served. The purpose of a pre-hearing is for the hearing body or a hearing officer to:

(a) Hear and determine dispositive motions. The parties may present any dispositive motions and raise any issues that may affect the conduct of the hearing, including, but not limited to excluding evidence. If either party makes a dispositive motion:

(1) The party making the motion shall reference the applicable law and state with clarity why the hearing body should grant the motion. The party making the motion may present a proposed written decision for the hearing body to consider.

(2) The opposing party shall respond and state with clarity why the hearing body should not grant the motion. The opposing party may request an adjournment to prepare a written response to oral dispositive motions.

(3) The hearing body may ask any questions of the parties in order to clarify the issues.

(b) Identify the need for any witnesses and/or evidence.

(c) Implement a scheduling order.

(d) Address any matters which will assist in the clarification, simplification or settlement of the case or that may facilitate the just, speedy and inexpensive disposition of the matter.

1.5-5. *Hearing Procedures*. Within sixty (60) days after a pre-hearing is conducted, or within sixty (60) days after it has been determined that a pre-hearing will not be conducted, the hearing body shall conduct a hearing, if necessary. If a hearing is conducted, it shall substantially comply with the following:

(a) Opening Statements. Each party shall state with clarity why the hearing body should decide in his/her favor based on the facts and the laws presented.

(b) Witnesses. Each party may call any witness to testify.

(1) Each party shall be responsible for ensuring his or her witness(es) appears at the hearing.

(2) A witness(es) may rely only on evidence on record.

(3) A witness(es) is subject to cross examination by the opposing party.

(4) The hearing body may ask questions of any witness or request clarification of any documents during the proceeding.

(c) Rebuttal. Parties may present a witness(es) or introduce evidence that has not been previously presented in order to refute or rebut the opposing party's evidence or a witness statement.

(d) Closing Statements. Each party summarizes the evidence and the testimony he or she presented in order to rebut evidence or witness testimony presented by the opposing party.

(e) Deliberations. After the hearing, the hearing body shall schedule a time for deliberations. Deliberations are confidential and shall not be subject to reproduction and shall not be part of the case record. During deliberations, the hearing body shall place an emphasis on logic and reasoning in order to make sound decisions. The hearing body may adopt a proposed written decision and issue the decision during the hearing.

1.5-6. *Decisions*. The hearing body may issue an oral decision on a matter, but the decision shall not be final until the hearing body issues a written decision. The hearing body shall issue a written decision within ten (10) business days after a pre-hearing or hearing. Should any party fail to appear at any scheduled pre-hearing or hearing or contest a complaint, the hearing body may issue a default judgment in favor of the opposing party.

(a) The decision shall include:



- (1) Findings of fact and conclusions of law;
- (2) Reference to specific provision of Tribal law violated;
- (3) Disposition of any dispositive motions;
- (4) In the case of a decision issued after a pre-hearing, a scheduling order if the hearing body does not grant a dispositive motion; and
- (5) Reference to the parties' appeal rights.

(b) If the hearing body does not reach a unanimous decision, hearing officers may draft concurring and/or dissenting opinions.

(c) Notification to Parties. The hearing body shall ensure the final decision is sent to the parties via mail with delivery confirmation, using U.S. mail or a private carrier, within one (1) business day following the issuance of the decision. Time lines for an appeal are calculated based on receipt of the written decision.

## **1.6. Judgments and Appeals**

1.6-1. *Judgments* A hearing body, subsequent to a hearing, may issue fines, orders and/or penalties that comply with the Indian Civil Rights Act and may include, but not be limited to, the following:

(a) An order directing a violator or person in non-compliance of/with a Tribal law or regulation to pay a monetary fine for the violation, and/or actual damages and/or punitive damages.

(b) In the case of damages caused by minors, an order requiring the parent, custodian, or guardian to pay for damages and/or plan designed for restitution in lieu of monetary compensation to be fulfilled by the minor.

(c) An order directing the violator or non-complying person to cease and desist from further violation or non-compliance and to cure said violation within a specified period.

(d) An order requiring appropriate exclusion and/or mandated community service and/or denial of specific Tribal benefits.

(e) Unless precluded by law, informal disposition, signed by both parties, may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

(f) An order placing a lien upon property owned by a person within jurisdiction of the Tribe.

1.6-2. *Appeals* A party may appeal a decision of a hearing body to the Court of Appeals in accordance with the Judiciary law and any applicable rules of procedure.

*End.*

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# Legislative Operating Committee



## Agenda Request Form

- 1) Request Date: 02/12/15
- 2) Contact Person(s): \_\_\_\_\_ Dept: LRO  
Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_
- 3) Agenda Title: Oneida Appeals Commission Reference Removal
- 4) Detailed description of the item and the reason/justification it is being brought before the Committee  
Pursuant to GTC-07-01-13-A, approve amendments to various Tribal laws and policies to  
remove references to the Oneida Appeals Commission and replace with references to the  
Judiciary.

List any supporting materials included and submitted with the Agenda Request Form

- 1) Memo
- 2) Resolution
- 3) Statement of Effect
- 4) \_\_\_\_\_
- 5) Please List any laws, ordinances or resolution that might be affected:  
See attached.
- 6) Please List all other departments or person(s) you have brought your concern to:  
\_\_\_\_\_
- 7) Do you consider this request urgent? ☒ Yes ☐ No  
If yes, please indicate why: The OAC will no longer exist as of March 1, 2015.

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee

Signature of Requester: \_\_\_\_\_

*Glynis Mangione*

*Please send this form and all supporting materials to:*

**LOC@oneidanation.org**

or

**Legislative Operating Committee (LOC)**

P.O. Box 365

Oneida, WI 54155

Phone 920-869-4376

# Oneida Tribe of Indians of Wisconsin

## Legislative Reference Office

P.O. Box 365

Oneida, WI 54155

(920) 869-4376

(800) 236-2214

<http://oneida-nsn.gov/LOC>



## Committee Members

Brandon Stevens, Chairperson

Tehassi Hill, Vice Chairperson

Fawn Billie, Councilmember

Jennifer Webster, Councilmember

## Memorandum

**TO:** The Oneida Business Committee  
**FROM:** Brandon Stevens, Legislative Operating Committee Chair  
**DATE:** February 25, 2015  
**RE:** REQUEST FOR ACTION: Adoption of Amendments to the following to remove references to the Oneida Appeals Commission pursuant to GTC Resolution 07-01-13-A: Attorney Contract Policy, Condominium Ordinance, Emergency Management and Homeland Security, Employee Protection Policy, Local Land Use Regulation Reimbursement Policy, Notary Act, Oneida Election Law, Oneida Food Service Code, Oneida Nation Law Enforcement Ordinance, Oneida Vendor Licensing, Real Property Law, Social Media Policy, Tattooing and Body Piercing Law and Tribal Environmental Response

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Please find attached the following for your consideration:

1. Resolution: Amendments to Attorney Contract Policy, Condominium Ordinance, Emergency Management and Homeland Security, Employee Protection Policy, Local Land Use Regulation Reimbursement Policy, Notary Act, Oneida Election Law, Oneida Food Service Code, Oneida Nation Law Enforcement Ordinance, Oneida Vendor Licensing, Real Property Law, Social Media Policy, Tattooing and Body Piercing Law and Tribal Environmental Response pursuant to GTC Resolution 07-01-13-A
2. Attachment showing changes for each Law or Policy
3. Statement of Effect

### *Overview*

The proposed amendments to the above listed laws and policies remove all references to the "Oneida Appeals Commission" and replace them with "Judiciary." In addition, a definition of Judiciary has been added to the laws and policies. Finally, amendments have also been made where the Judiciary would be required to comply with the Administrative Procedures Act or the Oneida Appeals Commission Judiciary Code, as the Judiciary has their own set of procedural rules.

GTC Resolution 07-01-13-A granted the Oneida Business Committee (OBC) permission to complete corrective amendments to all Oneida laws and policies that reference the Oneida Appeals Commission or the Oneida Tribal Judicial System and replace them with terms that are

consistent with the Judiciary Law. GTC also authorized the OBC to bypass the procedural requirements of the Legislative Procedures Act (LPA) in order to make these amendments.

Because there are no other substantive amendments, it is requested that the LPA requirements regarding legislative analyses, fiscal estimates and public meetings be bypassed and the attached Resolution be adopted.

**Requested Action**

Approve the Resolution: Amendments to Attorney Contract Policy, Condominium Ordinance, Emergency Management and Homeland Security, Employee Protection Policy, Local Land Use Regulation Reimbursement Policy, Notary Act, Oneida Election Law, Oneida Food Service Code, Oneida Nation Law Enforcement Ordinance, Oneida Vendor Licensing, Real Property Law, Social Media Policy, Tattooing and Body Piercing Law and Tribal Environmental Response pursuant to Resolution GTC-07-01-13-A.

**BC Resolution \_\_\_\_\_**

*Adoption of Amendments to the following to remove references to the Oneida Appeals Commission pursuant to GTC Resolution 07-01-13-A: Attorney Contract Policy, Condominium Ordinance, Emergency Management and Homeland Security, Employee Protection Policy, Local Land Use Regulation Reimbursement Policy, Notary Act, Oneida Election Law, Oneida Food Service Code, Oneida Nation Law Enforcement Ordinance, Oneida Vendor Licensing, Real Property Law, Social Media Policy, Tattooing and Body Piercing Law and Tribal Environmental Response*

**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,** GTC Resolution 07-01-13-A authorized the Oneida Business Committee to make corrective amendments to all of the laws and policies that make reference to the Oneida Appeals Commission or the Oneida Tribal Judicial System and replace those terms with terms that are consistent with the Judiciary Law adopted by GTC Resolution 01-07-13-B; and

**WHEREAS,** GTC Resolution 07-01-13-A authorizes the Oneida Business Committee to bypass the procedural requirements in the Legislative Procedures Act in order to make these changes; and

**WHEREAS,** the amendments that are being made to the Law are those changing references to the Oneida Appeals Commission to “Judiciary,” adding a definition of “Judiciary” and removing any references that would require the Judiciary to comply with the Administrative Procedures Act or the Oneida Appeals Commission Judiciary Code, as the Judiciary has their own set of procedural rules.

**NOW THEREFORE BE IT RESOLVED,** that the attached amendments to the Attorney Contract Policy, Condominium Ordinance, Emergency Management and Homeland Security, Employee Protection Policy, Local Land Use Regulation Reimbursement Policy, Notary Act, Oneida Election Law, Oneida Food Service Code, Oneida Nation Law Enforcement Ordinance, Oneida Vendor Licensing, Real Property Law, Social Media Policy, Tattooing and Body Piercing Law and Tribal Environmental Response are hereby adopted effective immediately.

## Amendments Attachment

### **Attorney Contract Policy**

1. Expands the definition section to include the following: 3-5 “Judiciary” as used herein means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.
2. Section 4-3 (a) replaces “Oneida Appeals Commission” with “Judiciary”.

### **Condominium Ordinance**

1. Expands the definition section to include the following: 68.3-1 (j) “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.
2. Re-letter 68.3-1 (j) through 68.3-1 (t).
3. Section 68.26-1 (c) replaces “Oneida Appeals Commission” with “Judiciary”.

### **Emergency Management and Homeland Security**

1. Expands the definition section to include the following: 35.3-1 (j) “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.
2. Re-letter 35.3-1 (j) through 35.3-1 (s).
3. Section 35.9-2 replaces “Oneida Appeals Commission” with “Judiciary”.

### **Employee Protection Policy**

1. Expands the definition section to include the following: 3-8 “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.
2. Re-number 3-8 through 3-12.
3. Section 4-7 (c) replaces “Appeals Commission” with “Judiciary”.

### **Local Land Use Regulation Reimbursement Policy**

1. Expands the definition section to include the following: 3-1 (c) “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.
2. Re-letter 3-1 (c) through 3-1 (n).
3. Section 6-3 replaces “Oneida Appeals Commission” with “Judiciary”.

### **Notary Act**

1. Expands the definition section to include the following: 82.1-4 (a) (3) “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.
2. Re-number 82.1-4 (a) (3) through 82.1-4 (a) (11).
3. Section 82.6-22 (b) replaces “Oneida Appeals Commission” with “Judiciary”.

## Amendments Attachment

### **Oneida Election Law**

1. Expands the definition section to include the following: 2.3-13 “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.
2. Re-number 2.3-14 through 2.3-23.
3. Sections 2.5-6, 2.11-11, 2.11-11 (b) and 2.12-6 replaces “Oneida Appeals Commission” with “Judiciary”.
4. Section 2.5-6 removes the following language “and in compliance with the Administrative Procedures Act”.

### **Oneida Food Service Code**

1. Section 36.3-13, the definition of “The Appeals Commission” is removed.
2. Re-number 36.3-14 through 36.3-16.
3. Expands the definition section to include the following: 36.3-16 “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.
4. Section 36.13-1 replaces “Appeals Commission Original Hearing Body” with “Judiciary”.
5. Section 36.13-2 replaces “Appeals Commission” with “Judiciary” and replaces “Administrative Procedures Act and the Oneida Appeals Commission Judicial Code” with “rules established for the Judiciary”.

### **Oneida Nation Law Enforcement Ordinance**

1. Expands the definition section to include the following: 37.3-8 Judiciary means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.
2. Section 37.9-9 replaces “Oneida Appeals Commission” with “Judiciary”.

### **Oneida Vendor Licensing**

1. Expands the definition section to include the following: 56.3-13 “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.
2. Section 56.7-2 replaces “Oneida Appeals Commission” with “Judiciary”.

### **Real Property Law**

1. Expands the definition section to include the following: 67.4-24 Judiciary. The judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.
2. Re-number 67.4-25 through 67.4-38.
3. Sections 67.8-6 (a), 67.9-13, 67.9-14, 67.9-15 and 67.9-16 replaces “Oneida Appeals Commission” with “Judiciary”.
4. Section 67.8-6 (a) replaces “Oneida Administrative Procedures Act” with “Judiciary’s rules of procedure”.

## Amendments Attachment

### **Social Media Policy**

1. Expands the definition section to include the following: 3-1 (e) “Judiciary” shall mean the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.
2. Re-letter 3-1 (e) through 3-1 (j).
3. Section 8-4 replaces “Oneida Appeals Commission” with “Judiciary”.

### **Tattooing and Body Piercing Law**

1. Expands the definition section to include the following: 32-3-1 (k) “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.
2. Re-letter 32.3-1 (k) through 32.3-1 (z).
3. Section 32.13-4 replaces “original hearing body of the Appellate Commission” with “Judiciary” and removes “That decision may be appealed to the appellate body of the Oneida Appeals Commission as provided in the Administrative Procedures Act.”

### **Tribal Environmental Response**

1. Expands the definition section to include the following: 40.3-1 (j) “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.
2. Re-letter 40.3-1 (j) through 40.3-1 (t).
3. Section 40.11-3 replaces “Oneida Appeals Commission” with “Judiciary”.



# Oneida Tribe of Indians of Wisconsin Legislative Reference Office

Lynn A. Franzmeier, Staff Attorney  
Taniquele J. Thurner, Legislative Analyst  
Candice E. Skenandore, Legislative Analyst



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## Statement of Effect

*Adoption of Amendments to the following to remove references to the Oneida Appeals Commission pursuant to GTC Resolution 07-01-13-A: Attorney Contract Policy, Condominium Ordinance, Emergency Management and Homeland Security, Employee Protection Policy, Local Land Use Regulation Reimbursement Policy, Notary Act, Oneida Election Law, Oneida Food Service Code, Oneida Nation Law Enforcement Ordinance, Oneida Vendor Licensing, Real Property Law, Social Media Policy, Tattooing and Body Piercing Law and Tribal Environmental Response*

## Summary

This Resolution adopts amendments to the Attorney Contract Policy, Condominium Ordinance, Emergency Management and Homeland Security, Employee Protection Policy, Local Land Use Regulation Reimbursement Policy, Notary Act, Oneida Election Law, Oneida Food Service Code, Oneida Nation Law Enforcement Ordinance, Oneida Vendor Licensing, Real Property Law, Social Media Policy, Tattooing and Body Piercing Law and Tribal Environmental Response to amend references to the Oneida Appeals Commission and replace them with the word “Judiciary,” include a definition of Judiciary and remove requirements for the Judiciary to follow the Administrative Procedures Act or the Oneida Appeals Commission Judiciary Code.

*Submitted by: Lynn A. Franzmeier, Staff Attorney, Legislative Reference Office*

## Analysis by the Legislative Reference Office

On January 7, 2013 the Oneida General Tribal Council (GTC) adopted a Judiciary Law by Resolution GTC 01-07-13-B. On July 1, 2013, the GTC adopted Resolution 07-01-13-A, which gave authority to the Oneida Business Committee (OBC) to amend all of the laws and policies that make reference to the Oneida Appeals Commission or the Oneida Tribal Judicial System and replace them with terms that are consistent with the Judiciary Law. The July 1, 2013 resolution also authorized the OBC to bypass the procedural requirements of the Legislative Procedures Act (LPA).

The amendments to these Laws remove all references to the Oneida Appeals Commission and replace those references with the “Judiciary” and include a definition of Judiciary. Amendments have also been made where the Judiciary would be required to comply with the Administrative Procedures Act or the Oneida Appeals Commission Judiciary Code, as the Judiciary has their own set of procedural rules

A public meeting has not been held and no legislative or fiscal analysis of the amendments has been conducted, in accordance with the authority granted in GTC-07-01-13-A to bypass the LPA procedural requirements.

## Conclusion

Adoption of the amendments to these Laws will not conflict with any other Tribal law or policy.

**LOC Active Files List – Sponsor Breakdown**

|                           | <b>Brandon Stevens</b> | <b>Tehassi Hill</b> | <b>Jennifer Webster</b> | <b>Fawn Billie</b> | <b>No Sponsor</b> | <b>LOC Total</b> |
|---------------------------|------------------------|---------------------|-------------------------|--------------------|-------------------|------------------|
| <b>Total Active Items</b> | <b>10</b>              | <b>10</b>           | <b>12</b>               | <b>9</b>           |                   | <b>41</b>        |
| <b>New Laws/Policies</b>  | <b>3</b>               | <b>5</b>            | <b>6</b>                | <b>5</b>           |                   | <b>19</b>        |
| <b>Amendments</b>         | <b>2</b>               | <b>5</b>            | <b>4</b>                | <b>2</b>           |                   | <b>13</b>        |
| <b>Bylaws</b>             |                        |                     |                         | <b>2</b>           |                   | <b>2</b>         |
| <b>Petitions</b>          | <b>5</b>               |                     | <b>1</b>                |                    |                   | <b>6</b>         |
| <b>Other</b>              |                        |                     | <b>1</b>                |                    |                   | <b>1</b>         |

**Active Items**

(Note: “Days on AFL is effective as of February 18, 2015)

| <b>Item</b>   | <b>Type</b> | <b>Date Added to AFL</b> | <b>Days on AFL</b> |
|---|-------------|--------------------------|--------------------|
| <b>Brandon Stevens</b>  |             |                          |                    |
| <b>Budget Management and Control Law</b>  | New         | 9/17/14                  | 155                |
| <b>Employment Law</b>   | New         | 9/17/14                  | 155                |
| <b>Family Court Amendments: Bench Warrants</b>                                      | Amendments  | 9/17/14                  | 155                |
| <b>Membership Ordinance</b>   | Amendments  | 9/17/14                  | 155                |
| <b>Petition: Develop a Dialysis Center</b>  | Petition    | 9/17/14                  | 155                |
| <b>Petition: Directing a “Stall Mall” be Created</b>                                | Petition    | 9/17/14                  | 155                |
| <b>Petition: Publishing Names/Addresses of Petition Signers in GTC Mailouts</b>     | Petition    | 9/17/14                  | 155                |
| <b>Petition: Real Estate Taxes for all Tribe Owned Property to be Paid by Tribe</b> | Petition    | 9/17/14                  | 155                |
| <b>Petition: Responding to Questions/Comments from the Floor at GTC</b>             | Petition    | 9/17/14                  | 155                |
| <b>OBC Sanctions Policy</b>   | New         | 10/15/14                 | 127                |
| <b>Tehassi Hill</b>   |             |                          |                    |
| <b>Leasing Law</b>  | New         | 9/17/14                  | 155                |
| <b>Rulemaking Law</b>   | New         | 9/17/14                  | 155                |
| <b>Workplace Violence Policy</b>  | New         | 9/17/14                  | 155                |
| <b>Code of Ethics Law Amendments</b>  | Amendments  | 9/17/14                  | 155                |
| <b>Election Law Amendments</b>  | Amendments  | 9/17/14                  | 155                |
| <b>Law Enforcement Ordinance – Conservation Officers</b>                            | Amendments  | 9/17/14                  | 155                |
| <b>Agricultural Law</b>   | New         | 10/1/14                  | 141                |
| <b>Motor Vehicle Law Amendments</b>   | Amendments  | 11/5/14                  | 106                |
| <b>Environmental, Health and Safety Law</b>   | New         | 12/17/14                 | 64                 |
| <b>Hunting, Fishing, Trapping Law Amendments</b>                                    | Amendments  | 1/21/15                  | 29                 |
| <b>Jennifer Webster</b>   |             |                          |                    |
| <b>Capping Damages and Awards from the Judicial System</b>                          | New         | 9/17/14                  | 155                |
| <b>Employee Advocacy Law</b>  | New         | 9/17/14                  | 155                |

|  |            |          |     |
|--|------------|----------|-----|
| <b>Fitness for Duty Policy</b>                                   | New        | 9/17/14  | 155 |
| <b>Tribally-Owned Business Organization Code</b>                 | New        | 9/17/14  | 155 |
| <b>Vehicle Driver Certification and Fleet Management</b>         | New        | 9/17/14  | 155 |
| <b>Whistleblower Law</b>   | New        | 9/17/14  | 155 |
| <b>Audit Law Amendments</b>                                      | Amendments | 9/17/14  | 155 |
| <b>Comprehensive Policy Governing BCCs Amendments</b>            | Amendments | 9/17/14  | 155 |
| <b>Rules of Appellate Procedure</b>                              | Amendments | 9/17/14  | 155 |
| <b>Petition: Child Care Department Consumer Complaint Policy</b> | Petition   | 9/17/14  | 155 |
| <b>Tribal Hearing Bodies</b>                                     | Other      | 9/17/14  | 155 |
| <b>Investigative Leave Policy Amendments</b>                     | Amendments | 12/17/14 | 64  |
| <b>Fawn Billie</b>   |            |          |     |
| <b>Children's Code</b>   | New        | 9/17/14  | 155 |
| <b>GTC Meetings Law</b>  | New        | 9/17/14  | 155 |
| <b>Guardianship Law</b>  | New        | 9/17/14  | 155 |
| <b>Audit Committee Bylaws</b>                                    | Bylaws     | 9/17/14  | 155 |
| <b>Pow-wow Committee Bylaws</b>                                  | Bylaws     | 10/1/14  | 141 |
| <b>Furlough Policy</b>   | New        | 10/15/14 | 127 |
| <b>Higher Education</b>  | New        | 10/15/14 | 127 |
| <b>Marriage Law Amendments</b>                                   | Amendments | 11/5/14  | 106 |
| <b>Removal Law Amendments</b>                                    | Amendments | 12/17/14 | 64  |
| <b>No Sponsor</b>  |            |          |     |
|  |            |          |     |

**\*see next page for a breakdown of all Completed Items\***

### Completed Items - Overall

|                             | Brandon Stevens | Tehassi Hill | Jennifer Webster | Fawn Billie | No Sponsor | LOC Total |
|-----------------------------|-----------------|--------------|------------------|-------------|------------|-----------|
| <b>Completed Items</b>      | <b>3</b>        | <b>4</b>     |                  |             | <b>3</b>   | <b>10</b> |
| <b>New Laws/Policies</b>    |                 |              |                  |             |            |           |
| Amendments                  | 3               | 2            |                  |             |            | 5         |
| <b>Bylaws</b>               |                 |              |                  |             |            |           |
| <b>Petitions</b>            |                 | 2            |                  |             | 3          | 5         |
| <b>Other</b>                |                 |              |                  |             |            |           |
| <b>Overall Average Time</b> |                 |              |                  |             |            |           |

### Completed Items – By Sponsor

| Item   | Type       | Date Added to AFL | Date Complete | Days |
|--|------------|-------------------|---------------|------|
| <b>Brandon Stevens</b>   |            |                   |               |      |
| Administrative Procedures Act Repeal   | Amendments | 9/17/14           | 9/25/14       | 7    |
| Judiciary Law/Transition Plan Emergency Amendments   | Amendments | 9/17/14           | 9/25/14       | 7    |
| ONGO Amendments  | Amendments | 9/17/14           | 10/1/14       | 14   |
| <b>Tehassi Hill</b>  |            |                   |               |      |
| Personnel Policies: Job Duties/Work Assignments (Emergency Amendments)                       | Amendments | 9/17/14           | 9/25/14       | 7    |
| Petition: GTC Meeting to Address Tribal Election Issues                                      | Petition   | 9/17/14           | 10/15/14      | 29   |
| Petition: Create a Support System for Tribal Members Engaged w/Judiciary                     | Petition   | 10/15/14          | 11/19/14      |      |
| Public Use of Tribal Land Emergency Amendments   | Amendments | 9/17/14           | 12/3/14       |      |
| <b>Jennifer Webster</b>  |            |                   |               |      |
|  |            |                   |               |      |
| <b>Fawn Billie</b>   |            |                   |               |      |
|  |            |                   |               |      |
| <b>No Sponsor</b>  |            |                   |               |      |
| Petition: Constitution Amendments re: Membership   | Petition   | 10/1/14           | 10/1/14       | 1    |
| Petition: Raise Employee Salaries 99 cents   | Petition   | 1/21/15           | 1/21/15       | 1    |
| <b>Petition: Budget Cuts, Swimming Lessons, GTC Directives &amp; Home Repairs for Elders</b> | Petition   | 1/21/15           | 2/4/15        | 14   |

| February 2015 |    |    |    |    |    |    |
|---------------|----|----|----|----|----|----|
| Su            | Mo | Tu | We | Th | Fr | Sa |
| 1             | 2  | 3  | 4  | 5  | 6  | 7  |
| 8             | 9  | 10 | 11 | 12 | 13 | 14 |
| 15            | 16 | 17 | 18 | 19 | 20 | 21 |
| 22            | 23 | 24 | 25 | 26 | 27 | 28 |

| March 2015 |    |    |    |    |    |    |
|------------|----|----|----|----|----|----|
| Su         | Mo | Tu | We | Th | Fr | Sa |
| 1          | 2  | 3  | 4  | 5  | 6  | 7  |
| 8          | 9  | 10 | 11 | 12 | 13 | 14 |
| 15         | 16 | 17 | 18 | 19 | 20 | 21 |
| 22         | 23 | 24 | 25 | 26 | 27 | 28 |
| 29         | 30 | 31 |    |    |    |    |

|             | Sunday | Monday                        | Tuesday | Wednesday  | Thursday  | Friday | Saturday |
|-------------|--------|-------------------------------|---------|--|---|--------|----------|
| Feb 1 - 7   | Feb 1  | 2                             | 3       | 4  | 5   | 6      | 7        |
|             |        |                               |         | 9:00am 2:00pm LOC Meeting (BCCR)<br>10:00am 10:30am LOC Work Meeting (BCCR) - LOC_Calendar | 12:15pm 2:15pm Public Meeting-Furlough Policy and Rules of Appellate Procedure Amendments (BC_Conf_Room) - LOC_Calendar               |        |          |
| Feb 8 - 14  | 8      | 9                             | 10      | 11   | 12  | 13     | 14       |
|             |        | 6:00pm 10:00pm GTC (Radisson) |         | BC Meeting (BCCR)  |   |        |          |
| Feb 15 - 21 | 15     | 16                            | 17      | 18   | 19  | 20     | 21       |
|             |        |                               |         | 9:00am 2:00pm LOC Meeting (BCCR)   | 12:15pm 2:45pm Public Meeting-Vehicle Driver Certification & Fleet Mgt and Motor Vehicle Law Amendments (BC_Conf_Room) - LOC_Calendar |        |          |
| Feb 22 - 28 | 22     | 23                            | 24      | 25   | 26  | 27     | 28       |
|             |        |                               |         | BC Meeting (BCCR)  |   |        |          |

# March 2015

| March 2015 |    |    |    |    |    |    |
|------------|----|----|----|----|----|----|
| Su         | Mo | Tu | We | Th | Fr | Sa |
| 1          | 2  | 3  | 4  | 5  | 6  | 7  |
| 8          | 9  | 10 | 11 | 12 | 13 | 14 |
| 15         | 16 | 17 | 18 | 19 | 20 | 21 |
| 22         | 23 | 24 | 25 | 26 | 27 | 28 |
| 29         | 30 | 31 |    |    |    |    |

| April 2015 |    |    |    |    |    |    |
|------------|----|----|----|----|----|----|
| Su         | Mo | Tu | We | Th | Fr | Sa |
|            |    |    | 1  | 2  | 3  | 4  |
| 5          | 6  | 7  | 8  | 9  | 10 | 11 |
| 12         | 13 | 14 | 15 | 16 | 17 | 18 |
| 19         | 20 | 21 | 22 | 23 | 24 | 25 |
| 26         | 27 | 28 | 29 | 30 |    |    |

|                | Sunday | Monday | Tuesday | Wednesday                              | Thursday | Friday | Saturday |
|----------------|--------|--------|---------|--|----------|--------|----------|
| Mar 1 - 7      | Mar 1  | 2      | 3       | 4<br>9:00am 2:00pm LOC Meeting (BCCR)  | 5        | 6      | 7        |
|                | 8      | 9      | 10      | 11<br>BC Meeting (BCCR)                | 12       | 13     | 14       |
| Mar 8 - 14     |        |        |         |  |          |        |          |
|                | 15     | 16     | 17      | 18<br>9:00am 2:00pm LOC Meeting (BCCR) | 19       | 20     | 21       |
| Mar 15 - 21    |        |        |         |  |          |        |          |
|                | 22     | 23     | 24      | 25<br>BC Meeting (BCCR)                | 26       | 27     | 28       |
| Mar 22 - 28    |        |        |         |  |          |        |          |
|                | 29     | 30     | 31      | Apr 1                                  | 2        | 3      | 4        |
| Mar 29 - Apr 4 |        |        |         |  |          |        |          |